

5. A person who feels aggrieved by an official action or failure to act is not deeply interested in a general toning up of public administration. He wants satisfaction here and now in his own case. Obtaining what he wants will restore his faith in government far more than will an assurance of improvements that may forestall mistakes affecting his fellow citizens. The ombudsman can, indeed, often help satisfy the complainant's present desire. Candor requires recognition, however, that this does not occur as frequently as enthusiasts for the ombudsman system believe—partly because complainants' desires are often discordant with public policy and partly because the ombudsman really is not a miracle worker.

Still, satisfaction results often enough to be noteworthy; and it occurs, too, in matters that may seem large to the individuals immediately concerned though lacking in the drama or the dimensions that would bring them to public notice. The world will little note nor long remember that the Danish ombudsman advised prison authorities to let convicts purchase powdered coffee for use in their own cells; or that the Norwegian ombudsman persuaded an official to allow a craftsman to retain an expired license certificate he desired to frame for reasons of sentiment; or that the New Zealand ombudsman influenced the Marine Department to relocate a water ski lane that imperilled swimmers in a certain area; or that the Finnish ombudsman obtained a refund of a fine imposed upon a defendant for not appearing in response to being summoned for a trial which occurred while, unbeknownst to the local court, the defendant was languishing in jail elsewhere; or that the Swedish ombudsman aided a young woman who insisted upon exhuming her father's bones so that they could rest in the family burial plot. The persons who were involved, though, will certainly remember—and be grateful. Singling out picayune examples should not suggest that everything an ombudsman accomplishes is picayune; but an ombudsman's caseload reflects life, and life is made up chiefly of small incidents rather than major events.

Two limitations upon an ombudsman's probable effectiveness in this country deserve to be noted in this context. First of all, an ombudsman does not function as a trial court. When contested issues of fact arise concerning episodes not reflected in paper files, an ombudsman will be unable in most instances to say where the truth lies. He can give advice about avoiding similar controversies in the future, but he cannot confidently re-create the past when the complainant's version of the facts and the complained against officials version are irreconcilable.

As an example, he will be unable to adjudge the validity of most accusations of police brutality or other misconduct unless the police admit their truth. What he can do—and should do—is to see that accusations are fully and fairly investigated by superior officials of the department concerned, and that proper supervisory steps are taken to safeguard against improprieties in days to come. He cannot readily conclude, for instance, that handcuffs were needlessly slapped on an arrested person who says he was docile but whom the arresting officer describes as having violently resisted arrest. The ombudsman can, however, see to it that the police commissioner issues suitable instructions for the guidance of future arresting officers. This may in the end make for better police practices, but it gives little solace to the man who had voiced the initial complaint.

This point needs stressing because too many persons think that an ombudsman will replace other disciplinary mechanisms. The reality is that genuine trial proceedings are outside the scope of the ombudsman's work. His job is not to supersede other responsible officials, but to see that others do their jobs completely and justly, without a predisposition toward white-washing their subordinates' sins. The ombudsman's doing the job that is his will not bring complete satisfaction to grievants who want the ombudsman to do somebody else's job as well.

The second cautionary note here is that American custom frowns on giving away cash in order to soften a complainant's sense of outrage about an official dereliction. As a matter of fact, American federal, state and local governments have been far behind other countries in accepting financial responsibility for public servants' errors in judgment or action. Local ombudsmen will be far less able than their foreign counterparts to repair individual injustices if they cannot recommend small monetary settlements in appropriate cases.

The Swedish ombudsman, for example, has successfully recommended payment to a man who had undoubtedly been maltreated by policemen, though the particular offender or offenders could not be later identified; and in the same way he has recommended compensation for persons whose detention in a mental institu-