HB

45

WESTERN GOVERNMENTAL RESEARCH ASSOCIATION
OFFICE OF THE EXECUTIVE SECRETARY
INSTITUTE OF GOVERNMENTAL STUDIES
UNIVERSITY OF CALIFORNIA
BERKELEY 94720

State Capitol
Juneau
22 January 1975

Representative Terry Gardiner, Chairman
House Judiciary Committee
State Capitol
Juneau

Dear Terry:

Professor Stanley V. Anderson of the University of California, Santa Barbara, faculty who will be one of the principal panelists at the "Colloquium on an Alaskan Ombudsman" on Saturday, February 1, will be arriving in Juneau on Thursday, January 30th.

His schedule for Thursday evening and all day Friday is free, and he will be available to discuss the Ombudsman legislation with you, members of your staff, or with legislative committees individually or jointly, should you wish to arrange it. I would like to set up a tentative "agenda" for his stay here for these two days. If you would like to meet privately with him, or to have him meet with the committees considering these bills, this would be a good opportunity to do so. Please contact me in the Legislative Affairs Agency office (Room 101, State Capitol; 465-3800) should you wish to meet with him.

Professor Anderson is probably one of the best informed people in the United States, if not worldwide, on the Ombudsman concept and its operation. I am also enclosing an invitation to, and a program for, the Saturday, February 1st, colloquium.

Cordially yours,

STUART C. HALL
Alaska Representative, WGRA

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17 January 1975

MEMORANDUM

TO : All Alaska Members, Western Governmental Research Association

FROM : Stuart C. Hall, WGRA Alaska Representative

SUBJECT: Colloquium on an Alaska Ombudsman, 1 February 1975, Juneau

I want to extend a cordial invitation to you to attend a WGRA event jointly sponsored with the Southeast Alaska Chapter of the American Society for Public Administration (ASPA) and the University of Alaska, Juneau: A Colloquium on an Alaska Ombudsman, starting at 9:30 a.m. and continuing throughout Saturday, February 1st, in the handsome new 5th Floor Conference Room of the new State Office Building in Juneau.

We're extraordinarily fortunate in being able to secure two of the most knowledgeable men in the United States on the origin, development and operation of the Ombudsman: Professor Stanley V. Anderson of UC, Santa Barbara, a California attorney and political scientist, and a prolific writer on the subject of the Ombudsman, and Mr. Herman Doi, Ombudsman for the State of Hawaii. Their observations on the Ombudsman concept as it is working today in the U.S. are particularly relevant at this time because the First Session of the Ninth Alaska Legislature, which convenes Monday, January 20, will be considering several measures creating that position. Inasmuch as establishment of the Ombudsman enjoys active gubernatorial support for the first time, enactment of Ombudsman legislation in 1975 appears brighter than it has since the first such bill was introduced in 1966. The bills introduced in the current legislative session also will be reviewed, and the local ASPA chapter has prepared a bill for the governor's consideration.

The colloquium is open to interested members of our profession and the public. There is no registration fee; however, the luncheon with Lieut. Governor Lowell Thomas, Jr., as speaker is $5. Please feel free to circulate this memorandum among interested friends and colleagues. If you have any questions -- and for those from out of town who might require hotel accommodations -- please contact me by mail (P.O. Box 90, Juneau, AK 99802) or by telephone: 465-3800 (office), or 586-3489 (residence).

Save February 1st — I'll look forward to seeing you then!

EXECUTIVE COMMITTEE

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City of Sparks

New Mexico
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University of New Mexico

Oregon
James Knapp
County of Multnomah

Utah
Fred N. [illegible]
Brigham Young University

Washington Morton Knoll, University of Washington

Wyoming Kenneth Carleton, City of Casper

COLLOQUIUM ON AN ALASKA OMBUDSMAN

Sponsored by the University of Alaska
in conjunction with
The American Society for Public Administration
and
The Western Governmental Research Association

Saturday, February 1, 1975
Fifth Floor Conference Room, New State Office Building

9:30 AM.	Program Introduction	Dr. Robert E. Newton, Associate Professor of Political Science, University of Alaska, Colloquium Chairman
9:40 AM.	The Origin and Development of the Ombudsman Movement in America	Dr. Stanley V. Anderson, Professor of Political Science, University of California, Santa Barbara
10:40 AM.	Alaska and the Ombudsman Movement	Mr. Gary E. Wilson
11:00 AM.	The Alaska Ombudsman Bill	To be coordinated with Governor Hammond's Office
11:45 AM.	Luncheon Reception for Mr. Herman Doi, Ombudsman for Hawaii (Capital Room, Hotel Baranof)	
12:30 PM.	Luncheon (Latchstring, Hotel Baranof)	Lt. Governor Lowell Thomas, Luncheon Speaker Mr. Donald P. Fisher, President, Southeast Alaska Chapter, American Society for Public Administration, Toastmaster
2:00 PM.	The Hawaiian Experience with the Ombudsman's Office	Mr. Herman Doi, Ombudsman State of Hawaii
3:00 PM.	Panel Discussion on the Applicability of the Office of Ombudsman to Alaska State Government	Mr. Ronald W. Wardle, Student Regent, University of Alaska, Moderator Mr. Herman Doi, Dr. Stanley V. Anderson, Dr. George W. Rogers, Professor of Economics, University of Alaska, Panelists

File

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

SOUTHEAST ALASKA CHAPTER
Box 292 Juneau, Alaska 99802

March 13, 1975

Hon. Terry Gardiner
State Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Gardiner:

The attached Anchorage Daily Times editorial and my reply which the paper subsequently published, provide information and insights into the ombudsman bill which you are now considering. For this reason I would like to provide you with copies of both.

The entire program in which Hawaii Ombudsman Herman S. Doi participated here in Juneau last February 1, has been recorded on both sound and audio-visual tape. Very shortly we hope to have copies of the written transcript available for all interested parties. (We are a non-profit, volunteer organization which must accomplish its work on nights and week-ends, and consequently, have not had the time yet to make the complete transcription.) But let me also provide you with the attached excerpt in which Ombudsman Doi explains the development of his budget and staff.

As I said in my letter to the Times, I think Doi's work can be duplicated here in Alaska. Let me add to that, that I think it can be duplicated here with the same proportionate costs and that the justification for this "new start" is simply the fact that the public is expecting something like this very much.

Last summer I mailed you a copy of my study, The Obudsman: Its Potential Applicability to the State of Alaska. If you did not receive it, or if it has been mislayed or lost, you may obtain a copy from either the Secretary of the Senate or the Clerk of the House. Thank you for your courtesy and attention.

Sincerely,

Gary E. Wilson
Member, Ombudsman Committee

Enclosure

Anchorage Daily Times

Editorials

Page 6 Tuesday, February 18, 1975

Monstrous Creature

THE OMBUDSMAN is the motherhood issue of the moment before the Alaska Legislature.

To speak against it is certain to infuriate those who vibrate to anything that smacks of "consumerism" and all that holy word embraces these days.

But the truth needs to be said. And the fact is that the legislature, as Sen. Robert Ziegler of Ketchikan expressed it, is creating a monster with this piece of business.

The Senate, which should know better, passed a bill last week to establish an ombudsman's office as an independent agency of the state government. The House, which loves this sort of thing, can be expected to boom the bill through by a landslide within the next week or so — and Gov. Jay Hammond will sign it into law.

BEFORE TOO many years have passed, however, we expect Alaskans will rue the day the ombudsman ever came into being, at least in the form and fashion contemplated by the existing legislation.

As proposed by the Senate, the office would begin functioning with a budget of $118,500 for the next fiscal year. That includes $40,000 for the salary of the first ombudsman, a figure which matches that of the state's Superior Court judges. Another $31,000 is tossed in for the salary of a deputy ombudsman, with the remaining $48,500 to cover additional staff and operating expenses.

But this clearly is not the end. And it probably is nowhere near the beginning, if the office is to function with all the force and power outlined in the Senate bill.

Before too many budgets have passed, that initial $118,500 is likely to escalate into a monster costing millions.

BEFORE THE END is reached, if it ever is, the ombudsman is going to wind up with a bigger staff than the district attorney and the legislature combined, doing work that should be handled by the people's elected representatives and the Department of Law — all of whom are paid on a year-round basis to do what the ombudsman is supposed to do.

Moreover, the office is going to become — by its very nature — a meddling arm of government that probably will cause more confusion and red tape than it untangles. Other agencies of the government will seek additional appropriations to hire the people and do the paperwork that will be generated by the ombudsman's eager venture into every nook and cranny of the government.

And there will be reams of paperwork and reports, endless hearings and more travel vouchers and per diem expense payments than ever dreamed of at the outset.

Lt. Gov. Lowell Thomas protests this isn't so, because the ombudsman will not be a "super cop to ride herd on all facets of government."

But that's what this behemoth will turn out to be, once the legislature has breathed life into him and he goes stalking off down the trail.

EDITORIAL PAGE
Anchorage Daily Times
ROBERT B. ATWOOD
Editor and Publisher
WILLIAM J. TOBIN
Associate Editor
And General Manager
CLINTON T. ANDREWS JR.
Managing Editor

Letters

Successful Ombudsman

Dear Editor:

It was refreshing to read your editorial, "Monstrous Creature," with regard to the ombudsman bill now being considered by the Alaska Legislature. While I am an enthusiastic supporter for the bill's passage, I see the same "motherhood issue" that you do and I am more than a little concerned about it. Essentially I think too many people are reading too much into this modest proposal and will be expecting some kind of super-human performance far beyond anything one might reasonably expect of an effective ombudsman's office.

Recently we were privileged here in Juneau to have an opportunity to explore how an ombudsman's office is supposed to work with Herman S. Doi who has served the past five years as Ombudsman for the State of Hawaii. He came over at our invitation to be the featured speaker at a University of Alaska sponsored public conference on the applicability of the office to Alaska state government.

Doi has processed 8,500 citizens' grievances in his five years of service with a small staff and a very modest budget. The office has grown with the increased caseload and the increasing public knowledge of the availability of his services during this period of time. Besides himself, Doi now has a deputy, four investigators and four secretaries and clerks. Seated by a unanimous vote of the Hawaii legislature, he has turned back surplus monies to that body each year. This past fiscal year $185,000 was appropriated to him, of which he returned $22,000.

The 8,500 figure for the caseload does not reflect the informational services which the Hawaii Ombudsman's office furnishes. Often Hawaiians think they have a grievance against a governmental agency when all they really need is some reliable information to solve their problem.

Doi is armed with the same extensive subpoena power which is included in the bill before the Alaska Legislature, but it is interesting to note that he has never had to use it and that he is a popular figure among state government agencies. This stems from the fact that he and his staff have the kind of mediatory skills which are needed most often to solve problems between citizens and government.

I am persuaded that the same kind of job which Doi and his staff have done in Hawaii can be duplicated here in Alaska. He is quite a person, I can assure you.

This state does not lack for equally qualified people who can establish and maintain a low-budget, non-bureaucratic citizens' grievance processing service. That is the essence of the ombudsman's office wherever it has been successfully implemented.

The ombudsman can be no white knight on a steed who solves all the problems. But someone like Doi, I think, can help a lot of Alaskans, both private citizens and the government employes, to reconcile differences and to raise the public's confidence that our state government really can serve us the way it is supposed to.

Gary E. Wilson
Juneau

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

SOUTHEAST ALASKA CHAPTER
Box 292 Juneau, Alaska 99802

March 3, 1975

Excerpts from Hawaii Ombudsman Herman Doi's presentation pertaining to budget and staff development. Colloquium on an Alaka Ombudsman, Juneau, February 1, 1975--The full text of Mr. Doi's question and answer session is being prepared for publication and will be available at a recent date.

AUDIENCE QUESTION: I'm wondering, your first fiscal year, do you recall what your budget figure was, total operating budget?

OMBUDSMAN DOI: The appropriation for the first fiscal year that I received was for $103,000 of which the Ombudsman expended $90,000, 90,349.92. And then the second year the appropriation was $176,000 of which we spent $157,395. The third year the appropriation was for $233,000 of which we expended $159,760. The fourth year the appropriation was for $192,000, and we expended $157,595. The fifth year the appropriation was for $185,000, of which we expended $163,000. So we've always been below the actual amount that has been appropriated and the amounts that have been appropriated reflect the amounts of the request that we sent to the legislature and we've always gone in with the idea that look, we really cannot predict where this complaint load is going. Now we know that we are asking for perhaps a little bit more money than we actually are going to spend, but we promise you that whatever we do not spend will be lapsed back into the general fund. And on that basis we have received the appropriation as requested. So, I've had during that period of time, at least one standby position that I could fill, if the complaint load rose during that fiscal year to a level where we could not handle it with the staff we had.

AUDIENCE QUESTION: The first fiscal year you staff numbered?

OMBUDSMAN DOI: The first year I operated by myself, one secretary and toward the end of the fiscal year we hired and trained three additional secretaries and three addition staff members if my recollection is correct.

AUDIENCE QUESTION: And presently your staff includes?

OMBUDSMAN DOI: Presently my staff includes six professionals including myself and four secretaries for a total of ten.

ALLEN T. COMPTON
ATTORNEY AT LAW
201 FRANKLIN STREET
JUNEAU, ALASKA 99801
TELEPHONE 907-586-2482

February 11, 1975

Honorable Frank R. Ferguson
Chairman, State Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Honorable Terry Gardiner
Chairman, Judiciary Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

RE: SB 1 - Ombudsman
HB 45 - Ombudsman

Gentlemen:

At its recent meeting, the Board of Governors of the Alaska Bar Association endorsed the concept of a state Ombudsman for Alaska. This endorsement was based upon a recommendation by the Association's Administrative Law Committee.

The Board did not specifically endorse either SB 1 or HB 45, recognizing in part that the mechanics of such an office are best left to legislative scrutiny. However, the endorsement does recognize that such an office could provide a valuable service to citizens who so often find themselves confounded by a bureaucracy seemingly unresponsive to their complaints.

It would be appreciated if this endorsement could be included in your public record.

Respectfully,

Allen T. Compton
Legislative Counsel
Alaska Bar Association

ATC/bt

cc: Honorable Jay Kerttula
Frances Ulmer, Esquire

House Judiciary Committee
February 11, 1975

HB 45 Ombudsman

The meeting was called to order at 1:05 by Chairman Gardiner. All members were present.

Appointment - the committee agreed to keep nomination by the Legislative Council.

page 1, line 23, delete "majority" and add 3/4 vote of the members of each house of the legislature. Delete joint session. Approval of 0
Rep. Brown moved Amendment 1. There being no objection, the amendment passed.

Art Peterson testified regarding the stipulation that the Ombudsman could not run for political office for a given period of time after serving as Ombudsman: The legislature cannot impose additional qualifications on legislative eligibility. This was an Attorney General's opinion and a court decision in 1968 (Benish case). The committee requested that the constitutionality of such a provision be investigated.

Regarding stipulation that the Ombudsman and his staff shall refrain from partisan political activity, Stu Hall testified that the proposed language is similar to legislative employee regulations.

Rep. Fink moved the addition of amendment 2. There being no objection, the amendment passed after the language "which would tend to undermine . . ." was deleted. 7

Art Peterson suggested that the additional language be in a seperate section or that the title of the previous section be amended to include the new language stipulations.

Regarding term of office, Rep. Parr moved that six years be amended to five. There being no objection, amendment 3 passed.

Representative Brown moved that the language "but may not serve for more than three terms" be deleted. There being no objection, amendment 4 passed.

The meeting was adjourned at 1:55 p.m.

House Judiciary Committee
February 12, 1975

Ombudsman

The meeting was called to order at 1:05 p.m. by Chairman Gardiner. All members were present.

The following additional amendments to HB 45 were passed.

page 2, Line 17 and 18: change the words "shall" to may (appoint a deputy)
Amendment 5 passed

page 3, Line 7: after "salaries" add "and benefits" (other legis employees)
Amendment 6 passed

page 4, Lines 7 - 9: Mr. Fink's motion to delete was defeated.

page 3, Line 24: after "unless he" add "reasonably"
Amendment 7 passed

page 4, Line 3 and 4: delete and renumber section (complainant does not have sufficient personal interest)
Amendment 8 passed
Chairman Gardiner requested Stu Hall to draft alternate language for this deleted language.

page 3, line 19: Rep. Brown's motion that the language "and administrative acts of any public official" be inserted after "agencies" was withdrawn.

page 4, Line 16 and 17: After "reasons" insert a period and delete the remaining language in both lines. (unless mapped to state reasons)
Amendment 9 passed.

page 5, line 7: after inefficient add "or discourteous"
Amendment 10 passed.

Meeting adjourned shortly after beginning discussion on page 5, line 6 -- whether this line contained an implied requirement that reasons be given.

House Judiciary Committee
February 13, 1975

Ombudsman

The meeting was called to order at 10:45 a.m. by Chairman Gardiner. Representatives Bradley, Cotton and Brown were absent.

The following are amendments to HB 45:

Page 5, Line 6: change "unaccompanied" to "unsupported" statement of source
Amendment 11 passed.

Page 6, Lines 2 - 8: Rep. Fink moved that the language be redrafted to state that in seeking confidential information, the Ombudsman must receive the approval of the superior court or the court of appropriate jurisdiction. Check into the statutes regarding disclosure of confidential information and make sure that it is a felony. The motion passed.

Page 6, Lines 8 - 11: delete sentence beginning "however" access to info confidential under fed law.
Amendment 12 passed.

Page 6, Line 11: after "information" insert "required by law to be confidential." Delete "confidential at end of line 10 and beginning of line 11.
Amendment 13 passed.

Page 7, Line 9: after "legislature" insert "a grand jury," O present opinion to
Amendment 14 passed.

Page 7, lines 12 - 15: delete all but title of this section and insert "After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by him and by the agency."
Amendment 15 passed.

Page 7, Line 21: after "to" insert "a grand jury" O refer to
Amendment 16 passed.

Page 7, Line 29, Page 8, Lines 1 and 2: After the title delete remaining language and insert "No civil action may be brought against the ombudsman or a member of his staff for anything done, said or omitted in performing his duties or responsibilities under this chapter."
Amendment 17 passed.

Page 9, Line 1: after "governor," delete the remaining language of the section and insert "and members of the legislature."
Amendment 18 passed.

exclude

Page 8, Line 24: strike "branch" and insert "or judicial branches"
Amendment 19 passed.

include

Page 8, Line 24 and 26: after "commission" insert in both places "corporation, authority, committee, council"
Amendment 20 passed.

include

Page 9, Line 5: after "legislation" insert "or substantive content of any judicial order, decision or opinion."
Amendment 21 passed.

not admin act

Page 9, Line 9: Insert a new section to read "Sec. 24.55.320. CITIES AND BOROUGHS. A city or borough may by ordinance elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If a city or borough so elects, it shall notify the ombudsman of that election and shall thereafter be considered an agency for purposes of this chapter." Change section numbering. Stu Hall will rearrange the sections in Article 6 to make the definitions come last.

Munis.

The meeting was adjourned at 11:55 a.m.

House Judiciary Committee
February 18, 1975

The meeting was called to order at 3:10 p.m. by Chairman Gardiner. Members present: Gardiner, Bradley, Fink, Cotton, Brown.

HB 45 Ombudsman

Stu Hall presented the committee substitute which incorporated the amendments requested by the committee. Rep. Fink moved that the CS be adopted after language on page 9 concerning the judicial branch be deleted. Mr. Brown amended Mr. Fink's motion to delete the language on the first two lines of page 10 also. Mr. Brown's amended motion failed. Mr. Fink's motion passed and so the CS was adopted. Mr. Brown moved that when the committee receives SB 1 that the CS HB 45 be substituted and that it do pass. There being no objection, Mr. Brown's motion passed.

HB 129 Smoking in Public

Mr. Gardiner indicated that he wished only an idea of what the committee intended to do with this bill. Mr. Fink stated that he would attempt to prove that smoking is not "dangerous" and would then add other habits that bother people to the bill. Mr. Brown recommended that the definition of public accommodation in the 1964 Civil Rights Act be checked to possibly include more public places. Other committee members mentioned other possible amendments including the substitution of approved air conditioning for separate areas.

HB 154/HB 74

Mr. Cotton moved that in 220 six months be changed to 1 year. Amendment 1 passed.

Mr. Brown moved that in 190 the language in lines 22 and 23 relating to imposition of fine be added.
Amendment 2 passed.

Mr. Brown will draft language o cover reckless actions to be another section either before or after Sect 4.

A M E N D M E N T S

IN THE HOUSE BY THE JUDICIARY COMMITTEE

TO: HOUSE BILL NO. 45

Page 1, line 23, strike out "a majority" and insert "concurrent majorities"

Page 1, line 23, after "members" insert:

"of each of the two major political parties in each house"

Page 1, line 24, after "lature" insert "voting separately but"

Page 1, line 26, strike out "one" and insert "two"

Page 2, between lines 2 and 3, insert: Amend 2

"(b) The ombudsman and members of his staff shall maintain the integrity of the ombudsman's functions and services by refraining from joining or supporting, including but not limited to the making of contributions to, any partisan political organization, faction or activity which would tend to undermine the essential nonpartisan nature of their functions and services. The ombudsman and members of his staff may not participate in nonpartisan political activity in any city or borough that is subject to the ombudsman's jurisdiction under sec. 320 of this chapter. However, this subsection does not restrict the ombudsman or members of his staff from expressing private opinion, registering as to party, or voting."

Page 4, strike out lines 6 - 9, inclusive, and insert:

"(6) because the fiscal and staff resources of the ombudsman's office are insufficient for adequate investigation, there are complaints more worthy of the ombudsman's attention."

Page 6, line 8, strike out "However, access to information does"; strike out all matter on line 9; and on line 10 strike out "regulation."

Page 6, lines 10 and 11, strike out "confidential information" and insert:

"information required by law to be confidential"

Page 7, line 12, strike out "Within a reasonable" and strike out all matter on lines 13 - 15, inclusive, and insert:

"After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by him and by the agency."

Page 7, line ~~21~~ 29, strike out "The ombudsman has the"; strike out all matter on lines ~~22~~ 1 of p8 and ~~23~~ 2, inclusive, and insert:

"No civil action may be brought against the ombudsman or a member of his staff for anything done, said or omitted in performing his duties or responsibilities under this chapter."

Page 7, line 21, after "to" insert "a grand jury or to"

Page 8, line 24, strike out "branch" and insert "or judicial branches"

Page 8, line 26, after "commission," insert "corporation, authority"

Page 9, line 2, strike out "and judicial branches" and insert "branch"

Page 9, line 2, after the semicolon, insert:

"for the purpose of this paragraph, the personal staff of the lieutenant governor does not include those members of the lieutenant governor's staff engaged in the administration of elections;"

Page 9, line 5, after "legislation" insert "or the preparation or issuance of the substantive content of any judicial order, decision or opinion"

Page 9, between lines 9 and 10, insert:

"Sec. 24.55.320. CITIES AND BOROUGHS. A city or borough may by ordinance elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If a city or borough so elects, it shall notify the ombudsman of that election and shall thereafter be considered an agency for purposes of this chapter."

Page 9, line 10, strike out "320" and insert "330"

COUNSEL'S NOTE: In the preparation of a committee substitute for HB 45, the location of the definitions (sec. 300) will be shifted to the next to the last section in the proposed ch. 55 of Title 24.

"An Act creating the office of the ombudsman; amending Rule 43(h) of the Rules of Civil Procedure; and providing for an effective date."

1/22/75

COMMITTEE REPORT

FINANCE

HOUSE

Mr. Speaker: Date Feb 18 1975

The Committee on Judiciary has had HB 45 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR HB45 AND THAT CS FOR HB45 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Judy Hadsell Chairman

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION
SOUTHEAST ALASKA CHAPTER
Box 292 Juneau, Alaska 99802

DRAFT
12/31/74

A BILL

For an Act entitled: "An Act creating the office of the ombudsman, amending AS 39.25.110, and amending Rule 43 (h) of the Rules of Civil Procedure; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*Section 1. AS 24 is amended by adding a new chapter to read:

CHAPTER 55. OFFICE OF THE OMBUDSMAN.

ARTICLE I. ORGANIZATION.

Sec. 24.55.010. OFFICE OF THE OMBUDSMAN. There is created in the legislative branch of the state the office of the ombudsman.

Sec. 24.55.020. APPOINTMENT OF THE OMBUDSMAN. (a) A candidate for appointment as the ombudsman shall be nominated by the ombudsman selection committee composed of the president of the senate, the minority leader of the senate or a minority member of the senate appointed by him, the speaker of the house, the minority leader of the house or a minority member of the house appointed by him, the chairman of the senate judiciary committee, and the chairman of the house judiciary committee.

(b) The ombudsman selection committee shall examine persons to serve as the ombudsman regarding their qualifications and ability and shall place the name of the person selected in nomination before the legislature for appointment as the ombudsman. The appointment of a person nominated as the ombudsman by the committee is effective if his candidacy is approved by a majority of the members of the legislature in joint session.

Sec. 24.55.030. QUALIFICATIONS. No person may serve as ombudsman

(1) within one year following his term of office as a member of the legislature;

(2) while he is a candidate for or holds any other national or state political office; or

(3) while he is engaged in any other regular occupation for which he receives compensation.

Sec. 24.55.040. TERM OF OFFICE. The term of office of the ombudsman is six years. An ombudsman may be reappointed but may not serve for more than three terms. In the event the term of an ombudsman expires without a successor having been appointed under this chapter, the incumbent ombudsman shall continue in office until a successor is so appointed.

Sec. 24.55.050. REMOVAL. The legislature, by a two-thirds vote in each house, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

Sec. 24.55.060. COMPENSATION. (a) The ombudsman shall receive an annual salary equal to that of a superior court judge.

(b) This first assistant to the ombudsman shall receive an annual salary equal to that of a district court judge.

Sec. 24.55.070. STAFF AND DELEGATION. (a) The ombudsman shall appoint a first assistant and such other assistants and clerical personnel as may be necessary to carry out the provisions of this chapter.

(b) The ombudsman may delegate to his assistants any of his duties except those specified in secs. 190 and 200 of this chapter;

provided that during the ombudsman's absence from his principal business offices, the ombudsman may, at his discretion, delegate the powers and duties specified in secs. 190 and 200 of this chapter to the first assistant for the duration of the absence; and provided further, that during any temporary disability of the ombudsman to exercise and discharge the powers and duties of his office, the powers and duties specified in secs. 190 and 200 of this chapter shall devolve upon the first assistant for the duration of the disability.

(c) The ombudsman and the first assistant and other staff appointed by him are in the exempt service under AS 39.25.110.

Sec. 24.55.075. VACANCIES. If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the ombudsman becomes the acting ombudsman until a new ombudsman is appointed for a full term at a regular or special session of the legislature.

Sec. 24.55.080. OFFICE FACILITIES AND ADMINISTRATION.

(a) The Legislative Council shall provide suitable office space and equipment for the ombudsman and his staff.

(b) The salary and benefits of the ombudsman and his permanent staff shall be paid through the same procedures used for payment of the salaries of other permanent legislative employees.

(c) The ombudsman shall submit a budget for each fiscal year to the Executive Director of the Legislative Affairs Agency for submission to the Legislative Council.

Sec. 24.55.090. PROCEDURE. The ombudsman may establish procedures for receiving and processing complaints, conducting investigations, and reporting his findings. However, he may not levy fees for the submission or investigation of complaints.

ARTICLE 2. JURISDICTION AND INITIATION OF INVESTIGATIONS.

Sec. 24.55.100. JURISDICTION. (a) The ombudsman has jurisdiction to investigate the administrative acts of agencies.

(b) The ombudsman may exercise his powers without regard to the finality of any administrative act.

Sec. 24.55.110. INVESTIGATION OF COMPLAINTS. The ombudsman shall investigate any complaint indicating an appropriate subject for investigation under sec. 150 of this chapter, unless he believes that

(1) there is presently available an adequate remedy for the grievance stated in the complaint;

(2) the complaint relates to a matter that is outside the jurisdiction of the ombudsman;

(3) the complaint relates to an administrative act of which the complainant has had knowledge for too long a time before the complaint was submitted;

(4) the complainant does not have a sufficient personal interest in the subject matter of the complaint;

(5) the complaint is trivial or made in bad faith;

(6) the facilities of the ombudsman's office are insufficient for adequate investigation; or

(7) there are other complaints more worthy of the

ombudsman's attention.

Sec. 24.55.120. INVESTIGATION ON THE OMBUDSMAN'S MOTION. The ombudsman may investigate on his own motion if he reasonably believes that an appropriate subject for investigation under sec. 150 of this chapter exists.

Sec. 24.55.130. NOTICE TO COMPLAINANT. (a) If the ombudsman decides not to investigate, he shall inform the complainant of that decision and shall state his reasons except in exceptional circumstances in which he reasonably believes it is inappropriate to do so.

(b) If the ombudsman decides to investigate, he shall notify the complainant of his decision.

Sec. 24.55.140. NOTICE TO THE AGENCY. If the ombudsman decides to investigate, he shall notify the agency of his intention to investigate.

ARTICLE 3. INVESTIGATIONS

Sec. 24.55.150. APPROPRIATE SUBJECTS FOR INVESTIGATION.

(a) An appropriate subject for investigation by the ombudsman is an administrative act of an agency which the ombudsman has reason to believe might be

(1) contrary to law;

(2) unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law;

(3) based on a mistake of fact;

(4) based on improper or irrelevant grounds;

(5) unaccompanied by an adequate statement of reasons;

(6) performed in an inefficient manner; or

(7) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

(b) The ombudsman may investigate to find an appropriate remedy.

Sec. 24.55.160. INVESTIGATION PROCEDURES. In an investigation, the ombudsman may

(1) make inquiries and obtain information as he thinks fit;

(2) enter without notice to inspect the premises of an agency but only when agency personnel are present; and

(3) hold private hearings.

Sec. 24.55.170. POWERS. (a) Subject to the privileges which witnesses have in the courts of this state, the ombudsman may

(1) compel at a specified time and place, by subpoena, the appearance and sworn testimony of any person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation; and

(2) compel any person, by subpoena, to produce documents, papers, or objects which the ombudsman reasonably believes may relate to the matter under investigation.

(b) If a person refuses to comply with a subpoena issued under (a) of this section, the superior court may on application

of the ombudsman compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court or refusal to testify in the court.

(c) Any papers, records, documents, memos, bills, receipts, photographs, letters, correspondence, invoices, work orders, working papers, agreements, notes, reports and any other manner of writing or document possessed by or in the custody of an agency may be inspected and copied by the ombudsman, notwithstanding any statutory provision of the state making any of these items or the information contained in them confidential. However, access to information does not extend to any information made confidential under federal statutes or regulations. The ombudsman shall not make or cause public disclosure of any confidential information acquired under this chapter. To the extent any papers, records, documents, memos, bills, receipts, photographs, letters, correspondence, invoices, work orders, working papers, agreements, notes, reports any any other manner of writing or document contain information in part discoverable and in part non-discoverable by the ombudsman under this subsection, the agency shall take the steps that may be necessary to segregate and release discoverable information to the ombudsman.

ARTICLE 4. PROCEDURE AND REPORTS AFTER INVESTIGATION.

Sec. 24.55.180. CONSULTATION WITH AGENCY. Before giving any opinion or recommendation that is critical of any opinion or recommendation that is critical of any agency or person, the ombudsman shall consult with that agency or person.

Sec. 24.55.190. PROCEDURE AFTER INVESTIGATION. (a) The ombudsman shall report his opinion and recommendation to an agency if he finds, after investigation, that

(1) a matter should be further considered by the agency;

(2) an administrative act should be modified or cancelled;

(3) a statute or regulation on which an administrative act is based should be altered;

(4) reasons should be given for an administrative act;

(5) any other action should be taken by the agency;

(6) there are no grounds for any action by the agency; or

(7) the agency's act was arbitrary or caprious, constituted an abuse of discretion, or was otherwise not in accordance with the law.

(b) The ombudsman may request the agency to notify him, within a specified time, of any action taken on his recommendations.

Sec. 24.55.200. PUBLICATION OF RECOMMENDATIONS. After a reasonable time has elapsed, the ombudsman may present his opinion and recommendations to the governor, the legislature, the public, or any of these. The ombudsman shall include with his opinion any reply made by the agency.

Sec. 24.55.210. NOTICE TO THE COMPLAINANT. After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by him and by the agency.

ARTICLE 5. MISCELLANEOUS

Sec. 24.55.220. MISCONDUCT BY AGENCY PERSONNEL. If the ombudsman thinks there is a breach of duty or misconduct by any officer or employee of an agency in relation to his official duties,

the ombudsman shall refer the matter to the chief executive officer of the agency, or, when appropriate, to other appropriate officials and bodies.

Sec. 24.55.230. ANNUAL REPORT. The ombudsman shall submit to the legislature and the public an annual report of his activities under this chapter.

Sec. 24.55.240. JUDICIAL REVIEW. No proceeding or decision of the ombudsman may be reviewed in any court, unless it contravenes the provisions of this chapter.

Sec. 24.55.250. IMMUNITY OF THE OMBUDSMAN. The ombudsman has the same immunities from civil and criminal liability as a judge of this state.

