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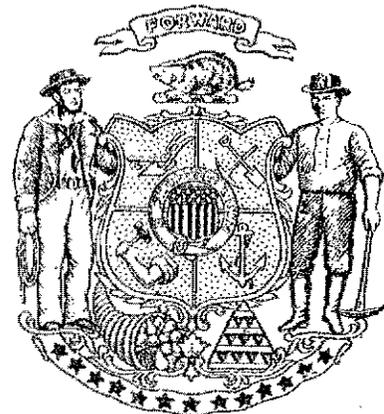
The State of Wisconsin

OMBUDSMAN

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OMBUDSMAN \*

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OMBUDSMAN

## WHAT IS AN OMBUDSMAN?

The question is not as simple as it appears, but it is being asked more and more frequently of late, so an answer should be attempted. Ombudsman (rhymes with woodsman) is a Swedish word which roughly translates into agent, or representative. The Swedes use it to designate their Special Parliamentary Commissioner for Judiciary and Civil Administration, an office created 158 years ago by the Swedish Constitution (adopted 1809). Article 96 charges the Ombudsman with the responsibility to protect the people from infringement of their rights by proceeding against "...those who in the execution of their official duties, have, through partiality, favoritism or other causes, committed any unlawful act or neglected to perform their official duty properly." To the rest of the world, which finds the word ombudsman a bit peculiar, an admiring public and press have referred to the office in such terms as, "Mr. Fixit," "People's Watchdog," "One-Man Complaint Bureau," "Public Protector," "Grievance Man" and "Citizen's Defender." So far as it goes, each of these is accurate. An oversimplified definition of an ombudsman is an independent officer who has the duty and power to investigate complaints from citizens who have been unfairly dealt with by their government.

Complaining about government may well be one of the oldest political traditions. The problem intensifies as governments grow larger and the stature of the individual citizen seems to diminish. It has been said that the ombudsman approach is an attempt to institutionalize this tradition by providing a kind of public investigator whose job it is to take complaints of the citizenry against the state, that is, a formalized procedure, where all complaints would be examined on their merits, protected from political or other influences, and systematically used to improve government efficiency.

The ideal ombudsman has been described as being a prestigious, nonpartisan, senior citizen, with a life of achievement behind him so that he will be ambitious for the job and not for himself. A strong legal background is desirable. The mechanism of his selection is not as important as the spirit which he brings to the office. He has broad investigatory powers, but narrow enforcement authority. His most important weapon is his position to disclose and publicize administrative error, because his power is based on public response and the prestige of the ombudsman.

## THE PROBLEM

The operating theory behind the ombudsman is that government is big and getting bigger, and the citizen small. Like any giant organization, public or private, it takes a bureaucracy to make it work. This bureaucracy operates in a manner which often mystifies the people it serves. It appears well insulated from normal channels of control, and yet, its effects are probably more significant in the daily life of the average citizen than the actions of elected public officials or decisions in courts of law. Proponents of an ombudsman say that the handling of individual complaints about government bureaucracy should not be left completely to voluntary private efforts. It is a matter of social concern to assist the little man in the confusing, time consuming and expensive confrontations with the state.

Citizen problems with bureaucracy are inevitable. Administrative error, abuse of discretion, delay and discourtesy are all too common. It may be that the hapless citizen is simply baffled by seemingly endless red tape or the kind of jargon that often appears in agency forms and government statements. Very often, agencies do not give reasons for their

decisions, and when they do, citizens frequently do not understand them. Many agencies have their own defenders (public relations experts and legal counsels) who are able to give glib answers to citizen complaints. The citizen may be unaware of any legal recourse available to him. Litigation, moreover, is slow and costly. While it is notably the poor who cannot cope with the faceless bureaucracy, as governmental powers proliferate, the more affluent groups also become objects of abuse. Accustomed to being able to protect themselves and having their rights respected, they are looking for help. As Walter Gellhorn suggests in his book, When Americans Complain, in the best of circumstances, "...haphazard complaint-handling by legislators, gubernatorial officers and other public officials gives slight reassurance that a grievance will be fully investigated." "It is quite simple to ignore or bamboozle the legislator acting in behalf of a constituent," claims the Speaker of the California Assembly, Jesse Unruh.

