

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 109

WEDNESDAY, 6 JUNE 1979

1 The House met, at 10.30 a.m., pursuant to adjournment. The Acting Speaker (Mr Millar) took the Chair, and read Prayers.

2 PETITIONS: The Clerk announced that the following Members had each lodged petitions for presentation, viz.:

Mr Aldred, Mr Bryant, Mr Goodluck, Mr Groom, Mr Johnston, Mr E. L. Robinson and Mr Shipton—from certain citizens praying that the Metric Conversion Act be repealed and the traditional and familiar weights and measures be restored.

Mr Bryant, Mr Holding, Mr Lynch and Mr Martin—from certain citizens praying that pension payments be restored to twice-yearly adjustments and that pensions and unemployment benefits be raised to 30% of average weekly earnings.

Mr J. L. McMahon—from certain citizens praying that there be no extension of Kingsford-Smith Airport, Sydney.

Mr Martin—from certain citizens praying that action be taken to advance the cause of universal disarmament.

Mr Porter—from certain citizens praying that subsidies to pre-schools be increased.

Mr Porter—from certain citizens praying that funds be provided to improve the standard of living of the Aboriginal people.

Mr Young—from certain citizens praying that the supporting parents benefit and the widows pension be combined to form a single lone parent pension.

Petitions received.

3 QUESTIONS: Questions without notice being asked—

Mr Macphee (Minister for Productivity) asked leave to incorporate certain papers in *Hansard*.

Objection being raised, leave not granted.

Suspension of standing orders—Hansard—Incorporation of document: Mr Sinclair (Leader of the House) moved—That so much of the standing orders be suspended as would enable this House, without leave, to incorporate in *Hansard* the testimony of purchasers of the Nomad aircraft as to its complete operational effectiveness as presented by the Minister for Productivity.

Debate ensued.

Closure: Mr Sinclair moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Acting Speaker, Mr Millar, in the Chair)—

AYES, 71

Mr Adermann	Mr Corbett*	Mr Hodgman	Mr Moore
Mr Aldred	Mr Cotter	Mr Howard	Mr Neil
Mr Anthony	Mr Dean	Mr Hunt	Mr Newman
Mr Baillieu	Mr Dobie	Mr Hyde	Mr O'Keefe
Mr Baume	Mr Drummond	Mr Jarman	Mr Porter
Mr Birney	Dr Edwards	Mr Johnston	Mr I. L. Robinson
Mr Bourchier	Mr Ellicott	Mr Jull	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Katter	Mr Sainsbury
Mr Bungey	Mr Fife	Mr Killen	Mr Shack
Mr Burns	Mr Fisher	Mr Lloyd	Mr Shipton
Mr Burr	Mr Fraser	Mr Lynch	Mr Simon
Mr Cadman	Mr Giles	Mr MacKellar	Mr Sinclair
Mr Cairns	Mr Gillard	Mr MacKenzie	Mr Staley
Mr Calder	Mr Goodluck	Mr McLean	Mr Street
Mr D. M. Cameron	Mr Graham	Mr McLeay	Mr Thomson
Mr Carlton	Mr Groom	Mr McVeigh	Mr Viner
Mr Chapman	Mr Haslem	Mr Macphee	Mr Wilson
Mr Connolly	Mr Hodges*	Mr Martyr	

NOES, 29

Mr Armitage	Mr FitzPatrick	Dr Jenkins	Mr Morris
Dr Blewett	Mr Holding	Mr L. K. Johnson*	Mr Uren
Mr J. J. Brown	Mr Howe	Mr L. R. Johnson*	Mr Wallis
Mr Bryant	Mr Humphreys	Mr C. K. Jones	Mr West
Mr C. R. Cameron	Mr Hurford	Mr Kerin	Mr Willis
Mr Cohen	Mr Innes	Dr Klugman	
Mr Dawkins	Mr Jacobi	Mr J. L. McMahon	
Dr Everingham	Mr James	Mr Martin	

* Tellers

And so it was resolved in the affirmative.

And the question—That the motion be agreed to—being accordingly put—

The House divided (the Acting Speaker, Mr Millar, in the Chair)—

AYES, 72

Mr Adermann	Mr Corbett*	Mr Hodgman	Mr Martyr
Mr Aldred	Mr Cotter	Mr Howard	Mr Moore
Mr Anthony	Mr Dean	Mr Hunt	Mr Neil
Mr Baillieu	Mr Dobie	Mr Hyde	Mr Newman
Mr Baume	Mr Drummond	Mr Jarman	Mr O'Keefe
Mr Birney	Dr Edwards	Mr Johnston	Mr Porter
Mr Bourchier	Mr Ellicott	Mr Jull	Mr I. L. Robinson
Mr Bradfield	Mr Falconer	Mr Katter	Mr Ruddock
Mr Bungey	Mr Fife	Mr Killen	Mr Sainsbury
Mr Burns	Mr Fisher	Mr Lloyd	Mr Shack
Mr Burr	Mr Fraser	Mr Lucock	Mr Shipton
Mr Cadman	Mr Giles	Mr Lynch	Mr Simon
Mr Cairns	Mr Gillard	Mr MacKellar	Mr Sinclair
Mr Calder	Mr Goodluck	Mr MacKenzie	Mr Staley
Mr D. M. Cameron	Mr Graham	Mr McLean	Mr Street
Mr Carlton	Mr Groom	Mr McLeay	Mr Thomson
Mr Chapman	Mr Haslem	Mr McVeigh	Mr Viner
Mr Connolly	Mr Hodges*	Mr Macphee	Mr Wilson

NOES, 29

Mr Armitage	Mr FitzPatrick	Dr Jenkins	Mr Morris
Dr Blewett	Mr Holding	Mr L. K. Johnson*	Mr Uren
Mr J. J. Brown	Mr Howe	Mr L. R. Johnson*	Mr Wallis
Mr Bryant	Mr Humphreys	Mr C. K. Jones	Mr West
Mr C. R. Cameron	Mr Hurford	Mr Kerin	Mr Willis
Mr Cohen	Mr Innes	Dr Klugman	
Mr Dawkins	Mr Jacobi	Mr J. L. McMahon	
Dr Everingham	Mr James	Mr Martin	

*Tellers

And so it was resolved in the affirmative by an absolute majority.

Questions without notice concluded.

- 4 SUSPENSION OF STANDING ORDERS—MINISTERIAL STATEMENT: Mr Morris moved—That so much of the standing orders be suspended as would enable the Minister for Productivity to make a comprehensive statement to the Parliament on the qualities, economies, advantages and safety performance of the Australian-built Nomad aircraft, and to explain the Government's action in initially drawing aircraft surveillance tenders in a form that excluded utilisation of Nomad aircraft.

Closure of Member: Mr Sinclair (Leader of the House) moved—That the honourable Member be not further heard.

Question—put.

The House divided (the Acting Speaker, Mr Millar, in the Chair)—

AYES, 69			
Mr Adermann	Mr Corbett*	Mr Howard	Mr Neil
Mr Aldred	Mr Cotter	Mr Hunt	Mr Newman
Mr Anthony	Mr Dean	Mr Hyde	Mr O'Keefe
Mr Baillieu	Mr Dobie	Mr Jarman	Mr Porter
Mr Baume	Mr Drummond	Mr Johnston	Mr I. L. Robinson
Mr Birney	Dr Edwards	Mr Jull	Mr Sainsbury
Mr Bouchier	Mr Ellicott	Mr Katter	Mr Shack
Mr Bradfield	Mr Falconer	Mr Killen	Mr Shipton
Mr Bungey	Mr Fife	Mr Lloyd	Mr Simon
Mr Burns	Mr Fisher	Mr Lucock	Mr Sinclair
Mr Burr	Mr Giles	Mr MacKellar	Mr Staley
Mr Cadman	Mr Gillard	Mr MacKenzie	Mr Street
Mr Cairns	Mr Goodluck	Mr McLean	Mr Thomson
Mr Calder	Mr Graham	Mr McLeay	Mr Viner
Mr D. M. Cameron	Mr Groom	Mr McVeigh	Mr Wilson
Mr Carlton	Mr Haslem	Mr Macphee	
Mr Chapman	Mr Hodges*	Mr Martyr	
Mr Connolly	Mr Hodgman	Mr Moore	
NOES, 30			
Mr Armitage	Dr Everingham	Mr James	Mr Martin
Dr Blewett	Mr FitzPatrick	Dr Jenkins	Mr Morris
Mr J. J. Brown	Mr Holding	Mr L. K. Johnson*	Mr Uren
Mr Bryant	Mr Howe	Mr L. R. Johnson*	Mr Wallis
Mr C. R. Cameron	Mr Humphreys	Mr C. K. Jones	Mr West
Dr Cass	Mr Hurford	Mr Kerin	Mr Willis
Mr Cohen	Mr Innes	Dr Klugman	
Mr Dawkins	Mr Jacobi	Mr J. L. McMahon	

* Tellers

And so it was resolved in the affirmative.

Debate ensued.

Mr Uren rising to address the House—

Closure: Mr Sinclair moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Acting Speaker, Mr Millar, in the Chair)—

AYES, 68			
Mr Adermann	Mr Corbett*	Mr Hodgman	Mr Moore
Mr Aldred	Mr Cotter	Mr Howard	Mr Neil
Mr Baillieu	Mr Dean	Mr Hunt	Mr Newman
Mr Baume	Mr Dobie	Mr Hyde	Mr O'Keefe
Mr Birney	Mr Drummond	Mr Jarman	Mr Porter
Mr Bouchier	Dr Edwards	Mr Johnston	Mr I. L. Robinson
Mr Bradfield	Mr Ellicott	Mr Jull	Mr Ruddock
Mr Bungey	Mr Falconer	Mr Katter	Mr Sainsbury
Mr Burns	Mr Fife	Mr Killen	Mr Shack
Mr Burr	Mr Fisher	Mr Lloyd	Mr Shipton
Mr Cadman	Mr Giles	Mr Lucock	Mr Simon
Mr Cairns	Mr Gillard	Mr MacKellar	Mr Sinclair
Mr Calder	Mr Goodluck	Mr MacKenzie	Mr Staley
Mr D. M. Cameron	Mr Graham	Mr McLean	Mr Street
Mr Carlton	Mr Groom	Mr McVeigh	Mr Thomson
Mr Chapman	Mr Haslem	Mr Macphee	Mr Viner
Mr Connolly	Mr Hodges*	Mr Martyr	Mr Wilson

NOES, 29

Mr Armitage	Mr FitzPatrick	Dr Jenkins	Mr Morris
Dr Blewett	Mr Holding	Mr L. K. Johnson*	Mr Uren
Mr J. J. Brown	Mr Howe	Mr L. R. Johnson*	Mr Wallis
Mr Bryant	Mr Humphreys	Mr C. K. Jones	Mr West
Dr Cass	Mr Hurford	Mr Kerin	Mr Willis
Mr Cohen	Mr Innes	Dr Klugman	
Mr Dawkins	Mr Jacobi	Mr J. L. McMahon	
Dr Everingham	Mr James	Mr Martin	

* Tellers

And so it was resolved in the affirmative.

And the question—That the motion for the suspension of the standing orders be agreed to—was put accordingly, and passed, with the concurrence of an absolute majority.

- 5 **NOMAD AIRCRAFT—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER:** Mr Macphee (Minister for Productivity) made a ministerial statement concerning the Nomad aircraft, and, by command of His Excellency the Governor-General, presented the following paper:

Nomad aircraft—Ministerial statement, 6 June 1979.

Mr Sinclair (Leader of the House) moved—That the House take note of the paper.
Debate ensued.

Debate adjourned (Mr Graham), and the resumption of the debate made an order of the day for the next sitting.

- 6 **PAPERS:** The following papers were presented:

By command of His Excellency the Governor-General:

Australia-China Council—Report of Working Group.

Estimates Committees of the House of Representatives—Draft Sessional Orders.

Migrant Women—Report of the National Women's Advisory Council, dated 11 April 1979.

Pursuant to statute:

Seat of Government (Administration) Act—Legal Aid Ordinance—Legal Aid Commission (A.C.T.)—1st Annual Report and financial statements, together with the auditor's report, for the period 11 July 1977 to 30 June 1978.

Urban and Regional Development (Financial Assistance) Act—Agreement relating to financial assistance to New South Wales for programs relating to the restoration, preservation and improvement of landscapes and buildings of special significance, dated 20 March 1979.

- 7 **EDUCATION COMMISSIONS—GUIDELINES FOR 1980-82—PAPER—MOTION TO TAKE NOTE OF PAPER:** Mr Staley (Minister representing the Minister for Education), by command of His Excellency the Governor-General, presented the following paper:

Education Commissions—Guidelines for 1980-82—Statement by Senator Carrick (Minister for Education), dated 5 June 1979.

Mr Sinclair (Leader of the House) moved—That the House take note of the paper.

Debate adjourned (Dr Cass), and the resumption of the debate made an order of the day for the next sitting.

- 8 **HOUSING INDUSTRY—INDICATIVE PLANNING COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Mr Groom (Minister for Housing and Construction), by command of His Excellency the Governor-General, presented the following paper:

Housing Industry—Indicative Planning Council—Report for triennium 1979-80 to 1981-82.

Mr Sinclair (Leader of the House) moved—That the House take note of the paper.

Debate adjourned (Mr Uren), and the resumption of the debate made an order of the day for the next sitting.

9 EXPENDITURE—STANDING COMMITTEE—REPORT ON NORTHERN TERRITORY FORESTRY PROGRAM—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT—PAPER NOTED: Mr Ellicott (Minister for Home Affairs), by leave, made a ministerial statement informing the House of the Government's response to the report of the Standing Committee on Expenditure on the Northern Territory forestry program, and, by command of His Excellency the Governor-General, presented the following paper:

Expenditure—Standing Committee—Report on Northern Territory forestry program—Government response—Ministerial statement, 6 June 1979.