Sec. 24.55.260. OMBUDSMAN'S PRIVILEGE NOT TO TESTIFY. The ombudsman and his staff may not testify in any court with respect to matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this chapter.

Sec. 24.55.265. AGENCIES MAY NOT OPEN LETTERS TO AND FROM OMBUDSMAN. A letter to the ombudsman from a person held in custody by an agency shall be forwarded immediately, unopened, to the ombudsman. A letter to a person held in custody by an agency from the ombudsman shall be forwarded immediately, unopened, to the person.

Secon 24.55.270. PENALTY. A person who wilfully hinders the lawful actions of the ombudsman or his staff, or who wilfully refuses to comply with their lawful demands, is guilty of a misdemeanor and upon convication is punishable by a fine of not more than $1,000.

ARTICLE 6. GENERAL PROVISIONS

Sec. 24.55.280. DEFINITIONS. In this chapter (a) "agency" means a permanent department, office, entity, commission, organization, institution, or board of the state government, and any officer, employee, or member thereof acting or purporting to act in the exercise of his official duties, except:

(1) The judiciary and its staff;

(2) The legislature, its committees, and its staff;

(3) The governor and his personal staff; and

(4) The lieutenant governor and his personal staff.

(b) "administrative act" means an action, omission, decision, recommendation, practice, policy, or procedure, but does not include the preparation or presentation of legislation.

Sec. 24.55.290. ADMINISTRATIVE PROCEDURE ACT. The actions, decisions, recommendations, practices, policies, and procedures of the ombudsman shall not be subject to the provisions of the Administrative Procedure Act (AS 44.62).

Sec. 24.55.300. CITIES AND BOROUGHS. After July 1, 1978, any city or borough in this state may be ordinance elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If any city or borough shall so elect, it shall send notice to the ombudsman of that election. Upon receipt of notice by the ombudsman, permanent departments, offices, entities, commissions, organizations, institutions, or boards of the city or borough, and any officer, employees, or member thereof acting or purporting to

act in the exercise of his official duties shall thereupon be considered an agency for purposes of this chapter, except:

(1) The mayor of a city or borough;

(2) The manager of a city or borough;

(3) The assembly of a borough; and

(4) The council of a city.

Sec. 24.55.310. SHORT TITLE. This chapter may be cited as the Ombudsman Act.

*Sec. 2. AS 39.25.110 is amended by adding a new paragraph to read:

(16) The ombudsman and staff appointed by him.

*Sec. 3. Sec. 24.55.260 of this Act amends Rule 43 (h) of the Rules of Civil Procedure by establishing an additional privilege not to testify in a court and must receive an affirmative vote of two-thirds of the full membership of each house in order to be effective.

*Sec. 3. This Act takes effect immediately in accordance with the provisions of AS 01.10.070 (c).

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

SOUTHEAST ALASKA CHAPTER
P.O. Box 505
Douglas, Alaska 99824

MEMO TO ALASKA CANDIDATES FOR PUBLIC OFFICE AND ALASKA NEWS MEDIA:

The Southeast Alaska Chapter of the American Society for Public Administration has been pleased to publish and distribute the enclosed study on The Ombudsman: Its Potential Applicability to Alaska by Gary E. Wilson. This study was undertaken initially by Wilson as a governmental project report which he submitted to the University of Alaska's Southeastern Senior College in partial fulfillment of the requirements for a Master's Degree in Public Administration. He received his degree in the May, 1974 commencement held in Juneau.

We have published and circulated this study because we think Wilson's findings and recommendations are significant and meritorious. This study demonstrates that the various American experiments with the ombudsman which have been attempted in other states have enjoyed a large measure of success. Of greatest significance has been the success of ombudsmen in restoring public confidence in state governmental institutions while performing practical and immediate services to people in the process.

Noteworthy also for identifying patterns of citizens' grievances and systematic follow-through on casework, the study demonstrates that ombudsmen serve to relieve state legislators of one of their more burdensome chores, complaint processing, and free them to focus their attention toward central issues of public importance in the legislative process. Even more than legislators, however, executive branch officials and employees, the same people against whom ombudsmen are employed to lodge grievances, have welcomed them to the governmental scene.

Wilson explains this phenomenon in terms of modern management theory. "Too many complaints," he says, "are either received at or are referred up to a too high level in the administrative heirarchy. The typical citizen's complaint neither requires the attention of top management nor can it be satisfactorily resolved on that level. From their point of view the ombudsman provides both a species of consulting service affording them reliable reports on the performance of their operating personnel and a species of in-service training for their operating personnel when the job can be done better."

The study also includes feasibility data which indicate that the ombudsman would be adaptable to Alaska's geography and system of state government. Travel costs necessary to bring the ombudsman's services to the entire state would be higher than in other states where the experiment has been tried. Looking at the ombudsman from the standpoint of benefit/cost analysis, Wilson concludes, however, that the people of Alaska could enjoy this governmental

reform at a minimal and reasonable cost. "A budget figure of $100,000 would appear to be adequate for the first year of operation. This would allow $50,000 for salaries, $20,000 for travel and $30,000 for office expenses, depending upon what facilities and equipment were made available. This figure would probably double or triple during the second year of operation due to increases in staff, travel and related expenses as the services became more widely known. The budget would then level off and remain fairly static (subject to inflation) since primary advantages of the concept are small size and personal attention."

Donald R. Fisher
President
July 12, 1974

THE OMBUDSMAN:

ITS POTENTIAL APPLICABILITY FOR THE STATE OF ALASKA

By

GARY E. WILSON

Published by

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ACKNOWLEDGMENTS

As a service to the public, the Southeast Alaska Chapter of the American Society for Public Administration is pleased to publish and to distribute throughout the State of Alaska this meritorious study on the applicability of the ombudsman to the governmental system of this state. The author, Gary E. Wilson, has been an Alaska resident since 1966. He is the Division Right-of-Way Officer for Alaska with the Federal Highway Administration.

This study was commenced as a governmental project report which Mr. Wilson submitted to the University of Alaska's Southeastern Senior College in partial fulfillment of the requirements for a Master's Degree in Public Administration. He was awarded the degree in the May, 1974 commencement held in Juneau. On behalf of the Southeast Alaska Chapter of the American Society for Public Administration, I want to express our appreciation to Mr. Wilson and the members of the Southeastern Senior College faculty who assisted him in his research, for making the study available to us for public distribution.

Donald P. Fisher
Chapter President
Juneau
July, 1974

INTRODUCTION

"Governmental activities nowadays touch so many people in so many ways that bruises and scratches are inevitable."[1] How can these bruises and scratches be alleviated? The enormous growth and diversity of government functions, the size and elaborateness of the administrative mechanisms, the maze of interrelationships among national, state, and local levels are often highly bewildering. Many citizens regard government as remote and inaccessible. The aggrieved person is often thwarted and gives up when he comes up against a defensive government professional.[2] A proposed solution to these problems is to establish a centralized grievance bureau of "Ombudsman." The purpose of this paper is to explain who and what an ombudsman is, discuss the attempts to adopt the concept in this country, and explore the feasibility of establishing a statewide office of Ombudsman in the State of Alaska.

The strange-sounding name, ombudsman, is a Swedish word which means agent, representative, or deputy. The present, generally accepted concept of an ombudsman is a spokesman representing a citizen who has a grievance against a government agency. A grievance may result from ". . . for example, unreasonableness, miscalculation, mistaken application of rules, improper

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[1]Walter Gellhorn, When Americans Complain: Government Grievance Procedures, 1966, p. 1.

[2]Dalmas H. Nelson and Eugene C. Price, "Realignment, Readjustment, Reform: The Impact of the Ombudsman on American Constitutional and Political Institutions," The Annals of the American Academy of Political and Social Sciences, (May, 1968), p. 129.

discrimination, prejudice, bias, neglect of duty, inattention, delay, incompetence, perversity, turpitude, and arbitrariness."[1] These are probably overly harsh adjectives; however, even the best of bureaucracies will have flaws due to its size and human idiosyncrasies.

With the increasing complexity and growth of all levels of government, individual citizens need a place to air their grievances concerning administrative action or inaction. Today's citizen can protect himself against just about everyone except the bureaucrat. It is sometimes argued that several avenues already exist through which complaints may be expressed. For example, there are administrative appeals boards, courts, and state and federal legislators. Each of these, however, has definite limitations for serving as grievance reviewing bodies.

Administrative appeals boards many times include the person making the original decision. While a re-review by a superior or an individual's own review of his decision may be helpful, it certainly lacks impartiality. The agency is likely to try to justify its decisions and is, therefore, not inclined to admit a mistake has been made.

The courts are congested. They usually require legal counsel and are generally frightening to underprivileged or uneducated citizens who many times feel their chances of a success are nonexistent. This is graphically shown in William Stringfellow's book, My People is the Enemy.[2] Stringfellow, as a recent law school graduate, moved into Harlem's ghetto and opened a law office.

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[1]Geoffrey Marshall, "The British Parliamentary Commissioner for Administration," The Annals of the American Academy of Political and Social Sciences, (May, 1968), p. 88.

[2](New York: Holt, Rinehart and Winston, 1964).

The lack of knowledge as to personal rights and to whom to complain that Stringfellow encountered was astounding. The fear of authority and the feeling that no one would listen or care was the prevalent attitude. This study shows the need for a compassionate ombudsman by whatever name in whom the poor and uneducated would have enough faith to ask where help can be found and what they are entitled to. "Phrases like 'he is the champion of the people,' 'he is like God,' and 'he is the protector of the little guy,' appear repeatedly in interviews with persons who have witnessed the system in operation."[1]

While many legislators feel the "casework" keeps them in closer touch with their constituents, the variety of legislative temperaments cannot give complaints consistent treatment due to differences of motivation, expertise, or ability to communicate with administrators. With so many different people receiving the complaints, it is difficult to detect patterns of grievances that may be obvious if all complaints were received by one office. Handling grievances also detracts from the legislator's primary purpose, which is the formulation of legislation. Many state legislatures meet for only a few months annually, or even biennially. Thirty-five state legislatures meet annually; however, they are often limited to sixty to ninety-day sessions. The other fifteen have similar time restrictions and meet only biennially. Thus, the aggrieved citizen has nowhere to send his complaint during the major part of the year unless his particular legislator considers his office a year-round one.

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[1]John M. Capozzola, "An American Ombudsman: Problems and Prospects." Western Political Quarterly, (June, 1968), p. 300.

CHAPTER I

Historical Development of the Office of Ombudsman

The concept of an ombudsman originated in Sweden in 1809. The ombudsman was appointed by the Riksdag (Parliament) to act as a representative of the Parliament to protect individuals against unfair assertions of power by the king's administrative appointees. The ombudsman was "available to hear the complaint of any citizen against the erroneous, unfair or even impolite action by government officials, having the power to investigate a complaint, to publicize any abuse, to recommend corrective action, and to report to the legislature."[1] The intention was to provide a vehicle whereby a citizen regardless of his economic, social, or political status could challenge the actions or decisions of a public agency.

The Swedish ombudsman's jurisdiction now covers national, regional, and local levels of government. It also covers the courts as well as the bureaucracy and is somewhat unique in this regard. He may not take action affecting the king, legislature, or a private citizen.

The office of the Swedish ombudsman formerly included two individuals, a civil ombudsman and a military ombudsman. These were merged in 1965. Legal as well as administrative training are considered requirements for the office in Sweden.

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[1]U.S. Congress Joint Committee on the Organization of Congress, Hearings on the Organization of Congress, 89th Congress, First Session, Part I, 1966, p. 83.

For over 100 years the ombudsman idea remained exclusively a Swedish innovation. In 1919 the idea was exported to Finland following that country's gaining its independence from Russia. Finland actually has had a type of ombudsman, the Chancellor, dating from the days of Swedish-Russian rule. He is appointed by the President and is actually a part of the executive branch. He no longer handles complaint work, concentrating instead on cabinet work and his duties as Supreme Public Prosecutor.[1] Due to the Chancellor's ties to the executive, Parliament created the ombudsman to oversee the executive branch. As in Sweden, he has investigatory jurisdiction over the courts as well as the executive.

Despite the Swedish and Finnish institutions, the ombudsman idea did not receive much worldwide attention until 1955 when Denmark created the Parliamentary Commissioner, their version of ombudsman. The first appointee was Stephan Hurwitz, a doctor of law and a professor at the University of Copenhagen. Professor Hurwitz has done much to publicize the office through extensive writing and worldwide speaking engagements. He feels the success of the office is greatly dependent upon its prestige and the impartiality of the man in the office.[2]

Denmark gave the office a different emphasis by denying the ombudsman jurisdiction over the courts. Thus he concentrates his efforts on the executive and administration sectors. As in Sweden and Finland, he has jurisdiction

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[1]Walter Gellhorn, Ombudsman and Others: Citizen's Protectors in Nine Countries, p. 48.

[2]Harvard Journal on Legislation, "A State Ombudsman," (June, 1965), p. 218.

over local governments. In Danish system, jurisdiction extends not only to illegal actions, but also to all phases of administration, which may involve substance, procedures, delay, convenience, and even impoliteness.[1]

The idea next spread to New Zealand in 1962 where a Commissioner of Investigation was established as the result of an election promise of the National Party's platform in the 1960 general election.[2]

Although generally patterned after the Danish model, the New Zealand office is at a relatively lower level. The salary level is lower and his jurisdiction is more restricted. He has no authority over local affairs, the courts, or the military.

In 1963, Norway's ombudsman took office. Thus all four of the Scandinavian countries now have a form of ombudsman. This office was also patterned after Denmark. Norway was followed by the United Republic of Tanzania in 1965, Guyana in 1966, and the United Kingdom in 1967.

The first jurisdiction to create a version of the office in North America was Nassau County, New York, on May 31, 1966. Although the official is referred to as an ombudsman, he is not an independent agency of the legislature but is appointed by the executive.[3] Five Canadian provinces have adopted the idea--Alberta and New Brunswick in 1967, Quebec in 1969, Nova Scotia and Manitoba in 1970.

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[1]Western Political Quarterly, "An American Ombudsman: Problems and Prospects," (June, 1968), p. 291.

[2]Henry S. Reuss and Stanley V. Anderson, "The Ombudsman: Tribune of the People," The Annals of the American Academy of Political and Social Sciences, (January, 1966), p. 45.

[3]Donald C. Rowat, ed., The Ombudsman: Citizen's Defender, (1965), p. xii.

While not specifically ombudsmen, there are similar institutions in India, Japan, Nepal, the Philippines, Mauritius, Australia, Ghana, Greece, Israel, Poland, West Germany, and several other countries. Bills have been introduced in at least thirty-five state legislatures (including Alaska) to create some form of ombudsman. Bills have also been regularly introduced in the United States Congress since 1965 to create a national office of ombudsman.

The basic idea of an ombudsman has become so popular that it has been adopted in one form or another by schools, newspapers, radio stations, citizen's organizations, the military, etc. There is such a diversity of applications that the original concept is becoming somewhat blurred. There are three basic features essential to retaining the original system: (1) he must be an independent, non-partisan officer of the legislature to supervise the administration; (2) he deals with specific complaints against the administration; and (3) he has the power to investigate and to criticize, but not to reverse administrative action.

The flexibility of the ombudsman is probably what has made the office adaptable in so many countries at a national as well as lower level of government. There are common threads running through each of these adaptations. For example, high standing as a jurist is usually a prime qualification. In the Scandinavian countries legal training is required by statute.

Typically, the ombudsman is selected by the legislative bodies. In New Zealand, the Lieutenant Governor (the Queen's delegate) appoints the ombudsman but he acts on the recommendation of the legislature.[1]

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[1]State of Washington, Legislative Council, Committee on State Government, The Ombudsman in Scandinavia: Advantages and Disadvantages for State Government, Olympia: Legislative Council, n.d., p. 7.

The ombudsman is generally appointed for four to six years. In New Zealand he continues in office until a successor is named. Removal from office generally takes at least a two-thirds vote of the legislature. In Finland removal is impossible.

Salary is universally set high, usually fixed at the equivalent of the highest ranking judges. The staff is generally small and selected by the ombudsman. In most cases they are not covered by civil service and thus serve at the pleasure of the ombudsman.

The jurisdiction of the various ombudsmen is the area of largest variance. None may inquire into the work of the legislature, and of the principal countries having ombudsmen, only in Sweden and Finland may inquiry be made of the courts. In all the Scandinavian countries the acts of local officials come under the jurisdiction of the ombudsman, but this is not always true elsewhere. There is a universal tendency to limit the ombudsman to areas where either there is no reviewable avenue or where all available legal remedies have been exhausted.

Most ombudsmen have the authority to act on their own initiative. A variation found in Great Britain is that direct complaints may not be made by citizens, they must be made to the commissioner (ombudsman) via a member of Parliament. In Sweden, Finland, and Denmark the ombudsman makes periodic inspections of government establishments mainly for the purpose of gaining familiarization with the operation of the different agencies.

The Swedish and Finnish ombudsmen are prosecutors who can bring charges against officials. These powers have seldom been used. They rely instead on the power of persuasion and publicity which is generally the only powers other

ombudsmen have. The press, particularly in Sweden and Denmark, gives considerable publicity to findings that reflect adversely an official or an administrative unit.[1]

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[1]State of Washington, Advantages and Disadvantages, p. 10.

CHAPTER II

A National Ombudsman for the United States?

It is generally accepted that the idea of an ombudsman will work at a national level when the country is relatively small with a homogenous population. Ake Sandler suggests that twenty million may be the ultimate population an ombudsman can handle effectively.[1] Great Britain is the possible exception to this; however, the British concept is not actually an ombudsman in the full sense of the term since he cannot receive complaints directly. It seems fairly obvious that no one man can supervise a bureaucracy the size of the United States or be responsive to 200,000,000 people. However, even in the Scandinavian countires the work is not done by one man but by a staff. In the United States the size of the staff could be overwhelming.

John M. Capozzola of New York University questions whether a successful institution in a small country can be implemented in a vast and complex society. He states, "there is validity to the doubts of some that the plan is inapplicable except on the local level in the United States. The Danish Ombudsman, Professor Stephan Hurwitz, had questions about its successful implementation in a country the size of Britain. This is compounded by the

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[1]Ake Sandler, "An Ombudsman for the United States." The Annals of the American Academy of Political and Social Sciences, (May, 1968), p. 105.

emphatic belief of Professor Hurwitz that an organization cannot achieve the same degree of public confidence that an individual can attain."[1]

The doctrine of the separation of powers in the United States could prove to be an additional problem to the one of size when a national ombudsman is considered. Although the legislative branch has the right to investigate administrative performance when it is in the pursuit of legislative purposes, the doctrine of executive privilege can be invoked whenever national security is involved. Although this would apply at the federal level, national security would not apply at the state or local level. Clearly the separation of powers with an independent judiciary would place the courts outside the ombudsman's jurisdiction.

One of the largest problems to overcome with instituting the ombudsman concept on the national level in the United States is the legislative branch itself. Congress is the branch most accountable to the people. Legislators naturally do not want to do anything to build a wall between themselves and the voters. It is traditional for the voters to seek help from their representatives in Congress. Senator Mike Monroney stated, "I am afraid there will be boys thinking, 'Well, I elected this guy to serve me up there in Washington. The first thing I catch him doing is passing the buck over to some Ombudsman.'"[2] "Probably the most important mail received by a congressman is the 'case' mail . . . . Denied a favorable ruling by the bureaucracy on a matter of direct concern to him, puzzled or irked by delays in obtaining a decision,

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[1]Capozzola, American Ombudsman, p. 292.

[2]U.S. Congress, Joint Committee, p. 91.

confused by the administrative maze through which he is directed to proceed, or ignorant of whom to write, a constituent may turn to his congressman for help . . . . A person who has a reasonable complaint or query is regarded as providing an opportunity rather than as an extra burden to an already busy office. The party affiliation of the individual even when known to be different from that of the congressman does not normally act as a deterrent to action."[1]

Thus in a sense the United States already has 535 ombudsmen with its 100 Senators and 435 Congressmen. These lawmakers each have a staff of from ten to thirty who spend a great deal of their time handling "casework," inquiries, or complaints from constituents.

Congress also has available to it an organization to investigate the administration, the General Accounting Office. Although not actually an ombudsman since they do not receive complaints from private citizens, this organization does keep executive agencies somewhat in check since they are always susceptible to a surprise audit. The actual responsibility of the G.A.O. is to audit federal agencies to determine whether or not they are carrying out legislation the way Congress intended.[2]

Even so, Congressman Henry S. Reuss from Wisconsin has long been a proponent of a national ombudsman. In his view, a congressman's time could be better spent researching and enacting meaningful legislation instead of spending so much time on casework. "As Vice-President Hubert Humphrey said recently, 'Many members of the Senate and the House spend up to ninety percent of their

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[1]Charles L. Clapp, The Ombudsman: His Work as He Sees It, p. 84.

[2]Scot MacDonald, "Reorganizing Along Functional Lines Makes Congress' GAO More Responsive," Government Executive, (June, 1972), pp. 54-57.

time--and the time of their staff--answering mail, meeting with constituents and handling individual constituent complaints or requests.' 'I thought I was going to be Daniel Webster,' remarked another member, 'and I found that most of my work consisted of personal work for constituents.'"[1] Reuss also thinks the complaining citizens would receive more uniform treatment if they were all handled by one agency or individual. The Reuss-Pell bill (H.R. 4273 and S. 984) introduced in 1965 read in part:

> Section 2. The Congress hereby finds and declares that the increasing complexity of the Federal Government has created difficulties on the part of private citizens in dealing with the Government, that there is a clear need for the Congress to be informed of the nature of such difficulties, particularly those of a recurrent nature, in order that remedial legislative action may be taken, and that, under existing procedures, such information is only sporadically available and frequently is inadequately developed or fails entirely to reach the appropriate legislative committees. The Congress further finds that the necessary and proper efforts of its individual Members to deal with these problems have increasingly become so burdensome as to constitute a serious impediment to the discharge of their other legislative duties.[2]

Another reason for the ombudsman thus emerges from this bill, that of informing the legislature where corrective legislation is needed to raise the level of service to the public. The Reuss bill varies somewhat from the usual concept of an ombudsman. In the first place the name was to Administrative Counsel of the Congress. He was only to be given a term of two years, receive complaints through an individual Congressman or committee and report back to the same source. He would also make an annual report to Congress. He would have a staff of approximately 100 experts to replace the many staffs of

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[1]Henry S. Ruess, "We Need an American Ombudsman," The Christian Century, (March, 1965), p. 270.

[2]Reuss and Anderson, Tribune of the People, p. 49.

generalists now attached to the individual Congressmen's offices.[1] Reuss gives several reasons for having complaints go through Congressmen. There is already a tradition of citizens complaining to their representatives. Congressmen are not apt to give up a source of votes and would, therefore, be more inclined to pass the bill if the complaints and replies were funneled through them.

One flaw in Mr. Reuss' plan is the size. One of the outstanding characteristics of the ombudsman is the small staff and personal rather than bureaucratized attention. Although personal attention can also be given with a large staff, it is apt to become just another government agency. Many of the various ombudsmen so far established have substantially increased the size of their staff from its original conception. Granted, their increases have not represented very many people, but percentagewise the increase has been substantial. If Mr. Reuss' plan is to start with a staff of 100, it is highly conceivable that the agency would lose all semblance of personal attention through size in a relatively short time.

Perhaps if one central office became unmanageable due to size, regional offices could be set up, or even state offices similar to that of federal district attorneys. This, however, would be getting further and further away from the idea of a one-man public watchdog. Regional offices would also require some degree of duplication. This would further increase the size of the staff and the proliferation would just keep snowballing. Another alternative might be to establish several ombudsmen, for different functional areas, such as welfare, resources, etc.

From the above it can be seen that at the national level in the United States the problems of creating an ombudsman may be insurmountable.

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[1] Reuss and Anderson, Tribune of the People, pp. 49-50.

CHAPTER III

Ombudsman at the State Level

As stated earlier, as of 1972, bills had been introduced in thirty-five states to create some type of ombudsman. The first state to introduce such a bill was Connecticut in 1963.[1] The first state to enact a bill was Hawaii in 1967.

The Hawaiian ombudsman, Herman Doi, took office July 1, 1969. Prior to becoming Hawaii's ombudsman, Mr. Doi had extensive experience as both a private and government attorney. He had served as the director of the University of Hawaii's Legislative Reference Bureau just before assuming the ombudsman post.[2] During his first year in office 983 inquiries were received. This total includes inquiries received during the three months prior to Mr. Doi taking office. Of these, 68.7% were received by telephone, 18.1% by visits and 13.2% by letter. Of the inquiries received, 243 or 24.7% were considered outside the jurisdiction of the office. Another 129 or 13.1% were not considered as complaints but as informational inquiries. This left 611 actual complaints against governmental agencies.[3]

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[1]Jesse M. Unruh, "The Ombudsman in the States," The Annals of the American Academy of Political and Social Sciences, (May, 1968), p. 112.

[2]Jack H. Stephens, "Hawaii's Ombudsman," National Civic Review, (February, 1970), p. 83.

[3]Office of the Ombudsman, State of Hawaii, Fiscal Year 1969-1970/ Report Number 1, p. 13.

The city and county of Honolulu with three-quarters population of the state provided the source for 93% of the inquiries.

By the end of the third year of operation, the total number of complaints had risen to 1,678 (this is down from the second year when 1,758 were received). Of these, 358 or 21.3% were outside the ombudsman's jurisdiction and 513 or 30.6% were informational. This left a total of 807 actual complaints against an agency.[1]

The initial staff of Hawaii's Office of Ombudsman consisted of the ombudsman himself and an executive secretary. By January, 1970, the staff also included an associate analyst and a stenographer. The staff had increased by the end of the third year to include a first assistant, three other professional analysts and four secretaries. The educational backgrounds of the professionals included law, political science, education and guidance, and management.[2]

Oregon's governor, by executive action, created the post of ombudsman in 1969. During the fiscal year July, 1969 to June, 1970, 922 complaints were received. Two individuals have held the post in Oregon.[3]

The 1969 Nebraska Legislature enacted a bill calling for the appointment of an ombudsman who took office June 1, 1971. During his first year, 383 inquiries were received.[4]

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[1]Office of the Ombudsman, State of Hawaii, Fiscal Year 1971-1972/ Report Number 3, p. 7.

[2]State of Hawaii, Report Number 3, p. 61.

[3]American Bar Association, Section of Administrative Law, Ombudsman Committee, Development Report, April 15, 1971-June 30, 1972, p. 12.

[4]Ibid.

Iowa's governor appointed a Citizen Aide in 1970 and the 1972 Legislature passed the Citizens Aide Act. The act does not exclude local government from the jurisdiction of the Citizens Aide. During the year October 1, 1970 to September 30, 1971, 1,185 inquiries were received.[1]

The Governor of South Carolina, on May 4, 1971, created the Office of Citizens Service. During the period ending September 13, 1971, 1,338 inquiries were registered with this office.[2]

In 1971, the Lieutenant Governor of New Mexico was given the added duties of ombudsman by statute.[3]

In Minnesota, an Ombudsman for Correction was appointed by the governor on April 21, 1972. This office is funded in a large part by federal aid. In May, 1973, the legislature passed a bill creating the Office of Ombudsman for Correction.[4]

Various other proposals have been made for ombudsmen in specific areas such as mental health, welfare, and dependent children. While the need for these specific ombudsmen exists, it points out the need for a general ombudsman since it would be impossible to state that grievance problems exist in only one selected area.

Despite the widespread use of the term ombudsman, ignorance of the capabilities of an ombudsman still appears to be the greatest hindrance to its

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[1]American Bar Association, Section of Administrative Law, Ombudsman Committee, Development Report, April 15, 1971-June 30, 1972, p. 13.

[2]Ibid.

[3]Ibid.

[4]Ombudsman for Corrections, 1972-1973 Annual Report, State of Minnesota, July, 1973.

adoption. With bills having been introduced in thirty-five state legislatures over the past ten years, the instances where an ombudsman was established as cited above represent a small proportion of these attempts. Former Speaker of the California State Assembly, Jesse Unruh, points out that most state legislators have sincere doubts about the need for and the feasibility of the institution.[1] The question that is usually not answered for legislators is whether or not existing procedures are adequate.

What then are these existing procedures and how adequate are they? A study by Professor Gerald McDaniel of the complaint mail received by the California Governor's Office showed that more people bring their complaints to him than to their legislators.[2] Although to the aggrieved citizen this may seem to be a logical area of recourse, the governor is more apt to be defensive of his appointees rather than admit they have erred. To some extent this would also hold true for a legislator when he is of the same political party as the executive. On the other hand a legislator of the opposite party may be overzealous in pursuing complaints against the administration. These suppositions lead to the conclusion that perhaps all complaints are not being treated equally.

If the governor is not the most ideal recipient of complaints against the administration, is the legislature the answer? As stated earlier, legislators are reluctant to give up any opportunities to improve their public relations by assisting a constituent. This applies to the state level as well as the national. However, the arguments in favor of giving up casework at the state level are greater than at the national level. In the first place, state

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[1]Unruh, "The Ombudsman," p. 113.

[2]Cited from Unruh, "The Ombudsman," p. 116.

legislatures are in session for a short time. Committee work, research and homework on bills not before his committee should require nearly all the legislator's time while in session.

Election to public office seldom constitutes full-time employment for a state legislator. During the non-session months the legislator returns to his primary occupation. Here he must make up for the two to six months he has been away and typically lacks sufficient time for constituents' problems. Being away from the capitol, he also lacks access to heads of the administrative agencies.

Another handicap is lack of facilities provided a legislator. A state legislator is usually fortunate to have office space. A private secretary and/or research assistants are not at his disposal. At the national level such assistants handle most of the legwork on constituents' grievances.

The British concept of an ombudsman has resolved these problems to some extent by requiring complaints to be directed through a member of parliament. This has definite drawbacks, however, since the individual may feel he has too little influence to attract the attention of a senator or representative he may or may not have even voted for. He may also feel his problem is not significant enough to take the legislator's time away from his primary duties. However, if he knew there was an agency set up specifically to listen to his complaints, he would be more inclined to voice his grievance.

". . . [T]he legislator who wants to find solutions to problems and to enact the laws implementing those solutions will have less time for casework."[1] Instituting an ombudsman may have a detrimental effect on a legislator. By

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[1]Unruh, "Ombudsman in the State," p. 119.

spending most of his time on casework he can demonstrate how he is assisting his constituents. A legislator with little influence within the legislature or with no real expertise to offer the legislature may depend very heavily upon casework to get re-elected.

In addition to registering complaints with the governor and individual legislators, a third avenue for citizen complaints lies through the appeals procedures contained within the agency making the original decision. In practice, however, these procedures may be so cumbersome and difficult to initiate that they are rarely used. They are generally not understood by the affected citizen either.

Even though impartiality is attempted by these appeal procedures, the affected citizen is going to question why he could be expected to believe he would get any better treatment or the outcome would be any different when he is still being handled by the same agency.

Despite the drawbacks of an agency being its own source of appeal, how many agencies even go this far? Although most agency decisions are appealable, have provisions been set up for appeals? Mr. Unruh estimates that eighty to ninety percent of administrative action has no appeal provisions.[1]

Less than one-third of the states have adopted explicit administrative procedures governing their agencies. Attorneys for claimants regularly find themselves unable to locate the rules of state agencies, prevented from seeing the factual basis for agency determination, and thwarted by influences channeled through ex parte communications by agency administrators and hearing examiners.

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[1]Unruh, "Ombudsman in the State," p. 113.

In cases possessing little monetary value, these difficulties easily discourage citizens from retaining counsel and counsel from accepting such cases.[1]

During the last few decades, the vastly increased demand for government services has placed a real burden on government agencies. In order to be handled fairly, each individual contact with an agency should be handled individually. However, standardizing procedures is a prerequisite to handling the volume of cases. Thus, dissatisfaction with services performed is bound to occur.

" . . . [T]he citizens . . . should have rapid, inexpensive and reliable access to an impartial 'public watchdog' who is not involved in the governmental decision-making process, and who is clothed with powers of public criticism and the initiation of requests for remedial action . . . ."[2]

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[1]Ralph Nader, "Ombudsmen for State Governments," The Ombudsman, p. 243.

[2]Henry F. Abraham, "The Need for Ombudsmen in the United States," The Ombudsman, p. 240.

CHAPTER IV

Legislative History of Ombudsman Bills in Alaska

The original Alaska ombudsman bill was Senate Bill No. 276. It was introduced by Sen. Yule Kilcher (D-Homer) February 24, 1966 during the second session of the Fourth Alaska Legislature. It was referred to the Judiciary and Finance Committees. The bill was reported out of the Judiciary Committee March 31, 1966 with a do not pass recommendation. The recommendation further stated that should the bill pass, the sponsorship should be changed to the Rules Committee. The report was signed by Sen. Robert H. Ziegler (D-Ketchikan), the Chairman, Sen. John B. Hall (D-Fairbanks) and Sen. James Nolan (D-Wrangell). Two of the committee members not concurring in the report were Sen. Nick Begich (D-Anchorage) and Sen. Howard Pollock (R-Anchorage). The bill was then referred to the Finance Committee. No further action was taken.