## HISTORICAL BACKGROUND

The present day ombudsman can be considered a lineal descendent of the Tribune of the People, who protected Roman citizens against administrative abuse 2,500 years ago. While nobody knows exactly how the institution of ombudsman was first conceived, it is thought that its purpose was to give the Swedish Parliament a means of balancing the wide powers exercised by the King. Since the first ombudsman, Baron Lars August Mannerheim, assumed his post in 1810, this unique office has spread (with variations on the general theme) to several other Scandinavian countries (Finland, Denmark and Norway). New Zealand followed suit in 1962, and Great Britain created a similar office in 1966. West Germany has a military ombudsman, whose concern is limited to military affairs. Because of the considerable literature available on this subject in recent books, newspapers and other periodicals, a detailed survey of the historical development and acceptance of the ombudsman principle will not be attempted here.

## COMMON STRANDS

What follows is a comparison of the organization and operation of the ombudsmen in Denmark, Finland, New Zealand, Norway and Sweden. The source for this information is the detailed comparative analysis in Chapter 10 of Walter Gellhorn's book, Ombudsmen and Others: Citizens' Protectors In Nine Countries, Harvard University Press, 1966.

### Experience and Training

Both statute and experience point to high standing as a jurist as a prime qualification for office. Scandinavian statutes are explicit in requiring that the ombudsman be trained in law. New Zealand law specifies no occupational background as a prerequisite, but the first (and incumbent) man selected was an experienced lawyer before becoming an administrator and diplomat.

### Selection

Typically, ombudsmen have been selected by legislative bodies. In Denmark, Finland and Norway they are elected by the parliament. The Swedish ombudsman is the choice of 48 electors drawn from the 2 chambers of the parliament and reflecting the proportional strength of all parties represented there. New Zealand's Lieutenant Governor (the Queen's delegate), appoints the ombudsman, but he acts only on recommendation of the legislature,

### Tenure

The ombudsmen in Denmark, Finland, Norway and Sweden are chosen by each new parliament (normally, every 4 years). In New Zealand, each new parliament (chosen triennially) can select the ombudsman, but the incumbent continues on in office indefinitely until a successor is named. Removal from office is easy (but not done) in Denmark and Sweden, more difficult in New Zealand and Norway, and impossible in Finland.

### Salary

The salary has been set at a high level in all countries. In Sweden and Denmark, compensation is permanently on a parity with that of a member of the Supreme Court. Only in New Zealand has the amount of compensation been left to the chief executive's discretion, and there it has been fixed a bit below the pay of the most important judges and a few other high officials.

### Staff

In all 5 countries the ombudsman has been empowered to select, without interference, assistants who have his personal confidence. Their number and salary scales have been regarded as satisfactory.

### Jurisdiction

No single jurisdictional pattern emerges. None may inquire into the work of his legislative body. The Danish and Finnish ombudsmen can question the actions of cabinet members; the Norwegian and Swedish may not. In New Zealand, the ombudsman cannot criticize a cabinet action, but can criticize departmental recommendations on which the action was based. The courts are subject to examination in Sweden and Finland, but not elsewhere. To a large degree, the acts of local government officials (but not local legislative assemblies) have come within the reach of the 4 Scandinavian ombudsmen. The New Zealand ombudsman can deal only with central government agencies specifically listed in the statutes. In all countries, each ombudsman must devote considerable thought to whether a complaint falls within the scope of his assigned responsibilities.

### Complaints

Complaints, the main source of an ombudsman's business, must be written and signed in all 5 countries. Only New Zealand requires a small filing fee (to discourage frivolous complaints). Denmark, New Zealand and Norway reject complaints over a year old. As a protection against overloading the machinery with repetitive, incoherent accusations, it is considered important that the ombudsman be empowered to decline to act. Such power has been generally granted or assumed.

