THE OFFICE OF OMBUDSMAN IN NEW ZEALAND

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I. Introduction

I hope that mention of the term "Ombudsman" will, from now, register with you, as law students and lawyers, in at least two senses.

This first relates to our country's constitutional arrangements. These set out clear territories, parameters and rules, within which Parliament, the Courts and the Executive (or public service) are required to operate. This country's two Ombudsmen have a constitutional position as Officers of Parliament, and undertake their work pursuant to that legal authority.

The second sense, though, is that, very often, the same Ombudsmen undertake their work despite, or beyond, the usual legal frameworks and are called on to act when no parliamentary, legal or administrative recourse is available or practicable. This extra-territorial kind of action was described colourfully by Sgr Noberto Nicotra, a former provincial Ombudsman of Argentina, when he addressed an International gathering in 1994 he said, "when every train has gone, just one remains — the ombudsman".

II. Definition of term 'Ombudsman'

The term "ombudsman" is Scandinavian, meaning something in the nature of "entrusted person" or "grievance representative". The part word "man" is taken directly from the Swedish (the old Norse word was "umbodhsmadr") and does not connote any necessity that the holder be of the male gender. Indeed, if one were to survey the present Ombudsman community world-wide, it would be seen that there are many women Ombudsman. My tracing of the office will start with the Scandinavian "grievance person" since this model is said to set a standard. I do acknowledge, however, that there are several precedents from Asian (and other) settings of people, in former times, undertaking office to provide relief and redress to citizens adversely affected by government action.

In earlier times it is recorded that the Romans installed an office called the "tribune" to protect the interests and rights of the plebeians from the patricians. There are also writings in both China and India, which suggest that three thousand and more years ago, special officials were designated to function in the manner of Ombudsmen. In China during the Yu and Sun dynasties it was the duty of the incumbent, who was called the "control yuan", to "report the voice of the people to the Emperor and to announce the Emperor's decrees to the people". In India today there are Ombudsmen appointed in twelve of the Indian states, though not at Federal level. The term for them is "Lokayukta", an ancient word revived so as to make the office meaningful in a local sense in that country.

In 1809 Sweden appointed an official entitled the "justitieombudsman" to enquire into actions of the government administration, including the military and the courts. The establishment of this office was said to be a reaction to state absolutism and an assertion of individual rights and dignities of the citizen. Nearly 100 years later, Finland appointed a similar person, and Denmark followed suit in 1954.

* Ombudsman. This article is the revised text of a lecture to the Public Law class at the University of Canterbury, on 12 June 1997.

III. Essential Constituents of Term "Ombudsman"

The Ombudsman Committee of the International Bar Association described the office thus:

> An Office provided for by the Constitution or by action of the Legislature or Parliament and headed by an independent, high-level public official, who is responsible to the Legislature or Parliament, who receives complaints from aggrieved persons against Government agencies, officials and employees, or who acts on [his] own motion, and who has the power to investigate, recommend corrective action, and issue reports.

This contemporary definition of the term "Ombudsman" is not agreed to universally, but it does serve as a starting point in defining the role.

IV. Development of the Concept

During the post-World War II period, there was considerable discussion in many countries outside Scandinavia about establishing a process by which to examine things undertaken by governmental administration. This was to be alongside and beyond the formal means of redress available through the courts or Parliament or a free Press. The welfare state models in many countries had produced very large government bureaucracies. There was concern in many quarters that a simple independent means of redress needed to be provided for the individual citizen. The matter was neatly put by Professor D.C. Rowatt in an article suggesting an Ombudsman Institution in Canada:[1]

> It is quite possible nowadays for a citizen's right to be accidentally crushed by the vast juggernaut of the government's administrative machine. In this age of the welfare state, thousands of administrative decisions are made each year by governments or their agencies, many of them by lowly officials; and if some of these decisions are arbitrary or unjustified, there is no easy way for the ordinary citizen to gain redress.

In that country and elsewhere, it was simply no longer possible to say that every person adversely and unfairly affected by action of a governmental official would have the resources or means to engage a lawyer. Court procedures could be both lengthy and expensive. The right of a person to consult their individual Parliamentary representative, write to the newspaper, organise a petition or raise a deputation to see a Government Official or Minister, may have been no more effective. In England in the 1950's a committee of the International Commission of Jurists, chaired by Lord Whyatt (a former Chief Justice of Hong Kong), had suggested the establishment for the United Kingdom of some kind of parliamentary commissioner.

In New Zealand, a similar debate was under way in a number of quarters — political, academic and among those with the task of formulating policy. The debate quickened after the abolition of the Upper House of Parliament in 1950. Consideration was being given to such things as an Administrative Court. New Zealand observed with interest the establishment in 1954 of an Ombudsman responsible to the Danish Parliament, or "Folketing".

In 1962, New Zealand became the first English speaking Commonwealth (and indeed common-law) country to enact this kind of legislation, although there were a number of other jurisdictions in which Bills had been introduced, or where the matter had been canvassed. The

1 D C Rowat, "An Ombudsman Scheme for Canada" *Canadian Journal of Economic and Political Science*, Vol. 28, No 4, November 1962, p. 453.

succeeding 35 years have seen Ombudsmen installed in a great many countries. The international Ombudsman community now numbers 150 in some 86 countries. As may be known, the office has been created at both federal and provincial levels.

