



## HIGH COURT OF AUSTRALIA

Public Information Officer

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### JEFFREY THOMAS JARRATT v COMMISSIONER OF POLICE FOR NEW SOUTH WALES AND STATE OF NEW SOUTH WALES

Under the rules of natural justice, Mr Jarratt was entitled to be given an opportunity to answer criticisms of his performance before he was removed from his role as Deputy Commissioner of the NSW Police Service, the High Court of Australia held today.

Mr Jarratt, who joined the NSW Police Service in 1967, was appointed one of two Deputy Commissioners in February 1997 for three years. In 2000, his appointment was renewed for five years. In September 2001, Mr Jarratt was removed from office by the Governor on the recommendation of Police Commissioner Peter Ryan made with the approval of Police Minister Paul Whelan. In a media release Mr Ryan said the removal was on grounds related to performance. Mr Jarratt complained that he was given no opportunity to be heard on the substance of any criticisms of his performance before the recommendation that he be removed was made. The Commissioner and the State Government argued that he was not entitled to such an opportunity.

Section 51 of the *Police Service Act* provided that a Deputy Commissioner may be removed from office at any time by the Governor on the recommendation of the Commissioner submitted with the approval of the Minister. Mr Jarratt instituted proceedings against the Commissioner and the State in the NSW Supreme Court, claiming that he had not been validly removed under section 51. The Commissioner and the State argued that the common law rule that servants of the Crown hold office only at the pleasure of the Crown, and may be dismissed at any time without notice or justification, was not displaced by the Act. In July 2002, Justice Carolyn Simpson held that there had been a denial of natural justice to Mr Jarratt, that his removal was invalid, that his discharge constituted a repudiation of his contract and that, after allowing for compensation already paid to him, he was entitled to damages of \$642,936.35, the salary he would have received during the remainder of his five-year term. The Court of Appeal reversed that decision, holding that Mr Jarratt had not been entitled to a hearing by the Commissioner before recommending removal and that the common law principle relied on by the Commissioner and the State applied. In the High Court his application for special leave to appeal was referred to a Full Court and argued as on an appeal.

The Court unanimously granted Mr Jarratt's application for special leave and allowed the appeal. It held that under the Act there was an obligation to give Mr Jarratt procedural fairness and the "dismissal at pleasure" principle did not apply. The Court held that unless excluded by plain words, an exercise of power by a public official, such as the Commissioner to prejudice the rights of Mr Jarratt, was to accord with the rules of natural justice.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*