### Exhaustion of Remedies

There is a tendency to limit ombudsmen to matters not elsewhere reviewable. Such is the case in New Zealand, and, to a degree, the same is true in Denmark and Norway. So long as suitable means for review remain open, the ombudsman usually serves best by explaining what remaining steps can be taken. The Danish ombudsman may also recommend that free legal services be provided. Absolutely prohibiting ombudsmen from getting involved in more direct intervention while other means of review exist (as in New Zealand),

however, is thought to be undesirable. Sometimes the opportunity to appeal is not used because of the expense and strain further proceedings would entail. A complainant may care too little about the case to wish to be bothered further, but still feel it to be worthy of attention by someone else who is paid for his pains. Some discretionary authority to proceed, despite the theoretical availability of unexhausted remedies, is considered desirable if access to the ombudsman is to be fully meaningful.

#### Action On Own Initiative

All 5 countries have given their ombudsmen the authority to act without first receiving any complaint if his concern has been aroused by other means. This power is mainly used to inquire into problems of general public concern, rather than individual matters. Nowhere has it been used in an overly aggressive way.

#### Inspection and General Supervision

In Sweden, Finland and Denmark the ombudsmen have been directed to make periodic inspections of government establishments within their jurisdiction. The Swedish ombudsman believes such visits are a learning experience for all concerned and strongly defends their value. Elsewhere, the importance of this tool has not been stressed. Visits to penal institutions, however, are one area to which all give a high rating.

#### Review of Rules and Regulations

The ombudsmen do not ordinarily concern themselves with the validity of administrative rules until they have been applied in a controversial manner. Anything more than the most superficial preauditing would require far greater manpower than most ombudsmen have at their disposal.

#### Conducting Inquiries

Hearings that resemble trials are almost never used as a fact-finding technique. In every country the ombudsman is empowered to examine official files, call for further investigation and report by officials, and summon persons for direct interviewing. While some statutes include sanctions for noncompliance, so far as can be learned, the co-operation of all concerned has been so good that no sanction has been needed. Generally, the basic method of inquiry is, very simply, to ask for an explanation of whatever has been complained against, and, if this does not clear the air, to look at the materials in the administrator's files. This technique has proved adequate in the great mass of cases considered. It fails when the matter at issue is an unrecorded occurrence such as an asserted rudeness, act of police brutality, or solicitation of a bribe. In these situations (usually unwitnessed), the ombudsmen have proceeded hesitantly. Since their primary purpose is to build for the future rather than to exhume the past, failure to establish guilt does not preclude constructive suggestions about avoiding similar controversies.

#### Negotiated Settlements

Although not an assigned duty, all 5 ombudsmen have sometimes sought informally to change official determinations not illegal or otherwise subject to criticism by acting the role of the mediator. In Denmark, New Zealand and Norway negotiations invariably start at a high official level, apparently on the theory that top-ranking officials will have a more detached view of the problem.

### Review of Discretion

Criticism is appropriate only when administrative discretion is found to have been exercised for insupportable reasons, and not because the ombudsman might have done things differently if it had been his decision. Keeping this theory in actual practice has been difficult. The New Zealand ombudsman, for instance, can consider not only whether a challenged administrative action was illegal, but also whether it is unjust, oppressive, or, as the governing statute bluntly says, just plain "wrong." In Norway, whose ombudsman has been told to concern himself with "injustice," and in Denmark, where he can criticize "mistakes" and "unreasonable decisions," considerable latitude also exists. Although other statutory provisions somewhat qualify these broad grants of authority, the impression is that ombudsmen have not felt themselves unduly constricted in their ability to speak up when they feel like doing so.

### Pursuing the Implications

On the whole, each ombudsman has hotly pursued the implications and not merely the immediacies of the matters before him. When he perceives a case as a symptom of a general problem, rather than a self-contained episode, his report can make a valuable contribution to the improvement of public administration.

### Explanatory Decisions

The ombudsmen have all been extraordinarily diligent in explaining their decisions. Their opinions, marked by closely reasoned analysis of the law and a careful summation of the pertinent facts, have had strong moral and rational appeal. Their explanatory labor, taxing and time-consuming though it be, accounts in considerable measure for the abundant public confidence they enjoy.

### Enforcing the Ombudsmen's Views

Since ombudsmen rely on recommendations, how can they make an administrator pay attention if he is unpersuaded? Historically, the Swedish and Finnish ombudsmen are prosecutors who can bring officials into court to answer charges. The Danish ombudsman may order prosecution, and the Norwegian ombudsman may recommend either prosecution or disciplinary action. In recent years, these powers have seldom been used. Denmark, New Zealand and Norway have entirely avoided recourse to enforcement devices or threats, and none has seemed to suffer any lowering of prestige. Known instances of noncompliance have been few in number. Often an administrator will voluntarily withdraw from positions that have been complained against before the ombudsman has completed his investigation.