Mr Sinclair (Leader of the House) moved—That the House take note of the paper.
Debate ensued.

Statement by Mr Acting Speaker: Mr Acting Speaker made a statement informing the House that in accordance with an undertaking he had given to the House, he had investigated and discussed with the President of the Senate certain allegations made in the Senate against a Member of the House of Representatives and that they had found no substance in any of the allegations.

Debate continued.

Question—put and passed.

10 PROPOSED DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—BUDGETARY AND MONETARY POLICY: Mr Deputy Speaker informed the House that both Mr Willis and Mr Hodges had proposed that definite matters of public importance be submitted to the House for discussion today. In accordance with the provisions of standing order 107, Mr Acting Speaker had given priority to the matter proposed by Mr Willis, namely, "The failure of the Government's budgetary and monetary policy".

The proposed discussion having received the necessary support—

Mr Willis rising to address the House—

Mr Sinclair (Leader of the House) moved—That the business of the day be called on.

Question—put.

The House divided (the Deputy Speaker, Mr Giles, in the Chair)—

AYES, 63

Mr Adermann	Mr Corbett*	Mr Hodgman	Mr Moore
Mr Aldred	Mr Cotter	Mr Howard	Mr Neil
Mr Baillieu	Mr Dean	Mr Hunt	Mr Newman
Mr Baume	Mr Dobie	Mr Hyde	Mr Porter
Mr Birney	Mr Drummond	Mr Jarman	Mr Ruddock
Mr Bouchier	Dr Edwards	Mr Johnston	Mr Sainsbury
Mr Bradfield	Mr Ellicott	Mr Jull	Mr Shack
Mr Bungey	Mr Falconer	Mr Katter	Mr Shipton
Mr Burns	Mr Fife	Mr Killen	Mr Simon
Mr Burr	Mr Fisher	Mr Lloyd	Mr Sinclair
Mr Cadman	Mr Gillard	Mr MacKellar	Mr Staley
Mr Cairns	Mr Goodluck	Mr MacKenzie	Mr Street
Mr Calder	Mr Graham	Mr McLean	Mr Thomson
Mr D. M. Cameron	Mr Groom	Mr McVeigh	Mr Viner
Mr Carlton	Mr Haslem	Mr Macphee	Mr Wilson
Mr Chapman	Mr Hodges*	Mr Martyr	

NOES, 30

Mr Armitage	Dr Everingham	Dr Jenkins	Mr Martin
Dr Blewett	Mr FitzPatrick	Mr L. K. Johnson*	Mr Morris
Mr J. J. Brown	Mr Holding	Mr L. R. Johnson*	Mr Uren
Mr Bryant	Mr Howe	Mr C. K. Jones	Mr Wallis
Mr C. R. Cameron	Mr Humphreys	Mr Kerin	Mr West
Dr Cass	Mr Hurford	Dr Klugman	Mr Willis
Mr Cohen	Mr Innes	Mr Lucock	
Mr Dawkins	Mr James	Mr J. L. McMahon	

* Tellers

And so it was resolved in the affirmative.

- 11 MESSAGE FROM THE SENATE: A message from the Senate was reported returning the following Bill without amendment:
6 June 1979, a.m.—Message No. 245—Income Tax (Rates and Assessment) Amendment 1979.
- 12 COMMONWEALTH INSCRIBED STOCK AMENDMENT BILL 1979: Mr Howard (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Commonwealth Inscribed Stock Act 1911*.
Bill read a first time.
Mr Howard moved—That the Bill be now read a second time.
Debate adjourned (Mr Innes), and the resumption of the debate made an order of the day for the next sitting.
- 13 QUARANTINE AMENDMENT BILL (No. 2) 1979: Mr Hunt (Minister for Health), pursuant to notice, presented a Bill for an Act to amend the *Quarantine Act 1908*.
Bill read a first time.
Mr Hunt moved—That the Bill be now read a second time.
Debate adjourned (Mr Hurford), and the resumption of the debate made an order of the day for the next sitting.
- 14 AUSTRALIAN CAPITAL TERRITORY ELECTRICITY SUPPLY AMENDMENT BILL 1979: Mr Ellicott (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *Australian Capital Territory Electricity Supply Act 1962*.
Bill read a first time.
Mr Ellicott moved—That the Bill be now read a second time.
Debate adjourned (Mr Innes), and the resumption of the debate made an order of the day for the next sitting.
- 15 OMBUDSMAN AMENDMENT BILL 1979: Mr Ellicott (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *Ombudsman Act 1976*.
Bill read a first time.
Mr Ellicott moved—That the Bill be now read a second time.
Debate adjourned (Mr Innes), and the resumption of the debate made an order of the day for the next sitting.
- 16 REMUNERATION TRIBUNALS AMENDMENT BILL (No. 2) 1979: Mr Ellicott (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *Remuneration Tribunals Act 1973*.
Bill read a first time.
Mr Ellicott moved—That the Bill be now read a second time.
Debate adjourned (Mr Innes), and the resumption of the debate made an order of the day for the next sitting.
- 17 MESSAGE FROM THE SENATE—NATIONAL PARKS AND WILDLIFE CONSERVATION AMENDMENT BILL 1979: Message No. 246, dated 6 June 1979, a.m., from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act relating to the establishment and development of a township at Jabiru in Kakadu National Park in the Northern Territory*”.
Bill read a first time.
Mr Groom (Minister representing the Minister for Science and the Environment) moved—That the Bill be now read a second time.
Debate adjourned (Mr Innes), and the resumption of the debate made an order of the day for the next sitting.

18 BOUNTY (INJECTION-MOULDING EQUIPMENT) BILL 1979: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Mr J. J. Brown rising to address the House—

Closure: Mr Bouchier moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Deputy Speaker, Mr Martin, in the Chair)—

AYES, 61

Mr Adermann	Mr Connolly	Mr Hodgman	Mr Newman
Mr Aldred	Mr Corbett*	Mr Howard	Mr Porter
Mr Baillieu	Mr Cotter	Mr Hunt	Mr Ruddock
Mr Baume	Mr Dean	Mr Hyde	Mr Sainsbury
Mr Birney	Mr Dobie	Mr Jarman	Mr Shack
Mr Bouchier	Mr Drummond	Mr Johnston	Mr Shipton
Mr Bradfield	Dr Edwards	Mr Katter	Mr Simon
Mr Bungey	Mr Ellicott	Mr Lloyd	Mr Sinclair
Mr Burns	Mr Falconer	Mr Lucock	Mr Staley
Mr Burr	Mr Fife	Mr MacKellar	Mr Street
Mr Cadman	Mr Fisher	Mr MacKenzie	Mr Thomson
Mr Cairns	Mr Giles	Mr McLean	Mr Viner
Mr Calder	Mr Gillard	Mr McVeigh	Mr Wilson
Mr D. M. Cameron	Mr Graham	Mr Martyr	
Mr Carlton	Mr Groom	Mr Moore	
Mr Chapman	Mr Hodges*	Mr Neil	

NOES, 24

Dr Blewett	Mr Holding	Dr Jenkins	Mr J. L. McMahon*
Mr J. J. Brown	Mr Howe	Mr L. K. Johnson	Mr Morris
Dr Cass	Mr Humphreys	Mr L. R. Johnson*	Mr Uren
Mr Cohen	Mr Hurford	Mr C. K. Jones	Mr Wallis
Mr Dawkins	Mr Innes	Mr Kerin	Mr West
Mr FitzPatrick	Mr James	Dr Klugman	Mr Willis

* Tellers

And so it was resolved in the affirmative.

And the question—That the Bill be now read a second time—was put accordingly, and passed—Bill read a second time.

Message from the Governor-General: Message No. 163, dated 31 May 1979, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Fife (Minister for Business and Consumer Affairs), the Bill was read a third time.

19 BOUNTY (BOOKS) AMENDMENT BILL 1979: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Mr Hurford who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “this House, whilst supporting bounty assistance for local printers, is of the opinion that the Bill should be withdrawn and re-drafted to provide such assistance for minimum runs of 500 copies instead of the present 1000 copies in order to aid smaller, more specialised printers who have previously been encouraged to invest in facilities through, for instance, the investment allowance and who must be encouraged to undertake structural adjustment in more equitable and less costly and disruptive ways”.

Mr J. J. Brown (seconded) addressing the House—

Closure of Member: Mr Bouchier moved—That the honourable Member be not further heard.

Question—put.

The House divided (the Deputy Speaker, Mr Martin, in the Chair)—

AYES, 63

Mr Adermann	Mr Connolly	Mr Hodgman	Mr Moore
Mr Aldred	Mr Corbett*	Mr Howard	Mr Newman
Mr Baillieu	Mr Cotter	Mr Hunt	Mr O'Keefe
Mr Baume	Mr Dean	Mr Hyde	Mr Porter
Mr Birney	Mr Dobie	Mr Jarman	Mr Ruddock
Mr Bouchier	Mr Drummond	Mr Johnston	Mr Sainsbury
Mr Bradfield	Dr Edwards	Mr Jull	Mr Shack
Mr Bungey	Mr Ellicott	Mr Katter	Mr Shipton
Mr Burns	Mr Falconer	Mr Lloyd	Mr Simon
Mr Burr	Mr Fife	Mr Lucock	Mr Sinclair
Mr Cadman	Mr Fisher	Mr MacKellar	Mr Staley
Mr Cairns	Mr Giles	Mr MacKenzie	Mr Street
Mr Calder	Mr Gillard	Mr McLean	Mr Thomson
Mr D. M. Cameron	Mr Graham	Mr McVeigh	Mr Viner
Mr Carlton	Mr Groom	Mr Macphee	Mr Wilson
Mr Chapman	Mr Hodges*	Mr Martyr	

NOES, 28

Dr Blewett	Dr Everingham	Mr Jacobi	Dr Klugman
Mr J. J. Brown	Mr FitzPatrick	Mr James	Mr J. L. McMahon*
Mr Bryant	Mr Holding	Dr Jenkins	Mr Morris
Mr C. R. Cameron	Mr Howe	Mr L. K. Johnson	Mr Uren
Dr Cass	Mr Humphreys	Mr L. R. Johnson*	Mr Wallis
Mr Cohen	Mr Hurford	Mr C. K. Jones	Mr West
Mr Dawkins	Mr Innes	Mr Kerin	Mr Willis

* Tellers

And so it was resolved in the affirmative.

Mr Holding rising to address the House—

Closure: Mr Bouchier moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Deputy Speaker, Mr Martin, in the Chair)—

AYES, 61

Mr Adermann	Mr Connolly	Mr Howard	Mr O'Keefe
Mr Aldred	Mr Corbett*	Mr Hunt	Mr Porter
Mr Baillieu	Mr Dean	Mr Hyde	Mr Ruddock
Mr Baume	Mr Dobie	Mr Jarman	Mr Sainsbury
Mr Birney	Mr Drummond	Mr Johnston	Mr Shack
Mr Bouchier	Dr Edwards	Mr Jull	Mr Shipton
Mr Bradfield	Mr Ellicott	Mr Katter	Mr Simon
Mr Bungey	Mr Falconer	Mr Lloyd	Mr Sinclair
Mr Burns	Mr Fife	Mr Lucock	Mr Staley
Mr Burr	Mr Fisher	Mr MacKellar	Mr Street
Mr Cadman	Mr Giles	Mr MacKenzie	Mr Thomson
Mr Cairns	Mr Gillard	Mr McLean	Mr Viner
Mr Calder	Mr Graham	Mr McVeigh	Mr Wilson
Mr D. M. Cameron	Mr Groom	Mr Martyr	
Mr Carlton	Mr Hodges*	Mr Moore	
Mr Chapman	Mr Hodgman	Mr Newman	

NOES, 28

Dr Blewett	Dr Everingham	Mr Jacobi	Dr Klugman
Mr J. J. Brown	Mr FitzPatrick	Mr James	Mr J. L. McMahon*
Mr Bryant	Mr Holding	Dr Jenkins	Mr Morris
Mr C. R. Cameron	Mr Howe	Mr L. K. Johnson	Mr Uren
Dr Cass	Mr Humphreys	Mr L. R. Johnson*	Mr Wallis
Mr Cohen	Mr Hurford	Mr C. K. Jones	Mr West
Mr Dawkins	Mr Innes	Mr Kerin	Mr Willis

* Tellers

And so it was resolved in the affirmative.

And the question—That the words proposed to be omitted stand part of the question—was put accordingly, and passed.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Message from the Governor-General: Message No. 164, dated 10 May 1979, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Fife (Minister for Business and Consumer Affairs), the Bill was read a third time.

20 CUSTOMS TARIFF VALIDATION BILL 1979: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—Debate resumed.

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Ellicott (Minister for Home Affairs), the Bill was read a third time.

21 EXCISE TARIFF AMENDMENT BILL (No. 2) 1979: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Ellicott (Minister for Home Affairs), the Bill was read a third time.

22 AUSTRALIAN FEDERAL POLICE BILL 1979: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—Debate resumed by Mr Innes who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the Bill be withdrawn and re-drafted to provide for:

- (1) the creation of a single component force;
- (2) the creation of rights of appeal in relation to transfers, promotions, discipline, demotions, retirements and dismissals;
- (3) the power of appointment and dismissal of the Commissioner to be vested specifically in the Governor-General in Council;
- (4) the conferring in the Minister of more extensive powers of direction of the Commissioner, subject to the requirement that any such directions be tabled in Parliament and gazetted, and
- (5) a system for the independent determination of complaints against police in accordance with the recommendations of the Australian Law Reform Commission”.

Debate continued.

Question—That the words proposed to be omitted stand part of the question—put.

