

*Office of Parliamentary Commissioner*

The first ombudsman as such originated in Sweden and is found provided for in article 86 of the Swedish constitution of 1809. The decision to include this office in the constitution came immediately following 37 years of absolute monarchy. There had been a *coup d'état*; the king had been deposed, parliament had taken over and it was parliament which forced through this new provision. The ombudsman was one of the powers of control imposed on the new administration. No one knows exactly who had the original idea when the ombudsman was first provided for in the Swedish constitution. However, the principle was not new in Sweden, for there had been a similar position in existence as early as 1713, when Charles XII, known as the madman of the north, ruled that country. This position was then named the king's chancellor of justice. In Sweden there are two ombudsmen, one for civil and one for military affairs. Their legal position compares with that of a public prosecutor. The civil ombudsman is appointed for four years by a special committee of 45 members. Regulations briefly classify the duty of an ombudsman as concerned with, "error which comes from partiality; dereliction of duty; mistakes by government administration, or other situations created contrary to the rights of a citizen".

Probably one of the best authorities we have in Canada is Professor Donald Rowat of Carleton University. He states, in a paper published by the Canadian Journal of Economics and Political Science:

The ombudsman in the Nordic countries is a special parliamentary commissioner whose job is to receive complaints from citizens who are aggrieved by official action, to investigate these complaints and, if he finds they are justified, to seek a remedy. He may also conduct inspections and take up cases on his own initiative. He is appointed by and responsible to parliament, reports annually to a special committee of the house, and is entirely independent of the executive.

New Zealand passed legislation providing for an ombudsman in 1962; Finland has had such an office since 1919; Denmark since 1955, and Norway since 1962. The British society of jurists recently recommended, in its Wyatt report, an ombudsman for the United Kingdom. Likewise there is much talk of such an office being established in the United States, both federally and in some of the states; also in Ireland, Holland and India. It should be of special interest to us in this house that in the speeches from the throne in two of our provinces, namely Saskatchewan and Nova Scotia, it was stated that those provinces were intending to establish a provincial ombudsman.

There are a number of countries with appointments or committees holding similar

[Mr. Thompson.]

authority and responsibility. I will just briefly outline these to emphasize the fact that all over the world there is much talk and consideration given to the establishment of a permanent office such as we are suggesting in this bill. There is the procreator of justice in the Soviet union; the presidential complaints committee in the Philippines; in Japan there is the bureau of civil liberties, with commissioners in every district throughout the whole country whose purpose is to do exactly what we are talking about; in western Europe there is the European committee of human rights; there is the inspector general of the United States army, who performs similar duties to those of the military ombudsman in Sweden. In a sense our Auditor General carries parallel responsibilities in Canada, but they relate only to financial matters.

The rapid expansion of the civil service and the extension of administrative authority demands a means of protection for the individual; in fact, such protection of civil liberties has not kept pace with the growth of bureaucracy. In this regard Professor H. W. R. Wade has said:

The state has seized the initiative, and has put upon itself all kinds of new duties. In order to carry out so many schemes of social service and control, powerful engines of authority have to be set in motion. To prevent them running amok there must be constant control, both political and legal. Ultimately the political control rests with parliament, though in reality much power is in the hands of ministers and officials. The legal control is the task of the courts of law.

Professor Rowat has probably summarized the need for a Canadian ombudsman in a more concise way than anyone who has yet written about it in Canada. He says there are basically six reasons why an ombudsman is required at the present time. First, administration procedure in Canada is not adequately regulated to uniformly guarantee the basic civil liberties of our citizens, neither federally nor provincially. Second, Canada's appeal system is very limited; rarely is there proper provision for appeal, which is in marked contrast with most of the countries of western Europe. There are exceptions, such as the tax appeal board; but this is the exception rather than the rule. Third, the opportunity for the courts to review administrative decisions is inadequate in Canada. The procedure to bring a case before the courts is complicated, slow and costly. Fourth, parliament is limited in the extent to which it can control administration from the citizen's point of view. Parliament is by tradition partisan, and besides this the provision for members of parliament to protect or represent the rights of the citizens is entirely inadequate.