Ombudsmen rely heavily on favorable public opinion. They make annual reports to their creators, and may make additional reports when they wish. The press, particularly in Sweden and Denmark, gives considerable publicity to findings that reflect adversely on an official or an administrative unit.

## LEGISLATIVE HISTORY

According to published reports, ombudsman bills have been or soon will be introduced in the state legislatures of Alaska, California, Colorado, Connecticut, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Utah, Washington and Wisconsin.

Most of these bills would provide for an ombudsman to be appointed by the Governor, with the consent of the State Legislature. All would be thoroughly domesticated and possess considerably fewer of the wide powers of the Swedish original. Mayor John Lindsay has announced that he feels New York City needs an ombudsman to help protect citizens who feel victimized by unfair treatment, by outdated regulations, and by city red tape. Abroad, the ombudsman has been studied for adoption in Australia, Canada, Ireland, India and Holland.

### Wisconsin Legislation

Until the current (1967) session, no bill was introduced in the Wisconsin Legislature to provide for an administrative watchdog similar to an ombudsman. Thus far in the 1967 session, however, 2 such measures have been introduced (Assembly Bill 77 and Senate Bill 102). The Legislative Reference Bureau analysis printed on each bill describes the 2 proposals as follows:

#### Assembly Bill 77

This bill creates a department of administrative investigations, the purpose of which is to investigate grievances against the state government. The head of the department is to be called an ombudsman. He is given authority to investigate the administrative acts of state departments either on a written complaint made to him by any person or on his own motion. In certain situations, detailed in the bill, he may refuse to make an investigation. Appointment of the ombudsman to office is made by the governor for a term of 4 years. No ombudsman may serve more than 2 terms.

Every investigation is to be conducted in private. Any person concerned in the matter may be consulted and witnesses and documents may be subpoenaed subject to the rights and privileges which a witness has in the courts of this state, including the right to have counsel present while he is being questioned. The ombudsman is to report findings and make recommendations to the department investigated and inform the complainant of the result of his investigation.

An appropriation for the administration of the department of administrative investigations is contained in the proposal. For further information, see the fiscal note appended to this bill.

#### Senate Bill 102

This bill creates the office of ombudsman for the purpose of investigating complaints against departments of the state government received from legislators or legislative committees. These 2 sources are permitted by the terms of this bill to refer the complaint of any person who alleges that a state department has subjected him to an improper penalty, denied him a right or privilege to which he was entitled under state law or unreasonably delayed the determination or award of such a right or benefit.

The ombudsman is to be appointed by the legislature and has the power to subpoena witnesses and state documents. He is to have the full co-operation of all state officials and employes but in no event is he to become involved in the formation of any state department policy.

The provisions of this bill also contain an appropriation to allow the ombudsman to carry out his assigned functions. For further information see the fiscal note attached to this proposal.

In an early reaction to A. B. 77, the Wisconsin Board of Public Welfare voted to oppose the bill. The Director of Public Welfare is quoted as saying that the ombudsman could become a "...snooping harassment," and that his actions "...could result in hamstringing departmental activities with which the ombudsman has no sympathy." (Milwaukee Journal, March 9, 1967). Since neither of these bills has yet had a public hearing, additional opposition or support has not been reported.

In a nonlegislative action, on March 31, 1967, Wisconsin's Governor Warren Knowles announced the appointment of a special assistant in the executive office who, in addition to other duties, will serve as an unofficial ombudsman "...guiding Wisconsin citizens who are confronted with various problems to the appropriate state agencies for assistance."

### Federal Legislation

Both the 89th and 90th Congresses have considered legislation introduced by Wisconsin's Congressman Henry Reuss that would establish a federal ombudsman (a nonpartisan office of "Administrative Counsel to the Congress") to assist Congress with its constituent business. Called "casework" by legislators, it consists of requests and demands from a member's district that require him to serve as their mediator with government. The Reuss proposal envisions the selection of a man of stature to act as ombudsman. He would have an expert staff that would deal only with cases referred to it by Congressmen and would report results and recommendations back to the member.