The House divided (the Deputy Speaker, Mr I. L. Robinson, in the Chair)—

AYES, 65

Mr Adermann	Mr Corbett*	Mr Hunt	Mr Newman
Mr Aldred	Mr Dean	Mr Hyde	Mr O’Keefe
Mr Anthony	Mr Dobie	Mr Jarman	Mr Porter
Mr Baillieu	Mr Drummond	Mr P. F. Johnson	Mr Ruddock
Mr Baume	Dr Edwards	Mr Johnston	Mr Sainsbury
Mr Birney	Mr Ellicott	Mr Jull	Mr Shack
Mr Bouchier	Mr Falconer	Mr Katter	Mr Shipton
Mr Bradfield	Mr Fife	Mr Killen	Mr Simon
Mr Bungey	Mr Fisher	Mr Lloyd	Mr Sinclair
Mr Burns	Mr Giles	Mr Lucock	Mr Staley
Mr Cadman	Mr Gillard	Mr MacKellar	Mr Street
Mr Cairns	Mr Graham	Mr MacKenzie	Mr Thomson
Mr Calder	Mr Groom	Mr McLean	Mr Viner
Mr D. M. Cameron	Mr Haslem	Mr McLeay	Mr Wilson
Mr Carlton	Mr Hodges*	Mr McVeigh	
Mr Chapman	Mr Hodgman	Mr Martyr	
Mr Connolly	Mr Howard	Mr Moore	

NOES, 28

Dr Blewett	Mr FitzPatrick	Mr James	Mr J. L. McMahon
Mr J. J. Brown	Mr Holding	Dr Jenkins	Mr Martin
Mr Byrant	Mr Howe	Mr L. K. Johnson*	Mr Morris
Mr C. R. Cameron	Mr Humphreys	Mr L. R. Johnson*	Mr Uren
Mr Cohen	Mr Hurford	Mr C. K. Jones	Mr Wallis
Mr Dawkins	Mr Innes	Mr Kerin	Mr West
Dr Everingham	Mr Jacobi	Dr Klugman	Mr Willis

* Tellers

And so it was resolved in the affirmative.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

The House resolved itself into a committee of the whole.

In the committee

Clauses 1 to 5, by leave, taken together, and agreed to.

Clause 6—

Mr Innes moved the following amendment: Page 3, omit paragraph (d).

Debate continued.

Amendment negatived.

Clause agreed to.

Clause 7 debated and agreed to.

Clause 8—

Mr Innes moved the following amendment: Page 3, lines 36–38, omit “Commissioner and the Commissioner of Police (however designated) of that State”, substitute “Minister and the appropriate Minister of that State”.

Debate continued.

Amendment negatived.

Clause agreed to.

Clause 9 agreed to.

Clause 10 debated and agreed to.

Clauses 11 and 12, by leave, taken together, and agreed to.

Clause 13—

Mr Innes moved the following amendment: Page 5, omit sub-clause (2), substitute the following sub-clauses:

“(2) The Commissioner shall, in the exercise of his functions, act in accordance with the written directions (if any) given to him by the Minister.

“(2A) The Minister shall cause a copy of every direction under sub-section (2) to be laid before each House of Parliament within 6 sitting days of the date of the direction.

“(2B) The Minister shall cause a copy of any direction under sub-section (2) to be published in the *Gazette* not later than 8 days after the date of the direction.”.

Debate continued.

Amendment negatived.

Clause agreed to.

Clause 14—

Mr Innes moved the following amendment: Page 6, lines 4–6, omit “and determining the respective functions of the components referred to in sub-sections 7 (1) and (2)”.

Debate continued.

Amendment negatived.

Clause agreed to.

Clauses 15 and 16, by leave, taken together, and agreed to.

Clause 17—

Mr Innes, by leave, moved the following amendments together:

Page 6, line 36, omit "Governor-General", substitute "Governor-General in Council".

Page 7, line 3, omit "Governor-General", substitute "Governor-General in Council".

Page 7, line 9, omit "Governor-General", substitute "Governor-General in Council".

Debate continued.

Amendments negated.

Mr Innes moved the following amendment: Page 7, after sub-clause (6) add the following sub-clause:

"(7) The Commissioner or a Deputy Commissioner may resign his office as Commissioner or as a Deputy Commissioner by writing under his hand delivered to the Minister but the resignation does not have effect until it is accepted by the Minister."

Debate continued.

Amendment negated.

Clause agreed to.

Clauses 18 to 21, by leave, taken together, and agreed to.

Clause 22—

Mr Innes, by leave, moved the following amendments together:

Page 8, line 23, omit "Governor-General", substitute "Governor-General in Council".

Page 8, line 35, omit "Governor-General", substitute "Governor-General in Council".

Debate continued.

Amendments negated.

Clause agreed to.

Clauses 23 and 24, by leave, taken together, and agreed to.

Clause 25—

Mr Innes, by leave, moved the following amendments together:

Page 9, line 1, omit "Governor-General", substitute "Governor-General in Council".

Page 9, line 3, omit "Governor-General", substitute "Governor-General in Council".

Debate continued.

Amendments negated.

Mr Innes, by leave, moved the following amendments together:

Page 9, line 5, omit "in a component".

Page 9, line 8, omit "in a component".

Page 9, line 9, omit "in either component".

Page 9, lines 12–15, omit paragraph (c).

Page 9, line 17, omit "in a component".

Page 9, line 19, omit "in either component".

Page 9, lines 20–24, omit sub-clause (3).

Page 9, lines 27 and 28, omit "or a commissioned protective service officer referred to in paragraph 6 (d)".

Page 9, lines 32 and 33, omit "or a non-commissioned protective service officer referred to in paragraph 6 (d)".

Debate continued.

Amendments negated.

Clause agreed to.

Clause 26—

Mr Innes, by leave, moved the following amendments together:

Page 9, line 36, omit "in a component".

Page 9, lines 39 and 40, omit "in a component".

Page 9, lines 40 and 41, omit "in either component".

Page 9, lines 43–46, omit paragraph (c).

Page 10, line 1, omit "in a component".

Page 10, line 3, omit "in either component".

Page 10, lines 4–8, omit sub-clause (2).

Page 10, lines 10 and 11, omit "or a non-commissioned protective service officer referred to in paragraph 6 (d)".

Debate continued.

Amendments negatived.

Clause agreed to.

Clause 27—

Mr Innes, by leave, moved the following amendments together:

Page 10, line 14, omit "the functions of a component", substitute "its functions".

Page 10, lines 17 and 18, omit "persons comprising the component in connection with which he is appointed", substitute "members of the Australian Federal Police".

Debate continued.

Amendments negatived.

Clause agreed to.

Clause 28—

Mr Innes moved the following amendment: Page 10, lines 32 and 33, omit "in relation to the component whose functions he is to assist in performing".

Debate continued.

Amendment negatived.

Clause agreed to.

It being 10.30 p.m.—Progress to be reported.

The House resumed; Dr Jenkins reported accordingly.

Adjournment negatived: The question was accordingly proposed—That the House do now adjourn.

Mr McLeay (Minister for Administrative Services) requiring the question to be put forthwith without debate—

Question—put and negatived.

The House again resolved itself into a committee of the whole.

In the committee

Clauses 29 to 35, by leave, taken together, and agreed to.

Clause 36—

Mr Innes moved—That the clause be omitted, and the following clause substituted:

"36. (1) The promotion of a member of the Australian Federal Police to a vacant position or to a position that is expected to become vacant—^{Selection of members for promotion}

(a) is provisional and without increased salary pending confirmation of the promotion; and

(b) is subject to appeal as provided by this section.

"(2) A member of the Australian Federal Police who considers that he should have been promoted to a vacant position or to a position that is expected to become vacant in preference to the member provisionally promoted may appeal, in the manner specified in the regulations, against the provisional promotion on the grounds of superior efficiency or of equal efficiency and seniority.

"(3) For the purposes of this section—

(a) 'efficiency', in relation to a member, in relation to a rank, means the possession by the member of special qualifications and aptitude for the discharge of duties of the kind to be performed by members holding that rank, together with merit, diligence and good conduct; and

(b) the seniority of members shall be determined as prescribed.

"(4) The Minister may regard an appeal as having been made under this Act on a ground specified in sub-section (2) by a member who, at any time within the time prescribed for lodging an appeal, is absent from Australia on official duty or is absent from duty in prescribed circumstances and in such a case this section has effect

as if an appeal on that ground had been received from the member and as if that member had been, at the date of the appeal, performing his duties in the State or Territory in which, immediately before his departure from Australia on official duty or his absence from duty in circumstances so prescribed, as the case may be, he was performing his duties.

“(5) Upon an appeal or appeals being made against a provisional promotion, a Promotions Appeal Board shall make a full inquiry into the claims of the appellant or appellants and the claims of the member provisionally promoted and determine the appeal or appeals.

“(6) The regulations may make provision for and in relation to the conduct of inquiries by Promotions Appeal Boards, including provisions for a Promotions Appeal Board to act as a central Promotions Appeal Board to determine an appeal, or 2 or more appeals in respect of 1 promotion, in a case where all the parties to the appeal or appeals do not perform their duties in the same State or Territory after examining reports made to it by 2 or more other Promotions Appeal Boards and making such further inquiries (if any) as it thinks necessary into the claims of all the parties to the appeal or appeals.

“(7) Where an appeal is allowed, the Minister shall cancel the provisional promotion and promote the appellant to the vacant position or to the position that is expected to become vacant, as the case may be.

“(8) Where there are 2 or more appellants in respect of the one promotion, the appeals shall be determined by the 1 Promotions Appeal Board and that Board shall, if it considers that 2 or more appellants have established the grounds of their appeals, allow the appeal of 1 only of those appellants, being the appellant whom it considers to have the best claim to promotion to the vacant position or to the position that is expected to become vacant.

“(9) Where, in respect of a provisional promotion, no appeal is duly made or an appeal has, or appeals have, been duly made but the appeal or each of the appeals has been disallowed or has become inoperative, the Minister shall confirm the provisional promotion.

“(10) If, after notification has been made of a provisional promotion to a vacant position or to a position that is expected to become vacant, but before the promotion has been confirmed, the Minister is satisfied that the position is unnecessary or could be filled by the transfer of an excess officer, or that the notification or further notification of the vacancy, or expected vacancy, in the position is desirable, the Minister may cancel the provisional promotion.

“(11) The Minister may cancel a provisional promotion in accordance with subsection (9) whether or not there has been an appeal against the provisional promotion, and, where the Minister so cancels a provisional promotion, any appeals in respect of the promotion shall be discontinued.

“(12) For the purposes of this section, an appeal shall be taken to become inoperative if—

- (a) the appeal is withdrawn;
- (b) the appellant ceases to be a member of the Australian Federal Police; or
- (c) the appellant ceases, by reason of the confirmation of his promotion to another position or for any other reason, to be eligible for promotion to the position concerned.”.

Debate continued.

Amendment negatived.

Clause agreed to.

Proposed new clause—

Mr Innes moved—That the following new clause be inserted in the Bill:

“36A. (1) For the purposes of this Division, the Minister shall, from time to time, arrange for the establishment of such Promotions Appeal Boards as are required. ^{Establishment of Promotions Appeal Boards}

“(2) A Promotions Appeal Board, in relation to an appeal against a provisional promotion to a vacant position or to a position that is expected to become vacant, shall be constituted by—

- (a) a Chairman who shall be a person appointed by the Minister to be a full-time or part-time Chairman of Promotions Appeal Boards;
- (b) a police officer nominated by the Minister for the purposes of the appeal; and
- (c) a police officer nominated by the organisation representing police officers that is, by virtue of the regulations, the appropriate organisation in respect of the appeal.

“(3) A Chairman of Promotions Appeal Boards shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

“(4) A Chairman of Promotions Appeal Boards shall be paid such allowances as are prescribed.

“(5) Sub-sections (3) and (4) have effect subject to the *Remuneration Tribunals Act 1973*.

“(6) Subject to sub-sections (3) and (4), a Chairman of Promotions Appeal Boards holds office for such period, and upon such terms and conditions, as the Minister determines.

“(7) The regulations may make provision for and in relation to the preservation of such rights as are specified in the regulations by a police officer who is appointed to be a full-time Chairman of Promotions Appeal Boards under this Act and for and in relation to the appointment of such a police officer to a position in the Australian Federal Police upon the termination of his appointment under this section otherwise than upon the ground of his misconduct or after his having attained the age for retirement from the Australian Federal Police.

“(8) Decisions of a Promotions Appeal Board need not be unanimous but may be decided according to the decision of the majority.”

Proposed new clause negatived.

Clause 37—

Mr Innes, by leave, moved the following amendments together:

Page 13, line 30, omit “3 months”, substitute “1 month”.

Page 13, lines 31 and 32, omit “, and not later than 4 months,”.

Debate continued.

Amendments negatived.

Clause agreed to.

Clause 38—

Mr Innes moved the following amendment: Page 13, line 42, omit “If a member”, substitute “If, on the basis of a medical report, a member”.

Amendment negatived.

Clause agreed to.

Clause 39—

Mr Innes, by leave, moved the following amendments together:

Page 14, lines 7–9, omit paragraph (a).

Page 14, line 11, omit “in either component”.

Amendments negatived.

Clause agreed to.

Clause 40—

Mr Innes, by leave, moved the following amendments together:

Page 14, lines 18–21, omit paragraph (c).

Page 14, line 22, before “early” insert “voluntary”.

Page 14, lines 31–37, omit paragraph (f).

Debate continued.

Amendments negatived.

Clause agreed to.

Clauses 41 to 43, by leave, taken together, and agreed to.

Clause 44—

Mr Innes moved the following amendment: Page 15, line 27, omit “may”, substitute “shall”.

Debate continued.

Amendment negatived.

Clause agreed to.

Clause 45 agreed to.

Clause 46—

Mr Innes, by leave, moved the following amendments together:

Page 15, line 39, after “association” insert “or a member aggrieved by a decision under section 38 or 39”.

Page 15, line 44, omit “Governor-General or of the Commissioner”, substitute “Governor-General in Council”.

