

police complaints authority

. . . when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for.

Milton, *Areopagitica*, 1644

The Police Complaints Authority which was set up by the Cain Labor government in Victoria to deal with complaints against police (see [1987] *Reform* 14) has been abolished. The Authority, which came into operation in July 1986, has been replaced by a Deputy Ombudsman (Police Complaints).

the last days. The abolition of the Authority came about in the midst of considerable antipathy between the Minister for Police and Emergency Services, Mr Steve Crabb, and the former head of the Authority, Mr Hugh Selby. In September 1987, the Victorian Government appointed the former Ombudsman for the Commonwealth, Professor Jack Richardson, to:

- investigate the efficiency of the internal practices and procedures of the Police Department's Internal Investigations Department,
- recommend a statement of role and functions for the IID and
- recommend whether changes were necessary to improve the procedural relationship between the IID and the PCA.

Professor Richardson's report at the end of October 1987 particularly criticised the relationship between the IID and the PCA and suggested that if it did not radically improve by the end of April 1988, the police complaints function should be returned to the Ombudsman's organisation.

When the government decided to abolish the PCA, it did so relying on Professor

Richardson's report. However, Mr Selby said that the government did not want an independent, competent police watch dog (*Sun*, 19 April 1988). Mr Selby gave as his reason for having been sacked:

I have made too much noise, been too critical and brought to the attention of too many people the glaring problems that we have.

The Minister cited problems in relating to other people on Mr Selby's part as a reason for the abolition of the Authority. Mr Selby said the Minister's statements 'amounted to a public slandering' of his reputation.

In an article in the Melbourne *Herald* (21 April 1988), criminologist Dr Paul Wilson said that the Authority 'made the unfortunate political mistake of taking its task seriously' by

- making public comments about the procedures police used to investigate complaints
- criticising some of the results of the investigations by police and
- giving facts and arguments to back up the Authority's case.

The Opposition did not oppose the replacement of the Police Complaints Authority with the Deputy Ombudsman. However, Mr Cooper (Liberal) said that the government was disbanding the Police Complaints Authority not because of any of the grounds laid down by the government as the criteria for suspension (disability, bankruptcy, neglect of duty or misconduct or any other ground which in the opinion of the Governor made the Authority unfit for office), but because Mr Selby and the Minister 'do not seem to be able to hit it off' (*Hansard*, Legislative Assembly, 5 May 1988, p 2073).

future of complaints procedures. Mr Selby said that the new office of Deputy

Ombudsman (Police Complaints) would not conduct adequate investigations. He said:

It will be sweet, it will be quiet and it will be like an insidious disease. It will be a total failure (*Sun*, 19 April 1988).

In its final report, the Police Complaints Authority presented a draft Bill to address some of the difficulties which the PCA had encountered in conducting its task. The suggestions included:

- permitting the PCA to conduct investigations on its own initiative in limited circumstances;
- ensuring that the PCA would be able, in the same way as the Chief Commissioner, to direct members of the police force to obey its directives during the course of investigations;
- permitting the PCA to do those things necessary and incidental to the discharge of its functions, thereby avoiding technical litigation brought to frustrate the spirit of the legislation;
- giving flexibility to the PCA in relation to powers to appoint staff.

a posthumous victory. In its final report, the PCA investigated a complaint of an assault by police on six men who were being arrested. The PCA recommended that the police involved be charged on a disciplinary basis with the use of unreasonable force. In the result, the charges brought against the six men arrested were dismissed by a magistrate in Heidelberg Magistrates Court and the Magistrate, Mr Ian Griffiths, ordered that four police officers pay a total of \$38 160 in costs for an 'unprovoked assault' on the six men (*Sun* 18 June 1988). Mr Selby commented:

... there is no longer a credible system to which members of the community can

go with legitimate complaints against the police. If the same case happened today, justice would not triumph.

Now that the Police Complaints Authority no longer exists as an avenue for complaints against police by the Victorian public, it will be a matter of considerable interest to see how effective the Deputy Ombudsman is in dealing with public concerns in this area.

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sale of goods in new south wales

Corporation, n. An ingenious device for obtaining individual profit without individual responsibility.

Ambrose Bierce,
The Devil's Dictionary (1881-1911)

nswlrc issues paper. The law concerning sale of goods contracts was first enshrined in legislation in New South Wales by the Sale of Goods Act 1923 (NSW), which was based on United Kingdom legislation of the last century. Commercial and social conditions have changed significantly since then and the New South Wales Law Reform Commission has proposed, in a most interesting Issues Paper (*Sale of Goods*, IP 5, 1988), that the law should be updated to reflect the increased sophistication of today's consumer and commercial contracts and the need for consumer protection. Concepts now considered outmoded, such as *caveat emptor* ('let the buyer beware') and 'merchantable quality' should be eliminated.

commercial and consumer transactions require different treatment. The NSWLRC considers that the existing legislation is drafted from the viewpoint of the commercial contract for the sale of goods, without adequate regard for consumers. While