Critics contend that this approach misses the heart of the ombudsman concept--that of a relatively independent office with direct access to the people.

One of the most appealing aspects of the ombudsman's role is his aura of unlimited access. Anyone, anytime, can complain to him.

Congressman Reuss has stated that he feels adopting the ombudsman idea in toto "...would probably end up as yet another impersonal bureaucracy." Instead, he feels the office should serve members of Congress in about the same way that the Legislative Reference Service of the Library of Congress now operates (with a staff of about 150), only with service extended into the area of congressional casework. He cites the following advantages to his bill:

1. It would free legislators and their staff to concentrate more on the legislative process.
2. Constituents would receive better, more expert help.
3. The agency would act as a clearinghouse to avoid duplicate efforts, and be able to spot sources of recurring trouble.
4. It is more efficient than continually expanding individual legislators' staffs.
5. The "write your congressman" tradition is preserved. In this way a congressman can take the credit or share the blame, depending on the outcome of the case.

Incidentally, Congressman Reuss has indicated that the Swedish name ombudsman is a bit too exotic and feels that any legislation enacted would probably have to substitute something more prosaic.

A bill has been introduced in the 90th Congress that would create a federal tax ombudsman and would provide for 2 officers in each of the 10 national tax regions. Their field of

interest would be limited to the handling of small claims cases under \$2, 500.

Another bill has been offered to establish a form of national ombudsman which would take cases from citizens on matters involving the Social Security Administration, Veterans Administration, Internal Revenue Service and the Bureau of Prisons. Finally, a proposal to create an ombudsman for the District of Columbia was introduced in the 89th Congress and has again been offered in the 90th.

Congressional critics argue that creating a federal ombudsman would simply establish yet another bureaucracy--one bureaucrat dealing with another. They feel that it is their job, as congressmen, to directly represent their constituents when they have difficulties with government.

It should be noted that a law passed by Congress in 1964 (PL-88-499) calls for the establishment of an institution known as the Administrative Conference of the United States, to be composed of the heads of major administrative bodies, other administrators and persons who can broadly represent "...the views of private citizens and utilize diverse experience." Beyond serving individual complaints, the conference is to concern itself with the adequacy and fairness of the means used in effectuating any federal program that "...involves protection of the public interest and the determination of rights, privileges and obligations of private persons through rule making, adjudication, licensing or investigation." It has been suggested that the Administrative Conference could become a kind of American ombudsman as an instrument for correcting and improving administrative practices. The 1964 enactment, however, has yet to become a reality in that the President has not yet appointed a person to the 5-year chairmanship.

#### UNITED STATES EXPERIENCE

In the United States, the ombudsman is off to a shaky start. While somewhat similar, small-scale experiments can be found in various parts of the country, none really exists that closely resembles its Scandinavian counterpart. Those most commonly cited are:

1. Nassau County in New York.
2. Department of State in Michigan.
3. The 5th Congressional District in Wisconsin.
4. Colorado's Lieutenant Governor.

Very little information is yet available as to their organization, operation and degree of success or failure.

In Nassau County, New York (population about 1-1/4 million), the Board of Supervisors appointed a special committee to study the feasibility of establishing an ombudsman to deal with inefficiency, maladministration, arrogance and the abuse of power in county government. This committee reported back favoring adoption of the plan, but no immediate action was taken. In the interim, a 77-year old former county judge was appointed to the vacant office of Commissioner of Accounts, paid \$25,000 per year, and given the added title of Acting Ombudsman. Based on this May 1966 appointment, Nassau County claims to have created the nation's first ombudsman. He was directed to act as a public protector to the extent permitted by law until such time as a real ombudsman is created with broader powers. While the validity of this appointment has been a matter of local political dispute, in succeeding months he has handled over a hundred cases of citizen complaints and is said to have been able to ob-

tain favorable actions on more than half of them. An unidentified county spokesman is quoted as saying (Columbus Dispatch, March 2, 1967):

"We are highly satisfied with the way it has worked out. Several hundred cases have been taken care of since the ombudsman was appointed. He gets a lot done and there is very little resentment against him."