Page 16, lines 1 and 2, omit “, demotions, retirements or dismissals”, substitute “or demotions”.

Debate continued.

Amendments negatived.

Clause agreed to.

Clauses 47 and 48, by leave, taken together, and agreed to.

Clause 49—

Mr Innes moved the following amendment: Page 16, line 38, omit “a party, being an association,”, substitute “any party”.

Debate continued.

Amendment negatived.

Clause agreed to.

Clauses 50 to 54, by leave, taken together, and agreed to.

Clause 55—

Mr Innes, by leave, moved the following amendments together:

Page 19, line 32, omit “or officer”, substitute “, officer or employee”.

Page 19, line 33, omit “or officer”, substitute “, officer or employee”.

Amendments negatived.

Clause agreed to.

Clauses 56 to 80, by leave, taken together, and agreed to.

Proposed new Parts—

Mr Innes, by leave, moved—That the following new Parts VIII and IX (comprising clauses 81 to 147) be added to the Bill:

“PART VIII—COMPLAINTS AGAINST THE POLICE

“Division 1—Preliminary

“81. In this Part unless the contrary intention appears—

Interpre-
tation

‘breach of discipline’ includes a disciplinary offence under the regulations;

‘Commissioner’ means the person holding, or performing the duties of, the office of Commissioner of Police under the *Public Service Act 1922*;

‘Commonwealth Police Force’ means the Commonwealth Police Force established by section 4;

‘Deputy Ombudsman’ means a Deputy Commonwealth Ombudsman;

‘Deputy President’ means a Deputy President of the Police Tribunal;

'Internal Discipline Section' or 'Section' means the Internal Discipline Section established by section 85;

'law' means a law of the Commonwealth or of a State or Territory;

'legal practitioner' means a barrister or solicitor of the High Court or of the Supreme Court of a State or Territory;

'offence' means an offence against a law of the Commonwealth or of a State or Territory;

'Ombudsman' means the Commonwealth Ombudsman;

'Police Force' means the Australian Federal Police;

'police officer' means—

- (a) the Commissioner or a Deputy Commissioner;
- (b) a member of the Australian Federal Police referred to in paragraph 6 (c); and
- (c) a special member of the Australian Federal Police appointed under section 27;

'President' means the President of the Tribunal;

'Registrar' means the Registrar of the Tribunal; and

'Tribunal' means the Police Tribunal established by Division 4.

"82. For the purposes of this Part a reference to action taken by a police officer is a reference to action that the police officer has taken, or purports to have taken—

Interpretation
of action by
police officer

- (a) by virtue of his being a police officer, whether the taking of the action was within, or was incidental to the performance of, his duties as a police officer;
- (b) in the exercise of powers, or the performance of functions, conferred on him by this Act or by some other law; or
- (c) in the capacity of a constable, under whatever authority he was appointed as such.

"Division 2—Complaints against members of the Australian Federal Police

"Sub-Division 1—Interpretation

"83. (1) In this Division, unless the contrary intention appears, a reference to action taken includes a reference to—

Interpretation

- (a) a decision or recommendation made; and
- (b) a failure or refusal to take action or to make a decision or recommendation.

"(2) For the purposes of this Division, a person shall be taken to have complained to a police officer concerning action taken by that police officer or by another police officer if the person, in a document delivered to, or in a statement made orally to, the first-mentioned police officer, whether expressly or by implication, seeks, or seeks assistance in obtaining, redress (including action by way of punishing a police officer for an offence or a breach of discipline) in respect of that action taken by the police officer.

"(3) For the purposes of this Division, where the Ombudsman or the Tribunal has referred a matter to the Commissioner for investigation by the Internal Discipline Section, that matter shall, upon being referred by the Commissioner to the Section, be taken to have been so referred at the request of the Ombudsman or of the Tribunal, respectively.

"84. (1) Where a person complains to a police officer concerning action taken by that police officer, or by another police officer, this Division applies to and in relation to the complaint, whether—

Application
of Part

- (a) the complaint is made orally or in writing;

- (b) the police officer whose action is complained of is identified in the complaint; or
- (c) the identity of the complainant is known by, or disclosed to, the police officer to whom the complaint is made.

“(2) This Division does not apply to or in relation to a complaint made to a police officer concerning action taken in relation to the terms or conditions of employment of police officers generally or to the employment of a particular police officer.

“(3) The provisions of this Division, in so far as they confer rights on persons with respect to action taken by a police officer—

- (a) are in addition to the provisions of, and do not affect the operation of, any other law, in respect of that action; and
- (b) in particular, do not prevent or affect the taking of legal proceedings in respect of that action under some other law or the operation of any other law in respect of that action.

“Sub-Division 2—The Internal Discipline Section

“85. (1) There shall be a Section of the Police Force to be known as the Internal Discipline Section.

Establishment
of Internal
Discipline
Section

“(2) The Commissioner shall create such number of positions (not being less than 2) in the Section as are necessary for the effective performance by the Section of the functions referred to in this Sub-Division and may abolish a position so created that is no longer necessary but so that the number of positions remaining after the position has been abolished is not less than 2.

“(3) The number of positions shall not be taken to be less than 2 in consequence of the abolition of a position if another position is immediately created in its place.

“(4) The Commissioner shall determine the rank to be held by a police officer occupying a position in the Section.

“(5) The Commissioner shall not exercise the powers conferred on him by sub-sections (2) and (4) otherwise than with the concurrence of the Public Service Board or of a person authorised by the Board to act under this sub-section.

“(6) The Commissioner shall, from time to time as occasion requires, designate a police officer who occupies a position in the Section to be the officer in charge of the Section.

“86. (1) The functions of the Internal Discipline Section are—

Functions of
Section

- (a) to investigate matters concerning action taken by a police officer that are referred to it by the Commissioner, including matters referred to it by the Commissioner at the request of the Ombudsman or of the Tribunal;
- (b) to investigate complaints concerning action taken by a police officer that are referred to it under section 89;
- (c) to report to the Commissioner with respect to investigations carried out by it; and
- (d) such other functions as are conferred on it by or under this or another Act.

“(2) Where a member of the Section is able to do so without unduly interfering with the performance of the functions conferred on the Section by sub-section (1), the member shall perform such duties as a police officer as the Commissioner determines, but not including the investigation of offences alleged to have been committed by persons other than police officers.

“87. (1) The Commissioner shall, in selecting a police officer ^{Filling of vacancies} for transfer or promotion to a vacant position in the Internal Discipline Section or to a position in the Section that is expected to become vacant, take into account, in addition to any other matters that he considers to be relevant—

- (a) the nature of the functions of the Section; and
- (b) the need to ensure that, at all times, the membership of the Section includes a police officer with experience of criminal investigations and a police officer with experience of the general duties of police officers in uniform.

“(2) In an appeal against the promotion or transfer of a police officer to a vacant position, or to a position that is expected to become vacant, in the Section, there shall be taken into account, in addition to other relevant matters, the matters referred to in paragraphs (1) (a) and (1) (b).

“88. (1) Where the Commissioner transfers or promotes a ^{Appointment, transfer or promotion to be for limited period} police officer from a position that is not in the Internal Discipline Section to a position that is in the Section, the Commissioner shall, by instrument under his hand, determine the period during which the police officer is to continue to be a member of the Section.

“(2) Where the Commissioner is of the opinion that there are special reasons for doing so, he may vary an instrument under sub-section (1) relating to a police officer by substituting another period for the period specified in the instrument.

“(3) Where a police officer has held a position in the Section for the period specified in the instrument under sub-section (1) that relates to him, or has held 2 or more positions in the Section for periods that are continuous with each other and aggregate the period so specified, the Commissioner shall, as soon as practicable, transfer or promote the officer to a position that is not in the Section.

“(4) An instrument that has been varied in accordance with sub-section (2) may be again varied as provided by that sub-section.

“(5) In sub-section (3), a reference to an instrument under sub-section (1) includes a reference to an instrument under sub-section (1) that has been varied under sub-section (2) or (4).

“(6) The Commissioner shall so exercise his powers under this section as to ensure, so far as is practicable that a member of the Section will continue to serve as such a member for a period not exceeding 3 years unless, in the opinion of the Commissioner, special circumstances exist that make it desirable that the person serve for a longer period.

“89. (1) Where a person complains to a police officer ^{Certain complaints to be referred to Internal Discipline Section} concerning action taken by that police officer or by another police officer, the police officer to whom the complaint is made shall refer the complaint to the Internal Discipline Section for investigation.

“(2) The police officer shall so refer the complaint by the most expeditious means available to him and, where he refers the complaint orally, shall, as soon as practicable, furnish particulars of the complaint, in writing, to the Section.

“(3) As soon as practicable after particulars in writing of a complaint have been received, the Section shall notify the Commissioner of the complaint and furnish to him a copy of the particulars.

“(4) As soon as practicable after the Commissioner has been notified, the Commissioner shall notify the Ombudsman of the complaint and furnish to him a copy of the particulars.

“(5) A police officer to whom a complaint is made may, if he considers it necessary to do so, take reasonable action to prevent—

- (a) injury to persons or damage to property;
- (b) the escape of a person liable to arrest; or
- (c) the loss, destruction or fabrication of evidence relating to the complaint or an offence,

but not so as to contravene, or fail to comply with, a law.

“(6) A police officer who takes action in accordance with sub-section (5) in connection with a complaint—

- (a) shall, notwithstanding that he takes the action, comply with sub-section (1) in respect of the complaint; and
- (b) shall furnish to the Section, as soon as practicable, particulars in writing, of the action that he has taken.

“(7) This section does not apply to a complaint made by a person who is known to the police officer to whom the complaint is made to be, or discloses to that police officer that he is, another police officer.

“90. (1) Where a complaint or matter is referred to the ^{Investigation of complaints} Internal Discipline Section for investigation, whether under this Part or under some other Part, the officer in charge of the Section shall cause the complaint or matter to be investigated by a member of the Section and a report concerning the investigation to be prepared.

“(2) The investigation shall be conducted, subject to this Part, in such manner as the officer in charge of the Section thinks fit.

“(3) Subject to this Part, a member of the Section may, for the purposes of the investigation, obtain information from such persons, and make such inquiries, as he thinks fit.

“(4) A member of the Section may, for the purposes of the investigation—

- (a) enter premises occupied by the Police Force and carry on the investigation at those premises;
- (b) inspect any documents or records kept at premises occupied by the Police Force and take extracts from, or a copy of, such a document or record; and
- (c) examine any property used by the Police Force.

“(5) A member of the Section may, for the purposes of the investigation—

- (a) direct a police officer to furnish information, answer a question or produce a document or other record, being information, a question, a document or a record that is relevant to the investigation;
- (b) may make a record, by means of sound recording apparatus or otherwise, of any information furnished, or answer given, in compliance with the direction; and
- (c) may take extracts from, or a copy of, a document or record produced in compliance with the direction.

“(6) A police officer is not excused from complying with a direction under sub-section (5) on the ground that compliance with the direction would be contrary to the public interest or might tend to incriminate him or make him liable to a penalty, or on any other ground, but information so furnished by him, or his answer to such a question, is not admissible in evidence against him in any civil or criminal proceedings other than proceedings for an offence against sub-section (7) or for a breach of discipline.

“(7) A police officer shall not furnish information or make a statement to a member of the Internal Discipline Section knowing that it is false or misleading in a material particular.

Penalty: \$500 or imprisonment for 6 months.

“(8) Sub-sections (2) and (3) do not authorize a police officer to contravene or fail to comply with a law that would, if those sub-sections had not been enacted, apply in relation to the investigation of a complaint or other matter referred to the Section but nothing in this sub-section affects the operation of any other provision of this section.

“91. (1) The officer in charge of the Internal Discipline Section may— Reference of
complaints to
other persons

- (a) if he is of the opinion that the whole or a part of the investigation of a complaint should be carried out by a person possessing special qualifications and if the Commissioner so approves, authorize a police officer who is not a member of the Section, or some other person who is not a police officer, being a police officer or person who possesses those qualifications, to make that investigation, or that part of the investigation, on behalf of the Section; or
- (b) if he is of the opinion that the complaint is not such as to require investigation by a member of the Section and if the Commissioner so approves, authorize a police officer who is not a member of the Section to make the investigation on behalf of the Section.

“(2) Where the officer in charge of the Section gives such an authority, references in section 90 to a member of the Section shall, in the application of those sub-sections in relation to the investigation or part of the investigation, be read as references to the police officer or other person authorized.

“92. (1) At any time before the Internal Discipline Section has furnished to the Commissioner a report of the results of its Interim
reports investigation of a complaint that has been referred to it under section 89 or by the Commissioner at the request of the Ombudsman, the Commissioner shall, if the Ombudsman so requests, direct the officer in charge of the Section to furnish to him, in writing, a report of the progress of the investigation of the complaint.

“(2) The Commissioner shall, as soon as practicable after receipt of the report, furnish a copy of the report to the Ombudsman.

“(3) This section applies in relation to a police officer or other person authorized under sub-section 91 (1) as it applies to the Section.

“93. (1) When the Internal Discipline Section has completed its investigation of a complaint or other matter referred to it under this Act, the officer in charge of the Section shall cause a report, in writing, of the result of the investigation to be furnished to the Commissioner. Reports

“(2) The Commissioner shall, as soon as practicable after the report is furnished to him—

- (a) if the investigation relates to a complaint that was referred to the Section under section 89 or by the Commissioner at the request of the Ombudsman—furnish to the Ombudsman a copy of the report; or
- (b) if the investigation relates to a matter referred to the Section by the Commissioner at the request of the Tribunal—furnish to the Registrar a copy of the report,

together with any comments relating to the report that he wishes to make.

“(3) Where a report of the results of an investigation into a complaint that was referred to the Section under section 89 is furnished to the Commissioner under sub-section (1), the Commissioner shall advise the complainant of the result of the investigation and shall, unless it is impracticable to do so, furnish a report of the investigation to the complainant at the same time as he complies with paragraph (2) (a) in respect of the investigation.