The next ombudsman bill was House Bill No. 52, introduced by Rep. Jalmar M. Kerttula (D-Palmer) with co-sponsors Rep. Bill Ray (D-Juneau) and Rep. Gene Guess (D-Anchorage) January 25, 1967 during the first session of the Fifth Legislature. The bill was referred to the State Affairs, then the Finance and Judiciary Committees. It was never reported out of the original committee.

During the first session of the Sixth Legislature, an ombudsman bill was again introduced by Rep. Kerttula with co-sponsors Rep. Mike Bradner (D-Fairbanks) and Rep. Ray. This was House Bill No. 132, introduced February 11,

1969. It was referred to the State Affiars, Judiciary and Finance Committees, and again never reported out of the original committee.

In the Seventh Legislature during the first session, separate ombudsman bills were introduced in each house. House Bill No. 7 was introduced by Rep. Bradner January 12, 1971. Rep. Kerttula continued his support of the ombudsman measure by signing on as a co-sponsor. Rep. John Huber (D-Fairbanks), Rep. Richard Randolph (R-Fairbanks) and Rep. Helen M. Fischer (D-Anchorage) also signed on as co-sponsors. The bill was referred to the State Affairs and Finance Committees. It was never reported out of the original committee. Sen. Bob Palmer (R-Ninilchik) introduced Senate Bill No. 13 January 18, 1971. It was referred to the State Affairs and Judiciary Committees and never reported out of the original committee.

House Bill No. 15 in the Eighth Legislature was introduced January 10, 1973 by Rep. Randolph. The bill was referred to the State Affairs Committee. It was reported out January 23, 1973 with a do pass recommendation. The committee proposed a minor amendment which will be discussed later. The bill was brought up in the Judiciary Committee during the week of March 19 and tabled until the second session of the Eighth Legislature. There was no further action taken on the bill during the second session in the spring of 1974. The do pass recommendation of January 23, 1973 by the State Affairs Committee represents the furthest an ombudsman bill has ever progressed in an Alaskan legislature.

Senate Bill 276 of the Fourth Legislature, House Bill 52 of the Fifth Legislature, House Bill 132 of the Sixth Legislature, and House Bill 7 of the Seventh Legislature were all identical. The first changes to the original wording came in Senate Bill 13 of the Seventh Legislature. In the original bill

the selection committee for filling the ombudsman office was to include a member of the Senate appointed by the Senate President and a member of the House appointed by the Speaker of the House. Senate Bill 13 revised this to read a minority member of the Senate appointed by the Senate President and a minority member of the House appointed by the Speaker of the House. This insured minority representation since the remainder of the committee was to be the President of the Senate, Speaker of the House, Chairman of the Senate Judiciary Committee. Senate Bill 13 also changed the term of office. Prior bills had established the term of office at three years with reappointment of no more than four terms. This was changed to a six-year term with no reappointment restriction. The salary was also revised in Senate Bill 13 from $22,500 per year to an annual salary equal to that of a Superior Court judge. Under investigation of complaints, the statement allowing the ombudsman to decline an investigation if there are other complaints more worthy of his attention was omitted from Senate Bill 13.

The most recent bill, House Bill 15, contained the same revisions as Senate Bill 13 with the exception of changing the salary to an annual amount equal to a range 28C position in the classified service. The clause allowing the ombudsman to decline an investigation if there were more worthy complaints was also reinstated. A new statement was added under procedures after investigation; i.e., the ombudsman shall report his opinion and recommendation to an agency even when there are no grounds for any action by the agency.

An article appeared in the June, 1965 issue of the Harvard Journal on Legislation containing a draft model statute for state legislatures creating

an Office of Ombudsman.[1] This was followed by a section-by-section analysis of the draft. With only a few minor exceptions, House Bill No. 15 is identical to this model statute.

Some of the differences between the model and House Bill 15 are: The model provides for appointment by the Governor with advice and consent of the Senate. Another is that the ombudsman be limited to three six-year terms. An interesting section of the model, but not found in House Bill 15, is a section entitled, "Agencies may not open letters to Ombudsman." The section states, "A letter to the Ombudsman from a person held in custody by an agency shall be forwarded immediately, unopened, to the Ombudsman."

As stated earlier, House Bill 15 of the eighth legislature was reported out of the State Affairs Committee with one substantial amendment. Under compensation, range seventeen of the classified service was deleted and the salary of a State Supreme Court Judge was inserted.

Although no committee records are available to determine what discussion occurred on any of the previous bills, it appears that there has been very little interest in its passage. At least no apparent pressure has been exerted that would bring it out of committee. On one of the two occasions the bill was reported out of the original committee, the recommendation was do not pass; however, it was a close committee vote, three to two in favor of the recommendation.

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[1]"A State Statute to Create the Office of Ombudsman," Harvard Journal on Legislation, (June, 1965), pp. 221-238.

CHAPTER V

Conclusion

The American experience with the ombudsman idea to date indicates that there are widespread, practical and immediate benefits to be accrued by the Alaska public from this institution at a modest cost. That experience, particularly in Hawaii, demonstrates conclusively that the ombudsman idea represents much more than a nebulous, idealistic notion with little or even negative practical application. The tabulation in the appendix indicates the diversity of citizen inquiries and complaints in Hawaii. There is no reason to believe there would be any less diversity or magnitude if adopted in Alaska.

Lacking the legal authority either to prosecute wrongdoing or to compel administrative agencies to act against their will, the ombudsman can still correct inequities in government agencies dealing with individual citizens. The ombudsman's office can preserve a measure of confidence among the public that their governmental agencies have been established to serve them. The power to persuade and to conciliate can be very powerful when provided with an adequate forum.

In implementing the ombudsman idea into its complex system of federal-state-local government, the American experience also indicates that the state level of government offers the greatest potential for the ombudsman. Alaskans can benefit from the same results the people of Hawaii have enjoyed in the

recent years since the ombudsman was established in that state. As this proposal for an Alaska ombudsman is developed, questions such as the following arise: Is the concept of an ombudsman feasible in Alaska? Whom would it benefit? What would be required to implement it? The following conclusion is an attempt to answer each of these questions.

From the standpoint of feasibility, the geographic vastness of the state presents formidable obstacles to the effective functioning of a sparsely staffed ombudsman's office. There are, however, definite population centers (Anchorage, Fairbanks, Juneau, and Ketchikan) which could be visited by the ombudsman on a frequent, scheduled basis. The smaller towns and the bush areas could be visited by the ombudsman and his staff on a less frequent basis. The twelve new native regional corporations might be induced to play a liaison function between the ombudsman and the bush areas to bring a much needed improvement in state governmental services to the outlying areas of the state. Complaints from these villages might be channeled through the corporations on a scheduled basis. Hawaii, made up of islands, also has a geographical problem, although not of the magnitude of Alaska.

Lack of a homogenous population presents another feasibility obstacle. The Hawaii experience indicates, however, that a geographically and culturally disparate population can be well served by an ombudsman on the state level. From this, Alaskans have good reason to conclude that a state with a scattered and heterogenous population needs an ombudsman all the more and that the office can be successfully implemented to meet the needs of all the people in all of its regions.

If implemented successfully, the people of the state themselves would be the chief beneficiaries of the ombudsman. They would have a sympathetic intermediary who is knowledgeable of the internal workings of governmental agencies. Legislators and their staffs, the Governor and his staff, and the departmental commissioners and their line and staff agencies would also be benefitted as shown in the succeeding paragraphs. The widespread popular benefits, however, that the ombudsman could produce need to be stressed primarily. It is designed to serve the people now in a myriad of practical ways which they can understand and appreciate. Open to all who need its services, the ombudsman's office is essentially a classless type of agency. It meets, however, the needs of those less articulate and knowledgeable about governmental affairs to a greater extent than the more fortunate members of society.

The American experience with the ombudsman, and worldwide experience as well, demonstrates that the existence of the office does not affect existing political and administrative power structures or the distribution of power between legislative, executive and judicial agencies. This experience also demonstrates that the ombudsman does not challenge existing structures at the top of the power pyramid or become a meddlesome nuisance in its lower reaches. The justification for the office rests on the simple, observable facts that modern government is complex and that the public often fails to understand its processes and how to avail itself of its services.

What effect then would the ombudsman have on existing legislative and executive agencies in Alaska? (Proposals for an Alaska ombudsman do not include the state judiciary within the jurisdiction of the office.) Generally

speaking, experience indicates that the ombudsman would increase their efficiency. Individual legislators and their staffs would have an agency at their disposal to which they may refer all citizens' complaints for investigation and action. This would relieve them of a burden which hampers the primary function of the legislative process, that of formulating and deliberating upon legislation. The year-round service of the ombudsman's office would assure that all meritorious complaints would be received and processed in even fashion. As a central receiving office, the ombudsman would be situated to observe patterns of grievances and be able frequently to suggest administrative remedies which would benefit all persons similarly affected when an individual complaint is processed.

This proposed system of citizen complaint processing under the auspices of an ombudsman could serve to clarify to the public the essential nature of the legislative process and the inherent limitations under which an individual legislator attempts to serve the public who elected him or her and the state at large. Aside from those who have shouldered the burden of serving in the state legislature, there are relatively few who understand the extent of the demands which legislative service imposes upon the time and the financial resources of the individual. Even though there is little prospect that the public will ever understand this very well, the ombudsman offers to the individual legislator a realistic hope that he or she, as well as constituents, will be served by the ombudsman.

Assessing the impact of the ombudsman on the executive branch presents a more complex and elusive problem than that of assessing its effects on the

state legislature. But, again, both the American and the worldwide experience with the ombudsman experiment should serve to allay any doubts that the office is designed to effect a significant shift of either political or administrative power.

Given the broad scope of the ombudsman's investigatory powers over the executive branch, the most formidable objections to the creation of the office have usually come from this source when ombudsman proposals have been advanced. However, after overcoming the initial negative reaction to the idea, it has proved to be an even more welcome addition to the governmental scene among executive branch agencies than among legislators and their staffs wherever the experiment has been tried. How does one account for this ready acceptance of the ombudsman in practice?

The essential role of the ombudsman as a conciliation service between the public and its governmental agencies has quickly emerged when the experiment has been tried. In the evolution of the office, ombudsmen have been armed at various times with the power to prosecute and to take lessor yet stern corrective measures in resolving citizen's complaints. Such powers have not proved to be consistent with the style and the technique of the successful ombudsman. It is noteworthy that where the power to prosecute is vested in the office, as it presently is in some of the Scandanavian countries, it has seldom been exercised. One does not find any American ombudsman experiment where the power to prosecute is vested in the office. Such powers have not been included in any of the proposals for an Alaska ombudsman.

Typically, the ombudsman has had an extensive background in the governmental system in which he is appointed to serve and is aware of the policies and procedures of the system's various governmental agencies. When specific citizens' complaints do arise, the formal, legal power of the ombudsman to compel the disclosure of specific information seldom needs to be invoked. Informal and semi-formal procedures in complaint processing are characteristic of the ombudsman's practice.

There are a variety of complaint processing patterns to be found among governmental agencies. There is one characteristic problem, though, which one regularly encounters. Too many complaints are either received at or are referred up to a too high level in the administrative hierarchy. The typical citizens' complaint neither requires the attention of top management nor can it be satisfactorily resolved on that level. Its merit is difficult to assess on that level and even when such problems are resolved to the citizen's satisfaction, top management officials may have disrupted agency policies and procedures which have been soundly devised at the operating level.

The higher the complaint is lodged and accepted, the more agency officials in the chain of command hierarchy are brought into confrontation with each other, frequently in a crisis type of atmosphere. Relatively simple citizens' complaints have been known to demoralize an agency seriously from top to bottom, to substantially reduce its capacity for productive work output and to leave it in a state of tense anticipation that such an event will soon recur with similar results.

The impartiality of the ombudsman also benefits the entire administrative organization when unreasonable citizens' complaints are received or when service demands are made of an organization which either lie beyond the resources of the agency to fulfill or which would disproportionately divert agency resources to the benefit of one person. Ombudsmen are perceptive to such situations and assume the responsibility of explaining to the dissatisfied citizen why his demands cannot be met. Fair-minded citizens tend to regard an ombudsman's explanation as more objective and reliable than that of a representative of the agency and as a result they tend to accept his conclusions rather than to press their case further or to renew it at a later date. In those instances where the complaining citizen demonstrates a lack of concern for fairness and reasonableness, the ombudsman serves as a protective buffer for the agency against overly aggressive conduct.

Top management in an administrative agency are less involved in the entire citizens' complaint process when the services of an ombudsman are available. From their point of view the ombudsman provides both a species of consulting service affording them reliable reports on the performance of their operating personnel and a species of in-service training for their operating personnel when the job can be done better.

The ombudsman intervenes at the lowest level of the administrative hierarchy where citizens' complaints can be resolved. In this manner he may correct inequitable practices of which top level administrators are unaware. His very presence can stimulate first line supervisors and their personnel into re-examining problems within the framework of agency policy and to attempt to

resolve citizens' complaints without referring the issue to higher administrative officials. In modern management terminology, the ombudsman brings "positive reinforcement" to the first line supervisor and his personnel.

During the first year of operation in Hawaii, $103,000 was provided as an operating budget.[1] The first year of operation in Alaska would require only a small staff, probably the ombudsman himself and a secretary. The objective during the first year would be setting up the office and publicizing it. Some travel outside Alaska would be involved to observe other ombudsmen in action. Extensive use of long distance telephone service would be necessary in a state the size of Alaska. No matter in which city the ombudsman were to be located, extensive travel within the state would be required.

A budget figure of $100,000 would appear to be adequate for the first year of operation. This would allow $50,000 for salaries, $20,000 for travel and $30,000 for office expenses, depending upon what facilities and equipment were made available. This figure would probably double or triple during the second year of operation due to increases in staff, travel and related expenses as the services provided became more widely known. The budget would then level off and remain fairly static (subject to inflation) since primary advantages of the concept are small size and personal attention.

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[1]State of Hawaii, Report Number 1, p. 2.

APPENDIX

The actual record of the Hawaii experience with its Office of the Ombudsman presents the kind of data which concretely demonstrates the broad range of problems with which their ombudsman has been concerned and his effective disposition of a heavy caseload.[1] The following summaries of cases were taken from the Hawaiian Ombudsman's Report Number 2 for the fiscal year 1970-1971. The cases were selected to give a general idea of the types of complaints received and their resolution. They cover areas where agency corrective action was indicated, where the agency had taken appropriate action, and where legislative action was required. Following the summaries is a chart indicating complaints broken down by department and whether or not they were justified.

Selected Cases

An unsuccessful bidder on some office equipment complained about bidding irregularities. The Department of Education was contacted and a subsequent Attorney General decision called for rejection of all bids and re-advertisement.

A community schools instructor complained about being underpaid for actual number of hours taught. After interviews with students and the

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[1]See State of Hawaii, Office of the Ombudsman, Fiscal Year 1969-1970/Report Number 1, Fiscal Year 1970-1971/Report Number 2, and Fiscal Year 1971-1972/Report Number 3 (Honolulu: Office of the Ombudsman, 1971, 1972 and 1973). A Report Number 4 was not yet available when this governmental project report was finalized.

registrar it was determined that an error had been made and the Department of Education voluntarily agreed to pay the contested amount.

A State Board was accused of being prejudiced against a certain racial group in its work. The ombudsman made a study of statistics, board files and actions and then determined the charges were unfounded.

A citizen complained of unsanitary odors coming from a neighbor's hog farm. Following the ombudsman's inquiry, a sanitarian inspected the farm and found waste from the pigpen being discharged into a non-functioning cesspool. Orders were issued by the Department of Health to remove the hogs.

A complaint was received regarding the lack of school bus service to an area. The ombudsman investigated and found the reasoning for not serving the area justified, but suggested ways in which the situation might be resolved. The suggestions were followed and the situation was resolved by the complainants themselves.

A claimant for unemployment compensation complained that he was experiencing undue delay in receiving his compensation. The ombudsman investigated and found that corrective action had already been instigated by the department.

A citizen complained of rude and uncalled for treatment by the Parks Division personnel while camping in a state park. The employee did not furnish any identification at the time. Following the ombudsman's inquiry, the employee was reprimanded and all employees were provided identifying shoulder patches.

Welfare recipients claimed rental allowances were not sufficient to maintain health and comfort. The ombudsman found the rates were set by the

legislature, not the agency, and suggested the group testify before the appropriate legislative committee.

A citizen action group complained they were denied a copy of a public hearing transcript. The ombudsman informed the responsible official that a Hawaii Statute made minutes of boards and agencies public records and thus available to the general public with a fee assessed for copying. Subsequently, arrangements were worked out whereby the complainant was provided a copy.

A complaint was received that the State of Hawaii should provide parking for citizens on jury duty. The ombudsman investigated and found there was no reasonable way the State could provide parking until additional parking lots were made available.

A welfare recipient complained that despite repeated requests to the Department of Social Services, she had not been assigned a social worker. The ombudsman's investigation disclosed that the Department had tried repeatedly to contact the complainant, but she was never at the address given. The complainant was informed she must make an effort to be available.

A taxpayer complained that although he had paid a previous year's State Income Tax, he had been notified of tax delinquency. He could not locate any records and could not afford to pay the bank to search for a copy of his cancelled check. The ombudsman convinced the Department of Taxation to make a more thorough search and the return was found misfiled.

A resident living on a narrow dirt road that was nevertheless a public thoroughfare complained of lack of garbage collection. The ombudsman investigated and agreement was reached with the City and County of Honolulu that they would service the area with a smaller than normal vehicle provided the resident would allow turning around in his driveway.

TABULATION OF CASES
OFFICE OF OMBUDSMAN, STATE OF HAWAII
FISCAL YEARS, 1969-1970, 1970-1971, 1971-1972
(by department)[1]

Department	1969-1970 Received[2]	1969-1970 Investigated: Justified	1969-1970 Investigated: Unjustified	1969-1970 Information[3]	1970-1971 Received	1970-1971 Investigated: Justified	1970-1971 Investigated: Unjustified	1970-1971 Information	1971-1972 Received	1971-1972 Investigated: Justified	1971-1972 Investigated: Unjustified	1971-1972 Information
Accounting and General Services	33	19	7	5	24	12	7	11	24	12	5	6
Agriculture	10	1	7	2	6	2	4	3	3	0	2	1
Attorney General	10	4	3	3	6	2	3	7	8	2	4	7
Budget and Finance	11	5	3	1	18	7	6	3	18	7	8	6
Defense	1	0	1	0	3	0	2	2	2	0	1	0
Education	68	38	17	7	61	29	22	10	66	23	26	23
Hawaiian Home Lands	5	1	1	0	13	4	5	1	8	4	4	2
Health	60	29	18	4	45	17	15	37	40	8	19	24
Labor and Industrial Relations	56	22	20	10	81	27	36	47	98	43	43	47
Land and Natural Resources	29	9	14	3	25	9	14	0	30	12	10	13
Personnel Services	18	5	5	6	15	3	11	8	12	2	7	6
Planning and Economic Development	4	0	0	4	2	0	1	2	4	1	2	6
Regulatory Agencies	50	11	16	11	58	23	15	55	41	7	24	34
Social Services and Housing	83	22	38	14	103	27	59	56	147	32	76	62
Taxation	38	7	14	8	50	18	25	34	42	10	22	20
Transportation	52	13	27	5	46	19	14	13	43	12	14	6
University of Hawaii	41	20	9	7	50	23	10	19	57	16	19	20
Counties	229	65	82	40	209	64	72	115	155	40	71	66
Lieutenant Governor	1	1	0	0	1	0	0	7	0	0	0	2
Consumer Protection	11	3	4	3	6	2	2	37	8	0	7	14
Hawaii Office of Equal Opportunity	1	0	0	0	0	0	0	1	1	1	0	0
TOTAL	811	275	286	133	822	286	323	486	807	232	364	365

[1]Abstracted from State of Hawaii, Office of the Ombudsman, Fiscal Year Reports No. 1, 2 and 3.

[2]At the end of each fiscal year there were Received complaints which were either subsequently withdrawn or in the process of investigation and resolution. Therefore the sum of the figures in the Justified and Unjustified columns does not usually equal the figure in the Received column.

[3]As the Hawaii Ombudsman's office developed over the three years shown, it was perceived that certain inquiries should not be classified as citizens' "complaints" since the inquiring citizen needed only to be given correct information and guidance to solve his problem. For fiscal years 1970-1971 and 1971-1972 informational inquiries were not included in the total of Received complaints. For the purpose of this study the Information column has been included because it lends perspective to the broad range of public services which the Hawaii Office of Ombudsman performs.

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Francis M. Flavin
3729 Clay Products Road
Anchorage, Alaska 99503

April 21, 1975

Representative Terry Gardiner
State House
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Terry:

I have submitted my application for the Ombudsman position to the selection committee. I would appreciate any support you can give me.

During the past four years I have participated extensively in legislative, administrative and judicial processes on both management and individual levels. As Director of Alaska Legal Services I am deeply involved in insuring the public accountability of governmental agencies. I am familiar with urban and bush governmental concerns through the administration of eight separate law offices consisting of thirty attorneys and ten paralegals.

While my contact with you in the legislature has been primarily on fisheries and bush justice issues, the overall ALSC program is fairly balenced between urban and rural concerns.

Under my direction Alaska Legal Services has successfully pursued an active program of legislative, judicial and administrative advocacy, all without major controversy. This is because I firmly believe that negotiation and compromise produce more benefits than rhetoric or confrontation. I would continue and expand this commitment by pursuing the Ombudsman's duties in a temperate yet vigorous manner.

The Ombudsman position will require legal, management and administrative skills. I believe that the record shows that I am competent in these areas to utilize my experience for the benefit of Alaskan citizens.

Thank you for your consideration.

Sincerely yours,

Frank

Frank Flavin

02-230

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
Pouch C
Juneau, Alaska 99801
586-3613

file

EXAM. RECORD		WT.
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E.C.		
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APPLICATION

Date Received

PERSONNEL ACTION	
ACCEPTED	
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PERSONNEL FILE

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B		H	
C		J	
D		EA	
E		EI	
F		SO	

DEPT. NO

Ombudsman

(Title of Position applied for. A Separate Original application must be submitted for each position. Use Typewriter or ink.)

PERSONAL DATA

1. Name Whittaker (Last) Richard (First) Lee (Middle)
2. Maiden Name N/A
3. Mailing Address P. O. Box 13 (648 Main Street) (Street and/or Box number)
REPORT CHANGE OF ADDRESS PROMPTLY
Ketchikan (City) Alaska (State) 99901 (Zip Code)
4. Telephone No. Home 225-3824 Business 225-5333
5. Date of Birth March (month) 3 (day) 1931 (year)
6. Place of Birth Princeton, Illinois
7. Social Security Number 544-32-8980
8. Sex: Male [X] Female [ ]
9. Marital Status: Single [ ] Married [X] Widowed [ ] Divorced [ ] Separated [ ]
10. Height 5'81/2" Weight
11. Physical Disabilities Yes [ ] No [X] If yes, give details:
12. Name and occupation of spouse Judy F. Whittaker, Housewife
13. Number and ages of dependents Six---17, 15, 14, 13, 9 and 4
14. Alaska State Employee Currently [ ] Formerly [X] Give job title, status, department, and dates of State or Territorial employment
District Attorney, Ketchikan, 1964 to 1967--Legislator, 1971 to 1972
(Permanent employees should use form P-122 for promotional credit)
15. Dates of Alaska residence: From July (month) 1952 (day) (year) to Present (month) (day) (year)
16. U.S.A. Citizen Yes [X] No [ ] By birth [ ] By naturalization [ ]

17. Veteran: Yes [X] No [ ] Dates of service 1952 (day) (month) (year) to 1954 (day) (month) (year)

Type of discharge honorable Branch of Service Army Serial number US56121345

18. Presently a member of any component of Armed Forces Yes [ ] No [X] If yes, list grade, organization and whether 6 months training has been completed:

19. Have you ever been arrested or convicted except for traffic parking violations? Yes [ ] No [X] If yes, give details

20. Relatives by blood or marriage employed by State of Alaska:

Name	Relationship	Department
None		

EDUCATION AND EXPERIENCE DATA

The acceptance and rejection of candidates is based upon the verified data furnished under sections 21 and 22, Educational Background and Employment History. Incomplete applications may result in rejection of candidates or reduced scores in ratings.

21. EDUCATIONAL BACKGROUND

Circle highest grade completed: Grade School 1 2 3 4 5 6 7 8 — High School 9 10 11 12 — College 13 14 15 16 — Post graduate 1 2 MA Phd (J.D)

Name and address of last High School Ophir High School, Ophir, Oregon Graduate? Yes [X] No [ ] Date of Graduation: 1949

High School Equivalency Certificate (GED): State.. Number Date

For professional jobs requiring college education, it is the responsibility of the candidate to furnish the Personnel Division with a recent copy of his college transcripts.

Type of School	Name and Address of School	Part Time	Full Time	Dates Attended From	Dates Attended To	Hrs. Completed Qtr.	Hrs. Completed Sem.	Degree Received	Major
College	University of Oregon Eugene, Oregon		X	1949	1958			B.S.	Journalism and Law
College	Northwestern College of Law, Portland, Oregon		X	1958	1963			J.D.	Law
Graduate									
Correspondence									

Type of School	Name and Address of School	Part Time	Full Time	Dates Attended From	Dates Attended To	Courses Completed
Business						
Technical						
Nursing						
Service Schools						

22. EMPLOYMENT HISTORY

Include all jobs within past ten years. Give earlier job history, if pertinent to job applied for. Include military experience as part of job history. Include any period of unemployment over three months in length. Use additional pages if needed to give complete employment history.

START with MOST RECENT JOB FIRST

Dates of Employment	Job Title: District Attorney
From August 1964	Duties:
To: January 1967	
Starting Salary	
$ Unknown per	
Final Salary	Name of Employer: State of Alaska
$ Unknown per	Address: Ketchikan, Alaska
Hrs. per week:	Reason for leaving: Opened own Office

Dates of Employment	Job Title: Attorney
From January 1967	Duties:
To: Present	
Starting Salary	
$ per	
Final Salary	Name of Employer: Self Employed as Attorney
$ 50,000 per year	Address: P. O. Box 13, Ketchikan, Alaska
Hrs. per week:	Reason for leaving:

Dates of Employment	Job Title:
From	Duties:
To:	
Starting Salary	
$ per	
Final Salary	Name of Employer:
$ per	Address:
Hrs. per week:	Reason for leaving:

Dates of Employment	Job Title:
From	Duties:
To:	
Starting Salary	
$ per	
Final Salary	Name of Employer:
$ per	Address:
Hrs. per week:	Reason for leaving:

Dates of Employment	Job Title:
From	Duties:
To:	
Starting Salary	
$ per	
Final Salary	Name of Employer:
$ per	Address:
Hrs. per week:	Reason for leaving:

SPECIAL QUALIFICATIONS

List here those special qualifications required by the job you are applying for:

3. Membership in professional associations: American Bar Association
24. Registration and/or licenses: Admitted to practice law in Oregon and Alaska.
25. Required college subjects: None
26. Languages spoken other than English: None
27. CLERICAL AND OFFICE SKILLS:
Typing.....words per minute Shorthand..... words per minute Office Machines experienced in (list).....
28. List kinds of mechanical equipment, electronic equipment, or machinery that you are qualified to:

Operate	Repair

29. Other Special Qualifications:
30. List three references (not relatives or employers) who have knowledge of your character, experience and ability.

	(Name)	(Street)	(City)	(State)
(1)	R. Collin Middleton,	500 "L" St.	Anchorage	Alaska
(2)	William Timme,	Doyon Ltd.	Fairbanks	Alaska
(3)	Edward E. Head,	Alaska Timber Corporation,	Klawock	Alaska

CONDITIONS OF EMPLOYMENT

Please read carefully the announcement for the job for which you are applying. Your name will be certified only to vacancies that meet the conditions of employment indicated in your answers below. Restrictions not common to the job may result in removal from the register or in rejection. You may alter your stated conditions of employment by notifying the Personnel Division in writing at any time during the life of the register. Failure to accept a job offered under conditions you have indicated may result in removal from eligible list.

31. Lowest entrance salary I will accept: $Statutory per month.

32. I will accept employment at the following places in Alaska. I understand I will be certified only to places I have listed below:

Anchorage Juneau Ketchikan

33. Will accept job requiring travel:

- [X] continuous
- [ ] frequent
- [ ] occasional
- [ ] remote areas
- [ ] no travel

34. Available for following types of positions:

- [ ] probationary (permanent)
- [ ] temporary (6 months or less)
- [ ] seasonal
- [ ] part-time
- [ ] School year

35. How soon would you be able to report for work after being notified that you had been hired?

Immediately. Only problem is closing my law office.

36. CERTIFICATE OF APPLICANT

I HEREBY CERTIFY that all information made on or in connection with this application is true and complete to the best of my knowledge and belief and that I have not knowingly withheld any fact or circumstance. I understand that any misrepresentation or concealment of material fact will be sufficient ground for rejection of application, removal from eligible register, or removal from employment. I authorize my present and previous employers to release to the State of Alaska any information they may have regarding my character or my employment record and release said employers from any damage or claim for furnishing said information. I hereby agree to submit to such physical and/or mental examination as the State of Alaska may require.

Date: May 5, 1975 Signature.....

CHECK YOUR APPLICATION! Be sure you have filled it in completely.

RESUME

Richard Whittaker

Born, 1931 at Princeton, Illinois

Raised on farms in rural Oregon. Graduate, 1949, Ophir High School, Ophir, Oregon.

Attended University of Oregon, majoring in Journalism, 1949 to 1952, when volunteered for the draft. Entered army from Annette, Alaska, where parents were teaching at the time. Served for two years as Military Policeman at Sandia Base, Albuquerque, New Mexico. Had AEC "Q" and "Top Secret" clearances.

Returned home after army in 1954. Parents were living at Metlakatla where they were teaching. Became managing editor of the Ketchikan Chronicle, the only daily newspaper in Southeastern Alaska to be pro-statehood and anti-fishtrap. Left Chronicle in 1955 to go to Kodiak to start own newspaper. Worked in 1955, to raise money for venture, as laborer and deep sea diver. Started Kodiak Islander and North Pacific News in spring of 1956 and went broke three months later. Worked on fish packer and edited the Mailboat Monitor published by the Mailboat Expansion, then serving the Aleutian chain.

The year 1957 commenced with being employed by the late Bernie Kozinski, managing editor of the Anchorage Times, to start that newspaper's night news bureau. Met wife-to-be, Judy, on the Times where she was working as advertising salesman. Married at Kodiak, where parents were then teaching, in May. Judy, a graduate of the University of Missouri School of Journalism, became a reporter for the Times, and we worked together until leaving for law school in 1957.

Entered University of Oregon Law School in the fall of 1957 and had the first of six children February of 1958. Had a disagreement with the dean of the law school in spring (he didn't want me to come back) and transferred to Northwestern College of Law at Portland, Oregon.

Was awarded B.S. degree from Oregon in 1958.

Worked at Oregon Legislature, session of 1959 while in night law school, and then worked for rest of time in school, as Medical Practices Investigator for Oregon Board of Medical

Examiners until graduation from Law School and passing of Oregon Bar examination in late 1963.

Became law clerk to the Honorable Raymond Plummer, United States District Judge in 1964, filling out a term, and then District Attorney at Ketchikan in August of 1964.

Entered private practice of law in 1967 and have operated as a sole practitioner at the same location ever since.

Member of Alaska Legislature, 1971 to 1972, serving as Vice-Chairman of Local Government Committee and as member of Health and Social Services Committee.

Became a founding member of Southeastern Alaska Community Action Program, Inc., in 1968 and serve as president currently. Member of RuralCAP Board of Directors. Have been a member of the Portland, Oregon, City Club since 1962.

As an attorney in private practice, I have had as an avocation, the representation of many of the small cities and communities in Southeastern Alaska, including at one time or another, the cities of Saxman, Hydaburg, Klawock, Kake and Yakutat; the town of Metlakatla and the village of Klukwan. I served as Reservation Magistrate at Metlakatla in 1973.

I have been active in the battle to plan for the economic needs of Southeastern and have done legal work for the Tongass Conservation Society, the Southeastern Mountaineering Association, the Alaska Timber Corporation, where I am general counsel (the very large sawmill at Klawock), the Commercial Fishermen's Cooperative Association cooperative, and the Southeastern Consumer's Cooperative. I am a partner in the St. Francis Mining Company. I was a founding board member of the Ketchikan Day Care effort and the Ketchikan Habilitation House.

By way of further Alaskan background, my mother was born near Cordova, (her father was a stampeder prior to the days of '98) and my sister Betty Johnson Farni, is a teacher at Fairbanks.

During my travels, I have lived at Ketchikan, Annette, Metlakatla, Kodiak, Anchorage, and Fairbanks, (and Juneau for the legislative sessions of 1971 and 1972).

In Ketchikan I have been very active in the Ketchikan Community Council and its various projects, and in 1974 was president of

Camp 14, Alaska Native Brotherhood and a member of the Ketchikan School Board. Judy, having played with the Anchorage Symphony at the time we met, organized the Ketchikan Shoestring Symphony and has kept it alive since (it has near 40 members these days) and started two local film societies and helped form the local chapter of the League of Women Voters. She served on the board of the Alaska State Council of the Arts in 1967 and was very active in putting together the Ketchikan Alcoholism program.