In the Michigan Department of State, the Secretary of State has appointed (on an experimental basis) a "Special Assistant for Citizen Complaints." His function is to hear and resolve citizen complaints on any procedure or policy now being practiced by the various divisions of the Department of State. "This ranges," according to the Secretary of State, "from infringements due to major policies of the department down to just plain rudeness to a citizen."

It is reported that so far the office has received a number of complaints, but few that relate to the Department of State. The Michigan ombudsman says that he is flooded with the wrong type of complaints, "...but sooner or later, as more citizens find out what I'm here for, I'm sure this office will blossom."

Wisconsin's 5th Congressional District (Milwaukee) is represented by Henry Reuss, author of a bill that would create a federal ombudsman. In a 4-month experiment Congressman Reuss has appointed one of his staff to appear 2 days a week at various postal stations in his district to serve as ombudsman and hear citizen complaints. While other members of Congress handle problems and complaints brought to their attention, they do not ordinarily go out soliciting problems and bring this service directly to the person in need of assistance. When weather permits, it is planned that plant gates, offices and shopping centers will host the 5th District's local ombudsman. Critics of the plan say that it is common for congressmen to have a staff member in their district to "bird-dog" constituent complaints, and calling him an ombudsman only serves to confuse the public as to the attributes of a true ombudsman.

A complete report on the project's accomplishments will be issued at its conclusion in May. After the first 5 weeks on the job, however, the ombudsman of the 5th Congressional District feels that it has been successful beyond expectations. After receiving about 250 complaints, he has concluded that the delays which citizens encounter in dealing with federal agencies "is fantastic" (Milwaukee Journal, March 19, 1967). Of the cases handled so far, about two-thirds justified further investigation and one-third were unsubstantiated. He feels a congressional ombudsman would uncover a pattern of administrative inefficiencies that could be remedied.

In Colorado, the Lieutenant Governor has appointed himself ombudsman for the state. In justifying this action, he said:

"For the average citizen who has business to transact in government, the complex agencies sometimes are not only baffling but forbidding. Yet, it is often possible to cut through the confusion with a single well-placed telephone call."

As yet, there is no further word on this operation.

#### IS AN OMBUDSMAN THE ANSWER?

Any discussion of adopting an ombudsman in the United States is met with the argument that many avenues of review are presently functioning which play ombudsman-like roles, including the following:

The courts  
Individual legislators  
Legislative staff agencies  
Grand juries  
Legislative hearings (investigations)  
Administrative appeal (internal review mechanisms)  
Inspector General (military matters)  
General Accounting Office (fiscal matters)  
Civilian review boards  
Municipal complaint departments  
Special interest groups and the press

While none of these meets the needs of complete citizen redress, the various alternatives compliment one another to approximate a complete system.

This argument, it is said, misses the main point at issue. The ombudsman does not replace any existing instrument of control such as those listed above. He does not revise or reverse their decisions. He can do little more than receive a complaint, interpret the facts, and express an opinion on the matter. The point is, while there may be avenues of review available, it does not mean that cases would, in fact, be reviewed.

"You can't fight city hall" is a tired line which amplifies the feeling of helplessness on the part of confused or abused citizens. While no panacea for all the ills of government, the ombudsman seems to hold out a reasonable promise of improvement. Those who dwell in city hall should not be too apprehensive, for experience indicates that in the great majority of cases, city hall has the right on its side.

It is interesting to note that most complaints sent to an ombudsman prove unjustified, thus exonerating the bureaucracy. Nine out of 10 complaints received by the Swedish ombudsman, while made in good faith, are unfounded. In New Zealand, from 1962 to 1965, the ombudsman received 1,843 complaints. Of these, 867 were determined to need actual investigation, and 161 were upheld. As a consequence, the New Zealand Public Service Association, which initially opposed the ombudsman as someone whose function would be to harass bureaucrats and foster confusion and disgruntlement, now support the office. The ombudsman serves to reinforce citizen confidence in public administration.

Mr. Alfred Bexelius, Sweden's present ombudsman, says of his office (The New Yorker, February 13, 1965):

...in constantly seeking to improve the legal security of citizens, it has the effect on bureaucrats like water on stone.