"94. (1) Where the Commissioner receives a report of the results of an investigation of a complaint by the Internal Discipline Section, the Commissioner shall consider the report and if, as a result of his consideration, he is of the opinion that a police officer may have committed an offence or a breach of discipline and that, in the circumstances, he would be justified in doing so, he shall cause the police officer to be charged with that offence or breach of discipline or with some other offence or breach of discipline that the Commissioner considers to be appropriate.

"(2) Without limiting the application of sub-section (1), where the Ombudsman brings information to the notice of the Commissioner in accordance with section 103 the Commissioner shall—

- (a) if the Ombudsman recommends that a police officer be charged with an offence or a breach of discipline—cause the police officer to be charged with that offence or breach of discipline or with some other offence or breach of discipline that the Commissioner considers to be appropriate; or
- (b) if the Ombudsman does not so recommend—considers the information and all other relevant circumstances and, if he considers that he would be justified in doing so, cause the police officer concerned to be charged with an offence or breach of discipline that the Commissioner considers to be appropriate.

"(3) This section does not prevent a police officer from being charged with an offence or breach of discipline otherwise than in accordance with this section but a police officer shall not be charged with the same offence or breach of discipline—

- (a) both in accordance with sub-section (1) and in accordance with sub-section (2); or
- (b) both in accordance with this section and otherwise than in accordance with this section.

"(4) Where the Commissioner, after considering in accordance with paragraph (2) (b) information that has been brought to his notice by the Ombudsman, decides that a police officer should not be charged with an offence or breach of discipline, the Commissioner shall furnish to the Ombudsman, in writing, his reasons for so deciding.

"(5) Where a police officer is charged with an offence or with a breach of discipline in accordance with sub-section (1) or (2), the Commissioner shall notify the Ombudsman, in writing, that the police officer has been so charged and furnish to the Ombudsman any comments that he wishes to make in relation to the charge.

"(6) Where a police officer is charged with an offence or breach of discipline as a result of the investigation of a complaint referred to the Section under section 89, the Commissioner shall, unless it is impracticable to do so, at the same time as he complies with sub-section (5), notify the complainant, in writing, that the police officer has been so charged and furnish to the complainant any comments he wishes to make in relation to the charge.

"(7) Where a police officer is charged with an offence or breach of discipline as the result of an investigation of a matter referred to the Section at the request of the Tribunal, the Commissioner shall notify the Registrar that the police officer has been so charged and furnish to the Registrar any comments that he wishes to make in relation to the charge.

"95. (1) The officer in charge of the Internal Discipline Section shall maintain a register containing the prescribed particulars with respect to each complaint or other matter that is referred to the Section for investigation. ^{Record of matters}

"(2) The Minister shall include in each annual report prepared by him in accordance with section 145 the prescribed particulars with respect to complaints and other matters referred to the Section for investigation, and of all action taken by the Section in respect of complaints and matters so referred, during the year to which the report relates.

"96. (1) Subject to this section, a person who is, or has been, ^{Secrecy} a member of the Internal Discipline Section shall not, either directly or indirectly, and either while he is, or after he has ceased to be, such a member, except in the performance of his duty as such a member or with the consent, in writing, of the Minister, make a record of, or divulge or communicate to a person, information acquired by him in the course of, or for the purposes of, an investigation of a complaint or other matter referred to the Section for investigation.

Penalty: \$500 or imprisonment for 6 months.

"(2) Where a person who has been authorized under paragraph 91 (1) (a) to make an investigation on behalf of the Section acquires information in the course of, or for the purposes of, that investigation, sub-section (1) applies to him in relation to that information as if he had been a member of the Section when he acquired the information.

"(3) Subject to sub-section (6), a person who is, or has been, a police officer shall not, either directly or indirectly and either while he is, or after he has ceased to be, a police officer—

- (a) divulge or communicate to a person the fact that, in the course of, or for the purposes of, the investigation of a complaint or matter by the Section—
 - (i) he made a statement to, gave information to or answered a question by a member of the Section; or
 - (ii) made a document or record available by a member of the Section; or
- (b) make a record of, or divulge or communicate to a person—
 - (i) information that he gave to a member of the Section in the course of or for the purposes of the investigation of a complaint or matter by the Section; or
 - (ii) the contents of a document or record that he made available to the Section for the purposes of such an investigation, except with the consent, in writing, of the Minister or in connection with proceedings (including proceedings in respect of a breach of discipline) against a person (including himself).

Penalty: \$500 or imprisonment for 6 months.

"(4) Sub-section (1) or (3) does not—

- (a) prevent a person who is, or has been, a member of the Section from disclosing, in a report made under this Division, such matters as, in his opinion, ought to be disclosed in the course of setting out the grounds for the conclusions contained in the report; or
- (b) prevent a person who is, or has been, such a member or a police officer from producing a record referred to in sub-section (1) to, or giving information so referred to in evidence before, a court, the Tribunal or a person who is authorized to hear and determine a charge in respect of a breach of discipline.

“(5) The references in sub-section (3) to a member of the Section include references to a police officer or person authorized under section 91 and the reference in that sub-section to an investigation include a reference to an investigation made by such a person under that section on behalf of the Section.

“(6) Sub-section (1) or (3) does not prevent a police officer from making a communication for the purposes of, or in connection with, the making of a complaint to the Ombudsman or to the Commissioner in respect of action taken by a police officer in the course of, or for the purposes of, an investigation by a member of the Section or by a police officer or person authorized under section 91 to make an investigation on behalf of the Section.

“(7) This section does not affect the operation of section 9 of the *Ombudsman Act 1976* in relation to a police officer.

“*Division 3—Investigations by the Ombudsman of complaints against police officers*

“97. (1) This Division shall be incorporated and read as one with the *Ombudsman Act 1976*. Incorporation
of the
Ombudsman
Act

“(2) Subject to this Division a reference to the *Ombudsman Act 1976* in a provision of that Act that is specified in Schedule 2 shall be read without taking into account the effect of sub-section (1).

“(3) Section 11 of the *Ombudsman Act 1976* does not apply to a complaint under this Division.

“98. (1) In this Division, unless the contrary intention appears, *Interpre-*
'complaint' means a complaint that has been notified to the Ombuds- *tation*
man under section 89 or made to the Ombudsman under section 100.

“(2) Sub-sections 83 (1) and 83 (2) apply in relation to this Division as they apply in relation to Division 2.

“99. (1) Where the Ombudsman becomes of the opinion, either *Application*
while he is investigating, or upon completing his investigation of, a *of Part*
complaint that appears to him to be a complaint in respect of action taken by the Police Force, that it would be more appropriate to deal with the complaint under this Part as if it were a complaint in respect of action taken by a police officer, the Ombudsman may determine that this Division applies, and shall be deemed always to have applied, to that complaint and, upon the making of the determination, Part II of the *Ombudsman Act 1976* does not apply, and shall be deemed never to have applied, to that complaint.

“(2) Where the Ombudsman becomes of the opinion, either while he is investigating, or upon completing his investigation of, a complaint that appears to him to be a complaint concerning action taken by a police officer, that it would be more appropriate to deal with the complaint under Part II of the *Ombudsman Act 1976* as if it were a complaint in respect of action taken by the Police Force, the Ombudsman may determine that that Part applies, and shall be deemed always to have applied, to the complaint, and, upon the making of the determination, this Division does not apply, and shall be deemed never to have applied, to that complaint.

“(3) Where a determination is made under sub-section (1) or (2) in respect of a complaint, any action taken by the Ombudsman in relation to the complaint before the making of the determination shall be deemed to have been taken under this Division or under Part II of the *Ombudsman Act 1976*, respectively.

“(4) In this Division a reference to a complaint includes a reference to a complaint determined by the Ombudsman under sub-section (1) to be a complaint to which this Division applies and does not include a reference to a complaint determined by the Ombudsman under sub-section (2) to be a complaint to which Part II of the *Ombudsman Act 1976* applies.

“100. (1) A person (including a police officer) may complain to the Ombudsman concerning action taken by a police officer, whether before or after the commencement of this section, not being action with respect to the employment of police officers generally or to the employment of a particular police officer. Complaints concerning action taken by police officers

“(2) Sub-section (1) applies whether—

- (a) the identity of the police officer is known by, or disclosed to, the Ombudsman; or
- (b) the action relates to a matter of administration or to some other matter.

“(3) In sub-section (1)—

- (a) the reference to action taken with respect to the employment of police officers generally includes a reference to action taken with respect to the promotion, termination of appointment or discipline of, or the payment of remuneration to, police officers generally; and
- (b) the reference to action taken with respect to the employment of a particular police officer includes a reference to action taken with respect to the promotion of, or the payment of remuneration to, the particular police officer but does not include a reference to action taken with respect to a breach of discipline committed, or alleged to have been committed, by the particular police officer.

“(4) Section 7 of the *Ombudsman Act 1976* applies to a complaint under sub-section (1) as if references in that section to a complaint under that Act were references to a complaint under sub-section (1).

“101. (1) Where a complaint is made to the Ombudsman under section 100 with respect to action taken by a police officer, the Ombudsman may, if he considers that it would be in the public interest to do so, refer the complaint, or a matter relating to the complaint, to the Commissioner for investigation by the Internal Discipline Section. Ombudsman may refer matter to the Commissioner for investigation

“(2) The Ombudsman may, after considering a report of the investigation, refer the complaint, or a matter relating to the complaint, to the Commissioner for further investigation by the Section.

“(3) The Ombudsman may, after considering a report of the investigation or of the further investigation—

- (a) make any further investigation into the action taken by the police officer that he thinks appropriate; or
- (b) treat the investigation, or the investigation and further investigation, by the Section, for the purposes of this Division, as constituting, or as constituting part of, his investigation of the action taken by the police officer or as concluding his investigation of that action.

“102. (1) Subject to this Division, the Ombudsman—

- (a) shall investigate action taken by a police officer in respect of which a complaint has been made to him under section 100; or
- (b) may investigate action taken by a police officer in respect of which a complaint has been notified to him under section 89. Ombudsman may investigate action taken by police officer

“(2) The Ombudsman may, in his discretion, decide not to investigate action taken by a police officer to which a complaint relates or, if he has commenced to investigate the action, decide not to investigate the action further—

- (a) if the Ombudsman is satisfied that the complainant became aware of the action more than 12 months before the complaint was made and that his declining to investigate the action, or to investigate the action further, would not cause undue hardship to the complainant;

- (b) if the Ombudsman is satisfied that—
 - (i) the complaint is frivolous or vexatious or was not made in good faith; or
 - (ii) the complainant does not have a real concern in the subject matter of the complaint and there are no special reasons justifying the investigation, or further investigation, of the action; or
- (c) if, in the opinion of the Ombudsman, the investigation, or further investigation, of the action is unnecessary having regard to all the circumstances of the case.

“(3) Where—

- (a) a complainant has exercised a right to cause action to which his complaint relates to be reviewed by a court or by a tribunal constituted by or under an Act; or
 - (b) a person has been prosecuted in relation to the complaint,
- the Ombudsman shall not investigate, or continue to investigate, as the case may be, the action unless the Ombudsman is of the opinion that it would be in the public interest to do so.

“(4) Where the Ombudsman is of the opinion that a complainant has or had a right to cause the action to which his complaint relates to be reviewed by a court or by a tribunal constituted by or under a law but has not exercised that right, the Ombudsman shall not investigate, or continue to investigate, as the case may be, the action unless the Ombudsman is of the opinion that—

- (a) it is in the public interest to do so; or
- (b) in all the circumstances, the failure to exercise the right is not or was not unreasonable.

“(5) Subject to sub-section (6), the Ombudsman shall not investigate, or continue to investigate, action to which a complaint relates while the action is being investigated, or while a matter relating to the action is being investigated, by the Internal Discipline Section.

“(6) Where—

- (a) the action to which a complaint relates—
 - (i) concerns a police officer who is equal or senior in rank to the officer in charge of the Section;
 - (ii) concerns a member of the Section; or
 - (iii) is related to other action that the Ombudsman is investigating under the *Ombudsman Act 1976*; or
 - (b) the Ombudsman is of the opinion that it is in the public interest that he should investigate the action to which a complaint relates,
- he may investigate the action notwithstanding that the action is being investigated by the Section.

“103. The provisions of sub-sections 8 (2) to 8 (9) (inclusive) and sections 9, 13 and 14 of the *Ombudsman Act 1976* apply to and in relation to an investigation by the Ombudsman of action taken by a police officer as if references in those provisions to that Act were references to this Division.

“104. (1) The Ombudsman may, whether before or after completing his investigation of action to which a complaint relates, bring to the notice of the Commissioner any information acquired by him in connection with the investigation which he thinks should be brought to the notice of the Commissioner.

“(2) Without limiting the generality of sub-section (1), where the Ombudsman becomes of the opinion, whether before or after completing an investigation referred to in that sub-section, that information acquired by him in connection with the investigation shows that a police officer may have committed an offence or a breach of discipline and that the information is, in all the circumstances, such as to justify his doing so, the Ombudsman shall bring the information to the notice of the Commissioner and may recommend to the Commissioner that the officer be charged with that offence or breach of discipline.

“105. (1) Where the Ombudsman becomes of the opinion, whether before or after completing his investigation of action to which a complaint relates, that, having regard to all the circumstances, the complaint may properly be dealt with by attempting to reconcile the complainant and the police officer concerned, the Ombudsman may make such suggestions, and do such things, as appear to him to be appropriate for effecting a reconciliation between the complainant and the police officer.

