

Conference of the United States, and the appropriate Congressional Committees, and would take any other action to make such information available to the public. Finally, the Ombudsman would notify the complainant as to the fate of his complaint.

Section 8 of the bill would provide that no proceeding, report or decision of the Ombudsman which was conducted or made in accordance with the provisions of the bill could be "challenged, reviewed, quashed, or called into question in any court." Furthermore, no civil or criminal action could be brought against the Ombudsman or his staff for anything they might do in a good faith discharge of their duties under the bill nor could the Ombudsman be required to give testimony in any court or in any judicial "investigation of his functions."

In addition, section 8 would provide that the authority of the Ombudsman to act would be in addition to any other remedy available to a complainant and that any other such remedy would continue to be available. The authority of the Ombudsman could be exercised notwithstanding any other provision of law providing for the finality of any administrative act.

The author, when he introduced the bill, stated that the proposed Ombudsman is intended to be "a combination red-tape cutter, complaint bureau, and citizen's defender against bureaucracy" with "broad investigatory powers". According to the author, the Ombudsman would, in effect, "be an arm of the Congress, similar to the General Accounting Office which primarily handles fiscal matters, and similar to the other Ombudsmen of the world who are responsible to their parliaments." (113 Cong. Rec. S3201)

It is difficult to assess the probable impact of the bill on the work of the Internal Revenue Service of this Department since the ombudsman concept is not analogous to anything in American administrative experience. However, after consideration of the provisions of the bill and after a review of the available literature in English on the institution of the ombudsman, it is the view of the Treasury Department that enactment of the bill would not achieve the ends sought by its sponsor, that is, providing citizens with a forum for complaints about administrative acts. Furthermore, it could seriously impede the administration of the Internal Revenue Code without contributing noticeably to the greater well-being of allegedly aggrieved taxpayers. We believe that adequate remedies for such taxpayers to pursue and adequate procedures for investigating the administration of the Federal tax laws without seriously impeding the administration of such laws presently exist.

The institution of the ombudsman has existed in more or less its present form since provision for it was made in the Swedish constitution of 1809. The office of the ombudsman has been incorporated into the administrative framework of several other small countries in this century, several making the addition in the years since the second World War. In contrast to the United States, the countries adopting the institution of the ombudsman have been small countries governed by the parliamentary system where governmental bureaucracy is responsible to the parliamentary majority. It is noted that the Ombudsman for Denmark has hesitated to recommend that a country as large as Great Britain adopt the institution. Confining the operations of the ombudsman proposed in the bill to four Federal agencies does not meet the objection to the ombudsman based on the size of a country. The Internal Revenue Service alone is responsible for the collection of Federal taxes with respect to 190 million people throughout fifty States and territories.

It is urged by the proponents of the ombudsman, and the point was made by the author of the bill in his introductory remarks, that the institution works best in those countries having the best developed and most honest administrative systems. While this is true, it does not follow that the highly technical and sophisticated system of law found at the Federal level in the United States lends itself to overseeing by an ombudsman. In the November 1965 Yale Law Journal, Professor Walter Gellhorn points out that Sweden, in 1909, created a Supreme Administrative Court to which certain classes of cases, preponderantly those involving taxation, now go. Professor Gellhorn concludes:

* * * the administration of social insurance and related 'welfare state' activities was not a dominant element of the Ombudsman's caseload, *nor were taxation disputes a major feature of his concern*. These observations concerning the Ombudsman's work are emphasized here because both Swedish and foreign commentators have sometimes stressed that the Ombudsman system is especially needed in societies with elaborate social welfare and tax administration. The available figures suggest, on the contrary, that the Ombudsman plays a minor part in resolving the undoubtedly numerous controversies that arise between citizens and