I have served on the Comprehensive Health Planning Board for Ketchikan for three years. I am a founding trustee of the Juneau and Ketchikan branches of the Rosewater Foundation.

At this writing the six Whittaker children range in age from almost 4 to 17, with the oldest graduating from high school this year.

STATEMENT OF VIEWS ON THE

OFFICE OF OMBUDSMAN

BY Richard Whittaker

I believe the alienation of people from their several governments to be one of the cardinal issues of our time. This alienation is both abstract and real; real in the sense that we Alaskans can reach out and touch the problem, and can attack and seek to correct it.

The Alaskan Ombudsman will have perhaps the most challenging job in our government; affirming and reaffirming the faith of Alaskans in the institution of government. Anyone can build a building, but not everyone can get agreement that the building is a good idea.

The effectiveness of the office will depend upon the skill which the Ombudsman utilizes during the first years of the establishment of the office.

The Ombudsman must be sensitive to and knowledgeable of the geography and social orders of the State.

The ombudsman must have a feeling for the frustrations of people in dealing with their government. And the Ombudsman should have some sensitivity to the problems of the agency people working within a legislated problem-solving framework.

The Ombudsman should have a general involvement both with the major population centers of the State, but as well with rural Alaska and he must perceive the interrelationship of one to the other, as well as the social organization of any one given area.

The Ombudsman must have an ability to assure the image of the office in the public eye is a positive one; that the Ombudsman is known as a person to go to in order to seek redress for grievance or for an understanding of what has happened. The Ombudsman's job is to equalize the person to the government for fair resolution of problems.

The Ombudsman must never be an apoligist for government; he must seek to understand the nature of the concern beyond the simple question of the impact of an agency decision.

The Ombudsman, initially, will be concerned with developing the relationship of Alaskans to the office, and to develop

techniques providing the most expeditious access to the office for every Alaskan.

A legal education may or may not be a qualification for the office beyond training in the workings of government, but the most single important characteristic an Ombudsman must have is a strongly developed moral sense. Government has lost its common touch and its sense of humanity. And legal analysis, here, is only secondary.

An Ombudsman must, beyond concerning himself with wrongful acts of agencies, regard the very real problems people have when agency decisions have gone against them, making every effort to evaluate and explain to citizens that government, in their case, has functioned properly.

And because the job of Ombudsman is to make government work rather than to destroy government, the majority of his work will be done quietly as he functions as an objective intermediary. In a State such as ours, rarely will an agency resist recommendations to change practices.

The legislature is close to the people and responsive to their needs; every good legislator is an Ombudsman at heart.

Put in Ombudsman F.C.C. file

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

SOUTHEAST ALASKA CHAPTER
Box 292 Juneau, Alaska 99802

March 24, 1975

Senator Jalmar M. Kerttula, Chairman
Free Conference Committee, S.B. 1 (Ombudsman Bill)
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Senator Kerttula:

Last Friday afternoon I followed through on my statement that I would contact Hawaii Ombudsman Herman S. Doi by telephone to determine whether his subpoena power gave him access to documents made confidential by statutes of that state. We made connection at approximately 1:45 pm., Juneau time, 11:45 am.,Honolulu time. The conversation was brief.

Mr. Doi informed me that he has not regarded his subpoena power as empowering him to gain access to records made confidential by state statute. Hawaii, he said, did have several statutes making various records confidential. The issue of his gaining such access has never actually arisen and been tested. He explained to me that individual complainants would usually provide him with the information he needed in cases where there were issues of confidentiality when conducting investigations on their behalf. In other cases, he said, his staff has gained the cooperation of agencies during the conduct of investigations and that they have been able to work around confidentiality problems administratively. I then specifically asked him whether he had ever had a case which he could not investigate sufficiently, because of confidentiality, to resolve the complaint or grievance being processed. He responded that he could not recall a single such instance.

I sincerely hope that the foregoing information will assist the committee in their deliberations.

Very truly yours,

Robert E. Newton, Chairman
Ombudsman Committee

cc: Committee members

April 22, 1975

Doug Thompson
636 Schoenbar
Ketchikan, Ak. 99901

Dear Doug,

A special six-man committee is receiving applications for the office of the Ombudsman. Representative Mike Miller of Juneau is the head of the House delegation. Any applications should be sent to him and to the other members of the committee. These include Rep. Helen Beirne, Rep. Charles Parr, Senator Jay Kerttula, Senator Pat Roday, and Senator John Sackett.

Sincerely,

April 17, 1975

Terry,

HB 242 seems to fill a need by enabling effected employees to appeal arbitrary dress codes to the legislature and as such fills a need. The Port Steward Kliemberg has addressed a memo dated april 9, 1975 to all chief stewards asking them to support his expressed opinion that the law should exempt his department and others like his. He asked them in this memo on state stationary to write their legislators to stop passage of 242 as written. This would seem to me to be an improper use of both his position's influence and State law. A request as he phrased it would by his very position be coercing his subordinates. As a prime offender it would seem this is an especially touchy action. I believe he should be told to refrain from such future actions.

You left a letter here the last time down, it is enclosed.

What is the committee standing now that it is passed & time schedule for implementing

File with that other application

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

1975 APR 12 AM 2 44

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PMS REP KATHRYN OSTROSKY

1101

JUN

WE SUPPORT GEORGE CURTIS FOR OMBUDSMAN

BOB AND MAE HEATHERINGTON 1526 G ANCHORAGE 99501

TELEGRAM File

ACA ALASKA COMMUNICATIONS, INC
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

1975 APR 12 PM 7 48

02056 POM ANCHORAGE ALASKA 15 04-12 0345P ADT

PMS REP KATHRYN OSTROSKY

1182

JUN

WE SUPPORT GEORGE CURTIS AS OMBUDSMAN

MR AND MRS DON LAWSON 1923 JUNEAU DR

99501

April 1, 1975

Fred Selkregg
5811 Radcliffe
Anchorage, Ak.

Dear Mr. Selkregg:

Thank you for your interest and application for the Office of the Ombudsman. The free conference committee substitute for the Ombudsman bill sets up a selection process that begins with nominations by a special committee of members of the House and the Senate appointed by the Speaker and the President. This special, six person, joint committee will receive and review any and all applications. I would expect this committee to be appointed as soon as the Governor has signed the bill into law. At that time I will certainly give your resume to the special committee.

The free conference committee substitute also requires confirmation by 2/3 vote of the legislature and the concurrence of the Governor.

Again, thank you for your interest. I look forward to meeting with you at some future date.

Sincerely,

Terry Gardiner
Representative

March 24, 1975

Representative Terry Gardiner
Pouch V
Juneau, Alaska 99801

Dear Terry,

I was elated to read in the Wednesday, March 12th Daily News that H.B. 45 to create the office of Ombudsman has finally passed. I trust that the joint conference committee will be reporting out the final bill shortly and that the state will finally have an Ombudsman. I have long supported this concept and feel it is long overdue.

I am writing to alert you of my interest in becoming Alaska's first statewide Ombudsman. Aside from my long support and enthusiasm for the concept, I feel that I am particularly well qualified to do an effective job in setting up the office and shaping the role of service to be provided. Attached is a resume of my work experience.

Most of my life I have been involved with furthering people programs and investigative work. My early experience, as a War Department Civilian with the military in Italy, was in personnel administration and research to acquire the statistical data base needed to formulate policy. This introduced me to governmental and bureaucratic procedures. My legal education allows me to knowledgeably interpret and apply statutes and regulations. My seventeen years as an insurance investigator and adjuster well qualifies me for the type of digging needed to get to the bottom of things; to find, develop, and analyze the facts. As Alaska's first chairman of the Human Rights Commission I gained valuable insight into the impact of unjust laws and procedures. My experience as a member of the Greater Anchorage Area Health Board, the Greater Anchorage Area Community Action Agency, the Alaska Training and Planning Agency, and the Greater Anchorage Area Borough Comprehensive Planning Advisory Commission, most recently, has added to my understanding of people's needs and problems. I am convinced that services and their delivery systems must be designed to respond to those needs. The system fails too many people.

I know the whole scene; from the vantage point of an administrator as well as a precinct worker. My many years as an active Democrat, with a proven social conscience and a continuing concern for more responsive government, has aptly prepared me for such a role of service to the people of the state. I believe that I have met and know on a first-name-basis most of the people involved in government in

various departments and agencies. This rapport would be a real asset in the job.

I know that the legislature will have the final say on who is hired for the position. It is unclear at this juncture just what steps will be followed or what role you personally will or can play in the final selection process but I would greatly appreciate your support and anything that you could do to further my chances of being selected for the position. Thank you.

Best regards,

Fred

Fred M. Selkregg

R E S U M E

NAME: Fred M. Selkregg, Jr.

DATE OF BIRTH: June 1, 1921

MARITAL STATUS: Married, wife, Dr. Lidia L. Selkregg; father of three children: Alicia, age 29; Sheila, age 25, Lief, age 19.

EDUCATION: B.S. in Law, 1951, University of Illinois Law School, Urbana, Illinois.

VETERAN: World War II, overseas service, North Africa, Sardinia, Corsica and Italy, 1941-1945. Honorable Discharge January 7, 1945. Disabled veteran.

EMPLOYMENT RECORD: June 21, 1970 - Present

1970 to Present Urban Environmental Inspector, City of Anchorage. Employed as Building Safety and Code Enforcement Officer under the Housing and Urban Development Program funded to the City of Anchorage. This involved code enforcement, demolition, development of low cost and low income housing and general relocation problems.

August 1, 1974 to September 15, 1974
Self-employed as Social Economic Consultant, d/b/a
1974 Applied Planning and Research Center.
Worked with local attorney Bob Goldberg. Conducted an investigation involving the tracing of missing heavy weight drill pipe embezzled from the attorney's client. Involved travel to Fairbanks and Kenai, recovery and working through corporate records of embezzler's defunct corporate files for evidence of transactions affecting the pipe that they had held under a lease contract with the attorney's client.

February, 1974
Self-employed as Social Economic Consultant, d/b/a
1974 Applied Planning and Research Center.
Attended special legislative session for appropriation of impact funding with reference to pipeline construction. Represented AHTNA Native Corporation. Attempted to get the legislative session to create a local quasi-governmental committee to be funded and staffed with proposed impact movies to implement the planning and program originally outlined in the document "A Background To Planning" on which we had worked in 1973 as one of the state's primary areas of impact.

March 1, 1973 to December 31, 1973
Self-employed as Social Economic Consultant, d/b/a
1973 Applied Planning and Research Center.
As a subcontractor of Alaska Planning and Management under contract with the Alaska Arctic Environmental Data Center of the University of Alaska, who were working under a H.U.D. funded program to prepare a data base for the AHTNA Native Corporation in preparation of land use and capital improvement planning. Made a survey of current development of existing services of both the public and private sectors. Assessed goals and needs of the area. Published a report, "Background To Planning", covering the area of land use and development planning in the Copper Valley area, which will provide a guideline to the Native Corporation for the development of programs for services under the Alaska Native Land Claims Act.

January 1, 1970 - June 21, 1970
Self-employed as Social Economic Consultant, d/b/a
1970 Applied Planning and Research Center.
Prepared a report on native housing in Alaska for M.I.T. Department of Architecture as part of the nation-wide study of Indian housing. Prepared final report for Alaska Federation of Natives Economic Development Grant ending FY-1.

February 1, 1969 - December 31, 1969
Supervisor: Emil Notti, President
1969-1970 Employed as Economic Development Coordinator under a Technical Assistance Grant from the Economic Development Administration. Worked with OEO-funded Development Boards and Native Associations representing six census districts of Western and Northern Alaska to develop two six-man Overall Economic Development Boards to initiate development planning and projects for implementation in two Overall Development Districts (the Northwest Economic Development and Planning District Census Districts 21, 22 and 23, and the Yukon Kuskokwim Economic Development and Planning District Census Districts 24, 16 and 17).

Worked with locally hired Native field planners resident in the districts (Kotzebue and Bethel); trained and coordinated their planning program and field work; developed a village survey form as a module to assess the viability of individual villages for economic development and village needs and priorities.

Worked with the field planners in organizing and preparing for Board meetings; instructed the two Native Boards in board responsibility, Robert's Rules of Order; provided technical assistance to the field planners and Boards in project development and developing planning objectives.

Worked with the field planners and Boards to develop overall area priorities and an Economic Development Plan; prepared work programs for the two districts for Phase II refunding grant based on area-wide priorities as determined by the Boards.

Worked with all Federal and State agencies providing services to Western Alaska to coordinate activities and economic development planning (BIA, FHA, HUD, ASHA, BLM, PHS, Rural CAP, CEDC, USGC, Corps of Engineers, Federal Field Commission for Development Planning, AVEC, State Departments of Education and Highways, Division of Aviation, RDA, Department of Economic Development, State Planning Office, State Office of Economic Opportunity, State VISTA).

Assisted Boards in writing Resolutionsand handled their distribution as the Board directed.

Prepared quarterly progress and activity reports to the Economic Development Administration Technical Assistance Branch.

Was responsible for overall budgetary supervision of the grant funds; wrote and prepared refunding application. The grant is on a matching 75-25 basis; developed contribution in-kind consultant assistance with two private architects and one mining engineering firm as well as with the University of Alaska, Institute of Social, Economic and

Government Research. Also obtained travel contribution from two State agencies (OEO, RDA).

Assisted field planners in negotiating with the cities of Bethel and Kotzebue for a contribution in-kind support of office space, equipment and utilities as called for in the initial grant.

Worked with Institute of Social, Economic and Government Research, the in-kind consultant to the initial grant; supervised and developed with them the area of input of their technical assistance.

Prepared three work projects and applications for a Western Inter-State Commission on Higher Education for student work-trainees, of which one was granted; shared in the supervision of his work in the village of Kotzebue.

Supervised an overall staff of five and two six-man boards. In charge of the total administration of the grant of $121,000.

Special Projects developed:

1. Salvage operation of military site at Tin City for materials to be used at the villages of Wales, Brevig Mission and Shishmaref.

2. Worked with Yukon Delta Fish Marketing Cooperative to prepare EDA application for freezer barge.

3. Worked with the villages of Selawik and Emmonak to develop application for village complex.

4. Prepared refunding application including Work Program for both districts.

1967-1968 Level 14, Acting Postmaster, Anchorage Post Office, Anchorage, Alaska 99501. I received temporary appointment, lasting 20 months. Supervised a complement of 335 employees of the Anchorage Sectional Center Facility. The Anchorage Post Office, which is a Sectional Center, has seven classified branches, six contract stations and two rural stations. The management functions include direction of a supervisory and management staff of 18 at the Airport Facility and nine in the other branches. As acting Postmaster, I had total accountability of $1,577,991.79. I directed a postal fleet of 91 vehicles, and a carrier force of 114 people.

1958-1967 Owner-Manager, Selkregg & Son Adjustment Company, 519 8th Avenue, Room 207. Founded November 15, 1958. Staff: Two secretaries, one adjuster. Independent insurance adjuster representing solely insurance companies in Alaska.

1953-1958 Employed as an insurance adjuster by various insurance companies, independent insurance adjusters and attorneys doing investigatio and handling claim settlement in all lines of insurance in Illinois.

1945-1953 Completed college education, entered Law School in 1949. Obtained B.S. in 1951. Continued additional law study in Illinois and Washington, D.C., until 1953. Wrote the Illinois Bar in 1953.

1945-1947 Employed as War Department Civilian following discharge in Italy. Clerk Fiscal and Administrative Assistant. Direct supervision of Peninsula Base Section (PBS) Italian personnel at Foggia and Leghorn. Wrote PBS employment policy manual. Prepared surveys of Italian industries, Florence, Pisa, Leghorn area, to determine prevailing wage rates paid by the different trades to the end of determining PBS wage scale and employment policy. Also in charge of preparing payrolls and administrator of both Italian and American Civil Service Personnel.

* * * * * * *

Attached is a resume of my civic activities.

RESUME OF VIC ACTIVITIES

1. 1957-1958, Chairman for the Social Action Committee of the Unitarian Universalist Church.
We cooperated with the local league of Women Voters to bring about integrated lunch counters and barber shops on the campus of the University of Illinois and Towns of Champaign and Urbana. Also organized a boycott against business establishments who practiced discrimination in hiring. Also conducted a study of housing conditions preparatory to pressing for construction of public housing in Urbana. Also started a surveillance of township board meetings and worked to bring about government reforms.

2. 1958, Chairman for the Clothing Drive for the Hungarian Refugees for the Coordinated Universalist and American Friend Service Committee.
This committee operated inside Communist Hungary at the time of the revolution. I conducted the collection of 10 tons of clothing, county-wide, which were sorted, packed and shipped by volunteer truckers to New Jersey for overseas shipment to go inside Hungary.

3. 1959-1960, Unitarian Universalist Church Social Action Committee.
This was organized as a unifying group. It has been found that many of the people active in such organizations as the Mental Health Association, League of Women Voters, Civil Liberties, NAACP, and other socially conscious associations were fragmenting their efforts in such proliferation and that one unified group could, considering the size and population of this area, do a more effective job of furthering the ends of all these areas of concern. During 1963, this group sparked the effort which culminated in the approval for construction of 150 units of low income housing. During the year I was president, we worked for the creation of a Native Community Center in conjunction with the Cook Inlet Native Association, which was promised fruition as a part of the park that is to be developed for the Alaska Centennial Exhibition this year. This program is now pending before the Greater Anchorage Community Action Agency for funding. We were also pushing for a volunteer Planned Parenthood Clinic, an issue which changing official governmental attitudes, is making somewhat unnecessary.

4. 1959-1960, and again in 1962-1963, President of the Anchorage Unitarian Church.
During my first tenure our fellowship was instrumental in sparking, through a community-wide group known as the Anchorage Youth Action Committee, the creation of the Youth Retention Camp for underprivileged and delinquents under State auspices at Kings Lake, Wasilla, Alaska. Members from our fellowship were instrumental in coordinating the Alaska Mental Health Association, the Alaska State Department of Health and Welfare, the League of Women Voters and other socially conscious groups, bringing pressure to bear creating this camp which was the first of its sort in Alaska under the Youth and Adult Authority of the Alaska Department of Health and Welfare.

5. 1962-1963, Chairman of the Joint Committee of Low Cost Housing.
Growing out of action of the Anchorage Fellowship for Social Justice, for which in the Fellowship I was Chairman for the Committee on Housing. I was instrumental in setting up a community wide group involving repre-

sentatives from the Veterans organizations, the Labor organizations, the Department of Health and Welfare, Salvation Army, as well as the various business and State Legislatures. This committee was successful in applying sufficient political action and pressure to work on change in the membership of the City Council which had once turned down this proposition. It will be recalled that in the council election of that year, one of the main issues was whether the council would support the construction of 150 low cost housing units. The newly elected council did finally pass a cooperative agreement with the Alaska State Housing Authority for the construction of 150 units. The new Loussac Manor off "C" Street is the first 50 units of development implementing this program.

6. 1962-1963, Vice Chairman of the Citizens Committee for Chester Creek Drainage Area.
Until the passage of the referendum for the local Borough Government, there existed a political limbo in the urban areas immediately outside the Home Rule City of Anchorage. In the Muldoon-DeBarr area a recurrent flooding condition had caused health and property hazards. The committee arose from a community protest meeting in the winter of 1962 at which Attorney General Hodges and the Governor met with the citizens of the area to attempt to marshall some State action to come to their assistance. The committee was formed and I was appointed Vice-Chairman. In a period of two months, a series of meetings were held at my residence. Invited to testify before the committee were the Highway Department Regional Supervisor, Director of the Greater Anchorage Health Board, Director of the Alaska State Civil Defense, School Board representatives, military representatives, District Engineer representatives and several City Councilmen. From this testimony and in cooperation with the Local Affairs Agency, we were able to pull together voluntary engineering help and conducted a survey which resulted in a report and recommendations for the creation of a service area on the State Legislature's acting as the Unorganized Borough Assembly. The service area was to establish a draining district in the Greater Anchorage area to resolve the drainage problems and alleviate the flooding conditions during the winter. This report included specific immediate engineering recommendations. The proposal was rejected at a public meeting because of the increased taxes which it would cause. This report, however, continues to be a basic document which is being used by the Borough and City in their present program of sewer expansion.

7. 1962-1965, Member of the Greater Anchorage Board of Health.
I was appointed to the Board on the resignation of one of its members in 1962 and attended meetings regularly until its dissolution with the coming of the health power as a borough function. I have since been reappointed to the Borough Board. Our role was to review the administration of the Greater Anchorage Health Department which controls the sanitation and the Anchorage milk shed. It does all the water and sewer inspections for FHA. It also inspects food, food handling and handlers, barber shop and beauty shop sanitation for the city. The members of the Board determine policy and review the budget. It reviews the basic functions as reported by the different sections of the Department at monthly meetings.

8. 1962, Chairman of the Sub-Committee on Apportionment of the Greater Anchorage Borough Steering Committee.

A citizens committee nominated as the Steering Committee for the Greater Anchorage, Kenai Peninsula and the Matanuska Valley meetings were held all through the winter of '61-'62, up into the spring of 1962, considering different proposed functions of government, tax structure, implementation of planning and zoning, take-over of the schools, method of election and representation to be included in the newly to be created borough government. I served on this committee as Chairman of the Subcommittee on Apportionment. This committee's duties were to amass information in reference to population and census with the view of determining the number of representatives there were to be in the various election or voting districts and the proportions between the City of Anchorage proper and other first class cities and the rural and urban areas outside the city. I was also invited to address all sections of the government classes at East Anchorage High School on Borough government during the fall of that year.

9. 1963-1964, Secretary; 1964-1965, President; 1965-1966, Program Chairman, Alaska Adjusters Association.
This is a trade organization made up of the independent and company adjusters working in Alaska.

10. 1962, 1964 and 1966, stood for Nomination to the Democratic Ticket for the State House of Representatives.
As part of my campaign, I advocated the development of the State's Human and Natural Resources. In this reference, I advocated a State Survey. This survey was to be separated actually into three separate surveys. This institution would be independent from the University of Alaska and the other departments of the State, but it would be located at the University campus to take advantage of the University's staff and potential graduate students. The purpose of the survey would be to mount a continuing academic study in three areas: Geological, Natural History (flora and fauna), and Economics, to the end of learning exactly what is our development potential and what market our raw materials might enjoy. In terms of human resources, I advocated, in reference to our Natives, an end to paternalism of the BIA and the integration of the BIA school system into that of the State with proper federal assistance. The economic integration of the Native population would be part of the direction of the studies I advocated for the surveys.

11. 1963, Publicity Chairman of the Borough Information Committee.
This committee grew out of the petition circulated by the Greater Anchorage Borough Steering Committee. The petition, which they circulated, presented a proposal for submission to the voters after the necessary signatures were amassed, that would place it on the ballot. This committee was formed in coordination with the Republican Club, the Greater Anchorage Democratic Club, and the League of Women Voters, to do a voter information job of getting the story of Borough government out to the people. I acted as Chairman of the publicity committee for the effort.

12. 1963-1964, Vice-Chairman of the Heart Fund Drive of the Anchorage Chapter of the Alaska Heart Association.
Acting as Vice-Chairman of the drive, I was given specific responsibility to contact and canvass all the large firms and the larger contributors.

13. 1963-1966, Chairman, Alaska Human Rights Commission.
As a result of legislation passed in the 1962 Legislature, a Human Rights Commission was created giving it exclusive authority for the implementation and enforcement of human rights legislation already on the books in the field of employment, housing, public accommodations, legislation against discrimination in the area of race, national origin, sex, or age. The Governor appointed a five man board by which I was elected Chairman as one of the five commissioners. We administer a budget which is funded through the Governor's office. We have a staff recently increased to three by the last Legislature. We have followed a policy of meeting about four times a year, in different sections of the State, reviewing cases, hearing testimony, and planning policy. During our Southeast meeting in Ketchikan, I was able to attend the Alaska Native Brotherhood Encampment at Kake, Alaska, where as Chairman of the Commission I was invited to address the encampment. We also traveled to Bethel to meet with Native chiefs on the Native housing problem. This gave me an opportunity to visit many of the Native villages. This past year also saw the commission sign cooperative agreements with several Federal agencies and the Department of Defense, greatly extending our jurisdiction. We also guided a revision of the Alaska Law in this area, putting it under its own title head in the Code Books. The revision also extended its provisions into new fields, such as banking and lending agencies.

14. 1963-1970, Charter Member, Cook Inlet Native Association.
As Chairman of the social action work of the Unitarian Universalist Church and as Chairman of the Alaska Human Rights Commission, work done with Nick Gray and Emil Notti was instrumental in creating Cook Inlet Native Association, which is one of the many forces within the Alaska Federation of Natives. Emil Notti, then President of Cook Inlet Native Association, was elected President of Alaska Federation of Natives and initiated the drive for land grant settlement.

15. 1964-1970, Anchorage Welcome Center.
The concept of a Welcome Center was born as a result of the initial efforts of the Unitarian Universalist Church's social action area. Along with Nick Gray and members of the Fellowship, we did initial exploratory work for possible funding. Finally, in 1967, culminating the joint efforts of the Fellowship and Cook Inlet Association, a Welcome Center came into being with funds coming from Rural Community Action Agency and Greater Anchorage Community Action Agency, as well as local subscription. I was a sustaining member of the Welcome Center shortly after it came into being.

16. 1965, participated as an Advisor in my capacity as Chairman of the Alaska Human Rights Commission and also as the father of one of the participants in the survey of Discrimination in Rental Housing.
This survey was conducted by Alaska Methodist University students in Dr. James Parsons' class of Social Psychology, the winter of 1965. The results of this survey revealed that some degree of discrimination existed in 93% of the rentals contacted, was presented to the CCCI. These results prompted them to recommend to the Anchorage City Council the creation of a Human Relations Committee. The recommendation was acted upon favorably by the Council and the CCCI has allotted a subcommittee on minority housing.

17. 1965-1966, Alternate Representative for the Alaska Human Rights Commission on the Civilian Military Equal Opportunities Committee.
The group arose out of the spontaneous action and threatened demonstrations by the local Negro community expressing resentment at the hiring practices of the local military establishment. In response to threatened developments, the Defense Department sent to Alaska a fact-finding team, whose efforts culminated in the creation of the Civilian Military Equal Opportunities Committee, with representatives from the NAACP, pastors of the several Negro churches in the community, Civil Service Commission, the Chairman of the Local President's Advisory Committee on Equal Opportunities and the Human Rights Commission.

18. 1964-1965, Member of the Local Manpower Training and Development Advisory Board.
With the development of the vocational school under the administration of the local Anchorage Community College, an effective Manpower Development and Retraining Program was instituted. In the winter of 1964, pursuant to national directives, the advisory committee was re-organized and I was appointed. I was instrumental in getting specific Federal legislation changes made to allow greater funding for Alaska, particularly in connection with travel and subsistence while attending courses offered here in Anchorage. This was in recognition of the particular problems related to distances in Alaska. We also have been able to convey to the director and supervisor in On-The-Job Training Program that Alaska minimum average course costs must be recognized as higher. We have also pushed for these programs to be more meaningful for the target recipient of OEO. The general duties of the committee are to set policy and review the justifications and research development of the different courses and program offerings.

19. 1965 to 1968, Greater Anchorage Inter-Agency Council.
Chairman, Nominating Committee, 1965; Second Vice President and Program Chairman, 1966. Represented Alaska Human Rights Commission. Attended meetings regularly since November, 1965.

20. 1965-1972, Greater Anchorage Borough Health Board.
The Greater Anchorage Borough Health Board was carried over from the Anchorage Health Board, a quasi-governmental agency, formed in three parts: the State, City and Spenard Utility Districts. It was reconstituted as Greater Anchorage Borough Health Board, with the acquisition of the health power in 1965. I have attended monthly meetings setting health policies and reviewing health ordinances promulgated by Greater Anchorage Area Borough.

21. Anchorage Family Counseling Agency.
During 1966 and 1967 I remained active with a group of interested people who are attempting to set up a local agency which would provide family counseling services to the community. The National Family Counseling Association recommended against federal funding. Therefore, without funds of any kind we were not able to make the organization a success. Through my activities in the Human Rights Commission, Alaska Rehabilitation Association and Inner Agency Council, I feel that the prime concern of our community centers in the family where there is juvenile delinquency, high divorce rates, poor financial management, unemployment or alcoholism. At present, we have no agency that would aid these families to create a strong family unit. I, however, am sorry to say that two years of effort in making this agency move has been met in frustration.

22. 1966-1967, Alaska Rehabilitation Association.
As a member, I felt that the Alaska Rehabilitation Association was one of the most viable self-help agencies in the area. It was a non-profit organization, and conducted two homes for disturbed children. It provided a work experience program, in terms of the Tundra Club as a restaurant at the Public Health Service Hospital. It trained the handicapped in food services. It collected tuition from the State office of Vocational Rehabilitation. Still more, it ran a bus service for OVR patrons. It also explored the possibility of a sheltered work shop in the area.

23. 1966-1971, Board member of the Greater Anchorage Community Action Agency.
At first representing the Anchorage Inter-Agency Council and more recently the Greater Anchorage Board of Health. This spring I was elected Treasurer of GACA. This agency administers all the War on Poverty programs in the Anchorage area, such as Head Start, Neighborhood Community Centers, etc. which provide social service outreach.

24. 1967-1968, Member, Federal Government Accounting Association.
This is a group made up of Comptrollers and top fiscal and accounting personnel of the various government and military agencies in the Anchorage area. They meet monthly to exchange views and information on new accounting procedures, processes, and government policies. It is a professional organization which invites speakers from various fields to bring information about problems and programs, discussing where they relate to the resources and manpower levels.

25. 1967-1968, Member, Steering Committee of the Local CAMPS Group.
(Comprehensive Agency Manpower Planning Systems)
This is a new thrust directed by the President's Budget Committee that says before training funds would be allocated to a government agency, there would have to be a local planning and coordinating group to eliminate duplication of funding. The CAMPS organized to develop a state plan among the agencies. As a result of a seminar on CAMPS conducted by the local CAP group, where a Mrs. King of the funding section of OEO in Washington addressed representatives of the local Federal agencies, this group was born.

26. 1967-1970, Board Member of F.U.T.U.R.E. (Finding Undeveloped Treasures Uniting Resources to Educate.
This group was interested in developing Day Care Centers and Child Development Programs to relieve working mothers. Presently, I am serving as Vice President of the group. We hope to have the program funded in the very near future.

27. 1967-1970, Society for Personnel Administration.
This group acts as a sub-committee on personnel matters for the Federal Executive Association. Membership is comprised of all the Federal, State and City personnel managers in the Anchorage area. Monthly meetings provided a liaison in terms of job skills, manpower needs, and training programs in both service oriented and mission oriented agencies.

28. 1968-1969, Member of the Policy Committee of the Federal Executive Association.
As Acting Postmaster I was participant in the Federal Executive Association and in the spring of this year I was elected by the membership to

the policy committee. It was the function of the committee to line out the programs and the areas of concern in which the Association would be involving itself. One area of continuing concern was the Native hire program. Also they were pushing contract compliance in Equal Employment Opportunity. I served as the Policy Committee's liaison to the OEO Subcommittee of the FEA.

29. 1968-1971, Alaska Planning and Evaluation Center (APEC).
APEC was a concept designed to provide planning and evaluation services to the Community Action Agencies in Alaska. There is an office of Economic Opportunity directive to the effect that all OEO funded agencies must allocate 3 percent of their funds for evaluation purposes. Combining these funds with $60,000 as average agencies planning grant, a most effective job can be achieved by combining the money to provide services to all the agencies. As representative of the Greater Anchorage Community Action Agency on the APEC Board, I was elected Treasurer of APEC.

30. 1970, Chairman of the Nominating Committee for Greater Anchorage Area Comprehensive Health Planning Council.
This group was named by the Borough Chairman to prepare an application for health planning coordinator to come up with an areawide health plan to be plugged in to a State plan for Alaska. My participation on the Council is as a member for the Greater Anchorage Borough Health Board.

31. 1970 to present, Member, Planning Association of Alaska (PAA).
Group of professional planners who meet periodically to exchange information on planning efforts in the various communities and governmental entities of Alaska. Instrumental in developing a curriculum of planning at the University of Alaska. Also lobby for legislation in the field of land use development and good planning law in the State.

32. 1974, Member of the Borough Mayor's Citizens Advisory Committee for Comprehensive Planning.
As the President of the College Park Improvement Association, a homeowners group in our subdivision, I was invited to sit on the Citizens Advisory Committee to work up goals and programs to meet citizen demand for development of a Comprehensive Plan for the Greater Anchorage Area Borough to plan for land use, capital improvements, growth levels and the quality of life within the urban scene. As part of the planning process, met with various groups to develop neighborhood councils to provide for continuing input into local government and planning.

33. 1974-1975, Alaska Mental Health Association.
Advocacy group for the public concerns of mental health problems. Worked for expanded state funding through the Department of Health and Welfare Division of Mental Health to establish community based Mental Health Clinics. Conducts various fund raising efforts to fund program. Provides referral service to public in need of assistance. I, as a board member, participated in various seminars of a joint program on child care concerns sponsored jointly with Family Service Agency. Elected in 1974 as President-elect of Association for 1976.