Ombudsman
may attempt
to reconcile
complainant
and police
officer

“(2) Without limiting the generality of sub-section (1), the Ombudsman may make either or both of the following suggestions:

- (a) a suggestion to the complainant that he take such reasonable action specified by the Ombudsman as would, in the opinion of the Ombudsman, assist in effecting a reconciliation;
- (b) a suggestion to the Commissioner that the Commissioner, or the police officer concerned, take such reasonable action specified by the Ombudsman, or that the Commissioner and the police officer concerned each take such reasonable action specified by the Ombudsman, as would, in the opinion of the Ombudsman, assist in effecting a reconciliation.

“(3) Sub-section (1) does not apply to a complaint concerning action taken by a police officer if the Ombudsman is of the opinion that information acquired by him in connection with the investigation of the action shows that a police officer may have committed an offence or a breach of discipline and that the information is, in all the circumstances, sufficient to justify his bringing the information to the notice of the Commissioner.

“(4) Without limiting the powers of the Ombudsman in investigating action taken by a police officer, the Ombudsman may, for the purpose of attempting to reconcile a complainant and the police officer concerned—

- (a) obtain from the Commissioner an explanation with respect to the policies, practices and procedures of the Police Force that the Ombudsman considers to be relevant; or
- (b) request the complainant to do any or all of the following:
 - (i) to attend before him;
 - (ii) to provide further information concerning the complaint; or
 - (iii) to verify on oath or affirmation information furnished in connection with the complaint.

“(5) Neither the complainant, the Commissioner nor the police officer concerned is bound to comply with a suggestion made under sub-section (1) or (2).

“(6) Where, after dealing with a complaint in accordance with sub-section (1), the Ombudsman is satisfied that the complainant does not wish the action to which his complaint relates to be investigated further or any action, or further action, to be taken in respect of his complaint—

- (a) the Ombudsman shall be deemed, for the purposes of this Division, to have effected a reconciliation between the complainant and the police officer concerned with respect to the matters to which the complaint relates;
- (b) the Ombudsman shall notify the Commissioner in writing that he has effected the reconciliation;
- (c) the Ombudsman is not required to investigate the action taken by the police officer further under this Division or to make any report (other than a report required under section 19 of the *Ombudsman Act 1976*) or do any other thing under this Division in relation to his investigation of that action; and
- (d) if the Internal Discipline Section is dealing with the complaint, the Section shall cease to deal with it.

“106. (1) Where a complaint is made to the Ombudsman under section 100 concerning action taken by a police officer and the Ombudsman does not, for any reason, investigate, or complete an investigation of, the action, the Ombudsman shall inform the complainant and the Commissioner

Complainant
and Commis-
sioner to be
informed

accordingly in writing and furnish to the complainant and the Commissioner particulars of his reasons for not investigating, or completing the investigation of, the action.

“(2) If the Ombudsman completes his investigation of the action, he shall furnish to the complainant and to the Commissioner particulars of the results of his investigation.

“(3) For the purposes of sub-section (1), where the Ombudsman refers a complaint made to him under section 100, or a matter relating to such a complaint, to the Commissioner for investigation by the Internal Discipline Section, he shall be deemed to be investigating the action to which the complaint relates.

“107. (1) Where, after the Ombudsman has completed his investi- Reports
gation of action taken by a police officer, the Ombudsman is of the opinion—

- (a) that the police officer took action that, in all the circumstances, he should not have taken; and
 - (b) that the police officer did not, in taking that action, commit an offence or a breach of discipline,
- the Ombudsman shall report accordingly to the Commissioner and to the Minister.

“(2) The Ombudsman—

- (a) shall include in the report his reasons for the opinions specified in the report; and
- (b) may also include in the report any recommendations he thinks fit to make.

“(3) The Ombudsman may request the Commissioner to furnish to him, within a specified time, particulars of any action that the Commissioner proposes to take in consequence of the report.

“(4) The Commissioner may furnish to the Ombudsman comments concerning the report.

“(5) Where, within a reasonable time after the Ombudsman furnished the report to the Commissioner, action that is, in the opinion of the Ombudsman, adequate and appropriate in the circumstances has not been taken by the Commissioner in consequence of the report, the Ombudsman may inform the Prime Minister accordingly in writing and, if he does so, shall furnish to the Prime Minister a copy of the report and, if the Commissioner has furnished comments concerning the report of the Ombudsman under sub-section (4), a copy of those comments.

“(6) In considering whether to furnish information in relation to the report to the Prime Minister in accordance with sub-section (5), the Ombudsman shall have regard to any comments furnished to him under sub-section (4) concerning the report.

“(7) Where the Ombudsman has, in accordance with sub-section (5), furnished information to the Prime Minister in relation to a report, the Ombudsman may also forward to the President of the Senate and the Speaker of the House of Representatives, for presentation to the Senate and the House of Representatives, respectively, copies of a statement prepared by him concerning the investigation and setting out a copy of any comments furnished to him under sub-section (4) concerning the report.

“(8) Where the Ombudsman takes action as provided by sub-section (7), he shall send a copy of the statement and comments (if any) to the complainant to whom the report relates.

“108. (1) The Ombudsman shall establish and maintain a register Register of
complaints containing the prescribed particulars of, or relating to, complaints.

“(2) The Ombudsman shall include in each report referred to in paragraph 19 (1) (a) of the *Ombudsman Act 1976* the prescribed particulars with respect to complaints that were notified or made to him, or were investigated by him, during the year to which the report relates.

*“Division 4—The Police Tribunal**“Sub-Division 1—Preliminary*

“109. (1) In this Division, unless the contrary intention ^{Interpre-} appears— ^{tation}

‘judicial office’ means—

- (a) an office of judge of a Federal Court or of the Supreme Court of a Territory; or
 - (b) an office of the holder of which has, by virtue of an Act, the same status as a judge referred to in paragraph (a);
- ‘member’ means the President, a Deputy President or other member of the Tribunal.

“(2) For the purposes of this Division, an office of Justice of the Peace shall be taken not to be an office of Magistrate.

“(3) In this Part, unless the contrary intention appears, a reference to a proceeding before the Tribunal is a reference to—

- (a) a proceeding in respect of a charge referred to the Tribunal under section 122;
- (b) an appeal to the Tribunal under section 123; or
- (c) an inquiry by the Tribunal into a matter referred by the Minister to the Tribunal under section 125.

“Sub-Division 2—Establishment of Police Tribunal

“110. There is hereby established a Tribunal to be known as ^{Establishment} the Police Tribunal. ^{of Police} ^{Tribunal}

“111. (1) The Tribunal shall consist of a President and such ^{Constitution} Deputy Presidents and other members as are appointed in ^{of Tribunal} accordance with this section.

“(2) A member shall be appointed by the Governor-General in Council.

“(3) The Deputy Presidents and other members have seniority as Deputy Presidents or other members, respectively, according to the dates of their appointments.

“(4) A member is not required by this Division to devote the whole of his time to his duties as a member.

“112. (1) A person is not qualified to be appointed as President ^{Qualifications} unless he is the holder of a judicial office. ^{of members}

“(2) A person is not qualified to be appointed as a Deputy President unless—

- (a) he is the holder of a judicial office; or
- (b) he is a Deputy President of the Administrative Appeals Tribunal.

“(3) A person is not qualified to be appointed as a member other than President or a Deputy President unless—

- (a) he is a magistrate of a Territory; or
- (b) he has been, for a period of not less than 5 years, a legal practitioner.

“113. (1) The appointment of a person as a member, or the ^{Appointment} service of a person as a member, does not affect his tenure of a ^{of holder of} judicial office or office under an Act or his rank, title, status, ^{judicial office} precedence, salary, annual or other allowances or other rights or ^{as member of} privileges as the holder of a judicial office or office under an Act ^{Tribunal not} and, for all purposes, his service as a member of the Tribunal shall be taken to ^{to affect} be service as the holder of his judicial office or other office. ^{tenure, &c.}

“(2) In this section, ‘judicial office’ includes an office of magistrate in a Territory.

"114. Subject to this Division, a member holds office for such period, not exceeding 7 years, and on such terms and conditions, as are specified in the instrument of his appointment but is eligible for re-appointment. ^{Terms and conditions of appointment}

"115. (1) A member, not being the holder of a judicial office, shall be paid such remuneration as the Remuneration Tribunal determines but, if no determination of that remuneration by that Tribunal is in operation, he shall be paid such remuneration as is prescribed. ^{Remuneration of members of Tribunal}

"(2) A member shall be paid such allowances as are prescribed.

"(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

"(4) In this section, 'judicial office' includes an office of magistrate in a Territory.

"116. (1) The Minister may appoint the holder of a judicial office to act as President during any period, or during all periods, when the President is unavailable to perform the duties of his office or during a vacancy in the office of President. ^{Acting appointments}

"(2) Where a member other than the President is, or is expected to be, unavailable to perform the duties of his office, the Governor-General in Council may appoint a person qualified to be appointed to that office to act as the holder of that office during the period for which the member is so unavailable.

"(3) Where a person has been appointed under sub-section (1) or (2), the Governor-General in Council may, by reason of a pending proceeding or other special circumstances, direct, before the unavailable member ceases to be unavailable, that the person so appointed shall continue to act under the appointment after the member ceases to be unavailable and until the Governor-General in Council terminates the appointment but a person shall not continue to act by virtue of this sub-section for more than 12 months after the member ceases to be unavailable.

"(4) Where a person has been appointed under this section to act as a member during the unavailability of a member and the member ceases to hold office without having become available to perform the duties of his office, the period of appointment of the person so appointed continues, subject to this Division, until it is terminated by the Governor-General in Council or until the expiration of 12 months from the day on which the unavailable member ceases to hold office, whichever first happens.

"(5) A person acting as the President, as a Deputy President or as another member shall act in that capacity on such terms and conditions as the Governor-General in Council determines.

"(6) A person acting as the President, as a Deputy President or as another member has all the powers and duties, and shall perform all the functions, conferred or imposed by this Division on the President, on a Deputy President or on another member, respectively, and, for the purpose of the exercise of those powers or duties, or the performance of those functions, this Division has effect as if a reference to the President, a Deputy President or other member included a reference to a person acting as the President, as a Deputy President or as another member, respectively.

"(7) Where—

- (a) the Tribunal as constituted for the purposes of a proceeding consists of a person acting or purporting to be appointed under this section; or
- (b) a person so acting or purporting to be appointed has done any act, the validity of any decision of, or of any direction given or other act done by, the Tribunal as so constituted, or of the act done by the person so acting

or purporting to be appointed, shall not be called in question in any proceeding on the ground that the occasion for the person to act or for the appointment of the person had not arisen, that the occasion for his appointment had ceased or that his appointment had ceased to have effect.

“117. (1) Where the President no longer holds judicial office, ^{Termination of office—} the Governor-General in Council may terminate his appointment. _{President}

“(2) The termination of the appointment of a President under sub-section (1) does not prevent his reappointment as a Deputy President.

“(3) The President shall not be removed from office except as provided by this section.

“118. (1) Where a Deputy President no longer holds a judicial office or the office of Deputy President of the Administrative Appeals Tribunal, the Governor-General in Council may terminate his appointment. ^{Termination of office—} _{Deputy President}

“(2) A Deputy President shall not be removed from office except as provided by this section.

“119. (1) This section applies to a member other than the ^{Termination of office—} President or a Deputy President. _{other members.}

“(2) The Governor-General in Council may remove from office a member to whom this section applies on an address praying for his removal on the ground of proved misbehaviour or incapacity being presented to the Governor-General in Council by each House of the Parliament in the same session of the Parliament.

“(3) The Governor-General in Council may suspend such a member from office on the ground of proved misbehaviour or incapacity.

“(4) Where the Governor-General in Council suspends a member from office under sub-section (3), the Minister shall cause a statement of the grounds of the suspension to be laid before each House of the Parliament within 7 sitting days of that House after the suspension.

“(5) Where such a statement has been laid before a House of the Parliament, that House may, within 15 sitting days of that House after the day on which the statement has been laid before it, by resolution, declare that the member should be removed from office and, if each House so passes such a resolution, the Governor-General in Council shall remove the member from office.

“(6) If, at the expiration of 15 sitting days of a House of the Parliament after the day on which the statement has been laid before that House, that House has not passed such a resolution, the suspension terminates.

“(7) The suspension of a member from office under this section does not affect any entitlement of the member to be paid remuneration and allowances.

“(8) If a member to whom this section applies becomes bankrupt, or if the affairs of such a member are being dealt with under Part X of the *Bankruptcy Act 1966*, the Governor-General in Council shall terminate his appointment.

“(9) If a member to whom this section applies ceases to possess the qualifications necessary for his appointment, the Governor-General in Council shall terminate his appointment.

“(10) A member to whom this section applies shall not be removed or suspended from office except as provided by this section.

“120. A member may resign his office by writing under his ^{Resignation} hand delivered to the Governor-General in Council but the resignation does not have effect until it is accepted by the Governor-General in Council.

“Sub-Division 3—Staff of Tribunal

“121. (1) There shall be a Registrar of the Tribunal and such Deputy Registrars of the Tribunal as are appointed in accordance with this section. ^{Staff of Tribunal}

“(2) The Registrar and the Deputy Registrars shall be appointed by the Minister and have such duties and functions as are provided by this Division and by the regulations and such other duties and functions as the President directs.

“(3) The Registrar and the Deputy Registrars, and the staff necessary to assist them, shall be persons appointed or employed under the *Public Service Act 1922*.

“Sub-Division 4—Constitution and Powers of Tribunal

“122. (1) The President may give directions as to the arrangement of the business of the Tribunal and as to the person who is to constitute the Tribunal for the purposes of a particular proceeding. ^{Arrangement of business}

“(2) The President may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate all or any of his powers under sub-section (1) to a Deputy President.

“(3) A delegation under sub-section (2) is revocable at will and does not prevent the exercise of a power by the President.

“(4) Sittings of the Tribunal for the purposes of a particular proceeding shall be held at such places and times as are determined by the member who constitutes the Tribunal for the purposes of the proceeding.