It is no secret that high officials in Sweden--all of them--dislike the ombudsman. They say that he is always interfering in things he doesn't know anything about, and that they could do their jobs better if he would stop meddling, and so on. But all their grumbling doesn't mean a thing. Everybody knows that it is necessary to have an ombudsman.

I believe every country needs the office of ombudsman. It is a useful thing, a civilized thing.

Countries where the ombudsman has been in effect tend to have high standards of public service. To a large degree, his success depends on the support of the bureaucracy. In re-

turn, the ombudsman serves to make life easier for other public officials and civil servants by acting as a lightning rod to divert the ire of dissatisfied citizens.

The possible applications of the ombudsman concept are nearly without limit. The authority and scope of the office may be wide-ranging (as in Sweden), or strictly confined to specific matters, such as a military or tax ombudsman. In addition, it can operate at any level of government. Michigan's East Lansing High School, for instance, has established an ombudsman to deal with school procedure and policy conflicts. It is reported to be highly successful and has the backing of students, faculty and the school administration.

It has been critically observed that the fiscal resources of existing ombudsmen are so modest as to inhibit investigations that would uncover major instances of incompetence or corruption. One congressional investigation in the United States usually costs more than it does to operate the ombudsman's office in Sweden for a year (which has a \$120,000 annual operating budget, plus a \$20,000 discretionary fund which may be utilized if needed). Critics point out the danger that small-scale efforts would be self-limited to relatively minor incidents and may inadvertently screen more significant failures while perpetuating the illusion that all is well.

Backers say that while it may not be the miracle cure-all that some enthusiastic supporters imply, the argument that the office of ombudsman alone cannot hope to cope with all the problems of the administrative state seems hardly sufficient reason not to consider establishing it as a supplement to other devices.

The ombudsman has grown up in countries that are relatively homogeneous, while the United States, economically, racially, and in other ways, is among the most heterogeneous countries for which it has yet been proposed. Although the fear that the idea would not work in common law countries is refuted by the example of New Zealand, our physical size (geographical and population), plus the scope and complexity of the federal government, all argue against success. Therefore, it is often suggested that in a country as large and diverse as the United States, an ombudsman would stand the best chance of success if first attempted in a limited situation. Many people feel the greatest need and potential for an ombudsman lies in state, local and metropolitan government.

A factor of great importance which can be overlooked when assessing the value of an ombudsman is the psychological effect. The existence of such an office acts as a deterrent which tends to make bureaucrats and other public officials more careful in their dealings with the public. The public, knowing the ombudsman is there should they ever need his services, is confident that the government can be held accountable by a representative of the people.

## FINAL WORD

The significance of the current interest in the ombudsman is that many people apparently feel there is a need for an instrument to protect the citizen against unjustified governmental and administrative action. Even though the need to do something often seems hardly debatable, the method, whether by an ombudsman or some substitute better adapted to the United States, is not so obvious. It is contended, however, that the ideas underlying the ombudsman concept could be refined into an institution that fits our society, and would include these basic elements:

1. Service that is inexpensive enough so that even the most indigent person or group can afford relief;
2. A means that is so well known and so accessible that even the most underprivi-

leged, ignorant persons know of it or are able to find out about it;

3. Relatively quick action unencumbered by hierarchical, bureaucratic procedures;
4. Service that is personal and informal enough so as not to frighten persons unfamiliar with bureaucracy and the modus operandi of the prevailing class;
5. Well staffed investigatory bodies or persons with a wide range of powers of investigation and access to all levels within government agencies;
6. A device that is able to act relatively independently and systematically and not merely on a crisis to crisis basis;
7. A means for investigation and action that cannot be easily hindered or covered up by other government agencies or officials; and
8. Wide geographic and functional coverage so that all persons are near the means of redress.<sup>1</sup>

While the Scandinavian ombudsman is a stranger to our political system, his service does not seem to be really performed by any existing American institution. Its combination of low cost and high popularity has attracted considerable interest. For these reasons, despite its foreign origins and ludicrous name, this fascinating concept continues to intrigue many Americans.

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<sup>1</sup>Alesch, Daniel J., "Regarding The Ombudsman---A Commentary," Public Administration Review, June, 1965.