34. 1975, Governor's Task Force for the Division of Mental Health.
As one of the twelve members chosen fromthe Board of Directors of the Alaska Mental Health Association, was appointed to this Task Force to provide citizens advisory input into developing policy and legislative goals with reference to the State Division of Mental Health program so

as to meet state needs in this area. They will be meeting four times a year. I attended the initial meeting held in Juneau on February 24 and 25, 1975.

The attached comparison of the House and Senate Ombudsman bills was prepared for the FCC by the local chapter of the American Society for Public Administration.

AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

SOUTHEAST ALASKA CHAPTER
Box 292 Juneau, Alaska 99802

March 14, 1975

Hon. Mike Miller
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Representative Miller:

This committee of our association has taken the respective Senate and House versions of S.B. 1, establishing the Office of Ombudsman, under study and advisement. Attached you will find our conclusions, recommendations and the reasoning behind them, with regard to the differences between the two versions.

May we ask you to note that with regard to all issues where we have concluded that one house's version is as valid as the other's we have not made a recommendation? Also where both houses have clearly manifested their disposition on particular issues we have made no further recommendations. Finally we want you to know that this report comprehends only those issues upon which this committee could agree unanimously.

Thank you for your courtesy and attention.

Sincerely,

Donald P. Fisher
Chapter President

Robert E. Newton
Ombudsman Committee Chairman

Stephen J. Pearson
Ombudsman Committee Counsel

Gary E. Wilson
Ombudsman Committee Member

Attachment

AS 24.55.020

AS 24.55.020 provides for the manner of selection of the Ombudsman. The Senate version provides for nomination by the Senate Rules Committee, and selection by a majority vote of the members in each house, the House version provides for nomination by the Legislative Council, examination by "appropriate committees," and selection by a three-fourths majority vote by the members in each house.

As an initial matter, it might be advantageous to have the house participate in the nomination as well as in the selection of an Ombudsman. Such participation will tend to expedite the selection process by causing persons to be nominated who are more likely to be acceptable to both houses. For this reason we tend to favor nomination by the Legislative Council (comprised of members of both houses) as specified in Section 020 (a) of the House version.

On the other hand, given that the Legislative Council is composed of members from each house, and given that the Legislative Council will presumably examine potential candidates for the office in some depth, it is uncertain whether further examination by "appropriate committees" of each house, as specified in Section 020(b) (1) of the House version is necessary. The principal impact of this provision in the future may simply be to delay selection of a candidate acceptable to a sizeable majority of the members of each house, and perhaps even to permit a single member or a small minority of members in the Legislature to block selection of a well-qualified and desirable person. For this reason, it may be desirable to have the Legislative Council present the nomination before both houses without prior referral to standing committees. If further examination is required the Legislature presumably may refer the matter back to the Council or perhaps an ad hoc committee established for such purpose.

It is noted that approval by a three-fourths majority is required by the House version whereas a simple majority vote is sufficient in the Senate version. Although there is much wisdom in insuring that an Ombudsman be acceptable to a broad range of persons and interests as reflected by the memberships in both houses, it is feared that requiring three-fourths majority approval may entail undesirable consequences in the future. Selection of a candidate may be blocked by a distinct minority of the members of the Legislature.

Section 5 of the ABA Model Act and Section 92-6 of the Hawaiian Ombudsman Act each provide for approval by a two-thirds majority. It is believed that such a voting requirement may provide an appropriate,

compromise between the two versions: it will guarantee selection of an Ombudsman acceptable to a diverse group of interests; yet it would not empower a small minority to veto the choice of any candidate.

Subsections 020(c) and (d) of the Senate version, permitting the Governor to veto an appointment for reasons stated, would seem to be a wise inclusion. As a practical matter, the Ombudsman's effectiveness will be enhanced to the extent that he receives the cooperation of the Governor's office. For this reason, the Governor should be given an opportunity to express any serious objections in respect to a particular person selected by the Legislature, subject of course, to the Legislature's power to override his veto. It is therefore recommended that the foregoing subsections be included.

AS 24.55.030

As 24.55.030 in each version prescribes the qualifications for an Ombudsman, and proscribes specified political activities. The proscriptions against political activities are identical in each version and should be retained to promote the non-partisan nature of the office. Differences in the prescribed qualifications in the respective version, however, may warrant further consideration.

As a preliminary matter, it may be noted that Article II, Section 2, Article III, Section 2, and Article IV, Section 4, of Alaska's Constitution specify the limitations on eligibility of persons to serve in the Legislature, as Governor, and on the Supreme and Superior Courts, respectively. To the extent that Subsection 030(a) (2) of the House version imposes additional limitations on the eligibility for holding such offices, the provision may become subject to constitutional challenge. Similarly it is questionalbe whether a State may directly impose limitations on eligibility for national office, as Subsection 020(a) (2) of the House version purposes to do, except, of course, to the extent federal legislation so permits.

In view of the foregoing reservations, it is believed that the Senate version of Subsection 020(a) (2) should be preferred insofar as it is not subject to the problems noted above. For similar reasons, the House version of Subsection 020(a) (1), prescribing a one-year period of ineligibility of former legislators to hold the office is to be preferred to the two-year period specified in the Senate version, insofar as the House version conforms more closely to the disqualification provisions of Article II, Section 5 of Alaska's Constitution. The language of the House version might better be modified so as to mirror the language contained in the Consitution and thereby preclude any potential constitutional challenge in the future.

AS 24.55.060

AS 24.55.060 prescribes the compensation to be paid the Ombudsman: a salary equal to that of the Chief Justice of the Supreme Court under the Senate version; a salary equal to that of a Superior Court judge under the House version.

It may be noted that both Section 207 of the Harvard Model Act and Section 9 of the ABA Model Act provide for a rate of pay commensurate with that of a chief judge of the highest court in the state. The Hawaiian experience, however, indicates that a rate of pay equal to that of a judge of an intermediate court is adequate to attract highly qualified candidates and to lend sufficient prestiege to the office. See e.g., Section 96-2 of the Hawaiian Act. Accordingly, it is recommended that a rate of pay equal to that of a Superior Court judge be specified initially. If found to be too low, future amendments increasing the rate of remuneration may then be considered.

AS 24.55.160

AS 24.55.160 in each version of the bill relates to investigatory procedures which may be used by the Ombudsman. The only difference between the versions is the addition of a Subsection (b) in the House version which provides that the Ombudsman shall maintain confidentiality in his investigations except insofar as disclosure is necessary to enable him to carry out his duties and support his recommendations.

Subsection 24.55.160(b) in the House version should be given particular attention. There is no such provision in either the Harvard or the ABA Model Acts, in the bill which the ASPA Ombudsman Committee drafted, in H.B. 45 which the Governor sent down to the Legislature, in the original version of S.B. 1, in S.B. 1 as it passed the Senate, or in House Judiciary Committee Substitute for S.B. 1. It first appears in House Finance Committee Substitute for S.B. 1, the measure which the House adopted.

The confidentiality provisions of AS 24.55.160(b) in the House version are found in the Hawaii Statute, Section 96-9(b) in almost exactly the same form. Our committee was aware of this when we submitted our original draft. Out thinking at the time was to the effect that it was unnecessarily restrictive of the Ombudman's authority to publicize a complaint whenever he thought that the best way to bring a complaint to a speedy resolution. We noted that the Harvard Model contained no such restriction. (We had not, as yet, received the ABA Model).

Upon consultation with Hawaii Ombudsman Herman S. Doi, we are now persuaded that AS 24.55.160(b) in the House version is very much needed, that we had previously misunderstood its relationship to the functional dynamics of the Ombudsman's office, and that without it the speedy processing of citizens' complaints could be seriously impaired by premature media inquiries. This provision establishes strict and defined legal parameters on the Ombudsman's authority to publicize. Until a complaint has been determined by his office to be meritorious, the complaint has been investigated, he submits a proposal to the agency for resolution, and the agency refuses to comply with his recommendation, the Hawaii Statute imposes on the Ombudsman and his staff strict standards of confidentiality. It should also be noted that in cases where agencies do comply with the Ombudsman's recommendations, confidentiality extends in time beyond the resolution of the case regardless of the nature of the complaint and the abuse, malpractice, etc., that has been resolved. It should also be noted that, as a matter of historical fact, the Hawaii Ombudsman has not publicized a case during the five and a half years the office has functioned. Similar to his subpoena powers, the authority to publicize would seem to draw its potentcy from its existance rather than its use.

AS 24.55.170

The House version contains a Subsection(c) which affords the Ombudsman access to confidential documents which is not contained in the Senate version.

As a preliminary matter it should be noted that the subject matter of the Ombudsman's complaint load which requires investigation coincides frequently with those sensitive areas such as health, education, social services and criminal justice administration wherein, in recent years, extensive efforts have been made to protect individual rights of privacy. More often than not, the Ombudsman could gain speedy access to confidential records through a waiver of his rights of privacy by a complainant who has sought the assistance of the Ombudsman to redress a grievance. Too often, however, this would not be the case, e.g., an adoption contest in which the disappointed party would approach the Ombudsman's office with an allegation of administrative malpractice or abuse.

The Ombudsman's function is also to ascertain patterns of administrative malpractice and to extend his investigation beyond the parameters of a particular case when he determines that not only an individual complainant, but also an entire class of complainants are being subject to some administrative abuse or malpractice. For these reasons, it is recommended that Subsection(c) in the House version would better serve the purposes of the bill. The confidentiality provisions of AS 24.55.160(b) should protect sufficiently individual rights of privacy.

In addition, AS 24.55.170(c) makes the disclosure of statutorily defined confidental information punishable under AS 11.30.240. This provision not only protects individual rights of privacy, it also protects the Ombudsman and his staff from undue public inquiry, and thus tends to strengthen the purposes of the bill.

Conversely, prior judicial approval before the Ombudsman could have access to confidential items of information might substantially impair the purposes of the bill. An ombudsman's effectiveness is measured by the number of cases he speedily resolves with a small staff. This provision imposes on the office cumbersome and time consuming judicial processes which would seriously delay the processing of cases. There may well be, however, a scrutinizing role for the courts to play under Sec. 24.55.200.

AS 24.55.200

The Senate and House versions are very similar, the House version including a grand jury among those parties to who the Ombudsman may report his opinions and recommendations in a case.

A cross reference to the provisions of AS 24.55.170(c) in the House version might better clarify the bill as to the restrictions on the Ombudsman's use of items of information defined by statute as confidental. If these restrictions are not to be absolute, prior judicial approval should be a condition to any exceptions. Whether there should be exceptions with regard to the Ombudsman's reporting his opinion to the Governor, the Legislature or grand jury, this committee has not reached any conclusion. Exceptions with regard to the divulging of confidential information to the public, we think, might seriously jeopardize the integrity of our confidentiality statutes and, in addition, would in no manner serve the purposes of this bill.

AS 24.55.320

There are two significant differences between the Senate and House versions. The Senate version extends the Ombudsman's jurisdiction to municipal government while the House version does not; the House version extends the jurisdiction to judges themselves as well as to the administrative personnel of the Alaska court system, while the Senate version does not include the judges themselves.

This committee views the municipal jurisdiction issue as a dilemma which, at this time, might just as reasonalby be resolved one way as the other. The interfacing of state and local government is such that we feel strongly that the municipal jurisdiction is essential to achieve the purposes of the bill. Conversely, the jurisdiction which the bill confers is already more broad than that conferred on any Ombudsman in the United States. Conferring the municipal jurisdiction at this time might overburden the Ombudsman in the initial years as the office is being established. Additionally, within our knowledge municipal officials and their formal associations have not been appropriately consulted during the drafting stages of this bill.

With regard to the Ombudsman's jurisdiction over the judicial branch, this committee views the Senate version as charting a more prudent course to attain the purposes of the bill. Article IV, Section 1 of Alaska's Constitution confers a broadly stated independence upon the Alaska judiciary. Ultimately the jurisdiction of the Ombudsman over judicial personnel will extend only as far as a majority of the Alaska Supreme Court is willing to allow it to extend. We think there is a lively prospect that the Alaska Supreme Court will accept the jurisdiction which the Senate version confers. If this should ensue, then the administrative acts of the courts will be open to as much scrutiny as those of the executive branch, and insofar as it lies with the Ombudsman's capacity to remedy abuses, this field will be open to him.

Professor Robert E. Newton: We have a few minutes here before we go into our panel session, and in view of the fact that this wonderful gentleman who has come over here to give us the benefit of his experiences is only going to be with us for a relatively brief moment--we have had this hour; it is five years now that he has filled this capacity in the State of Hawaii--I would certainly like to provide anyone in the audience right now the opportunity, with your permission Mr. Doi, to ask a few questions. We have a member of the state legislature over here. Would you please identify yourself, sir?

Representative Charles Parr: Yes, I am Charles Parr from Fairbanks. Mr. Doi, one thing that you said disturbed me a little bit. You repeated a number of times and you kept saying the law is a standard, in accordance with the law and regulations, etc., but wouldn't there be a rather large number of complaints which might be justified and yet, which would not be expressly legal. For example, consistent discourtesy on the part of some member of the administration or a state employee, let's say, which is unjustified and yet which may not be specifically prohibited by law and regulations.

Ombudsman Herman S. Doi: I understand the impact of your question. In fact that is a good question. That is why I added equity and justice also. There are many cases in which the law does not specifically apply. However, in cases where you are measuring actual performance against what the law requires, then certainly the ombudsman cannot be a party to forcing or persuading the administration to do something that is illegal. In the case of discourtesy and this kind of thing it is just good common sense how a public employee should react to a situation. You also have to bring in good common sense equity and justice or some other broad standards in areas where the law does not apply.

Professor Newton: We have Lieutenant Governor Lowell Thomas with a question in the back of the room.

Lieutenant Governor Lowell Thomas, Jr.: I would like to ask Mr. Doi, if he hasn't covered this already earlier in his remarks--I came a little late--if he would tell us why it was that Hawaii did not include the executive branch within its jurisdiction of the bureaucracy.

Ombudsman Doi: In the original dr ft of the bill the Governor and his personal staff were excluded from the jurisdiction of the ombudsman. I think that the rationale then was that we do not want to get the ombudsman involved in political decisions or policy making at the highest level. The incongruity in our statute was that the mayor and councilmen on the county level and also the Lieutenant Governor were included. So last session we went to our Hawaii Legislature and recommended that the Lieutenant Governor who was also an elected official and the mayors and the councilmen from the various counties be excluded for the same reason that the Governor is being excluded, the Governor and legislators are excluded from our jurisdiction. If you read the writings on the ombudsman, I think, many of the political scientists who have studied the institution say the fastest way to kill off an ombudsman is to get involved in political matters or policy making which is the proper sphere of the legislature and the Governor. I hope that answers your question.

Professor Newton: Representative Mike Miller is on the left here and has a question.

Representative Mike Miller: I understand why it is that your state office does have jurisdiction over the cities and counties just as it has jurisdiction over the state government. Would you comment on how much your office is used by local people with complaints against local government?

Ombudsman Doi: The office of the ombudsman in Hawaii is not the only complaint receipt office really. There are many. For example, in the City and County of Honolulu which holds the bulk of the entire Island of Oahu which has about 630,000 of our 750,000 people. Their office of information and complaints receives about 13,000 inquiries per year. And these are usually service requests or calls for information and this kind of thing. Without that office I'd be dead. I couldn't handle that kind of numbers and in each of our counties we also have a person designated as a complaint and information officer on the county level and therefore our office is like an appeals office. If they cannot settle it on the county level, or they feel they have not been treated right at the county level after having exhausted the complaint office there, then they certainly can come to us, or if they refuse to use that office then they come directly to us also. But thank heavens for all of the supplementary complaint offices that are presently in existence. Otherwise we would not be able to handle all of the complaints that would otherwise come to us.

Representative Miller: Would you feel then that without a municipal jurisdiction having some sort of complaint handling mechanism, it would not be desireable to have the state ombudsman's office to have jurisdiction? Do I read your remarks that way?

Ombudsman Doi: The fact is that you may have, well the argument may be made the other way too, the fact that if you do not have a municipal officer designated as a complaint or information officer or someone who can do it, perhaps the fact that the ombudsman has a look at that problem in the municipality may encourage that municipality to have someone like that. So I'm not sure how to answer your question.

Professor Newton: Senator Huber in front please.

Senator John Huber: I understand that you are using a system that is quite a bit different than anybody else by allowing telephone information contacts. Have you gone so far as to use the inexpensive toll free number? Have you considered that?

Ombudsman Doi: Yes. The neighbor islanders use it. What we have done is we try to make our office as accessible as possible to the neighbor islanders as well as to the Oahu residents. So what we have done is we send our people periodically to the neighbor islands to take complaints in person. We also allow neighbor islanders to call us collect and all we do in that case is take their name, phone number, and address and than call them back through the state WATS system or Wide Area Telephone System to really reduce the cost to the state. So each call costs us about ninety cents to come in, just to get their name, telephone number and address. The rest of the conversation in regard to the particulars of the complaint, which is the bulk of the time that would be taken by the telephone call, is done through the leased state line.

Senator Huber: So they can actually get into you free of charge to them?

Ombudsman Doi: That is correct.

Professor Newton: Mr. Acker back here had his hand up next.

Mr. Guilford D. Acker: Both of the proposed pieces of legislation for Alaska have sections entitled "Investigations on the Ombudsman's Motion." Do you have a similar procedure and if so could you give us an example of how much you use it?

Ombudsman Doi: We have exactly the same kind of language. The ombudsman can move on his own motion. However, my personal philosophy has been that my primary obligation is to take care of specific complaints by members of the public. Really I have not had the opportunity as yet to exercise that option very much. We have tried in one or two cases to look at some of the problems that were raised by the newspaper and we have not found that route very fruitful. Many of the problems that are raised on that level are usually funding problems or problems of filling a position, or problems where necessary staff has not been authorized. I really get to a dead end at that point, because we cannot authorize the filling of staff positions or the creation of new positions. We really very rarely exercise our own motion in an investigation of a complaint. We have been too busy handling specific complaints up to this point.

Mr. Acker: If investigating one matter you uncover another matter, you would follow up on that?

Ombudsman Doi: Oh, very definitely. I think the benefit of broadening out an an investigation from a specific complaint is that you have already done the ground work. You have already determined the parameters of the problem, you have done the basic homework in regard to what the law requires, what the facts in the situation are. You're familiar with the rules and regulations of the agency and the practices and procedures, and from there you can broaden out much more successfully than you could going from top to bottom.

Professor Newton: Yes, Ma'am.

Ms. Shirley Kohls: When you are dealing with what the law requires, are you usually in the area of procedural law, or are you in the area of actual substantive law?

Ombudsman Doi: I think you get involved in both. In certain cases when I mention decisional law I think I am also talking about substantive law, so there may be a time lag between let's say a Supreme Court decision. To take a recent case where the Supreme Court ruled on student discipline, where if a child is being suspended for ten or more days, he has a right to a hearing. Fortunately our state provides hearings to suspended children who have been suspended more than five days. We have no problem there. But if our rules and regulations or our procedures in our schools do not provide for the same standards called for by the Supreme Court, I would certainly call the Department of Education to task. So it does involve substantive law as well as procedural law.

Professor Newton: The lady here is next, please.

Unidentified Lady: When you get verbal complaints or telephone complaints, how do you keep track of those? Do you tape record your conversation?

Ombudsman Doi: No, we do not. What we do is each staff member, and because we accept complaints orally by phone, we rotate our staff members on assignment complaint days. Each staff member, when he receives a call, records the call and he reduces that call to a complaint sheet form. Now the safety check in the system really is that when we inquire of an agency if it is a complicated case, we put our complaint in writing to the agency. In that case a copy of the letter of inquiry to the agency is also sent to the complaintant so he can see how we've stated his complaint. In a simple case you really do not need to put it in writing, so the staff member will usually pick up the phone, call the agency and find out what the facts are. And he reduces that telephone call also to notes. Now the complaintant is kept apprised of the development of the case, as it develops until it is finally concluded. All along the process he has the right to call and say, "Hey, you guys have misquoted me, or haven't put the allegations correctly." In cases where we, and this is one of the disadvantages, where the complaintant keeps shifting his grounds for complaint, and if that occurs more than once we ask the complaintant, "Would you please put your complaint in writing"? We cannot keep investigating a case as he shifts his grounds for complaint. We have had very few cases where that occurs. A final check is that I go through each case to be sure that we have done as much for each complaintant as we could. So the complaintant does have the check to see that we have correctly stated his complaint.

Professor Newton: The gentleman here, please.

Representative Glenn Hackney: Does Hawaii have a financial disclosure law for public officials, and if so, are you subject to it?

Ombudsman Doi: Yes, I am. To answer both of your questions simultaneously.

Professor Newton: The gentleman here, please.

Mr. Alfred S. Wakefield: What is your relationship with the press and the other means of communication as far as a specific complaint while you are investigating it to keep it from becoming a major issue which may not be justified at a future time.

Ombudsman Doi: Very good. Our statute requires that we keep the complaint confidential. Therefore we cannot discuss a complaint with the press while it is being carried on, or even after it has been concluded for that matter. Unless the ombudsman, himself, decides at the conclusion that the case has to be publicized. So, really, I get calls every once in a while where the press will call me up and say, "Say, I heard you got this kind of case, what's happening"? I will tell them that the statute precludes me even discussing the case with you. The complaints are confidential. That protects both parties. There is nothing to preclude the complaintant from taking our letters to the press and showing the press our letters and publicizing the case if he wants to, nor is the administrative agency precluded from doing the same thing. But the ombudsman is precluded from revealing what is happening to a complaint.

Mr. Wakefield: As a whole, how is the office looked upon by the press in general?

Ombudsman Doi: I think we have a pretty good working relationship with the press. They understand what our constraints are in terms of what the statute requires, and I think they have respected that constraint. They have picked up our annual reports and publicized what they thought were items that readers would like to see or read about. So basically the publicity about our office comes from our annual reports at the time they are published.

Professor Newton: Could I interject? How many banner headlines have you made?

Ombudsman Doi: I haven't counted--not that many.

Professor Newton: Dr. Price.

Dr. Betty Price: I got the impression from your last response that perhaps there were times when you felt that publicity was indicated. Has that occurred and in what type of case?

Ombudsman Doi: I think I was tempted to publicize one case at one time during the five and a half year history when I really felt that we had the facts and the law on our side. Before we went to publication, the case was resolved. So, really we have not had occasion to reach that stage where we've even threatened to publicize. We put our recommendation in writing and said, "We want a response from the agency as to whether or not the recommendation will be implemented within the stipulated period of time." We cited the sections in our law that authorizes us to do so and we stated in effect, that "We want your response. Why you would not implement our recommendation," in which case we were prepared to go to publicity and the recommendations were accepted.

Professor Newton: The lady over here is next, I believe.

Unidentified Lady: Have you ever used your power of subpoena?

Ombudsman Doi: Not yet. There has been one occasion when one public official questioned whether or not we had the right to get certain kinds of records and I referred him to the power that we had to subpoena records and the records came the next day.

Professor Newton: Jim Anderegg.

Mr. James Anderegg: Mr. Doi, how much of your workload involves environmental improprietiesof department heads or adverse decisions that the citizen wants redress on? Any?

Ombudsman Doi: A few, yes. We've had some cases like that. But where the law is not really clear, where the law is not very specific, and it applies to a particular situation, it would be very difficult for the ombudsman to publicize any case like that really. You must understand that the ombudsman is under the same kind of constraint as the administrator is under, in that, if the facts and the law in the case are not really in favor of the ombudsman, the ombudsman cannot really publicize that case. Why? Because if the facts

and the law are clearly on the side of the ombudsman and the administrator doesn't follow the ombudsman's recommendation, then certainly the administrator will look like a fool in such a situation. Right? However, if the facts and law are not on the side of the ombudsman, the ombudsman can likewise look like a fool if he publicizes the case. So it has to be a pretty clear cut case before he can go to publicity. And often times the use of a weapon that you may have, the ultimate weapon that you may have, is no longer a weapon if you continually use it. The fact that it is there should be sufficient without your having to use it. That's been my philosophy, at least.

Professor Newton: Stuart Hall, please.

Mr. Stuart C. Hall: Mr. Doi, you emphasized that you are an independent, non-partisan, legislative officer. I'm more interested in the maintenance of this independence, not only from the executive and judicial branches, but the legislature as well, even though you are appointed by them. Are your offices physically separate from those of the legislative chambers in the capital building or are they part of them? What is your recommendation on that particular score?

Ombudsman Doi: I'm in a separate building. In an old building for that matter, on the Iolani Palace grounds which is really separate from the State Capital. Although I was offered an office space in the State Capital itself, I refused, primarily because I did not feel that people would come to my office barefooted or in their dirty clothes--the state building is really too imposing for people to come in and really feel at home. So I preferred to stay in the old building. That's where I am presently. I think really the location of the office itself--some ombudsmen think it to be important that they should be in a private office building or a building other than the state office building. I've not found that to be a disadvantage in being in a state building and being separate from the legislature. I don't think anybody has accused the office of being the ploys of the legislators or the legislature. Now remember, I said as free as possible from political pressures. Right? You know they can cut us off every year when we submit our annual budget request to the legislature for inclusion in the legislative expense bill. But that's one thing you can't get away from. Not in our system, anyway. Unless you're going to have a continuing appropriation for the office of ombudsman, and that would certainly be something I would not recommend. I think the actions or inaction on the part of the ombudsman should be subject to the review of the legislature also.

Professor Newton: Yes sir.

Unidentified Gentlemen: Do you advertize your office and the services that are available and your location somewhere?

Ombudsman Doi: That's where the neighoor islanders have the advantage, I think, because prior to our sending a representative out to the neighbor islands, a paid advertisement is placed in the newspaper of the pending visit. Insofar as Oahu residents are concerned, I've made the Rotary, the speech circuit, luncheon circuit, and also spoken to so many groups as a way of publicizing the office that I'm just tired of going to lunches.

Same Gentleman: But these Rotary groups and groups like that are not the ones that your office was provided primarily to take care of?

Ombudsman Doi: You'd be surprised the way it carries from word of mouth, and that's really where you get your best referrals from. We've also taken the time of hitting the low income groups. I think the way we've gone about hitting the low income groups is to talk to the people who are advising the low income groups. So we've gone to the "II" Camp, we've gone to Legal Aid, we've gone to Public Defenders, all these people who have contact with the low income groups are the areas where we've hit. The other fruitful resource, suprisingly, is the government employee himself. Referrals are made to our office by government employees, in many cases when they themselves feel that they have gone as far as they could. And perhaps contact with the ombudsman with some high official in the department may be able to resolve that particular person's problem.

Professor Newton: We have the lady back there, Rosalie.

Ms. Rosalie Walker: Yes. You're aware that Alaska does have serious communications problems. In both our bills, in the section with regard to the investigation of complaints--I raised that question this morniny and it still bothers me. The ombudsman is given the priviledge of setting the time as to whether or not he thinks the complaintant has waited too long before making his complaint for investigation. Could you shed some light on that?

Ombudsman Doi: We have no such requirement or time limitation as to how old a complaint it that you cannot investigate it, however, I think even if it is worded that way, I see no difficulty. Because if you cannot get the facts of a situation, of a complaint, or there are no background information that is attainable, then certainly that complaint would be very difficult to really investigate. So, really, leaving it up to the ombudsman, I think, should not pose too great a problem. If I were placed in that position and certainly I would want to investigate any possible complaint that I could. It would be only in cases where I would not be able to get the factual background of a case, or would not be able to really investigate, then I would say that this complaint is too old to investigate. We investigated a case that stemmed from 1942, something like that, during my first year in office.

Professor Newton: The lady back here.

Unidentified Lady: I'm wondering, your first fiscal year, do you recall what your budget was, total operating budget?

Ombudsman Doi: I have it right here.

Same Lady: That will be for 1969?

Ombudsman Doi: 1969-1970, I think I was approrpiated around $100,000. I'll get the figure. Okay. The appropriation for the first fiscal year that I received was for $103,000, of which the ombudsman spent $90,000, $90,349.92, and then the second year the appropriation was $176,000, of which we spent $157,395. The third year the appropriation was for $233,000 of which we expended $159,760. The fourth year the appropriation was for $192,000 and we expended $157,595. The fifth year the appropriation was for $185,000

of which we expended $163,000. So we've always been below the actual amount that has been appropriated, and the amount that have been appropriated reflects the amounts of the request that we sent to the legislature and we've always gone in with the idea that look, we really cannot predict where this complaint load is going. Now we know we are asking for perhaps a little bit more money than we are actually going to spend. But we promise you that whatever we do not spend will be lapsed back into the general fund. And on this basis we have received the appropriation as required. So, I've had during that period of time, at least one standby position that I could fill, if the complaint load rose during that fiscal year to a level where we could not handle it with the staff we had.

Same Lady: The first year your staff numbered . . . ?

Ombudsman Doi: The first year I operated by myself, one secretary, and toward the end of the fiscal year we hired and trained three additional secretaries--three additional staff members if my recollection is correct.

Same Lady: And presently your staff includes . . . ?

Ombudsman Doi: Presently my staff includes six professionals, including myself, and four secretaries for a total of ten.

Professor Newton: Yes sir.

Unidentified Gentleman: Mr. Doi, how often do you make referrals, for example if someone complains about a matter that could be handled by the state human rights commission, or it could be handled by some existing agency, do you normally refer or do you sometimes take it yourself anyway, or what?

Ombudsman Doi: In practically every case that we receive, I think it depends a lot on how the complainant comes to us. If he's real irritated and he's really furious at that point, then the researcher makes up his mind, well maybe it's not a good idea to refer this guy some place else, especially if his complaint is that, "I've been referred all over this damn place, you know, nobody's going to take care of me." So in those cases, I think, we accept the complaint at that point, but in the usual case, we usually ask the guy, "Have you tried to resolve this problem with the affected agency"? And if he says no, we tell him, "Will you please call this person in the agency and tell him the ombudsman referred you to him to try to work the problem out." In many cases the complainant is more than willing to do so and he will then call the administration and try to work the problem out. But we always tell the complainant, "However, if you cannot resolve it or you feel you have not be treated right, then you certainly can come back to us and we will pick it up from there." But we try to urge complainants to try to deal with their problems with the administrators before filing a complaint formally with our office. I think that is one way for them to learn government also.

Professor Newton: Jim Dennis.

Mr. James M. Dennis: Are these referrals back to agencies that you're talking about, are those reflected in your figures for cases within your jurisdiction?

Ombudsman Doi: No.

Mr. Dennis: What is the magnitude of referrals?

Ombudsman Doi: I would not be able to say, Jim, simply because we have not kept statistics, but the instruction to all my staff members are: "Please tell the guy to go back to the agency and see whether or not he can resolve the problem. But we don't keep statistics on that, unfortunately.

Unidentified Gentleman: Do you ever refer matters to an agency's legal staff, asking that agency to conduct its own investigation and report that back to you?

Ombudsman Doi: There have been some cases like that. I can think of a few where there has been some alleged wrong doing on the part of a government employee which we have contacted the agency and say, "Hey, you guys want to investigate it yourself and tell us what happens"? In which case, in many cases, the agency has picked up from there and gone. But they've kept us apprised of what was happening. In one case I can think of, we called the Attorney General's Office and said, "We've got this problem of alleged wrong doing by an employee; how do you want to handle it"? I think the investigation in that case was conducted jointly by the AG's office and our office. So we've had a pretty good working relationship with the agencies themselves. If we were to investigate each one like that, we would be tied up in the field forever.

Professor Newton: Senator Kerttula.

Senator Jalmar M. Kerttula: One thing that seems to bother the members of the Senate, is the fact that they suspect that the legislative-investigative function of the legislative committees perhaps the Error-Oversight of the budget, the EOB Committee would decline, their contact would decline if we get an ombudsman. You haven't answered that. What's happened in your state.

Ombudsman Doi: You mean the legislative-constituency contact? Is that what you are talking about?

Senator Kerttula: This responsibility for investigating problems, errors and oversights, whether they're legislative or administrative or even judicial, if they feel that their responsibility somehow is infringed upon or it declines, they just don't have that responsibility hence don't perform the function. For instance, our audit acts a little like error and oversight, what's your experience?

Ombudsman Doi: I think I get the thrust of your question. Let me state. . . . In Hawaii, in the executive agency itself they have a post-audit, an agency within the executive branch that does both audits. On the legislative side, we have a legislative post-auditor who is a constitutional officer and is appointed by the legislature and he does both post-audits as well as management audits. We have not found the time when there was a lack of business for him or I in the handling of complaints. In fact we work very closely together. In some cases where the problems . . . , take for example, in one case, we were running across, we still are for that matter, delay in payment to vendors. We asked the legislators to ask the legislative auditor to study the problem and come up with recommendations as to how this problem can be resolved through a speeded-up payment process. And we both work in the same area. Except that we know what each other can do and we work cooperatively in the resolution of problems. But there has not been any situation where he has had a lack of business or lack of studies of post-audits to be done. His review of matters is as much on the financial side, on the management side on a much broader scope. The ombudsman's is

individual complaints that persons have against this agency. So you really are not running in the same. . , running on the same track, so to speak, you're running on the same field, but not on the same track.