“123. (1) The Tribunal shall, for the purpose of the exercise of its powers in relation to a matter, be constituted by one member. ^{Exercise of powers of Tribunal}

“(2) The Tribunal constituted by one member may sit and exercise the powers of the Tribunal notwithstanding that the Tribunal constituted by another member is at the same time sitting and exercising the powers of the Tribunal.

“124. (1) Where a police officer is charged with a breach of discipline— ^{Charges in respect of breaches of discipline}

(a) in pursuance of a recommendation of the Ombudsman; or
 (b) as a result of an investigation made by the Internal Discipline Section into a complaint to the Section under Division 2,
 the Commissioner shall refer the charge to the Tribunal for hearing and determination by causing a copy of the charge to be forwarded to the Registrar.

“(2) Where a police officer who is charged with a breach of discipline, otherwise than as mentioned in sub-section (1), does not admit the truth of the matters alleged to constitute the breach, the Commissioner shall—
 (a) if the police officer requests him to do so; or
 (b) if the Commissioner considers that it would be desirable in the circumstances to do so,
 refer the charge to the Tribunal for hearing and determination by causing a copy of the charge to be forwarded to the Registrar.

“(3) The Tribunal shall hear and determine the charge and, if the Tribunal determines that the charge has been proved, the Tribunal may direct that the Commissioner—

(a) caution or reprimand the police officer;

- (b) fine the police officer an amount not exceeding \$200;
- (c) change the place at which the police officer is to perform his duties;
- (d) reduce the police officer to a lower rank; or
- (e) reduce the rate of salary of the police officer to a lower rate of salary within the limits of salary fixed for the rank held by the police officer, or may recommend to the Minister that the police officer be dismissed from the Police Force.

“(4) The Commissioner shall give effect to a direction of the Tribunal under sub-section (3).

“(5) Paragraph (3) (c) does not affect the power of the Commissioner to determine the place at which a police officer is to perform his duties.

“125. (1) Where a police officer is charged with a breach of discipline and the Commissioner decides to take action of a kind referred to in sub-section 122 (3) or to recommend to the Minister that the police officer be dismissed from the Police Force—

- (a) the Commissioner shall cause the police officer to be notified accordingly and to be furnished, with his reasons for his decisions, his findings on material questions of fact and a reference to the evidence or other material on which those findings are based; and
- (b) the police officer may appeal to the Tribunal against the decision.

“(2) An appeal to the Tribunal under paragraph (1) (b)—

- (a) shall be in writing;
- (b) shall set out the grounds upon which it is made; and
- (c) shall be lodged with the Registrar of the Tribunal within 28 days after the day on which the notification referred to in paragraph (1) (a) is furnished to the police officer.

“(3) The appeal may be made on one or more of the following grounds—

- (a) that the charge should have been dismissed;
- (b) that the action taken in respect of the charge is unduly severe; or
- (c) that the action taken in respect of the charge is not authorized by law.

“(4) The tribunal constituted by the President or by a Deputy President shall hear and determine the appeal and may—

- (a) affirm the decision under appeal;
- (b) vary the decision under appeal; or
- (c) set aside the decision under appeal and substitute for it a decision, including a decision dismissing the charge, that could have been made by the Commissioner in dealing with the charge.

“(5) Where the Tribunal varies the decision under appeal, or substitutes its decision for the decision under appeal, the Commissioner shall give effect to the determination of the Tribunal as if it were his decision.

“126 (1) The Tribunal may, at any time during the hearing by it of a charge under section 124, or of an appeal under section 125, recommend to the Commissioner that the police officer concerned, if he is not at that time suspended from duty, be so suspended pending the determination of the charge or of the appeal and, where the Tribunal so recommends, the Commissioner shall suspend the police officer from duty accordingly.

“(2) The officer is entitled to be paid salary during the period of his suspension.

“(3) The Tribunal may, at any time during or after the hearing, recommend to the Commissioner that the suspension be removed and, where the Tribunal so recommends, the Commissioner shall remove the suspension.

"127. (1) The Tribunal may inquire into a matter relating to the Police Force that is referred to it by the Minister.

Minister may refer matter to Tribunal for inquiry and report

"(2) If the Minister so directs, the Tribunal shall be constituted, for the purposes of the inquiry, by the President or by a Deputy President.

"(3) The Minister may arrange for counsel to be engaged to assist the Tribunal in connection with the inquiry.

"(4) Where the Tribunal is not assisted by counsel, the Commissioner shall, if he is requested by the Tribunal to do so, arrange for a member of the Internal Discipline Section, or for an appropriate police officer other than such a member, to assist the Tribunal in connection with the inquiry.

"(5) Upon completing its inquiry, the Tribunal shall report to the Minister the results of the inquiry.

"128. The Tribunal may, at any time during the hearing of a proceeding, refer a matter relevant to the proceeding to the Commissioner for investigation by the Internal Discipline Section and, where it does so, the Commissioner shall cause the Section to investigate the matter.

Reference by Tribunal

"129. (1) Where, after a complaint has been made or referred to the Ombudsman concerning action taken by a police officer, a charge of breach of discipline is referred to the Tribunal for hearing and determination, the complainant may, by leave of the Tribunal, appear before the Tribunal on the hearing of the charge.

Certain complainants may appear by leave

"(2) The Registrar shall, unless it is impracticable to do so, notify the complainant of the time and place at which the Tribunal will sit to hear the charge and that he is entitled to seek leave of the Tribunal to appear upon the hearing of the charge.

"(3) The complainant may, if the Tribunal grants him leave to appear—

- (a) appear in person, be represented by a legal practitioner or by some other person; and
- (b) take such part only in the proceeding as the Tribunal permits.

"(4) Where—

- (a) the complainant complained to a police officer—the Commissioner; or
 - (b) the complainant complained to the Ombudsman—the Ombudsman,
- shall, as soon as practicable after the Tribunal has given its decision with respect to the charge, and subject to any direction of the Tribunal prohibiting or restricting the disclosure of the decision, cause particulars of the decision to be furnished to the complainant, in writing, unless the complainant or his representative was present before the Tribunal when it gave its decision.

"(5) The fact that a police officer has been charged, in connection with action taken by him, with an offence against a law does not prevent the institution, or the continuance, of proceedings before the Tribunal relating to that action.

"(6) A complainant who—

- (a) has appeared, by leave of a Tribunal, on the hearing of a charge by the Tribunal; and
- (b) has paid, or has become liable to pay, costs or expenses in connection with the proceedings before the Tribunal,

may apply to the Attorney-General for financial assistance by the Commonwealth in respect of those costs or expenses.

"(7) The Attorney-General may, if he is satisfied that it would involve hardship to the complainant to refuse the application and that, in all the circumstances, it is reasonable that the application should be granted, authorize payment by the Commonwealth to or on behalf of the complainant in respect of those costs and expenses of such amount as he determines or of such amounts as he, from time to time, determines.

"(8) Sub-section (6) or (7) does not authorize a payment in respect of fees of more than 1 counsel unless 2 or more counsel appeared for the police officer.

“(9) Where the Attorney-General authorizes a payment as provided by sub-section (7), he may, upon application being made to him by the police officer concerned, authorize payment by the Commonwealth to or on behalf of the police officer of such amount as the Attorney-General from time to time determines in respect of the costs and expenses of the police officer in connection with the proceedings before the Tribunal.

“130. (1) For the purpose of this Division the Tribunal—

Powers of
Tribunal

- (a) may take evidence on oath or affirmation;
- (b) may proceed in the absence of a person entitled to be present if the person has had reasonable notice of the proceeding; and
- (c) may adjourn a proceeding before the Tribunal from time to time.

“(2) Where a person who is, under the regulations, a party to a proceeding before the Tribunal requests a member to do so, the member may summon a person to appear before the Tribunal at the hearing of the proceeding to give evidence and to produce such documents (if any) as are referred to in the summons.

“131. (1) Where a person who has been summoned to attend before the Tribunal as a witness in an inquiry under section 126 fails to attend as required by the summons, the member constituting the Tribunal may, upon being satisfied that the summons has been duly served and that reasonable expenses have been paid or tendered to the person, issue a warrant for the apprehension of the person.

Arrest of
witness failing
to attend
inquiry

“(2) The warrant authorizes any member of the Australian Federal Police or the police force of a State or Territory or a Commonwealth officer named in the warrant to apprehend the person and bring him before the Tribunal and, for that purpose, to detain him in custody until he is released by order of the Tribunal.

“(3) The apprehension of a person under this section does not relieve him from any liability incurred by him by reason of his failure to attend before the Tribunal.

“132. (1) Subject to sub-section (2), the hearing of a proceeding before the Tribunal shall be in public.

Hearings to
be in public
except in
special
circumstances

“(2) Where the Tribunal is satisfied that it is desirable to do so in the public interest or by reason of the confidential nature of any evidence or matter, the Tribunal may—

- (a) direct that the hearing, or a part of the hearing, shall take place in private and give directions as to the persons who may be present; and
- (b) give directions restricting or prohibiting the publication or disclosure—
 - (i) of evidence given before the Tribunal, whether in public or in private;
 - (ii) of any matters contained in documents lodged with the Tribunal or received in evidence by the Tribunal; or
 - (iii) of any finding or decision of the Tribunal in relation to the proceeding.

“(3) A person shall not contravene or fail to comply with a direction under this section that is applicable to him.

Penalty: \$500 or imprisonment for 6 months.

“133. At the hearing of a proceeding before the Tribunal, a person who is, under the regulations, a party to the proceeding may appear in person or may be represented by a legal practitioner or by some other person.

Representation
of parties

“134. (1) In a proceeding before the Tribunal, the procedure of the Tribunal is, subject to this Division and to the regulations, within the discretion of the Tribunal.

Procedure
generally

“(2) A proceeding before the Tribunal shall be conducted with as little formality and technicality and with as much expedition as the requirements of this Division and a proper consideration of the matter before the Tribunal permit.

“(3) The Tribunal is not bound by any rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.

“(4) The regulations may make provision, not inconsistent with this Division, for or in relation to—

- (a) the practice and procedure of the Tribunal;
- (b) the persons who are to be regarded as parties to a proceeding before the Tribunal, not being a proceeding by way of inquiry into a matter referred to the Tribunal under section 127;
- (c) the appointment of the Commissioner, or of another police officer nominated by the Commissioner, to assist the Tribunal in connection with a proceeding before the Tribunal by furnishing advice to the Tribunal with respect to the nature of the action that it would be appropriate to take in respect of a police officer found by the Tribunal to have committed a breach of discipline;
- (d) the stay of proceedings before, or of a decision of, the Tribunal; and
- (e) subject to sub-section (3), the payment of costs and expenses in respect of proceedings before the Tribunal and the assessment of those costs and expenses.

“(3) Paragraph (2) (c) does not authorize the making of a regulation empowering the Tribunal to order a complainant who has been given leave to appear before the Tribunal to pay any costs or expenses of any other party to that proceeding.

“(4) Subject to section 132, the Tribunal shall, in a proceeding before it by way of the hearing and determination of a charge referred to it under section 124 or an appeal made to it under section 125, give reasons in writing for its decision and those reasons shall include its findings on material questions of fact and a reference to the evidence or other material on which those findings were based.

“(5) The Tribunal shall cause a copy of its decision and reasons to be furnished to each person who is, under the regulations, a party to the proceeding.

“135. (1) A member has, in the performance of his duty as a member of the same protection and immunity as a Justice of the High Court. Protection of members of Tribunal, barristers and witnesses

“(2) A legal practitioner or other person appearing before the Tribunal has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

“(3) Subject to this Division, a person summoned to attend or appearing before the Tribunal as a witness has the same protection, and is, in addition to the penalties provided by this Division, subject to the same liabilities, as a witness in proceedings in the High Court.

“Sub-Division 5—Appeals to Federal Court of Australia

“136. In this Sub-Division, unless the contrary intention appears— Interpretation

- (a) a reference to a proceeding before the Tribunal does not include a reference to a proceeding by way of inquiry into a matter referred to the Tribunal under section 127;
- (b) a reference to a question of law does not include a reference to the question whether there was sufficient evidence to justify a finding of fact by the Tribunal; and
- (c) a reference to the Court is a reference to the Federal Court of Australia.

“137. (1) A person who was a party to a proceeding before the Tribunal may appeal to the Court, on a question of law, from a decision of the Tribunal in that proceeding. Appeal to Federal Court of Australia from decisions of Tribunal

“(2) The appeal shall be instituted—

- (a) within 28 days after the day on which a document setting out the terms of the decision of the Tribunal was furnished to the person or within such further time as the Court, whether before or after the expiration of that period, allows; and
- (b) in accordance with any applicable Rules of Court in force under the *Federal Court of Australia Act 1976*.

“(3) The Court has jurisdiction to hear and determine the appeal and that jurisdiction shall be exercised by the Court constituted as a Full Court.

“(4) The Court shall, in determining the appeal, make such order as it thinks appropriate.

“(5) Without limiting by implication the generality of sub-section (4), the orders that may be made by the Court on the appeal include an order affirming or setting aside the decision of the Tribunal and an order remitting the proceeding to be heard and determined again, either with or without the hearing of further evidence, by the Tribunal and in accordance with any directions of the Court.

“(6) The institution of the appeal does not affect the operation of the decision of the Tribunal or prevent the taking of action to implement the decision but the Court may, on such conditions (if any) as it thinks fit—

- (a) suspend the operation of the decision; or
- (b) stay all or any action under the decision.

“(7) For the purposes of sub-section (6), the Court may be constituted by a single Judge.

“138. (1) The Tribunal may, of its own motion or, if it thinks fit, on the application of a party to a proceeding before the Tribunal, refer a question of law arising in that proceeding for determination by the Court but, in the case of a proceeding before the Tribunal constituted by a member other than the President, a question shall not be so referred without the concurrence of the President.

Reference of question of law to the Federal Court of Australia

“(2) The Court has jurisdiction to hear and determine the question of law and that jurisdiction shall be exercised by the Court constituted as a Full Court.

