

BOOK REVIEW

Stanley V. Anderson: Ombudsman Papers: American Experience and Proposals. Berkeley: Institute of Governmental Studies. 1969. 420 pp. \$3.75.

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In the United States, as elsewhere, the continuing interaction between the citizen and his government on occasion becomes a confrontation between the citizen and what appears to him to be a leviathan. This confrontation may well be an inevitable result of the growth of positive government. A more complex society demands government services different in kind from the essentially negative duties which governments once performed in the domestic area. Today's society calls for positive treatment of economic and social ills, but these steps, necessary as they may be, also increase the possibilities and opportunities for arbitrary or insensitive acts which alienate citizens.¹

The growth of the administrative process accentuates these confrontations, but the confrontations themselves seem to be indigenous to the relationship between man and government. At least it is clear that these difficulties are not confined to the United States. At a recent hearing, the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee (1966: 2) heard the Swedish Ombudsman characterize the basic problem as follows:

As your Constitution, our constitutional law gives the citizens rights upon which the Government and the administrative agencies may not encroach without legal authority. Such rights in the law, however, are

not worth much if there are not sufficient means to insure the enforcement of the law. Those who have to apply the laws are human beings, and as such they cannot help that they often fail when deciding a matter.

Therefore, we have in Sweden since centuries been confronted with the problem how to best protect the rights of the citizens against abuse of power, arbitrariness, and error and neglect of the authorities.

It is well known that one of the means Sweden has used to deal with this problem is the office of the ombudsman. Since 1809 this officer has been charged with the duty of guarding the rights of the people from abuses by and malfunctions of government. In the United States traditionally we have relied on three other kinds of protective devices—conscientious and capable government personnel, administrative procedural safeguards, and the power of judicial review. But lately knowledgeable critics, both in and out of government, have argued that these safeguards are not enough, and with surprising frequency many of these same observers have called for the adoption of the ombudsman concept in the United States. In response to these suggestions, government officials at all levels—local, state, and federal—have entertained proposals for creating an ombudsman in their area.

The deluge of bills in the political arena which propose an ombudsman has been accompanied in academic circles by a flood of literature describing and often purporting to analyze the ombudsman as an institution of government. With some exceptions the quality of this literature has not been impressive.² And those authors who have tried have not made a persuasive argument for the adoption of the ombudsman in the United States. But a recent, and impressive, addition to the literature does make that argument in a persuasive manner. In his book, *Ombudsman Papers: American Experience and Proposals*, Stanley V. Anderson (1969: 1) notes the fact that “we appear to be on the threshold of an Ombudsman explosion,” and he proceeds to describe and evaluate a large number of the proposals for ombudsmen in America in light of what he believes to be the essential characteristics of the ombudsman.³

Professor Anderson’s book is strengthened by the fact that he tests the transferability of the institution to each level of American government separately. For example, by devoting a

separate chapter to the proposals for an ombudsman at the federal level he clearly delineates the special problems created by the sheer magnitude of a federal ombudsman's potential jurisdiction. This approach also enables the author to discuss the arguments both for and against an ombudsman proposal in a realistic setting. He need not resort to broad hypothetical proposals calling for review of the misdeeds of bureaucrats, because each level of American government in recent months has been faced with an ombudsman proposal. Thus in his discussion of each level he can and does discuss both the merits of a real proposal and the merits of what is often a very real opposition.

The author is an unabashed advocate for the ombudsman concept. In fact he clearly states that "this book is a plea for adapting the Ombudsman idea to American institutions," (p. 72) but this bias does not prevent him from providing a scholarly presentation of both the concept's strengths and its weaknesses. Professor Anderson's presentation is appealing and persuasive in large part because of its reasonableness and its restraint. He does not equate the institution with cool summers and quiet ghettos, and he argues that the ombudsman mania which is sweeping the country must be kept in perspective. The ombudsman

cannot create jobs, provide transportation, or build homes. But while basic social issues are more urgent and more important than the Ombudsman, the establishment of Ombudsman offices need not await the resolution of those larger issues. Neither should Ombudsman proposals, offered as panaceas, be allowed to delay fundamental reforms [p. 72].

Professor Anderson, a faculty member in the political science department at the University of California at Santa Barbara and a member of the California bar, makes a good case for his client. He weighs the arguments and rather persuasively concludes that an ombudsman or something very much like it could have a salutary effect as a "humanizer" at each level of American government. But he goes even farther, and this extra measure is what makes his book so interesting and valuable. In one chapter of his book he departs from the public sector and discusses the possible uses of an ombudsman who might entertain complaints against arbitrary action by nongovernmental entities. The discussion of some of the campus ombudsman experiments which have taken place in several

American colleges is particularly enlightening, and it is augmented by the text of the report of the first ombudsman at Michigan State University.

The Michigan report is unusually valuable because the occupant of the ombudsman's chair was so perceptive about the office's limitations. But each chapter in Anderson's book is strengthened by the presence in the extensive appendices of directly relevant and carefully selected material such as recommendations of study commissions and reports of ombudsmanlike institutions which now function in the United States and Canada. The bibliography and supplementary material make the book a rich research source, and Professor Anderson's own perceptive argument and analysis in the text make this book a very valuable addition to the ombudsman literature.

NOTES

1. For a thoughtful article discussing the ombudsman as an alternative method of solving problems caused by the movement toward positive government in an unusually sensitive area see Rosenblum (1966).

2. A list of the best ombudsman literature in book form would have to include the following: Anderson (1966), Gellhorn (1966a; 1966b) and Rowat (1965).

3. Anderson believes that the "essential characteristics of the Ombudsman post require that the individual filling it be: (1) independent, (2) impartial, (3) expert in government, (4) universally accessible, and (5) empowered only to recommend and to publicize" (p. 3).

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