Professor Newton: Ron Wendte, please.

Student Regent Ronald W. Wendte: Mr. Doi, have you ever had a case that you were not able to conclude because to pursue it would have led to the governor's office?

Ombudsman Doi: We've had cases where the decision was made by the Governor, in which case we have had to tell the complainant, "Look, we've gone as far as we could; this decision is the Governor's decision not ours," where an executive order may have governed the situation because the executive is excluded from our jurisdiction. "Therefore, if you want to correct the problem, you go talk to the Governor." But not if an administrator is involved, where he makes the decision; he may have been ordered by the Governor to make the decision. That administrator is still within our jurisdiction and is still subject to criticism by us. And the fact that the administrator tells us, "Look I can't do anything because the Governor told me that," then I will tell him "That's your tough luck. You tell the Governor to reverse that decision. You're still the guy that has the authority to make that decision."

Professor Newton: And the lady here again, please.

Unidentified Lady: Do you become involved in disputes between the state and its own employees as far as hiring and firing is concerned?

Ombudsman Doi: Very good question. Hawaii has collective bargaining laws as some of you may have heard. Our collective bargaining law says, in effect, that some of our contract provisions may override some of the provisions in our laws, which are the terms of the collective bargaining agreement. So after the law became operative, I sought an opinion from the Attorney General as to whether or not we were still able to handle employee grievances, basically feeling that I did not have jurisdiction, and the response that we got from the AG was that if a collective bargaining agreement is in operation, the collective bargaining agreement provides an exclusive method by which grievances are to be resolved, then the ombudsman does not have jurisdiction in that area. However, we still investigate cases where exempt employees are involved--where there are no collective bargaining agreements. Does that answer your question?

Professor Newton: Mr. Doi, we thank you very much for this extra questioning period.

INTERNATIONAL BAR ASSOCIATION
OMBUDSMAN COMMITTEE

AMERICAN BAR ASSOCIATION
SECTION OF ADMINISTRATIVE LAW
OMBUDSMAN COMMITTEE

DEVELOPMENT REPORT
JULY 1, 1973 -- JUNE 30, 1974

This report represents an effort to compile information concerning non-judicial complaint-handling mechanisms with major emphasis on Ombudsman and Ombudsman-like systems. This report makes no effort to evaluate the performance of the institutions described.

On the international level, the information contained in this report was obtained from correspondence with scholars, government officials, lawyers, Ombudsmen, and Ombudsman proponents in 134 countries and 80 subdivisions. In the United States, correspondence was maintained with Ombudsmen, lawyers, officials, legislators, legislative reference bureaus, political scientists, and Ombudsman proponents in 50 states, Puerto Rico, Virgin Islands, Micronesia Trust Territory, District of Columbia, Guam, and American Samoa, and 269 cities.

It is quite obvious that the word "Ombudsman" has been used throughout the world to mean any complaint-handling mechanism. Whether Ombudsman should and can be reserved for the independent and non-partisan officer of the legislature who deals in specific complaints from the public against administrative injustice and maladministration is a problem not resolved in this report. It should be noted if an official terms himself an Ombudsman, that name is used in this report.

The international section of this report is issued in the name of the Ombudsman Committee, International Bar Association, and the United States section in the name of the Ombudsman Committee, Section of Administrative Law, American Bar Association.

Bernard Frank, Chairman
832 Hamilton Mall
Allentown, Pennsylvania 18105

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A. INTERNATIONAL

The summary which follows deals with the varied non-judicial institutions throughout the world (not including the United States) which are concerned with the receipt and handling of complaints against government for abuses of authority. Its major stress is on the Ombudsman concept but other systems which have ombudsman-like characteristics (although not classified as Ombudsmen) are included where known to Committee.

1. AUSTRALIA--FEDERAL. Legislation is being drafted to establish an Ombudsman to investigate complaints of unjust treatment by Federal government departments and agencies. (See A-122)

2. AUSTRALIA--STATE OF QUEENSLAND. The Parliamentary Commission Act 1974 was introduced by the Government on March 22. Jurisdiction will apply to all government departments and authorities including local authorities. The Act was passed in April. (See A-127)

3. AUSTRALIA--STATE OF NEW SOUTH WALES. The Cabinet has approved the preparation of legislation to provide for an Ombudsman. Legislation now being drafted by Parliamentary Counsel should be introduced at the next session of Parliament which begins in August.

4. AUSTRALIA--NORTHERN TERRITORY. An Ombudsman bill passed by the Legislative Council two years ago is still awaiting assent. The Federal Government has indicated sympathy with the proposal but sees difficulty in conferring power over federal public servants to a territory Ombudsman. The National Times, April 8-13, reports that the legislation being drafted by the Federal Government (See A-1) includes a deputy Ombudsman for the Territory as well as one for the Capital Territory.

5. AUSTRALIA--STATE OF SOUTH AUSTRALIA. The Ombudsman Act was assented to on December 14, 1972 and on the same day Gordon D. Combe, M.C., was appointed as the first Ombudsman. 308 complaints were received in the six and one-half month-period to June 30, 1973. Seventy were fully investigated of which 16 were considered to be justified in full or in part. 731 complaints were received for the ten-month period to April 30, 1974. By Governor's proclamation and effective from April 1, 1974, all local government bodies in the State were added to the jurisdiction of the Ombudsman which also includes state government departments and state statutory authorities.

6. AUSTRALIA--STATE OF TASMANIA. A Select Committee of the Legislative Council appointed to inquire into and report on complaints of administrative action by various agencies is in operation and receiving complaints: 1972, 19; and to 7/31/73, 9.

7. AUSTRALIA--VICTORIA. The Ombudsman Act 1973 was proclaimed on October 30, 1973 and on the same date John V. Dillon assumed office. He had been retired as UnderSecretary of the Department of Chief Secretary. His first report will be presented to Parliament in September and official statistics will not be available until that time. The National Times article (See A-4)

stated that he had received 762 complaints and out of 135 fully investigated 25 were found to be justified.

8. AUSTRALIA--WESTERN AUSTRALIA. O. F. Dixon, Parliamentary Commissioner for Administrative Investigations, issued his report for the year ended June 30, 1973, which showed that he had received 806 complaints. 480 had been fully investigated and of these 93 considered justified. The report for the year ended June 30, 1974 will be available at a later date.

9. AUSTRIA. The National Assembly still has under consideration the 1971 Government proposal for a "People's Advocate," a collegial body, consisting of one member from each political party represented in the Main Committee of the lower legislative chamber. The opposition Austrian People's Party has proposed a Standing Committee on Complaints composed of members of the lower chamber.

10. BANGLADESH. Article 77 of the Constitution adopted in 1972 provides that Parliament may by law provide for the establishment of the office of Ombudsman. No legislation has been passed.

11. BELGIUM. It has been reported that the Parliament is currently considering legislation similar to the French Mediateur Law but this has not been confirmed.

12. BERMUDA. The subject of the Ombudsman has been discussed at high governmental levels but no decision has been reached.

13. BOTSWANA. Attorney General M. D. Mokama is making a study of the Ombudsman institution.

14. BULGARIA. The Procurator General exercises control in matters relating to the observance of the law by government organizations, officials, and the people.

15. CANADA--FEDERAL. Bills C 106 and C 151 for the establishment of a Canadian Ombudsman were introduced on March 12, 1974 in the House of Commons. The Government in December, 1973, proposed the establishment of a five-man Commission on Human Rights and Interests to handle human rights violations and citizen grievances against government, large businesses and unions and characterized the Commission as a combination of ombudsman and anti-discrimination tribunal. The House of Commons was dissolved in May before a bill could be introduced.

16. CANADA--FEDERAL--COMMISSIONER OF OFFICIAL LANGUAGES. The third annual report of the Commissioner, Keith Spicer, for the year ending March 31, 1973 shows that he received 943 complaints. The 1974 statistics will be available after presentation to Parliament. On June 6, 1973, Parliament passed a resolution reaffirming the principles of the Official Languages Act of 1969.

17. CANADA--FEDERAL--PRISONS. Miss Inger Hansen was appointed by the Solicitor General on the authority of the Privy Council

on June 1, 1973 to serve as a Commissioner under the Inquiries Act with the title of Correctional Investigator. She will handle inmate complaints, on her own initiative, and problems that come within the responsibility of the Solicitor General. During the period from June 1, 1973 to May 9, 1974, she received 676 complaints. Approximately 10% were rectified. It should be noted that the inmate population is 9,000.

18. CANADA--ALBERTA. George B. McClellan retired as Ombudsman on April 30, 1974. A former Commissioner of the Royal Canadian Mounted Police, he had served as Ombudsman since September 1, 1967. His annual report for the period November 1, 1972 to October 31, 1973 shows that 776 complaints were received. 255 were investigated with 56 of these justified. Dr. Randall Ivany, Dean of Edmonton and Rector of All Saints Cathedral, assumed office as Ombudsman on May 1, 1974. 1973 Bill 212 introduced by Albert Ludwig, Q.C., would have extended the jurisdiction of the Ombudsman to municipalities. Professor Karl A. Friedmann of the University of Calgary delivered a paper on "Complaining--Comparative Aspects of Complaint Behavior and Attitudes towards Complaining in Canada (Alberta) and Britain" at the Canadian Political Science Association Annual Meeting in August, 1973.

19. CANADA--BRITISH COLUMBIA. The new Labour Code of British Columbia Act provides in Part VIII for a Labour Ombudsman with power to investigate actions of the Department of Labour, trade unions, and employees' organizations. It has not as yet been proclaimed. (May 14, 1974)

20. CANADA--MANITOBA. G. W. Maltby, Ombudsman, issued his report for the year 1973, showing that he received 441 complaints, of which 64 are recorded as rectified.

21. CANADA--NEW BRUNSWICK. Charles Edouard Leger died on September 29, 1973. He had served as Ombudsman since June 1, 1971. He was succeeded by G. A. McAllister, who issued the seventh report for the year, 1973. 192 complaints were received and of these 14 were rectified.

22. CANADA--NEWFOUNDLAND. The Parliamentary Commissioner (Ombudsman) Act, 1970 has not been proclaimed as yet. The Government intends to proclaim the Act as soon as it has found a suitable candidate for the position of Ombudsman.

23. CANADA--NORTHWEST TERRITORIES. At the request of the legislature a paper discussing the advisability of an Ombudsman was presented to the legislature in June by the Department of Public Services.

24. CANADA--NOVA SCOTIA. The Ombudsman, Dr. Harry D. Smith, received 335 complaints in 1973, according to his third report just received.

25. CANADA--PRINCE EDWARD ISLAND. The Ombudsman office has been discussed from time to time at Cabinet level but no other steps have been taken.

26. CANADA--QUEBEC. Louis Marceau, Public Protector, has issued his fifth annual report. It shows he received 5,320 complaints and investigated 2,872. 850 were justified of those fully investigated.

27. CANADA--SASKATCHEWAN. E. C. Boychuk, who took office on May 1, 1973 as the first Ombudsman, issued his first annual report for the period from May 1, 1973 to November 30, 1973. He received 316 complaints during that period, of which 112 were investigated and 44 rectified.

28. CANADA--YUKON TERRITORY. The Legislative Council passed a motion recommending that the Government of the Territory introduce legislation establishing an Ombudsman.

29. CANADA--CONFERENCE. A conference of Canadian Province Ombudsmen sponsored by the Ministry of the Solicitor General was held on May 2-4, 1974 at Ottawa. The six provincial Ombudsmen attended with their assistants. A representative of the Commissioner of Official Languages, Miss Inger Hansen, the Canadian Correctional Investigator, and Professor Donald C. Rowat were also present.

30. CANADA--PROFESSOR DONALD C. ROWAT. We again call your attention to his new book, "The Ombudsman Plan Essays on the Worldwide Spread of an Idea." The Canadian publishers are: McClelland and Stewart, 25 Hollinger Road, Toronto, Ontario, Canada.

31. CANADA--T.V. OMBUDSMAN. The Canadian Broadcasting Corporation appointed Robert Cooper as T.V. Ombudsman. He runs a show bi-weekly and receives complaints against government administration.

32. CHILE. The Comptroller General, in addition to fiscal duties, investigates complaints relating to the functioning of public services and to the correct application of laws and regulations. He can raise objections to decrees and regulations that he considers illegal.

33. CHINA--REPUBLIC OF CHINA (TAIWAN). Control Yuan (Inspectorate--Censorate) exercises the powers of consent, impeachment, censure, and auditing. It may propose corrective measures on the basis of investigation and divide the country into control zones and establish regional control offices to exercise circuit supervision power and receive the people's complaints. When a public functionary violates the law or neglects duty, the Control Yuan may impeach or censure him. The Chinese control system has a long history dating back to 221 B.C.

34. CHINA--PEOPLE'S REPUBLIC. The Supreme People's Procuratorate exercises procuratorial authority over all departments of the State Council, local organs of state, persons working in organs of state and citizens, to ensure observance of the law. Local organs of the people's procuratorate and special people's procuratorates exercise procuratorial authority within the limits prescribed by law.

35. COUNCIL OF EUROPE. Resolution 549 adopted by the Standing Committee, acting on behalf of the Consultative Assembly of the Council of Europe, on July 4, 1973 proposed that the Legal Affairs Committee convene a meeting of Ombudsmen and Parliamentary Commissioners of the member states to exchange information and experiences on their various systems and to advise on the desirability of extending the system to the European level. Pursuant to the resolution, the Legal Affairs Committee organized a meeting which was held in Paris on April 18 and 19, 1974. Present were Ombudsmen and Parliamentary Commissioners from member states, representatives from the European Court of Human Rights, the European Council of Human Rights, the Committee on Experts on Human Rights and several experts and observers, as well as members of the Legal Affairs Committee. A report will be presented by the Legal Affairs Committee to the Consultative Assembly in September.

36. COUNCIL OF EUROPE--EUROPEAN COMMISSION ON HUMAN RIGHTS. Applications by individuals, groups of individuals, or non-governmental bodies claiming denial of rights under the Convention for the Protection of Human Rights and Fundamental Freedoms are brought to the Commission. The Commission investigates complaints and endeavors to bring about a settlement. If no settlement is reached, the Commission files a report with the Committee of Ministers of the Council of Europe and gives its opinion whether there has been any breach of the convention. At that stage, cases may be referred by the Commission or the government concerned to the European Court of Human Rights for binding judicial decision; otherwise the Committee of Ministers must decide whether there has been a violation.

37. CYPRUS. By law 107/72, a Commissioner for Administration has been established whose functions are to enquire into the activities of any administrative service especially on representations and complaints made to him and to report to the President of the Republic by whom he is appointed. No appointment has been made as yet.

38. DENMARK. Ombudsman, Lars Nordskov Nielsen, reports that he registered 1,461 cases in 1973, of which 68 were taken on his own initiative. A bill was introduced in Parliament on April 3 concerning marketing which contained provisions for an Ombudsman for Consumers. It is expected to pass. The Danish Medical Association in September 1973 discussed an Ombudsman office to receive complaints against improper medical treatment. Ombudsman Nielsen has pointed out that his office in its present form could not function as a medical Ombudsman. There is available a book in English entitled, "The Danish Ombudsman 1955-1969" covering 75 cases taken from then Ombudsman Hurwitz's annual reports edited by Mogens Lerhard and published by Schultz, Copenhagen, 1972.

39. ETHIOPIA. A Commission is working on a revision of the Constitution. The Ethiopian Bar Association is campaigning for the establishment of the Ombudsman.

40. FIJI. Justice Moti Tikaram submitted his first annual Ombudsman report for the period from March 1, 1972 to February 28, 1973. He had received 239 complaints (although 226 cases were registered) and out of 181 disposed of, 23 were justified or rectified.

41. FINLAND. Dr. Jorma S. Aalto was elected as Ombudsman to serve for the four year term, 1974-1977. Aapo Lehtovirta is Assistant Ombudsman serving 1972-1975. Both are elected by Parliament. In 1973, the Ombudsman received 997 complaints, of which 44 complaints were referred from the Chancellor of Justice and 14 were self initiated cases. The powers of the Ombudsman and the Chancellor of Justice in the investigation of complaints are very similar. The Chancellor of Justice is Risto Leskinen, who had served as Ombudsman. The Chancellor who is appointed by the President received 988 complaints in 1973 of which 214 were self initiated cases. Mikael Hiden's "The Ombudsman in Finland: The First Fifty Years" has been published by The Institute of Governmental Studies, University of California, 109 Moses Hall, Berkeley, California, 97420.

42. FRANCE. In June, 1974, Aimé Paquet succeeded M. Antoine Pinay as Mediateur. Under French law No. 73 - 6 of January 3, 1973, complaints must be processed through members of Parliament. The Mediateur's first annual report for the year 1973 shows that he received 1,773 dossiers. 564 cases were rejected as being non-applicable and 469 cases were processed, of which 70 were justified and 112 partly satisfied. Dr. Henri Desfeuilles, Chairman of the Advisory Council to the Mediateur, has written the book, "Le Pouvoir de Controlles des Parlements Nordique," published by R. Richon et R. Durand Auxeas, 20 rue Soufflot, Paris, France.

43. GERMANY--FEDERAL REPUBLIC OF GERMANY--MILITARY OMBUDSMAN. The Parliamentary Commissioner for Military Affairs, Fritz-Rudolph Schultz, issued his annual report for the year 1973. He received 6,673 applications but fully processed 7,412. 1,966 applications were successful and 658 partly successful.

44. GERMANY--FEDERAL REPUBLIC OF GERMANY--PETITIONS COMMITTEE. Legislation is pending to extend the powers of the Petitions Committee of the Bundestag in dealing with complaints relative to administrative measures for which the Federal Government is responsible. Several states have in the past several years enacted laws which extend the powers of their Petitions Committees to handle complaints: North Rhine-Westphalia, Schleswig-Holstein, Rhineland Palatinate, Berlin, and Bremen.

45. GERMANY--FEDERAL REPUBLIC OF GERMANY--STATE OF RHINELAND-PALATINATE. In May, the Assembly passed the Citizen's Representative Law and Dr. Johannes Baptist Rösler, Assembly Member, became the first Citizen's Representative on May 16. He had served as Petitions Committee Chairman and in his new capacity is also the Commissioner of the Petitions Committee.

46. GHANA. Constitutional provisions for an Ombudsman contained in the 1969 Constitution lapsed with the suspension of the 1969 Constitution in 1972. The National Redemption Council

by decree No. 80 established the Special Actions Unit with a wing known as the Expediting Committee (thus reviving the 1966 Expediting Committee) which has Ombudsman-like duties. Its functions are performed through the Investigations and Complaints Division which receives and investigates complaints.

47. GREAT BRITAIN. The 1973 annual report of Sir Alan Marre, Parliamentary Commissioner for Administration, shows the receipt of 571 complaints through Members of the House of Commons. 133 uncompleted cases were brought forward from 1972. Out of the total of 704, 536 were completed during 1973. Investigation was completed and results reported to Members in 239 cases, and in 88 of these, the Parliamentary Commissioner found elements of maladministration which led to some measure of injustice. In addition to the annual report, reports are issued quarterly containing the full but anonymised texts of completed investigations.

Following the enactment of the National Health Service (Scotland) Act 1972 and the National Health Service Reorganization Act 1973, Sir Alan Marre was appointed Health Service Commissioner for England, Scotland and Wales. Complaints against the National Health Service are received directly from aggrieved persons. His first report covering the first six months has been issued. Sir Alan Marre has integrated the staffs working for him in his several capacities.

The Local Government Act 1974, Part III, provides for local commissioners to investigate complaints of maladministration against local authorities in England and Wales. Complaints will be received through local counsellors or directly if counsellors refuse to pass them on. Ultimately, there are expected to be nine commissioners for local administration for England and one or two for Wales. Lady Serota, D. B. Harrison and J. P. Cooks were appointed on June 12, 1974 as the first three of the local government commissioners. (See A-128)

The handling of complaints against the police is still not resolved. The report of the Working Group for England and Wales on the handling of complaints against the police stated that investigations of complaints should in the first instance remain with the police. The general view was expressed in the report that the scope of an independent ex-post factor review should be limited to scrutiny of the handling of the complaint. The Home Secretary is now expected to decide what form the new procedures should take.

48. GUYANA. G. A. S. van Sertima, Ombudsman, reported that he had received 179 complaints in 1970, 447 in 1971, 284 in 1972, and 307 in 1973. In 1971, his jurisdiction was extended to local councils and local authorities.

49. HONG KONG. The Unofficial Members of the Executive and Legislative Councils operate an office (known as the UMELCO Office) to which a member of the public may report a grievance at any time. Although the Office has no statutory powers, the Government undertakes to ensure that the Unofficial Members have access to official information including policy papers and departmental files. The Unofficial Members also have

ready access to senior Government officers and are able to raise questions by personal discussion, by letter, or by question or debate in the Executive and Legislative Councils. In addition, there are throughout the territory district offices, staffed by Government officers, which receive and investigate complaints from citizens. In the urban areas, there is also a ward system through which the urban councillors deal with complaints from members of the public. In view of all these channels being available, the Government has concluded that there seems to be no real need for an Ombudsman in Hong Kong. Robert Primrose is Administrative Secretary, Office of Unofficial Members of Executive and Legislative Councils. The third annual report of the UMELCO Office for the period, 7/1/72-6/30/73, shows 268 cases were brought forward from the previous year and 1,689 new cases were received. 1,611 cases were completed. In 359 cases, the complaint was rectified or the client's difficulty fully overcome. In 524 cases some degree of help, advice, information or explanation was given to the person concerned even though his problem could not be fully solved.

50. ICELAND. At the request of the Prime Minister, Attorney Sigurdur Gizurarson drafted an Ombudsman bill in 1973. It was submitted to Parliament last fall but no action has been taken to date.

51. INDIA--CENTRAL GOVERNMENT. Ombudsman legislation, the Lokpal and Lokayuktas Bill, was introduced in 1971 and is awaiting further action. It is somewhat identical to the bill which was passed by the Lok Sabha (House of the People) in 1969 but which lapsed on dissolution of the Lok Sabha.

A Central Vigilance Commission has been functioning since 1974. It can inquire into any transaction where a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner or into any complaint that a public servant had exercised or refrained from exercising his powers with an improper or corrupt motive or into any complaints of misconduct or lack of integrity or any malpractice or misdemeanor on the part of a public servant. Shri B. K. Acharya is Central Vigilance Commissioner. The Commission's annual report covering the period from April 1, 1972 to March 31, 1973 shows that the Commission received 1,059 complaints.

The Petitions Committee of the Lok Sabha receives petitions regarding public grievances. The Petitions Committee of the Rajya Sabha (Council of States) receives petitions from organizations (not individuals) with respect to grievances.

52. INDIA--STATE OF BIHAR. The Bihar Lokayukta Act 1973 (Bihar Act VI of 1974) was enacted in 1973. Dr. S. V. Sohoni took office as Lokayukta on May 28, 1973.

53. INDIA--STATE OF GUYARAT. The Chief Minister had in 1973 stated that the Government intended to introduce Lok Pal legislation. The Cabinet on February 1, 1974 was reported to have decided to appoint a Lok Pal. However, before any further action could be taken, the President's Rule intervened in the State on February 9, 1974.

54. INDIA--STATE OF JAMMU AND KASHMIR. Information has been received that two institutions, the Anti-Corruption Organization and the Grievance Commissioner, receive complaints from citizens for abuses of authority by government officials.

55. INDIA--STATE OF KARNATAKA. The Lokayukta and Upa-Lokayukta Bill was introduced on September 12, 1973. Action is still pending.

56. INDIA--STATE OF KERALA. Under the 1969 Interim Probe Machinery Executive Order, petitions may be addressed to the Chief Secretary requesting an inquiry into an allegation of misconduct against any public man specified in the petition. The Government will then appoint a Commissioner to report if a prima facie case has been made out justifying reference of the case to a Commission of Inquiry and upon consideration of the report take such action as may be necessary.

57. INDIA--STATE OF MADHYA PRADESH. A Lokayukta Bill was introduced on April 24, 1974 and was referred to a Select Committee.

58. INDIA--MAHARASHTRA. Shri S. P. Kotval took office as Lokayukta on October 25, 1972, the first to be appointed in India, under the Lokayukta and Upa-Lokayuktas Act 1971. Shri Kotval has given the information that "Lok" means "the people," "Ayukta" means "care taker" or "Commissioner" and the prefix "Upa" means "deputy." He received 288 complaints from October 25, 1972 to December 31, 1972 and 767 during the year, 1973. His first report for the period from October 25, 1972 to October 24, 1973 was submitted to the Governor on November 17, 1973.

59. INDIA--MANIPUR. The Director of Vigilance acts also as the Director of Public Grievances.

60. INDIA--STATE OF ORISSA. The Assembly passed the Lokpal and Lokayukta Bill on October 28, 1970 but no Lokayukta has been appointed as yet.

61. INDIA--STATE OF RAJASTHAN. Under the Lokayukta and Upa-Lokayukta Act of 1973, Shri I. D. Dua, a retired Judge of the Supreme Court, has been serving as Lokayukta. Shri L. M. Nadkarni became Upa-Lokayukta on October 1, 1973.

62. INDIA--STATE OF TAMIL-NADU. The Public Men (Criminal Misconduct) Act, 1973, enables a citizen to set into motion machinery for investigations into charges of misconduct against ministers and legislators.

63. INDIA--STATES--GENERAL. Vigilance Committees are functioning in the States of Andhra Pradesh, Assam, Gujarat, Karnataka, Madhya Pradesh, Tamil Nadu and West Bengal. Petitions Committees in the state legislatures also receive petitions from the public against the administration.

64. INDONESIA. The Pengabdi Hukum (Law Upholder) is a private institution sponsored by non-governmental organizations (5 legal associations and the Indonesia League of Human Rights).

It receives complaints from individuals against public agencies and has many of the characteristics of the Ombudsman system, operating through a joint secretariat of six from its member organizations.

65. INTER-AMERICAN. The Inter-American Commission on Human Rights was created in 1959. The Second Special Inter-American Conference at Rio de Janeiro in 1965 adopted a resolution extending the powers of the Commission to consider individual complaints of violations of certain basic rights. On receipt of such complaints, the Commission has the right to request information, and make recommendations to governments. The organ responsible for hearing individual petitions is the Inter-American Commission on Human Rights whose competence in the matter is automatically recognized by states parties to the Convention. The Convention set up a second organ, the Inter-American Court of Human Rights, with optional jurisdiction. Before the merits of the case can be studied by the Commission and perhaps eventually by the Inter-American Court, a petition must be declared admissible by the Commission. The Commission will, having notified the parties, look into the facts alleged in the petition. A friendly settlement may be reached and if not reached the Commission will publish the report. If the case is not finally settled, it can be taken to the Inter-American Court by the Commission or by the state or states concerned. If the case is neither settled nor submitted to the Court, the Commission may by a vote of the majority of its members set forth its opinion and conclusions on the case and make any appropriate recommendations and prescribe a period within which the state concerned is to take the measures necessary to remedy the situation. At the end of the period, the Commission will decide whether such measures have been taken and whether or not to publish its report.

66. INTERNATIONAL BAR ASSOCIATION. Sir Denys Hicks, President, is expected to make appointments in the near future to the Ombudsman Committee, which is headed by Bernard Frank. Two supplemental components have been established: the I.B.A. Member Organizations Liaison to which 28 national bar associations have made appointments and the I.B.A. Ombudsman Advisory Board on which 22 Ombudsmen throughout the world have accepted membership. A newsletter was issued in May and July to a mailing list of about 350, including the Member Organizations Liaison and Advisory Board.

67. IRAN. Lieutenant General Yazdan Panah who headed the Imperial Inspection Organization died in 1973 and has been succeeded by Lieutenant General Fardoost. Under the 1969 Law for the Establishment of the Imperial Inspection Organization, the organization under the supervision of the Shahanshah (who appoints its head) deals with grievances of the people against government agencies, police, local government, public utility institutions and affiliated government institutions. Complaints against ministries and governmental organizations can also be made under the Constitution to Petitions Committees of the two Houses of Parliament.

68. IRELAND. There has been some discussion on the Ombudsman but no definitive move has been made as yet. The Irish Times

(1/10/74) states that a report on the implications of appointing an Ombudsman is being prepared by the Department of Public Service.

69. ISRAEL--COMMISSIONER FOR COMPLAINTS FROM THE PUBLIC. The State Comptroller, Dr. I. E. Nebenzahl, by law has jurisdiction as Commissioner for Complaints from the Public to handle complaints against acts including delay in performance or omissions contrary to law or without lawful authority or contrary to sound administration or unduly harsh or manifestly unjust. The Commissioner is assisted by a special unit called the Office of the Commissioner for Complaints from the Public. Gershon Avner resigned the post of Director of the office to become Secretary to the Cabinet. Yehuda Salant is Director, an appointment made by the Knesset House Committee. From September 1972 to September 1973, the Office of the Commissioner received 6,762 original complaints.

70. ISRAEL--SOLDIERS COMPLAINTS COMMISSIONER. Major General Haim Laskov, former Chief of Staff, who became Soldiers Complaints Commissioner on November 1, 1972 under the Military Justice (Sixth Amendment) Law 5732-1972 received from that date until March 31, 1973, 2,258 complaints. 1,626 complaints were dealt with, of which 539 were justified.

71. ISRAEL--POLICE. The Police Commissioner of the Israel Police by order created the Office of Public Complaints to receive complaints against police officers headed by Deputy Commander Zeev Margalit.

72. ISRAEL--JERUSALEM. Shelomo Kaddar, who has been serving as Jerusalem Ombudsman since 1967, reports that he received 759 cases in 1973 and carried over 42 from 1972. He completed 771 cases, of which 307 were found justified.

73. ISRAEL--HAIFA. Sources report that the Mayor of Haifa has appointed an Ombudsman, Jacob Lvav.

74. ISRAEL--TEL-AVIV. Yehuda Greener, City Ombudsman, reports that he received 8,368 complaints in 1973.

75. ITALY. Dr. G. Treves of the University of Turin had been appointed by the Italian National Research Council to collect materials and prepare proposals for the institution of the Ombudsman in Italy. The volume "L' Ombudsman (Il Difensore Civico)" has been published by UTET in Turin. Sources report that the Liberal Party has again proposed Civil Defender legislation in Parliament.

76. ITALY--REGION OF TUSCANY. Regional Law no. 8 of January 21, 1974, establishing the Civic Defender, was passed, the first region (out of 20) to do so. No appointment has been made yet.

77. ITALY--REGION OF LIGURIA. Legislation similar to the Tuscany Civic Defender Law has been passed in June in Liguria. No appointment has been made yet.

78. ITALY--REGIONS--GENERAL. Sources report that Civil Defender bills have been introduced in four regions--Emilia, Lombardia, Trentino, Alto Adige and Umbria.

79. JAMAICA. The report of the Ombudsman Working Party was issued on August 27, 1973 recommending the establishment of the Ombudsman. The report is being examined by a subcommittee of the House of Representatives.

80. JAPAN. The Civil Liberties Bureau, a part of the Ministry of Justice, handles various matters relating to the protection of human rights. Civil Liberties Commissioners, not to exceed 20,000 in number, are appointed by the Ministry of Justice to serve in cities, towns and villages. The Administrative Inspection Bureau of the Administrative Management Agency, inter alia, receives, investigates and seeks to redress grievances. Local administrative counselors in localities receive grievances and forward to the Bureau those deserving of attention. The Ministry of Justice has published a 1973 16-page booklet on "The Governmental and Non-Governmental Machinery for the Protection of Human Rights and Legal Aid in Japan" which discusses in Part I the Civil Liberties Bureau and the Civil Liberties Commissioners.

81. MALAYSIA. The Government did not implement the 196[illegible] report by Sir Guy Powles, New Zealand Ombudsman, but considers the reorganized Anti-Corruption Agency as working satisfactorily. The Agency deals, among other functions, with individual cases of inefficiency, delay, and nepotism. The Public Complaints Bureau became operational on August 1, 1971. It is an administrative division of the General Planning Unit of the Prime Minister's Department under the portfolio of the Minister with Special Functions. An essential feature of the organization setup is the appointment of Bureau representatives in local areas to receive public complaints and refer them to the Bureau. The Bureau receives complaints against administrative acts done or omitted relating to a matter of public administration by a Federal department (includes all Federal statutory bodies).

82. MALAYSIA--STATE OF PENANG. A special committee known as the Efficiency, Good Relationship and Complaints Committee has been appointed by the state Government. Its terms of reference include investigation of complaints received from the public, the taking of appropriate action, and when necessary the making of recommendations to the proper authorities.

83. MALAYSIA--STATE OF PERAK. There has been a proposal for the Ombudsman but nothing further has developed pending the outcome of a special study initiated by the Federal authorities.

84. MALTA. The Labour Party Programme, on which platform the present Government won the last elections in June, 1971, proposed the institution of the post of Ombudsman. No legislation has as yet been presented in the House of Representatives.

85. MAURITIUS. The Ombudsman, S. Mootoosamy, who took office on January 23, 1973, issued a report covering the period from March 2, 1970 (when his predecessor, Judge Gunnar Lindh assumed

office) until December 31, 1973. 315 complaints were received during this period, of which 91 were considered justified. In 1973, 89 complaints had been received, 29 investigated, and 5 considered to be justified.