“(3) Where a question of law arising in a proceeding before the Tribunal has been referred to the Court under sub-section (1), the Tribunal shall not, in that proceeding—

- (a) give a decision to which the question is relevant while the reference is pending; or
- (b) proceed in a manner, or give a decision, that is inconsistent with the determination of the Court on the question.

“139. (1) Where an appeal is instituted in the Court under section 137 or a question of law is referred to the Court under section 138—

Sending of documents to, and disclosure of documents by, Federal Court of Australia

- (a) the Tribunal shall, notwithstanding any direction under section 132, cause to be sent to the Court all documents that were before the Tribunal in connection with the proceedings to which the appeal or reference relates; and
- (b) at the conclusion of the appeal, the Court shall cause the documents to be returned to the Tribunal.

“(2) If there is in force in respect of any of the documents a direction under section 132 restricting or prohibiting the disclosure of any matter contained in a document, the Court shall, subject to any order of the Court to the contrary, ensure that that matter is not disclosed to a person other than a member of the Court as constituted for the purposes of the appeal.

“Sub-Division 6—General

“140. A person served with a summons to appear as a witness before the Tribunal shall not, without reasonable excuse—

Failure of witness to attend

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself from day to day unless excused, or released from further attendance, by the Tribunal.

Penalty: \$500 or imprisonment for 6 months.

“141. (1) A person appearing as a witness before the Tribunal shall not, without reasonable excuse, refuse or fail—
 (a) to be sworn or to make an affirmation;
 (b) to answer a question that he is required to answer by the Tribunal; or
 (c) to produce a document that he was required to produce by a summons under this Act served on him as prescribed.

Refusal to be sworn or to answer questions

Penalty: \$500 or imprisonment for 6 months.

“(2) Subject to sub-section (3), it is a reasonable excuse for such a person to refuse or fail to answer a question or to produce a document if the answer to the question, or the document, may tend to prove that he has committed an offence against a law or, in the case of a police officer, that he has been guilty of a breach of discipline.

“(3) Where the Tribunal is inquiring into a matter that has been referred to it by the Minister under section 127, a person appearing before the Tribunal to give evidence or produce documents is not excused from answering a question or producing a document on the ground that the answer to the question, or the document, may tend to prove that he has committed an offence against a law or, in the case of a police officer, that he has been guilty of a breach of discipline.

“(4) Evidence given or a document produced by a person upon an inquiry referred to in sub-section (3) is not admissible against him in any civil or criminal proceedings other than proceedings for an offence against this section or against section 35 or 36 of the *Crimes Act* 1914.

“142. A person shall not—

Contempt of Tribunal

- (a) insult or disturb a member of the Tribunal in the exercise of his powers or functions as a member;
- (b) interrupt the proceedings of the Tribunal;
- (c) create a disturbance in or near a place where the Tribunal is sitting; or
- (d) do any other act or thing that would, if the Tribunal were a court of record, constitute a contempt of that court.

Penalty: \$500 or imprisonment for 6 months.

“143. (1) The President shall, as soon as practicable after 30 June in each year, submit to the Minister, for presentation to the Parliament, a report of the operations of the Tribunal during that year.

Annual report

“(2) The Minister shall cause the report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by him.

“(3) The first report under this section shall be submitted as soon as practicable after 30 June first occurring after the date of commencement of this Division and shall relate to the operations of the Tribunal during the period that commenced on that date and ended on that 30 June.

“Division 5—Miscellaneous

“144. (1) A police officer who holds a rank declared by the regulations to be a rank to which this section applies shall, at all times when he is wearing his police uniform, wear on, or attached to, the front of his uniform—

Police officers of certain rank to wear identification numbers

- (a) the badge of the Police Force; and
- (b) his identification number.

Penalty: \$500 or imprisonment for 6 months.

“(2) A reference to a police officer who holds a rank includes a reference to a police officer who temporarily holds that rank.

“(3) The Commissioner shall take such steps as are necessary to enable police officers to whom sub-section (1) applies to comply with that sub-section.

“145. A police officer who is requested by a person to furnish to the person his name or the address of his place of duty, or both, and is informed by the person, or is otherwise aware, that the person is complaining, or proposes to complain, concerning action taken by that police officer—

Police officer to furnish name and address of place of duty on request

- (a) shall not refuse or fail to comply with the request;
- (b) shall not furnish to the person a false name; and
- (c) shall not furnish to the person as the address of his place of duty an address other than the full and correct address of his ordinary place of duty.

Penalty: \$500 or imprisonment for 6 months.

“146. (1) A person shall not, in or in connection with a complaint made to a police officer concerning action taken by a police officer or by the Police Force, furnish information, or make a statement, to the first-mentioned police officer that he knows to be false or misleading in a material particular.

False complaints to police officers

Penalty: \$500 or imprisonment for 6 months.

“(2) A person shall not be convicted of an offence against sub-section (1) unless the evidence that he knew the information or statement to be false or misleading in a material particular is corroborated by a person other than a police officer.

“PART IX—TORTS COMMITTED BY POLICE OFFICERS

“147. (1) The Commonwealth is liable in respect of a tort committed by a police officer in the performance or purported performance of his duties as such an officer in like manner as a person is liable in respect of a tort committed by his employee in the course of his employment, and shall, in respect of such a tort, be treated for all purposes as a joint tortfeasor with the police officer.

Liability for wrongful acts of police officers

“(2) In a claim by the Commonwealth for damages in respect of a tort, an act or omission of a police officer in the performance or purported performance of his duties as a police officer may be relied on as constituting contributory negligence by the Commonwealth if the act or omission could have been so relied on if it had been done by an employee of the Commonwealth in the course of his employment.

“(3) The liability of the Commonwealth under sub-section (1) does not extend to a liability to pay damages in the nature of punitive damages.

“(4) Where damages or costs, other than damages in the nature of punitive damages, are, in proceedings with respect to a tort committed by a police officer in the performance or purported performance of his duties as such an officer, directed to be paid by the police officer, the Commonwealth may pay to the plaintiff the whole or a part of those damages or costs and may pay to the police officer any costs incurred by him in the proceedings and not recovered.

“(5) Where a sum is liable to be paid by a police officer under a settlement agreed to by him of a claim that has, or might have, given rise to proceedings of the kind referred to in sub-section (4), the Commonwealth may pay the whole or a part of that sum.

“(6) Where the Commonwealth—

- (a) pays to a plaintiff moneys by way of damages or costs in respect of a tort committed by a police officer, being moneys that the Commonwealth is liable to pay by reason of sub-section (1);
 - (b) pays moneys in accordance with sub-section (4); or
 - (c) pays a sum in accordance with sub-section (5),
- the Commonwealth may recover, in a court of competent jurisdiction, contribution from the police officer in respect of the payment.

“(7) In proceedings for contribution under sub-section (6), the amount of the contribution recoverable is such amount as the court finds to be just and equitable in all the circumstances.

“(8) For the purposes of this section—

- (a) an act or omission of a police officer in the capacity of a constable, under whatever authority he was appointed as such, shall be deemed to have been done in the performance of his duties as a police officer; and
- (b) a reference to a plaintiff includes a reference to a defendant counter-claiming.”.

Debate ensued.

Proposed new Parts negatived.

Title debated and agreed to.

Bill to be reported without amendment.

The House resumed; Dr Jenkins reported accordingly.

On the motion of Mr McLeay, the House adopted the report, and, by leave, the Bill was read a third time.

23 PERSONAL EXPLANATION: Mr Sinclair (Minister for Primary Industry) proceeding to make a personal explanation—

Member named and suspended: Mr Acting Speaker named the honourable Member for Fremantle (Mr Dawkins) for disregarding the authority of the Chair.

Mr Howard (Treasurer) moved—That the honourable Member for Fremantle be suspended from the service of the House.

Question—put.

The House divided (the Acting Speaker, Mr Millar, in the Chair)—

AYES, 66

Mr Adermann	Mr Connolly	Mr Howard	Mr Newman
Mr Aldred	Mr Corbett*	Mr Hunt	Mr O’Keefe
Mr Anthony	Mr Dean	Mr Hyde	Mr Porter
Mr Baillieu	Mr Dobie	Mr Jarman	Mr I. L. Robinson
Mr Baume	Mr Drummond	Mr P. F. Johnson	Mr Ruddock
Mr Birney	Dr Edwards	Mr Johnston	Mr Sainsbury
Mr Bouchier	Mr Ellicott	Mr Jull	Mr Shack
Mr Bradfield	Mr Falconer	Mr Killen	Mr Shipton
Mr Bungey	Mr Fife	Mr Lloyd	Mr Simon
Mr Burns	Mr Fisher	Mr Lynch	Mr Sinclair
Mr Burr	Mr Giles	Mr MacKellar	Mr Staley
Mr Cadman	Mr Gillard	Mr MacKenzie	Mr Street
Mr Cairns	Mr Graham	Mr McLean	Mr Thomson
Mr Calder	Mr Groom	Mr McLeay	Mr Viner
Mr D. M. Cameron	Mr Haslem	Mr McVeigh	Mr Wilson
Mr Carlton	Mr Hodges*	Mr Martyr	
Mr Chapman	Mr Hodgman	Mr Moore	

NOES, 27

Dr Blewett	Mr FitzPatrick	Mr James	Mr J. L. McMahon*
Mr J. J. Brown	Mr Holding	Dr Jenkins	Mr Martin
Mr Bryant	Mr Howe	Mr L. K. Johnson	Mr Morris
Mr C. R. Cameron	Mr Humphreys	Mr L. R. Johnson*	Mr Wallis
Mr Cohen	Mr Hurford	Mr C. K. Jones	Mr West
Mr Dawkins	Mr Innes	Mr Kerin	Mr Willis
Dr Everingham	Mr Jacobi	Dr Klugman	

* Tellers

And so it was resolved in the affirmative.

The honourable Member was, therefore, suspended at 11.16 p.m. for 24 hours under standing order 305, and he accordingly withdrew from the Chamber.

Member named and suspended: Mr Acting Speaker named the honourable Member for Burke (Mr L. K. Johnson) for using an offensive expression to the Chair.

Mr Howard moved—That the honourable Member for Burke be suspended from the service of the House.

Question—put.

The House divided (the Acting Speaker, Mr Millar, in the Chair)—

AYES, 66

Mr Adermann	Mr Connolly	Mr Howard	Mr Newman
Mr Aldred	Mr Corbett*	Mr Hunt	Mr O'Keefe
Mr Anthony	Mr Dean	Mr Hyde	Mr Porter
Mr Baillieu	Mr Dobie	Mr Jarman	Mr I. L. Robinson
Mr Baume	Mr Drummond	Mr P. F. Johnson	Mr Ruddock
Mr Birney	Dr Edwards	Mr Johnston	Mr Sainsbury
Mr Bouchier	Mr Ellicott	Mr Jull	Mr Shack
Mr Bradfield	Mr Falconer	Mr Killen	Mr Shipton
Mr Bungey	Mr Fife	Mr Lloyd	Mr Simon
Mr Burns	Mr Fisher	Mr Lynch	Mr Sinclair
Mr Burr	Mr Giles	Mr MacKellar	Mr Staley
Mr Cadman	Mr Gillard	Mr MacKenzie	Mr Street
Mr Cairns	Mr Graham	Mr McLean	Mr Thomson
Mr Calder	Mr Groom	Mr McLeay	Mr Viner
Mr D. M. Cameron	Mr Haslem	Mr McVeigh	Mr Wilson
Mr Carlton	Mr Hodges*	Mr Martyr	
Mr Chapman	Mr Hodgman	Mr Moore	

NOES, 26

Dr Blewett	Mr Holding	Dr Jenkins	Mr Martin
Mr J. J. Brown	Mr Howe	Mr L. K. Johnson	Mr Morris
Mr Bryant	Mr Humphreys	Mr L. R. Johnson*	Mr Wallis
Mr C. R. Cameron	Mr Hurford	Mr C. K. Jones	Mr West
Mr Cohen	Mr Innes	Mr Kerin	Mr Willis
Dr Everingham	Mr Jacobi	Dr Klugman	
Mr FitzPatrick	Mr James	Mr J. L. McMahon*	

* Tellers

And so it was resolved in the affirmative.

The honourable Member was, therefore, suspended at 11.26 p.m. for 24 hours under standing order 305, and he accordingly withdrew from the Chamber.

Suspension of standing orders—Statements by Members: Mr Hurford moved—That so much of the standing orders be suspended as would prevent the Leader of the House (Mr Sinclair) from making a full statement in relation to the subject of the personal explanation which he seeks to make and the Member for Adelaide (Mr Hurford) being granted equal time to respond to that statement.

Question—put and passed, with the concurrence of an absolute majority.

24 FINANCIAL INTERESTS OF MINISTER FOR PRIMARY INDUSTRY—STATEMENTS BY MEMBERS: Mr Sinclair (Minister for Primary Industry) made a statement concerning several companies with which he is associated.

Mr Hurford also made a statement in connection with the matter.

25 ADJOURNMENT: Mr Howard (Treasurer) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 11.46 p.m., adjourned until tomorrow at 10.30 a.m.

PAPER: The following paper was deemed to have been presented on 6 June 1979, pursuant to statute:

Australian Bureau of Statistics Act—Australian Bureau of Statistics—Proposal for collection of information—1979—No. 5—Construction industry survey 1978–79.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Bowen, Mr Braithwaite, Mr N. A. Brown, Mr E. C. Cameron, Mr Fry, Mr Garland, Mr B. O. Jones*, Mr Keating, Mr Lusher, Sir William McMahon, Mr Nixon, Mr Peacock, Mr E. L. Robinson, Mr Scholes, Mr Short, Sir Billy Snedden, Mr Yates and Mr Young.

*On leave

J. A. PETTIFER,
Clerk of the House of Representatives