

APPENDIX

(Views of Bureau of Prisons can be found beginning on p. 35 of this volume under testimony given by Dr. Myrl E. Alexander.)

AGENCY COMMENTS ON S. 1195

INTERNAL REVENUE SERVICE,
THE GENERAL COUNCIL OF THE TREASURY,
Washington, D.C., November 15, 1967.

HON. JAMES A. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 1195, "To establish the Office of Administrative Ombudsman to investigate administrative practices and procedures of selected agencies of the United States."

The bill would create an Office of Administrative Ombudsman which would be independent of the executive department and under the direction and control of the Administrative Conference. The Ombudsman would be appointed by the President for a term of five years and could not hold the office for more than four full terms. The Ombudsman would have the authority to investigate, whether on his own motion or upon a complaint, the administrative acts, practices, or procedures of the Internal Revenue Service, the Social Security Administration, the Veterans Administration, and the Bureau of Prisons and of their officers, employees or members.

The Ombudsman would be required to investigate, under sections 4 and 5 of the bill, administrative acts which might be contrary to law or regulation, unfair, unreasonable, oppressive, based on a mistake whether of law or fact, based on "improper or irrelevant grounds", "unaccompanied by an adequate statement of reasons", inefficiently performed or "otherwise erroneous", unless he decides that there is already an adequate remedy for the complaint, or the matter is outside his jurisdiction, is trivial, frivolous, vexatious, not made in good faith, or the complaint does not have a sufficient personal interest in the matter or has had knowledge of the matter too long before complaining about it. If the Ombudsman decided to investigate, he would so inform the complainant, if any, and the agency concerned. On-the-spot investigations of agency proceedings and activities would not be prohibited. In investigations, the Ombudsman could make inquiries of the agencies and hold private hearings with "both the complaining individual and agency officials", to find an appropriate remedy with respect to the matter complained of, or to make routine checks of the operations of any agency under his jurisdiction.

Section 6 of the bill would provide for the Ombudsman's course of action in dealing with an agency. If the Ombudsman's investigation were to convince him that a matter should be considered further by an agency, or an administrative act should be modified or canceled, or the governing statute or regulation should be changed or repealed, or reasons should be given for an administrative act, or some other action should be taken by the agency concerned, the Ombudsman first would consult with the agency about which, or the person about whom, he is planning a critical report or recommendation and then would allow a reasonable time either for compliance with his recommendation or for the filing of an explanation of the administrative act. When he had prepared his final views or recommendations, he would submit them to the agency and could then request that he be notified within a specified time of what action the agency had taken on his recommendations. The agency would be required to respond to the request. Thereafter, within 60 days of sending his views or recommendations to the agency, the Ombudsman would send copies, together with the agency's reply, to the head of the agency concerned, the Chairman of the Administrative