86. MEXICO. The Mexican Constitution provides for the writ of amparo--special and extraordinary in nature--which protects individual rights and properties. It can be brought against acts of administrative tribunals, ordinary bureaucrats, police officers, judges, legislatures, and even against the President. In administrative matters, amparo may be invoked against decisions which cause an injury that cannot be remedied through any legal resource, trial, or defense.

87. NAURU. Some thought had been given to Ombudsman in the Republic of Nauru. However, in view of the size of the Island with a population of approximately 6,000 persons, the need for the Ombudsman does not exist at present.

88. NETHERLANDS. This year the Government requested G. E. Langemeyer, former Attorney General, to draft a plan for an Ombudsman. In 1971, Government proposals for an Ombudsman receiving complaints from Parliament only was discussed and rejected. The Second Chamber instead voted for an independent Ombudsman who would receive complaints from the public directly. Dr. H. H. Kirchheiner's "Ombudsman En Democratie" published in 1971 contains a nineteen-page English summary.

89. NETHERLANDS--TV OMBUDSMAN. The Vara broadcasting company has established an Ombudsman program on TV and radio. In addition, an Ombudsman Foundation was established in 1972 in connection with the Vara Ombudsman TV and radio program but at the same time independent. The media Ombudsman is Hans Ouwerkerk. The Foundation with a staff of 30 is headed by Guido M. Zuur.

90. NEW ZEALAND. The report of the Ombudsman, Sir Guy Powles, for the year ended March 31, 1974 shows he had received 865 complaints in that year, making the total since the inception of the office on October 1, 1962, 9,610. In the year, 373 complaints were fully investigated, and of these 114 were found to be justified. The Government has in preparation legislation to extend the jurisdiction to all local government authorities and ad hoc local bodies. The Bill is expected to be introduced into Parliament towards the end of the year, and, if passed, will require major changes in the structure and operation of the Ombudsman's office.

91. NIGERIA. Complaints against officials and department may be made to the appropriate Permanent Secretary. If the complaint is against the Permanent Secretary of a Ministry or the Head of an Extra-Ministerial Department, it is made to the Secretary to the Military Government in the case of a state or to the Secretary to the Federal Military Government in the case of the Federal Government. Complaints against the Government, ministries and departments may also be made to the Attorney General of the Federation and Commissioner for Justice and occasionally complaints are sent

to the Head of State Commissioners, or other Government officials.

92. NORTHERN IRELAND. Stephen McGonagle succeeded J. M. Benn who retired as Parliamentary Commissioner for Administration and Commissioner for Complaints on January 1, 1974. As Parliamentary Commissioner for Administration he receives complaints against central government through members of the Northern Ireland Assembly. In 1973 he received 43 complaints. As Commissioner for Complaints, he receives complaints against local government and public authorities from the public directly. In 1973 he received 659. The effect of the recall of the Assembly in May and direct rule by British Parliament will be to require reports to the Parliament at Westminster.

93. NORWAY--PARLIAMENTARY OMBUDSMAN. The Parliamentary Ombudsman, Andreas Schei, retired on July 1, 1974, and was succeeded by Judge (of the Supreme Court) Erling Sandine. During 1973, the Ombudsman received 1,395 complaints, 52 informational inquiries, and took up 21 cases on his own initiative. 1,373 cases were handled during the year, of which 562 were investigated and 178 were considered justified.

94. NORWAY--MILITARY OMBUDSMAN. Edg Andreassen, Military Ombudsman, received 248 complaints in 1972 and 230 in 1973.

95. NORWAY--CONSUMER OMBUDSMAN. The Law on the Control of Marketing came into effect on January 1, 1973. The function of the Consumer Ombudsman is to see that advertising and other marketing measures are in accordance with the law and that advertising is not untrue or misleading. Mrs. Inger Louise Valle, the Consumer Ombudsman, is on leave to serve as Attorney General and Judge Charles Philipson serves as acting Consumer Ombudsman. In 1973, 1,191 cases were registered, of which 300 were on the Consumer Ombudsman's own initiative.

96. PAKISTAN. The Permanent Constitution adopted in 1973 contains a Fourth Schedule which includes the subject of the Ombudsman as being under the competence of the Federal Legislature. A bill is in the process of preparation. The office of the Prime Minister's Representative on Administrative Inspection handles complaints against central government officials on corruption, delay, inefficiency, unfair treatment and discourteous behavior.

97. PAPUA--NEW GUINEA. The motion by Mr. Anton Paroa, an opposition member of the House of Assembly, to appoint an Ombudsman was debated on September 20, 1973 and March 7, 1974 with negative results. The Constitutional Planning Committee proposed an Ombudsman Commissioner consisting of a chief Ombudsman and two Ombudsmen. It is currently being debated in the House of Assembly.

98. PHILIPPINES. On January 17, 1973, the President proclaimed that the Constitution proposed by the 1971 Constitutional Convention had been ratified and had then become effective. Section 6 of Article XIII provides for an Ombudsman to be

established by the National Assembly and to be known as the Tanodbayan. The Secretary of Justice has submitted to the President the draft of a presidential decree creating the office of the Philippine Ombudsman to be called the Tanodbayan. Pending the President's action on the draft decree creating the Philippine Ombudsman, he issued Letters of Instructions No. 137 dated October 15, 1973, constituting a Special Cabinet Committee to deter "backsliding" of government officials and employees. In addition to the Letters of Instruction, the President, late in 1973, directed all cabinet members to set up Public Assistance offices to receive citizen complaints. The Special Action Unit in the office of the President receives complaints which are brought to the attention of the department head concerned.

99. POLAND. Under the Code of Administrative Procedure, complaints may be filed by individuals pertaining to "negligence or an irregularity on the part of organs or their staff members in performing their duties, to violations of law or disregard of legitimate interest, and to undue delay or bureaucratic attitude in disposing of matters." The Council of Ministers has provided for an Office of Complaints. The Procurator General, among other duties, supervises the strict fulfillment of the law by all institutions, authorities and departments, on district, regional and village levels, as well as by the various components of the public economy, public institutions and by individual citizens; supervising the conformity to the law of the acts and activities of the institutions and the organizations mentioned above; and supervising the safeguarding of citizens' rights. The supervision does not extend to the acts and activities of central institutions. The Code of Administrative Procedure also permits a citizen to submit a complaint or suggestion to the press, radio and television networks, producers of news films, and the institutions concerned must act as if complaint had been filed directly by the citizen. They must submit their reply both to the citizen and the media.

100. ROMANIA. The Procurator General is elected by the Grand National Assembly for the duration of the legislative term. The Procurator General appoints the procurators in the regions, districts and towns. The Procuratura keeps watch over compliance with the law by the ministries and other central organs of state administration, the local organs of state administration, the penal prosecuting authorities, the courts, the civil servants and other citizens.

101. RUSSIA. The Soviet Procuratura is the supreme national institution fulfilling the constitutional function of control over the exact observance of the law by government departments and bodies and institutions subordinate to them, by various officials of all grades and by the public. The Procurator General is appointed by the Supreme Soviet of the U.S.S.R. for a period of seven years. He appoints the procurators of the union republics and of the autonomous republics, the territories, the regions and the autonomous regions. The lower grades of procurators are appointed by

the procurators of the Union Republics subject to the confirmation of the Procuratura General. The General Military Procurator is appointed by the Procuratura General of the U.S.S.R. on the recommendation of the Ministry of Defense. Carrying out the general supervision of Procurator over legality or administrative orders and administrative activity, among other methods, the Procurator receives written and oral communications from members of the public and also observes cases reported in the press. In addition, a 1968 law regarding "Procedure for Handling of Suggestions, Requests and Complaints from the Public," deals with the procedure for handling complaints from the public.

102. SINGAPORE. The Corruption Practices Investigation Bureau deals with allegations involving corruption by government employees. The Central Complaints Bureau under the Ministry of Social Affairs handles complaints not involving corruption such as discourtesy, misconduct, unnecessary delay, and discrimination. From 1962-1973, about 10,000 cases were handled. The Government has never accepted the recommendation of the 1966 Constitutional Commission recommending the establishment of the Ombudsman system.

103. SOUTH AFRICA. Several years ago, the House of Assembly debated a motion proposed by Mr. D. D. Baxter to consider the appointment of a judicial commission to report on the establishment of an Ombudsman. The motion was withdrawn, but members of the Government termed it a "very interesting motion." The Association of Law Societies reports that it is arranging a law conference in March 1975 on Administrative Law and has invited one of the Swedish Ombudsmen to speak.

104. SRI LANKA. The Government has formed Janatha Committees (People's Committees) in each district to receive grievances but with no power of investigation. The People's Committee Act was passed in 1971.

105. SUDAN. The Central Bureau for Public Control Act 1970 consists of the Public Commissioner, a Deputy Public Commissioner and other members. The Bureau, among other functions, is to conduct the necessary investigation and inquiry for the detection of the administrative and financial contraventions committed by government employees, which include negligence in carrying out the duties of the office, misuse of discretion and abuse of power.

106. SWEDEN. Sweden has three Parliamentary Ombudsmen who all have the same rank but are responsible for different spheres of supervision. Mr. Bertil Wennergren supervises the field of social welfare and is also in charge of matters relating to social insurance and education as well as those concerning the access of the general public to official documents. Ulf Lundvik handles cases on taxation and execution of judgments and all other matters concerning civil administration not supervised by Mr. Wennergren. Gunnar Thyresson supervises the courts of justice, the public prosecutors, the police and the armed forces including authorities responsible to the latter. The Ombudsmen are elected by the Swedish Riksdag for a term of four years and it also elects two

Deputy Ombudsmen, the latter being Mr. Anders Wigelius and Mr. Tor Sverne. In 1973, 3,699 new cases were registered with the Ombudsman, of which 445 were cases initiated by the Ombudsmen themselves. Seven proposals were submitted to Parliament. Prosecution or disciplinary proceedings were instituted in 9 cases. There were 551 admonitions.

107. SWEDEN--ANTI-TRUST OMBUDSMAN. The Ombudsman for Protection of the Freedom of Trade is Judge Torsten Lowbeer appointed by the King in Council. His activities are based on the Restrictive Trade Practice Act. Judge Lowbeer handled 473 cases in 1973 of which 351 arose during this year.

108. SWEDEN--CONSUMER OMBUDSMAN. The Consumer Ombudsman, Judge Sven Heurgren, is appointed by the King in Council and he ensures that laws for the protection of consumers are observed--the Marketing Practices Act and the Act Prohibiting Improper Contract Terms. Professor Donald B. King has written a book entitled "Consumer Protection Experiments in Sweden," published by Fred B. Rothman & Co., 1974. (See A-123)

109. SWEDEN--PRESS OMBUDSMAN. The Press Ombudsman, appointed by a special committee, is a voluntary institution of the Swedish press. Judge Lennart Groll, Press Ombudsman, reports 391 complaints in 1972 and 392 in 1973.

110. SWITZERLAND--FEDERAL. The Federal Justice and Police Department is considering the introduction of Ombudsman legislation and will prepare a report. The National Council is considering proposals for a Military Ombudsman.

111. SWITZERLAND--CANTONS. Basel, Zurich and Solothurn are considering cantonal Ombudsmen.

112. SWITZERLAND--CITY OF ZURICH. Dr. Jacques Vontobel has been serving as Zurich Ombudsman or Complaints Commissioner since 1971. In 1972, he received 396 complaints and in 1973, 344 complaints.

113. TANZANIA. The Permanent Commission of Enquiry consists of three members. Chief Erasto A. M. Mang'enya, Chairman of the Commission, was elected Speaker of the National Assembly on November 20, 1973. Information has not been received as to the name of his successor as Chairman. An article on the Permanent Commission of Enquiry by Bernard Frank was published in the Denver Journal of International Law and Policy, Volume 2, No. 2, Fall 1972.

114. THAILAND. On May 21, a seven man committee was appointed by the Prime Minister to investigate allegations of corruption on the part of Government officials. The status of the committee following the Prime Minister's resignation and then return to office is unknown. Judge Sansorn Kraichitti, International Bar Association Council Member, was one of the members of the committee.

115. TRINIDAD AND TOBAGO. The Constitution Commission submitted its report to the Governor-General on January 22. It

recommended the creation of the office of Ombudsman and proposed that the Government redraft its draft Ombudsman Bill in accordance with the Commission's recommendations. Dr. Selwyn Ryan, disagreeing with a single Ombudsman system, recommended a plural Ombudsman of at least three persons with a rotating chairmanship.

116. UNITED NATIONS. The Commission on Human Rights in 1967 adopted Resolution 14 proposing the creation of the office of a United Nations High Commissioner for Human Rights which, among other functions, would seek communications concerning human rights addressed to the United Nations which it may draw to the attention of the government concerned. (See A-125)

117. VENEZUELA. An English summary of an article in the International Review of Administrative Science (Vol. 38, No. 3, 1972), Summaries xiv and xv discuss the office of the Commissioner of the President of the Republic appointed under the Decree of July 16, 1969. The Presidential Commission receives complaints of citizens against officials with regard to inefficiency of the public services, the mismanagement of public funds, trading on influence, and generally, any maladministration.

118. VIETNAM (REPUBLIC OF). It has an institution known as the Inspectorate (Censorate) with power of audit, inspections, control and investigation of all public and private agencies, engaged as accessory or accomplice in corruption, speculations, influence--peddling, or acts harmful to the national interests; may propose disciplinary measures or request prosecution. A 1974 law broadened the powers of the Censorate over Government agencies, state owned industral and commercial corporations, public agencies with financial autonomy status, and semi-public corporations.

119. WORLD PEACE THROUGH LAW. The Geneva World Conference on World Peace Through Law in 1967 recommended in its future work program that, "The Center disseminate widely information about the role which an ombudsman can perform in protecting citizens against violation of their rights by administrative authorities; and seek to assist financially or otherwise projects designed to encourage research on the establishment of ombudsmen."

The Belgrade World Conference on World Peace Through Law (1971) adopted Resolution No. 19 which called upon states "to make every effort towards the establishment of effective national machinery for the protection of human rights including, where appropriate, the institution of ombudsman or similar institutions."

120. YUGOSLAVIA. The Public Prosecutor is authorized to carry out general supervision over the legality of administrative acts and the protection of citizens' rights. There is a Bureau for Complaints within the Cabinet of the President of Yugoslavia. In addition, citizens can lodge requests and proposals to Petition Committees. There was some discussion in 1973 of the Ombudsman system.

121. ZAMBIA. The 1973 Constitution provides in Part IX, Articles 117-119 for a Commission of Investigations consisting of an Investigator General as the Chairman and three Commissioners, all appointed by the President. The Constitution became effective on August 25, 1973. On December 11, 1973, Justice Frederick Chomba was appointed Investigator General. He had been Puisne Judge of the High Court of Zambia, which is a qualification requirement. Removal of the Investigator General by the President requires a vote of 2/3 of the members of the National Assembly passing a resolution that the question of removal be investigated, appointment of a tribunal of three persons by the Chief Justice, and a finding by the tribunal that the Investigator General be removed for disability or misbehavior. The Commission has jurisdiction to investigate cases of alleged misconduct or abuse of office or authority by government, party and local officials, by members and employees of parastatal bodies, institutions of higher learning and commissions. Legislation is being drafted to supplement the Constitutional provisions.

122. AUSTRALIA--FEDERAL. (See A-1) The draft of a federal Ombudsman bill is in its final stage and is expected to be introduced in the near future. At the same time a bill to introduce a separate Defense Forces Ombudsman will be introduced.

123. SWEDEN--CONSUMER OMBUDSMAN. (See A-108) Judge Heurgren, the Consumer Ombudsman, reports receiving 4,286 cases and taking up 541 on his own initiative in 1973.

124. GREECE. The 1968 Constitution provides for a Parliamentary Commissioner. This provision has not as yet been implemented. A Government Administrative Ombudsman has been in operation since 1968 by the Legislative Decree No. 2/1968. The Government Administrative Ombudsman is Efstathios Latsoudis who has been in office since 1972 succeeding Spyridon Velianitis. He acts on his own initiative, or on receiving complaints from the public, or on requests from the Prime Minister.

125. UNITED NATIONS. (See A-116) The Commission on Human Rights now reviews cases of gross violations of human rights referred to it by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The creation of the post of UN High Commissioner for Human Rights has been incorporated by UN Resolution #3136 into an item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms." This was adopted on December 14, 1973. This item will be considered by the 30th Session of the General Assembly in 1975.

126. AUSTRALASIAN AND PACIFIC OMBUDSMAN CONFERENCE. A Conference of Australasian and Pacific Ombudsmen from New Zealand, Western Australia, South Australia, Victoria, Queensland, Fiji, and Hawaii will be held in New Zealand in November. Sir Guy Powles, New Zealand Ombudsman, is chairman of the conference.

127. AUSTRALIA--STATE OF QUEENSLAND. (See A-2) The Parliamentary Commissioner Act 1974 was proclaimed by the Governor on June 27, 1974 with an operative date of July 1, 1974. The position of Commissioner has been advertised.

128. GREAT BRITAIN. (See A-47) Mr. Dafydd Jones-Williams has been appointed Local Commissioner for Wales.

AA. OMBUDSMEN AND OMBUDSMAN PROPOSALS. The strong trend toward the Ombudsman system throughout the world continues. The following Ombudsman officials (using the word Ombudsman in its restricted meaning) are in office throughout the world: Australia (State of South Australia, State of Queensland, State of Victoria, and State of Western Australia), Canada (Commissioner of Official Languages, Provinces of Alberta, Manitoba, New Brunswick, Nova Scotia, Quebec, and Saskatchewan), Denmark, Fiji, Finland, France, Federal Republic of Germany (Federal Military and State of Rhineland-Palatinate), Great Britain (Parliamentary Commissioner for Administration, National Health Service Commissioners, and Local Government Commissioners), Guyana, India (States of Bihar, Maharashtra, and Rajasthan), Israel (Commissioner for Complaints From the Public, Soldiers Complaints Commissioner, City of Jerusalem, and City of Tel Aviv), Mauritius, New Zealand, Northern Ireland (Parliamentary Commissioner for Administration and Commissioner for Complaints), Norway (Parliamentary Commissioner and Military Ombudsman), Sweden, Switzerland (City of Zurich), Tanzania, and Zambia. In the United States there are Ombudsman officials in the states of Hawaii, Nebraska, and Iowa, and in the cities of Atlanta (Georgia), Seattle-King County (Washington), Detroit (Michigan), Jamestown (New York), Lexington-Fayette County (Kentucky), Wichita (Kansas), Dayton City and School District and Montgomery County (Ohio), and Jackson County (Missouri).

Legislation has passed and awaiting assent in Australia (Northern Territories), Canada (Newfoundland and British Columbia Labor Ombudsman). Constitutional provisions have been enacted but there has been no implementing legislation as yet in Bangladesh, the Philippines and Greece. Legislation has been passed but no appointment of an Ombudsman made in Cyprus, India (State of Orissa), and Italy (Regions of Tuscany and Liguria). Proposals are under consideration in Australia (Federal, both civil and military, and the State of New South Wales), Austria, Belgium, Canada (Northwest Territory and Yukon Territory), Ethiopia, Iceland, India (Federal as well as states of Gujarat, Karnataka, and Madhya Pradesh), Ireland, Italy, Jamaica, Malaysia (State of Perak), Malta, Netherlands, Pakistan, Papua-New Guinea, Switzerland, and Trinidad and Tobago. In the United States, Ombudsman proposals are under consideration on the Federal, state and local government levels.

B. UNITED STATES--FEDERAL

Federal legislative proposals continue to be introduced without success. However, the affection that government agencies have for the term "ombudsman" still exists.

1. ADMINISTRATIVE CONFERENCE OF THE UNITED STATES. The Administrative Conference does not contemplate altering its position taken in the past--that the Conference is not suited to serving as an Ombudsman for citizen complaints. Its role will be to suggest improvements in the agencies themselves. It issued a study by Professor Victor G. Rosenblum of federal agency procedures and procedures in handling citizen-initiated complaints and a report by Professor Howard Lesnick on grievance procedures for federal prisoners. The latter did not consider the institution of an Ombudsman feasible in the special circumstances of prison life. The Committee on Informal Action did not propose any action to be taken on Professor Lesnick's report by the Administrative Conference Assembly, principally because it felt that the members of the Conference do not have the required expertise to speak authoritatively in the field. The Conference announced in May a major study of certain administrative procedures of the Internal Revenue Service including the handling of citizen complaints.

2. DEPARTMENT OF AGRICULTURE. The Office of the Inspector General has been dissolved and in its place an Office of Investigation reporting to the Secretary of Agriculture and the Office of Audit reporting to the Assistant Secretary for Administration were established. The two offices will independently inquire into allegations of irregularity on the part of personnel or in the operations of the Department's programs. Congressman Whitten stated in Congress on June 21, 1974 in the consideration of HR 15472 that the committee had seen fit to restore the Office of Inspector General to its former status. No further information has been received.

3. HR 11257. Congressman Les Aspin of Wisconsin introduced on November 6, 1973, HR 11257 which would permit each Congressman to appoint an Ombudsman for his or her district. In addition, the bill provides for an Ombudsman Center to train, assist, and certify the Ombudsmen. The bill is pending in the House Committee on House Administration, Subcommittee on Accounts. In March 1971, the Congressman appointed Tim Cullen to serve full time as his Ombudsman in his Wisconsin district. Mr. Cullen handles 200-300 complaints and requests monthly.

4. DEPARTMENT OF COMMERCE. The Department of Commerce established on March 26, 1971 the Office of Ombudsman for Business. John P. Kearney has been appointed to succeed Thomas E. Drumm, Jr., who resigned in August, 1973. Mr. Kearney will serve as Director of the Office of Business Relations and also as Ombudsman for Business. About 9,600 inquiries were received in 1973, of which about 5-10% were complaints involving improper operation of government programs relating to business or action by government

officials managing such programs or other abuses or capricious acts of public officials.

5. OFFICE OF CONSTITUENT ASSISTANCE. Senator Vance Hartke, for himself and Senator M. Gravel, introduced S.2500 on September 28, 1973 to establish an Office of Constituent Assistance, similar to his S.2134 introduced in 1971. The Office of Constituent Assistance would be headed by a Director who would receive complaints through members of Congress. Hearings may be held on the bill by the Committee on Government Operations.

6. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE. HEW had established in 1972 the position of Ombudsman in the Office of Civil Rights to monitor alleged abuses in affirmative action programs in the higher education community. The position was disbanded recently.

7. CORRECTIONAL OMBUDSMAN. Congressman William J. Keating introduced on October 19, 1973, HR 11146 which provides for an Office of the United States Correctional Ombudsman to handle complaints with respect to any administrative act of the Bureau of Prisons or of the Board of Parole pertaining to the treatment of a Federal prisoner or parolee or conditions in any Federal penal institution. It also would amend the Omnibus Crime Control and Safe Street Act of 1968 to provide for states seeking correctional improvement funds to set up a state Correctional Ombudsman program. The bill was referred to the Judiciary Committee.

8. CORRECTIONAL OMBUDSMAN. On June 20, 1973, Congressman Ralph Metcalfe introduced HR 8848 which would establish the Office of Correctional Ombudsman to investigate any administrative act of the Bureau of Prisons or the Board or Parole pertaining to the treatment of a Federal prisoner or parolee or conditions in any Federal penal institution. The bill was referred to the Judiciary Committee. The bill was re-introduced on July 12, 1973 as HR 9270 with six additional co-sponsors, on July 24, 1973 as HR 9543 with 17 additional co-sponsors, and on September 12, 1973 as HR 10216 with two additional co-sponsors.

9. NAVY. Rear Admiral C. F. Rauch, Assistant Chief of Staff of Navy Personnel to Human Goals, also holds the official title of "Navy Ombudsman." In addition, the Navy has a Navy Wives Ombudsman program. Anyone who feels that she has been unfairly dealt with by a government agency, local command, or service member may complain to a Navy Wives Ombudsman.

10. FEDERAL CITIZENS APPEAL BOARD. Senator Gaylord Nelson introduced on February 21, 1974, S.3043 which sets up Federal Citizens Appeal Boards in each of ten Federal districts. Each board is to consist of five members and will review complaints against agency action after agency appeal procedures have been exhausted. Decisions would be

appealable to a federal district court. An advisory council would be established which, among other functions, would be responsible for distributing grants to local and state governments for establishing local citizen appeal boards.

Senator Nelson has appointed a member of his staff to act as an Ombudsman in his Milwaukee office.

11. CONGRESSIONAL OMBUDSMAN. Congressman Wayne Owens and eleven other members introduced HR 7680 on May 9, 1973, a Bill to establish an Office of Congressional Ombudsman. The Congressional Ombudsman would be responsible only to Congress and would principally do case work referred to him by members of Congress with the help of a staff trained in the different case work areas. Information would be released only to the member or Senator who referred the case originally who could then communicate directly with his constituent. There would be no access to the Ombudsman except by specific referral from the member or Senator. The Ombudsman would be chosen by a twelve-man board which would consist of six Senators and six Representatives. The Chairmanship of the Board would alternate between members of the two Houses of Congress each session. The bill was referred to the House Administration Committee.

12. FEDERAL CRIMINAL JUSTICE SYSTEM. Senator Charles H. Percy introduced S.2160 on July 12, 1973, which contains provisions for the Office of Ombudsman of the Federal Criminal Justice System. The Office would handle complaints and disputes of confinement or other related matters and would also consider petitions for collateral review filed by any state or federal prisoner with a federal court and endeavor to resolve the matter out of court within 90 days.

13. WATERGATE. The Senate Watergate Committee in its report made public on July 13, 1974 recommended the establishment of the Office of Public Attorney to be chosen by members of the judiciary subject to Senate confirmation. The Public Attorney would have power to investigate and prosecute where conflicts of interest in the executive branch exist and also to inquire into (with power to gain access to executive records) the status and progress of complaints and criminal charges concerning matters pending in or involving the conduct of federal departments and regulatory agencies. The report terms the Public Attorney as not only a "special prosecutor" but also as an "ombudsman" having power to inquire into the administration of justice in the executive branch.

14. HEALTH OMBUDSMAN. The federal phase of this aspect is covered in Section E - United States - Health of this report.

C. UNITED STATES--STATES

Ombudsman bills were introduced in 1973 in 28 states, Puerto Rico and the Virgin Islands, and in 1974 in 21 states and in Puerto Rico.

Complaint-handling mechanisms, legislative Ombudsman proposals and other Ombudsman or complaint-handling developments in the states, territories, and districts are summarized as follows:

1. ALABAMA. 1973 - S. 280 - died in committee; and 1974 - no session.

2. ALASKA. 1973 - H.B. 15 - continued over to 1974; and 1974 - H.B. 15 - died in committee.

3. ARIZONA. 1973 - H.B. 2235 - provided for Ombudsman appointed by and responsible to Governor - Legislature adjourned without passage; and 1974 - no legislation.

4. ARKANSAS. 1973 - H.B. 274 (Public Protector) - Legislature adjourned without passage; and 1974 - no information.

5. CALIFORNIA. 1973 - S.B. 130 - died in committee; S.B. 1105 (Ombudsman for Corrections) - died in committee; and 1974 - no information.

6. COLORADO. 1973 - H.B. 1277 - died in committee; and 1974 - no legislation.

7. CONNECTICUT. 1973 - no bills; and 1974 - no bills. The Governor, Thomas J. Meskill, established on June 29, 1973, the Governor's State Information Bureau, which permits persons to call toll-free from any area of the State to the Bureau. The Bureau personnel will answer inquiries, supply information, and provide, if required, "in depth" follow-up service. Calls from the deaf are handled by special telephone facilities. An interpreter is available for the Spanish-speaking populations. Twenty case workers are employed to handle the approximately 500 daily inquiries.

8. DELAWARE. 1973 - no bills; and 1974 - H.B. 869 - Legislature adjourned without passage.

9. DISTRICT OF COLUMBIA. The City Hall Complaint Center originated in 1964. It handles problems that citizens may encounter with city agencies. Volunteers and one paid staff member handle about 200 calls per week. During the second half of 1973, 3,7[illegible]5 complaints were received. It is reported that one of the Senators is considering introducing a District Ombudsman bill. Senators Edward Long, Philip Hart, and Robert Kennedy introduced a District of Columbia bill in 1967 without success.

10. FLORIDA. 1973 - H.B. 1715 and S.B. 852 - Legislature adjourned without passage; and 1974 - H.B. 3665 (Nursing Home Ombudsman). On May 23, 1973, the Senate President announced that the Senate Governmental Operations Committee would offer commencing June 4, 1973, a service allowing any Senator or his staff to phone or write the Committee for the central processing of constituent inquiries or complaints dealing with services

rendered by state government. The service was opened to the general public on January 16, 1974. A report (referring to it as an Ombudsman service) for the period June 4, 1973 to February 28, 1974 issued by Committee Chairman J. H. Williams shows 800 inquiries were received. An Ombudsman was appointed by the Department of Health and Rehabilitation Services in October, 1973. The title of the position was subsequently changed to Co-ordinator of Client Relations since the position was not in line with the true concept of the Ombudsman.

11. GEORGIA. 1973 - H.B. 85 (City of Atlanta Ombudsman); and 1974 - H.B. 85 - carried over from 1973 - passed - approved by Governor on March 22, 1974 as Act 1047.

12. HAWAII. Herman Doi has been serving as the Ombudsman since July 1, 1969, the first to serve under the Ombudsman Act of 1967. His Report No. 4 for the period July 1, 1972 to June 30, 1973 shows a total of 2,041 inquiries, of which 509 were outside of his jurisdiction, 573 were requests for information, and 959 were complaints. 6% of the inquiries were by mail, 12.6% by visits, and 81.4% by telephone. Complaints against specifically named persons must be reduced to writing. 34% of the complaints were justified or partly justified. The Ombudsman's jurisdiction extends over local and state government. During the period from July 1, 1973 to December 31, 1973, the Ombudsman received 968 inquiries. H.B. 1711 (1973-1974 sessions) providing for the establishment of a consumer arbitrator in the Office of the Ombudsman died in committee. H.B. 2431 (1974 session) amending the Ombudsman Act of 1967 in several particulars passed and was signed into law by the Governor as Act 46, Session Laws of Hawaii, 1974.

13. ILLINOIS. 1973 - H.B. 530 and H.B. 2053 (the latter providing for an Office of Citizen Information and Assistance in the Office of the Lieutenant Governor) were both tabled; and 1974 - no legislation introduced. Governor Dan Walker established a Mail Control Center to receive inquiries, complaints and problems by mail or telephone and to respond by mail. In addition, he established a Citizen Affairs Office to deal with emergency referral, telephone inquiries, complaints, problems and letters of an emergency nature. The Mail Control Center receives approximately 700 grievance letters per month. The Citizen Affairs Office receives an average of 360 grievances per month, 90% of which are by telephone.

14. IOWA. Thomas Mayer was appointed as Citizens' Aide under the Citizens' Aide Act 1972 to succeed Lawrence D. Carstensen who resigned effective May 21, 1973. Mr. Mayer, a lawyer, had served as Deputy Citizens' Aide and Acting Citizens' Aide. Files were opened in 1,200 cases, according to the report issued by the Citizens' Aide for 1973. The Iowa Crime Commission funded the appointment of a Deputy for Corrections, Raymond Cornell, in September, 1973 to handle

complaints of inmates from correctional institutions. The office became permanent under S.F. 73 passed in 1974 and effective July 1. H.F. 284 introduced in 1973 gave the Citizens' Aide the power to investigate complaints against companies who have nearly exclusive control over an area of business. It carried over to 1974 but did not pass.

15. KANSAS. 1973 - S.B. 98 - stricken from the calendar; S.B. 72 (providing for an Ombudsman of Correctional Institutions) was enacted into law and became effective July 1, 1974; and 1974 - S.B. 703 (amending the 1973 Correctional Ombudsman Act) was enacted into law. The 1974 Legislature also approved Senate Concurrent Resolution 96 which provided for a special committee to make a legislative study of the feasibility of establishing offices of Ombudsman at the state and local levels.

16. KENTUCKY. No legislative session was held in 1973. The Governor by executive order in 1973 established the Office of the Ombudsman in the Department for Human Resources to handle complaints with respect to services rendered by the Department. J. E. Reeves was appointed to serve as the Ombudsman. In 1974, the legislature enacted S.B. 112 into law, making the office a statutory office.

17. MAINE. 1973 - L.D. 1515 and L.D. 576 (Office of Constituent Services) - both failed to pass; and 1974 - no legislation.

18. MASSACHUSETTS. 1973 - Senate No. 1209 (Office of Ombudsman appointed by the Secretary of State and an Information and Referral Agency in the Ombudsman Office), House Bill No. 1129 (the Office of Ombudsman elected by the Legislature and an Information and Referral Agency under the direction of the Ombudsman), House No. 2371 (Ombudsman for direct case personnel working in the schools for retarded of the Department of Mental Health), House No. 4024 (a Division of Citizen Inquiry and Complaint headed by an Ombudsman within the Department of the State Auditor), and House No. 5188 (Office of Ombudsman within the Executive Office of Elder Affairs) - all killed; and 1974 - Senate No. 1287 (Office of Ombudsman for Corrections), Senate No. 1316 (Ombudsman and Information and Referral Agency in the Office of the Secretary of State), House No. 912 (Ombudsman and Division of State Inquiry and Complaint within the Department of the State Auditor), House No. 1113 (Ombudsman and Information and Referral Agency in the Department of the State Secretary), House No. 2033 (residential care Ombudsman), and House No. 3040 (Ombudsman and Division of Citizen Inquiry and Complaint within the Department of the State Auditor) - all killed except House No. 3040, which was substituted by House No. 5520. House No. 5520 directed the Legislative Research Council to investigate and study the matter of establishing a State Ombudsman Office. No further information concerning House No. 5520.

19. MICHIGAN. 1973 - H.B. No. 4359 and S.B. No. 377 (State Education Ombudsman within the Department of Education) carried over to 1974; and 1974 - H.B. No. 4359 and S.B. No. 377 still in committee - no further bills introduced. Joint house resolution for a constitutional amendment to provide for an Ombudsman introduced in April, 1974 still in committee.

20. MINNESOTA. 1973 - S.F. 1048, H.F 182, H.F. 1220, H.F. 691 (Lieutenant Governor to hold office of Ombudsman) - did not pass; S.F. 672 creating the office of Ombudsman for the State Department of Corrections did pass and was enacted in law; and 1974 - S.F. 2652 (Ombudsman of State Forms within the Department of Commerce) and H.F. 3500 (fixing salaries of Ombudsman and Deputy Ombudsman) died in committee.

21. MISSOURI. 1973 - S.B. 130 (Commissioner of Administrative Investigations to be known as Ombudsman) and S.B. 323 (Lieutenant Governor as Ombudsman) - both died; and 1974 - S.B. 465 (Commissioner of Administrative Investigations to be known as Ombudsman) - died. Lieutenant Governor William C. Phelps announced on July 11, 1973, he would voluntarily assume Ombudsman duties. He has been receiving 100-150 complaints per month but lacks an adequate staff. A first year summary of activity is in the process of preparation.

22. MONTANA. 1973 - S.B. 89 (Office of Ombudsman with Lieutenant Governor as Ombudsman) - did not pass; H.B. 597 (appropriations for Office of Ombudsman) - held over to 1974; and H.B. 439 passed on March 16, 1973, but the Senate, on the request of the Governor, voted to reconsider and referred the bill to the Rules Committee; and 1974 - H.B. 597 and H.B. 439 held over from 1973 were killed in committee. In return for the actions of the Senate on H.B. 439, the Governor appointed in 1973 a Citizen's Advocate as part of his office. For the period from July 1, 1973--December 31, 1973, the Citizen's Advocate, Kent Kleinkopf, received between 4,000-5,000 phone calls, responded to approximately 1,200 pieces of correspondence and had almost 500 visitors.

23. NEBRASKA. Murrell B. McNeil has been serving as Public Counsel (Ombudsman) since June, 1971. The Public Counsel Law was enacted in 1969. Mr. McNeil's third annual report shows that he received 579 documented contacts, of which 383 were complaints. 77 of the complaints were justified and 34 were partially justified. Alan J. Wyner, Ombudsman Activities Project, Department of Political Science, Santa Barbara, has issued a report to the Office of Economic Opportunity entitled, "The Nebraska Ombudsman: Innovation in State Government." Bernard Frank's article on "The Nebraska Public Counsel--the Ombudsman" will be published in the Cumberland-Samford Law Review shortly. Persons desiring reprints should write to Bernard Frank.

24. NEW JERSEY. 1973 - S.34 and A. 495 filed in 1972 and carried over to 1973 - did not pass; 1974 - A. 1409 (Department of the Public Advocate) - passed and enacted into law on May 13, 1974. Under the Department of the Public

Advocate Act of 1974, the Department is headed by a Commissioner who is the Public Advocate. Included in the Office of the Public Advocate is the Office of Inmate Advocacy to represent the interests of inmates, a Division of Rate Counsel, a Division of Mental Health Advocacy, a Division of Public Interest Advocacy, and a Division of Citizen Complaints and Dispute Settlement. Included in the Division of Citizen Complaints and Dispute Settlement are the Office of Citizen Complaints and the Office of Disputes Settlement. The Office of Citizen Complaints handles complaints from any citizen relating to administrative action or inaction of agencies and its findings and recommendations are reported to the Public Advocate. Stanley C. Van Ness became Public Advocate on May 21. John Gleeson heads the Division of Citizen Complaints and Dispute Settlements. The New Jersey Ombudsman Committee has concluded that despite reservations the new legislation is a worthwhile experiment.

25. NEW MEXICO. 1971 legislation (Chapter 138 of the Laws of New Mexico) gave to the Lieutenant Governor, in addition to his other duties, the power to (1) facilitate and promote the cooperation and understanding between the people of this state and the agencies of state government, by assisting them in their dealings with such agencies, and by assisting the agencies to explain their functions, duties and administrative procedures insofar as they affect the people of this state; and (2) refer any complaints or special problems of the citizens of this state to the proper agency. The third annual report for the year 1973 issued by Robert A. Mondragon, Lieutenant Governor, contains a section entitled "Ombudsman." He reports having had 8,000 contacts by individuals and groups during the reporting year.

26. NEW YORK. 1973 - A. 413, A. 1050 and S. 2185 (both Office of Public Redress), A. 1052, S. 2184, S. 2227, S. 2603 (Office of Correction Ombudsman), A. 3840 (Office of Public Redress), S. 4823 (Office of Correction Ombudsman), S. 5013 (Office of Correction Ombudsman), A. 5355 (Inmate Counsels with authority to appoint Facility Ombudsmen), A. 6117 (Office of Correction Ombudsman), A. 6805 (Correction Facility Ombudsman), A. 6438 (Office of Correction Ombudsman) - no bill passed; and 1974, S. 7009, S. 8829 and A. 10647 (both Office of Public Redress headed by Ombudsmen within Banking Department), S. 7645 (Correctional Facility Ombudsman), A. 9369 (Correctional Facility Ombudsman) - no bill passed.

27. NORTH CAROLINA. In March, 1973, Governor J. Holshouser created the office of "People's Man" to receive and investigate complaints from the public about illegal, unreasonable, unfair, or discriminatory actions by officials or employees and to recommend suitable action. Fred M. Gallagher, who serves as "People's Man," uses the term "Governor's Ombudsman."

28. NORTH DAKOTA. 1973 - S.B. 2367 - an Ombudsman bill amended in its entirety to provide for a special interim committee of legislators appointed by the Legislative Council to

investigate complaints submitted by legislators for citizens - passed the Senate but was defeated in the House; and 1974 - no session.

29. OHIO. 1973 - H.B. 457 (co-operation and financial assistance to nonprofit Ombudsman corporations) - passed and enacted into law; and 1974 - no legislation introduced. The State has several self-termed Ombudsman type of services, each located within an administrative agency: Businessman's Ombudsman Bureau, Department of Economic and Community Development; Insurance Ombudsman, Department of Insurance; Environmental Protection Agency Ombudsman; Consumer Protection Ombudsman, Department of Commerce; and Local Government Ombudsman, Department of Community and Economic Development.

30. OKLAHOMA. 1973 - no legislation; and 1974 - H.B. 1789 - died in committee.

31. OREGON. 1973 - S.B. 244 (sponsored by the Committee on Judiciary at the request of the Administrative Law Committee of the Oregon State Bar), S.B. 189, and H.B. 2280 - none passed; and 1974 - no legislation introduced. Governor Tom McCall created the office of Ombudsman by executive action on July 1, 1969. The New York Times, July 21, carried an article stating that Marc Ted Winters, an ex-convict, was serving as Ombudsman.

32. PENNSYLVANIA. 1973 - H.B. No. 239 (Office of Grievance Commissioner) - carried over to 1974, and S.B. 170 (a revision of the Mental Health Act providing, inter alia, for a Mental Health Ombudsman Service); and 1974 - H.B. No. 239 (1973) - still under committee consideration. The Office of Business Ombudsman was established in the Department of Commerce in 1971 by executive order. The Governor's Action Line established in June, 1973 for the 814 exchange area was extended to the 412 area in October, the 717 area in January, and the final area, the 215, in June. The Action Line is a toll-free line for complaints or inquiries about state government. In 1971 the Insurance Commissioner appointed an Insurance Department Commissioner. The Auditor General in reviewing the Insurance Department considered the position ineffective because the Ombudsman viewed his position in a broader perspective than did the Department. The Auditor General recommended a definition of the duties and a re-examination of the performance of the Ombudsman.

33. PUERTO RICO. 1973 - H.B. No. 11 - carries over to 1974-1975-1976; and 1974 - H.B. No. 11 (1973) - pending.

34. RHODE ISLAND. 1973 - no legislation introduced; and 1974 - 74-S 2566 and 74-S 2579 - neither passed. 74-S 2579 introduced by Senator Julius C. Michaelson was the first bill based on the American Bar Association Model Ombudsman Statute for State Governments. The Little State House program established by S. 473 enacted in 1969 was eliminated in 1973.

35. SAMOA (AMERICAN). 1973 - H.B. 113 - did not pass.

36. SOUTH CAROLINA. 1973 - no legislation; and 1974 - S. 860 (authorizing the Nursing Home Ombudsman of the State Commission on Aging to investigate complaints) - enacted into law. Governor John C. West created within the Office of the Governor the Office of Citizen Services to receive complaints. Its activities are reviewed by a Citizens Service Review Board. Judy S. Hodgens serves as Coordinator of the Office of Citizen Services.

37. TEXAS. 1973 - H.B. 12 and H.B. 1973 - both died in committee; and 1974 - no session.

38. UTAH. 1973 and 1974 - no legislation. The Governor, Calvin L. Rampton, appointed Daniel L. Cope as Black Ombudsman and Gilbert Rameriz as Chicano Ombudsman to serve in liaison positions between their respective communities and the Governor.

39. VIRGIN ISLANDS. 1973 - Bill 5852 - did not pass; and 1974 - no legislation. Information has been received that the President of the Senate has appointed an Ombudsman for the Legislature but no details are known concerning the office.

40. VIRGINIA. 1973 and 1974 - no legislation. Pursuant to House Joint Resolution No. 8, 1972, the Virginia Advisory Legislative Council issued a report in 1973 recommending that the Governor's Secretaries establish a complaint resolving procedure but at the same time incorporating without recommendation the report of a special committee which favored Ombudsman legislation. The Governor then established the State Citizens' Service Assistance Office headed by Roy L. Farmer, Director of Consumer Affairs in the Department of Agriculture and Commerce, with each agency designating an agency's Citizens' Service Assistance Officer.

41. WASHINGTON. 1973 - H.B. 954 (Ombudsman for nursing home patients within the Department of Social and Health Services - did not pass, H.B. 1326 and S.B. 3054 (both Office of Ombudsman for Corrections), and H.B. 1331 - did not pass.

42. WEST VIRGINIA. 1973 - H.B. 712 (Legislative Ombudsman) - died in committee; and 1974 - H.B. 788 (Legislative Ombudsman) and H.B. 1058 (Juvenile Ombudsman) - died in committee.

43. The American Bar Association Ombudsman Committee has issued a Model Ombudsman Statute for State Governments, a joint product of the Committee and the Yale Legislative Services. Copies may be obtained by writing to Bernard Frank.

D. UNITED STATES--LOCAL GOVERNMENT--CITIES AND COUNTIES

Although many cities have some form of complaint-handling mechanisms, those described following are limited to those having true legislative Ombudsmen or to those offices although under the control of the executive which bear the Ombudsman title or to mixed types of offices under the supervision of the executive but created by the legislative body.

1. ATLANTA, GEORGIA. H.B. 85 amending the City Charter to provide for an Ombudsman was passed and enacted into law in 1974. However, the City Attorney rendered an opinion that the state law was illegal and City Council then passed an ordinance on May 20, 1974 establishing the Office of Ombudsman. Calvin O. Carter was appointed by the Mayor, Maynard Jackson, as Ombudsman and confirmed by City Council.

2. BUFFALO, NEW YORK. The Buffalo Citizens Administrative Service was an ombudsman-like demonstration project sponsored by the Law School of the State University of New York at Buffalo and funded by a grant from the OEO. The Service was in operation for 71 weeks in 1967 to 1969 and received a total of 1,244 complaints and inquiries. A report on this project has been published by the Institute of Governmental Studies, University of California, Berkeley, California 04720, entitled "Buffalo Citizens Administrative Service: An Ombudsman Demonstration Project."

3. CHARLESTON, SOUTH CAROLINA. The Charleston Ombudsman program was established by City Council ordinance and provided for a Chief Ombudsman and 16 Ward Ombudsmen. It was reorganized in 1974 and consists of an Ombudsman who heads the Office of Citizens' Complaints and a Board of Directors of ten members who act as advisors. It is not clear how the Board members are designated and whether the reorganization was pursuant to ordinance. Approximately 961 complaints were received in 1973. The Ombudsman is elected by the Board of Directors. James B. Moore serves as Ombudsman.

4. CHESAPEAKE, VIRGINIA. M. Reid MacCallum, Administrative Assistant to the City Manager, holds the title of Ombudsman. He handles about 500-600 complaints per year.

5. COLUMBUS, OHIO. Nodine Henniger-Miller serves as Ombudsman under the general direction of the Mayor. From December 18, 1972 to November 15, 1973, the office acted on 3,308 cases. Nineteen volunteers assist the program.

6. DAYTON, OHIO. Bonnie Z. Macaulay succeeded Theodore C. Bingham, who died on July 3, 1973, as director of the Joint Office of Citizen Complaints. The Congressional Record of July 12, 1973 contains a tribute to Ted Bingham. The Joint Office of Citizen Complaints opened on March 1, 1971, funded by the Charles F. Kettering Foundation and the OEO. It was established as an independent agency reporting to a community-based Board functioning within the corporate limits of Dayton but dealing with municipal public, educational, and county problems. The office receives complaints of acts done or omitted by any department (where the board or agency is responsible to the Dayton City School Board, the City of Dayton, or the Montgomery County Board of Commissioners), which act or omitted act causes any citizen in Montgomery County to be aggrieved. A Board of Trustees of the Joint Office of Citizen Complaints was created with the approval

of the School Board, the City and the County Commissioners. The Joint Office of Citizen Complaints was incorporated in 1972. Any political subdivision in the Dayton, Ohio metropolitan area is eligible to become a member of the corporation upon the affirmative vote of not less than a majority of the Board of Trustees. The initial members of the corporation are the City of Dayton, Ohio, the Dayton School District, and Montgomery County. Each member of the corporation elects three Trustees. The Board of Trustees elects an Ombudsman to be the Chief Executive Officer of the corporation. Complaints are received in person, by telephone, or in writing. The duty of the Ombudsman is to investigate complaints and also includes the ability to review upon reasonable notice all of the documents of the agency, departments, and boards, subject to her jurisdiction. The office has seven full-time staff and 19 students and volunteers. Its present sources of funds are the City, School Board, County, and the United Fund. The 1973 annual report shows 2,368 cases were received. A report evaluating the Dayton Ombudsman was submitted to the Charles F. Kettering Foundation in 1972. The Foundation has commissioned Anthony Wolff to write a book-length report on the Dayton Ombudsman Office and its role in the community.

7. DETROIT, MICHIGAN. The Detroit new Charter which provided in Chapter 3 for an Ombudsman was passed on November 6, 1973. The Ombudsman to be appointed by two-thirds vote of City Council will serve a single term of ten years. He may investigate any official act of any agency which aggrieves any person but excluded from jurisdiction are elective offices. Reports are to be made periodically to the City Council. At the end of ten years, the question of retention of the Office of Ombudsman will be submitted to the electorate. A seminar on the Ombudsman was held on May 4, 1974, sponsored by the Michigan Assembly for the Ombudsman. Retired Swedish Ombudsman, Alfred Bexelius, was among the speakers.

8. ERIE, PENNSYLVANIA. Louis A. Colussi serves as Ombudsman. The office, funded by H.U.D., originally was a Model City project and now is a Planned Variation City project. A staff of approximately 20 operates the main office, a field office, and two mobile vans, receiving about 800 cases per month, most of which concern city services. The office is not provided for by ordinance and is dependent on the Mayor.

9. FAIRBANKS, ALASKA. The Fairbanks area charter containing an optional Ombudsman clause was not approved by the voters.

10. FORT WAYNE, INDIANA. Betty Elliot heads the Department of Citizens' Assistance, as Ombudsman. Mayor Ivan Lebanoff created the position to fulfill a campaign promise that if he were elected he would establish such a post to handle complaints. The Department handles about 1,000 calls per month, most of them requests for services.

11. GRAND RAPIDS, MICHIGAN. The City Council has endorsed the Ombudsman concept and an ordinance is in the process of preparation.

12. HONOLULU, HAWAII. The 1959 City and County Charter provides for an Office of Information and Complaint in the Mayor's office to receive complaints and inquiries. James L. Loomis, Director, reports that in fiscal year 1973 he received 5,622 complaints, mainly requests for services.

13. JACKSON COUNTY, MISSOURI. The Constitutional Home Rule Charter of Jackson County, approved on November 3, 1970, established an Office of Human Relations and Citizen Complaints. Within the office there is a Commission on Human Relations and Citizen Complaints consisting of eight members appointed by the County Executive. The Commission selects the Director of Human Relations and Citizen Complaints. The Director may be removed by the vote of a majority of the members of the Commission. The Director has the power to receive and investigate complaints and to make findings and recommendations. The Commission may hold hearings with respect to any complaint which the Director is authorized to investigate and has the right to subpoena witnesses, compel their attendance, administer oaths, take the testimony of persons under oath, and require the production for examination of books and papers relating to any matter under consideration by the Commission. Jurisdiction is limited to offices that by ordinance are under the control of the Jackson County legislature. Agencies not covered are the courts, municipal police departments, and state and Federal governments. The County Charter became effective January 1, 1973. Lawrence B. Guillot became the first Director on June 11, 1973. In the first year, from about July 1, 1973 to June 30, 1974, the Office received over 1,300 contacts from the public and worked on nearly 800 cases.

14. JAMESTOWN, NEW YORK. In 1970, City Council passed Local Law No. 3 establishing the Office of Ombudsman. Appointment of the Ombudsman is made by the Mayor subject to the approval of a majority of all the members of City Council. The Ombudsman has the power to receive complaints, suggestions and requests for information from any person concerning administrative matters of government and to assist citizens with problems in dealing with city government. The Ombudsman is also authorized to perform such other duties as may be assigned to him by the Mayor. Sam J. Nalbone was appointed Ombudsman on February 1, 1970. In 1973, he received 2,149 complaints, many of which related to service. From January to April, 1974, he received 648 complaints.

15. LEXINGTON AND FAYETTE COUNTY, KENTUCKY. The Charter of the Lexington-Fayette Urban County Government adopted in November, 1972, merges the county and city governments. The Charter provides for an Office of Citizens' Advocate to investigate complaints, disclose any abuses or irregularities on the part of the Government, officers, agents or employees, and to recommend substantive or procedural policies required to reduce or eliminate problems of citizen access to the Government. The Citizens' Advocate is to be appointed by the

Urban County Council. Information has not been received as to the appointee.

16. LITTLE ROCK, ARKANSAS. The city has funded a one-man office with the title of "Ombudsman" to receive complaints from residents of the Model Cities Neighborhood.

17. MAUI COUNTY, HAWAII. The County Board of Appeals was established by Charter adopted in 1968. It is a three-man citizen board, which handled only one complaint to June 3, 1974.

18. MILWAUKEE, WISCONSIN. The Milwaukee Urban Observatory in 1973 submitted a feasibility study on the Ombudsman concept to Common Council. A committee was appointed to review the study and make recommendations. No further action has been made as of June 13, 1974.

19. NASSAU COUNTY, NEW YORK. The Commissioner of Accounts, under the Nassau County Charter, is assigned investigative duties on behalf of the County Executive. By executive order, the Commissioner assumed the additional duties of County Public Protector to receive complaints against the various departments of the county, town governments and special districts. Commissioner Benedict P. Ciaraviano handled 1,002 matters in 1972 and 1,295 in 1973.

20. NEWARK, NEW JERSEY. An Ombudsman ordinance was passed by City Council in 1972 but was never established. The Mayor, Kenneth A. Gibson, returned funds granted by the OEO for the office.

21. NEW YORK CITY. City Council President, Paul O'Dwyer, introduced Bill #333 on February 26, 1974 providing for the Office of Citizen Redress. Its director would be appointed for a six-year term by City Council from names selected by a Citizen's Selection Board. The director has power to receive complaints from any person in regard to the conduct of any agency, officer, or employee, and to investigate the conduct and affairs of any agency and the official conduct of any officer or employee. Hearings are scheduled to be held on the bill in September.

22. OMAHA, NEBRASKA. City Charter provides for a Taxpayer Complaint Office, in the office of the Mayor, to receive complaints and inquiries. The office is known as the City Services Office.

23. OXNARD, CALIFORNIA. City Council by resolution in 1969 created the position of Community Relations Representative under the general direction of the City Manager. Catarino Soria, Community Relations Representative, handles complaints and inquiries about city government, among other duties.

24. PEORIA, ILLINOIS. The Field Representative, an Administrative Assistant to the City Manager, has been given the title

of Ombudsman by the press. The position is held by Ron Ulmer.

25. PHILADELPHIA, PENNSYLVANIA. The Home Rule Charter of 1952 established the Mayor's Office for Information and Complaints which had 197,691 contacts with the public in 1972 and 179,141 from January 1, 1973 to December 27, 1973. The Charter Revision Commission issued its report in July, 1973, recommending the Mayor's Office for Information and Complaints be continued as part of a new Department of Consumer Affairs. In addition, the seven councilmen-at-large (out of a council of 17 members) would constitute a Committee for Public Hearings meeting at least four times a year. The Commission rejected the proposal of the Citizen's Council on Charter Revision, recommending an Ombudsman Commission of three full-time members to receive and resolve complaints against any administrative agency or agent.

26. PITTSBURGH, PENNSYLVANIA. The discussion draft of the Government Study Commission provided for the Office of Controller-Ombudsman setting forth, in addition to Controller duties, Ombudsman powers and duties. The Home Rule Charter to be voted on in November omits the Ombudsman portions but the commentary states that, "Traditionally, the controller has recognized and responded to citizen complaints and nothing in this charter prevents a controller from continuing this practice."

27. PORTLAND, OREGON. The Metropolitan Human Relations Commission proposed to City Council that an office of Ombudsman be created. A report by Management Services assisted by a committee of administrative review members recommended instead that an Information Co-ordinator to receive complaints be appointed by and make reports directly to City Council.

28. SACRAMENTO, CALIFORNIA. The Charter Commission has under consideration in its preliminary draft provisions for an Ombudsman.

29. SAGINAW, MICHIGAN. The Charter provides for a Bureau of Public Information and Complaint to furnish information and receive complaints of citizens relative to the public service for investigation and report. The Bureau is under the direction and supervision of the City Clerk. In addition, there is a Community Information Officer, a position held by Gerald O. Werle, who is a member of the City Manager's staff.

30. ST. PETERSBURG, FLORIDA. A position with the title of Ombudsman was instituted in 1970 in the City Manager's Office. Don Donley receives citizen requests sent to the City Manager's Office.

31. SALT LAKE COUNTY, UTAH. The County Commission appointed a Senior Citizens Ombudsman in 1973, to, among other duties, investigate complaints. Mrs. V. Lucile Hutchings holds the position.

32. SAN JOSE, CALIFORNIA. The Office of the Ombudsman was established by City Council in 1971 as part of the City Manager's Office and funded by Model Cities monies. Sam Sanchez was appointed to the position. He can only be removed by a two-thirds vote of City Council and the Board of Directors of Model Cities. Mr. Sanchez has issued an annual report covering the period from October 15, 1971 to October 15, 1973, showing 337 complaints received. The office is now fully funded by the City.

33. SAN LEANDRO, CALIFORNIA. The position of Community Relations Representative was created by City Council in 1968 to receive and investigate complaints, among other duties. City Council elected C. H. Gustafson to serve under the supervision of the City Manager. He can be discharged only by City Council.

34. SEATTLE AND KING COUNTY, WASHINGTON. The Office of Citizen Complaints was established by the Home Rule Charter of King County in 1968. In 1971, King County and the City of Seattle agreed upon a Joint Office of Citizen Complaints and also upon an ordinance. The Director of the Office of Citizen Complaints was selected by the City and County Councils for a five-year term, subject to removal only by two-thirds vote of both Councils. The Ombudsman appoints a deputy for Seattle and a deputy for the County together with the necessary supporting staff. The Director is authorized to investigate complaints filed by the citizens against city and county administrative agencies but is prohibited from investigating the Councils, the Courts, the Chief Executive, and the County Prosecutor. Mr. Fred L. Maxie serves as Acting Ombudsman. The City of Seattle also has a Citizens Service Bureau within the Office of the Mayor.

35. TROY, NEW YORK. The new City Charter provides for an assistant to the Manager appointed by the Manager to provide a Citizen's Information and Complaint Service.

36. WHITEHALL TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA. The proposed Home Rule Charter to be voted on in November provides that the Board of Commissioners may by ordinance establish an Office of Information and Complaints headed by an Information and Complaint Officer appointed by the Board. The ordinance must include a number of powers based on the Ombudsman concept.

37. WICHITA, KANSAS. In 1972, the Wichita City Commission established a Community Grievance Office. The Grievance Officer is appointed by, reports to, and is accountable to a five-member Citizens Advisory Board appointed by the Board of City Commissioners. He is independent of city government control and by ordinance is empowered to investigate complaints involving any aspect of city government, of policy or practices. The Advisory Board is also responsible for evaluating the performance of the Community Grievance Officer and must review, at least quarterly, the statistical reports and narrative summaries

of the activities of the Community Grievance Officer and submit a report on the same to the Board of City Commissioners and the City Manager. Operations began on July 10, 1972. Frederick Linde who serves as Grievance Officer reports that a total number of 2,300 grievances have been received from July 10, 1972 to May 24, 1974.

E. UNITED STATES--LOCAL GOVERNMENT--SCHOOL DISTRICTS.

Information concerning school districts is rather limited. The following school districts have some type of Ombudsman mechanism to handle complaints.

1. ANN ARBOR PUBLIC SCHOOLS, MICHIGAN. Robert L. Potts heads the Office of Human Relations Ombudsman which handles grievances from students, parents, and staff, among other duties.

2. DALLAS, TEXAS. Jack Koten serves as Ombudsman. His services relate to teachers.

3. DAYTON, OHIO. The jurisdiction of the Joint Office of Citizen Complaints includes the Dayton School District. The 1973 annual report shows 54 cases involving the school district.

4. MONTGOMERY COUNTY PUBLIC SCHOOLS, MARYLAND. Thomas S. Foss serves as Ombudsman and staff assistant to the Board of Education. He was appointed by the Board on the advice of the Superintendent and reports both to the Board and the Superintendent. Mr. Foss handles complaints from employees, students, and citizens, among other duties.

5. NIAGARA FALLS, NEW YORK. Lt. Alfred Bakula of the Police Department serves as Ombudsman for the secondary school students.

6. PHILADELPHIA, PENNSYLVANIA. The Student Bill of Rights and Responsibilities of the School District provides for discretionary appointment by each high school student government of Ombudsmen. Training sessions are held for newly elected Ombudsmen.

7. SEATTLE, WASHINGTON. In 1973, the Office of Ombudsman was established for the Public Schools. The Ombudsman is appointed by the Superintendent of Schools and reports to him. He handles complaints from citizens, students, and employees. Carroll Hanson, who heads the office, reported 121 grievances and more than 700 routine inquiries in his first six months in office. Funding is shared by the district and the U. S. Office of Education.

8. WICHITA, KANSAS. The League of Women Voters in 1973 received grants from H.E.W. to fund a School Ombudsman project. The Board of Education voted to co-operate and adopted a policy proposed by the League. Robert D. Wright was selected by the League and an Advisory Committee in August, 1973. He resigned and Rex Krieg was appointed in July as School Ombudsman. From September, 1973 to April, 1974, 429 cases were received.

F. UNITED STATES--BUSINESS OMBUDSMAN. The trend toward governmental business complaint-handling offices frequently bearing the term "Ombudsman" instituted by the United States Department of Commerce in 1971 with its Ombudsman for Business continued (see B-4). The list on the state level includes Pennsylvania with the Office of Business Ombudsman (see C-32), Ohio with the Businessman's Ombudsman Bureau (see C-29), Tennessee's Ombudsman co Industry, Maryland's Office of Business Liaison, and Michigan's Pro-Businessman's Program.

G. UNITED STATES--HEALTH. The use of patient advocates, patient representatives, and Ombudsmen continued to increase.

1. NURSING HOME OMBUDSMAN DEMONSTRATION PROJECT. The U. S. Department of Health, Education and Welfare funded projects in Idaho (Arlene D. Warner, State Ombudsman for Nursing Homes, under the general supervision of the Department of Special Services); Massachusetts (John J. Donovan, Nursing Home Ombudsman, under the direction of the Executive Office of Elder Affairs); Michigan (Marilyn A. Schiff, National Director, Nursing Home Ombudsman Program under contract with the National Council of Senior Citizens, Inc.); Oregon (Ruth Hocks, Assistant Ombudsman for Nursing Homes); Pennsylvania (Carol Delany, Director, Nursing Home Ombudsman Project); South Carolina (William V. Bradley, State Nursing Home Ombudsman; see C-36 for legislation authorizing the Nursing Home Ombudsman to investigate complaints); and Wisconsin (Lieutenant Governor, Martin J. Schreiber, is the head of the Nursing Home Ombudsman program).

2. STATE LEGISLATION. Bills for Health Ombudsmen were introduced in Florida (C-10), Massachusetts (C-18), Pennsylvania (C-32), South Carolina (C-36), and Washington (C-41). The only bill to be enacted into law was the South Carolina legislation.

H. UNITED STATES--CORRECTIONAL INSTITUTIONS. The Ombudsman concept has attracted a great deal of attention in the correctional institution area.

1. FEDERAL PROPOSALS. The Administrative Conference of the United States issued a study on grievance procedure for prisoners (see B-1). Legislative correctional Ombudsman proposals introduced into Congress were H.R. 11146--(see B-7), H.R. 8849--(See B-8), and S. 2160--(see B-12). The House of Representatives Select Committee on Crime recommended an office of National Correctional Ombudsman and state Correctional Ombudsman in its report, No. 93-329.

2. STATE PROPOSALS. California (see C-5), Massachusetts (see C-18), New York (see C-26), and Washington (see C-41).

3. CONNECTICUT. James R. Bookwalter serves as Connecticut Correctional Ombudsman under an agreement between the Hartford Institute of Criminal and Social Justice and the Department of Correction. From September 18, 1973 to December 18, 1973,

he received 105 complaints and from December 18, 1973 to March 18, 1974, he received 68 complaints.

4. HAWAII. The Hawaii Ombudsman's powers include jurisdiction over state and local prisons (see C-12).

5. IOWA. The Citizens' Aide Office has a Deputy Citizens' Aide for Correction, an office now made permanent by S.F. 73 which passed in 1974 (see C-14). The 1973 annual report of the Citizens' Aide states that 105 complaints were received against the Bureau of Adult Correction and its institutions.

6. KANSAS. S.B. 72 providing for an Ombudsman of Correctional Institutions became effective July 1 (see C-15).

7. MICHIGAN. The Office of Legislative Corrections Ombudsman was established by 1973 legislation. The Ombudsman, James Spivey, was appointed on March 11, 1974 by the Legislative Council (under whose authority the office functions).

8. MINNESOTA. S.F. 672 creating the Office of Ombudsman for the State Department of Corrections was enacted in 1973. Ombudsman Theatrice Williams who held office since 1972 under executive order of Governor Wendell R. Anderson reported 927 complaints received in his July 1, 1972--June 30, 1973 annual report. From July 1, 1973--June 30, 1974, he received 1,008 complaints.

9. NEBRASKA. Murrell B. McNeil, State Ombudsman, states in his 1973 annual report that he is receiving an increase in complaints from prisoners. (See C-23)

10. NEW YORK. The State Department of Correctional Services has established the Office of the Inspector General to, among other duties, receive complaints. Federal Judge Morris E. Lasker ordered the city to establish an Ombudsman to handle grievances of children held in New York City detention centers. It is expected that the office will be established shortly. The New York State Division for Youth has an Ombudsman program in its facilities.

11. OHIO. The Department of Rehabilitation has established the in-house position of Chief Ombudsman held by George E. Miller.

12. OREGON. L. L. Oliver serves as Ombudsman at the Oregon State Penitentiary, an office established in 1971.

13. SOUTH CAROLINA. The Department of Corrections has appointed an Ombudsman under the supervision of its director.

14. WISCONSIN. Alan Lee, Assistant Attorney General, serves as Corrections Complaint Examiner, receiving appeals from the Inmate Complaint Review System. From November 20, 1972 to March 19, 1974, he received 396 complaints on appeal from the Inmate Complaint Review System which had received 2,891 complaints in the same period.