V. Constitutional Position of the Ombudsman

I want now to map the position of New Zealand's Ombudsmen in a constitutional sense. The New Zealand Ombudsmen are Officers of Parliament. They are appointed by the Governor-General on the recommendation of Parliament. Although it is not provided for in the law, there is a long-standing convention that all Members of Parliament (that is, from all parties in the House) must agree unanimously to the appointment. This promotes confidence in the office and ensures that the Ombudsmen are independent of the government of the day. As a further mark of independence, funding for the office is provided directly through Parliament. The Speaker of the House of Representatives is the person through whom the Ombudsmen are accountable to Parliament. This independent accountability and financing arrangement ensures that the office has compete independence and cannot be pressured by any government department or Minister of the Crown.

When the office was first established, the Ombudsman's jurisdiction was limited to the investigation of complaints from citizens about central government departments and organisations. In 1968 the jurisdiction was extended to education and hospital boards. In 1975, the legislation was amended and consolidated into the Ombudsmen Act 1975. Under that Act, the jurisdiction of the Ombudsmen was extended to territorial local authorities (city, county and borough councils), as well as to a variety of statutory boards (for example, catchment boards and electric power boards). Additional offices in Auckland and Christchurch were established. The Ombudsmen Act 1975 also contained provision for the appointment of more than one Ombudsman, one of whom would be appointed Chief Ombudsman, with responsibility for the overall administration of the office and allocation of work as between the Ombudsmen.

Professor Philip Joseph, in *Constitutional and Administrative Law in New Zealand*,[2] has described the Ombudsman role as that of a "generalist" with a disinclination to intervene in specialist matters involving professional departmental judgment. When a policy is found wanting, the Ombudsman may recommend a departmental reconsideration or that a specific alternative policy be adopted, but they are reluctant to second-guess actual departmental decisions. Recently, however, specialist positions have been created in both the public and private sectors which undertake Ombudsman-like activity. These include the Banking Ombudsman, the Insurance and Savings Ombudsman, and for specific purposes the Police Complaints Authority and the Health and Disability Commissioner.

I conclude with a descriptive passage from *Bridled Power* where Sir Geoffrey Palmer and Dr Matthew Palmer set out the Ombudsman's powers:[3]

> The Ombudsmen may reach the conclusion that a decision was unfair on a number of grounds. It could be:

2 Law Book Company, Sydney, p 127.
3 Sir Geoffrey Palmer and Matthew Palmer, *Bridled Power* (OUP, Auckland, 1997), p 225.

- contrary to law;
- unreasonable, unjust, oppressive, or improperly discriminatory;
- made under an act, regulation or by-law that was unreasonable, unjust, oppressive or discriminatory;
- based on mistake of fact or law;
- made in the exercise of a discretionary power used for improper or irrelevant purpose;
- simply 'wrong'.

Where the Ombudsmen reach an unfavourable view of a decision they can say that:

- the matter should be further considered by the appropriate authority;
- the omission should be rectified;
- the decision should be cancelled or varied;
- the practice on which the decision was based should be altered;
- the act, regulation or by-law on which the decision was based should be reconsidered;
- reasons should have been given for the decision; and
- other steps should be taken.

VI. Jurisdiction of the Ombudsmen

When describing the jurisdiction conferred upon the individual Ombudsmen, the term "Ombudsman" may itself be misleading in a comparative sense. Different countries give to the Ombudsman different functions and procedures. For example, in many jurisdictions, including the United Kingdom, the citizen may not approach the Ombudsman directly. In Australia and New Zealand, however, direct contact is the norm. In the United Kingdom and Northern Ireland, a citizen approaches the local Member of Parliament, who in turn makes a case to the Ombudsman. In some jurisdictions, the Ombudsman is responsible for redressing breaches of human rights. This is so in several Latin American countries such as Mexico, whereas in New Zealand that function has been undertaken by a separate Human Rights Commission. In a number of other countries (for example, Papua New Guinea), the Ombudsman may be charged with a specific responsibility of inquiring into allegations of corruption.

Differences also arise regarding appointment and tenure. A New Zealand Ombudsman is appointed by Parliament and receives funding from that source, but in other jurisdictions the appointment may be by the erstwhile governing party and funding may become dependent upon a determination of the Government of the day. In unicameral States such as New Zealand, the Ombudsmen may be responsible to Parliament, and in bicameral States such as the United Kingdom they may be responsible to the Lower House of Parliament (for example, to the House of Commons in the United Kingdom).

From the classic state-Ombudsman role as just described, there have also developed, here and elsewhere, different kinds of Ombudsmen, some of whom use similar investigative methodology, but whose role may be limited by circumstances or area. If the essence of the Ombudsman role is defending citizens against the unfair administrative actions of the State, Human Rights Commissioners can be seen as undertaking a kind of Ombudsman role, but are restricted to investigating alleged breaches of human rights. There are also specialist offices such as Commissioners for Children, Health and Disability and Police Complaints Authorities who may be undertaking Ombudsman-like work, but whose work is confined within a specific area.

The role of the Ombudsman, as a person who investigates complaints, has also led to the development of industry Ombudsmen, for example in

banking and insurance. The former Ombudsman for Northern Ireland, Dr Maurice Hayes, has observed that the Ombudsman concept is one of the few to have passed from the public sector to the private sector at a time when the tide of ideas is flowing in the opposite direction. There has also developed the notion of "organisation Ombudsmen". In some countries, such as the United States, if one has a dispute with a department store, university or local authority, the person designated to deal with that complaint may be termed an "Ombudsman".

Even that brief summary is not complete, because there may be other anomalies. In Australia, for example, some Ombudsmen may deal with complaints about behaviour of the Police, and others not, because of there being in place a separate stand-alone Police Complaints Authority. In Sweden and Finland, complaints about the conduct of the courts are dealt with by Ombudsmen, whilst in most countries where there is a separation of powers — legislative, executive and judicial — the Ombudsman has jurisdiction only over actions of the executive.

Owing to the threat of proliferation in New Zealand, it was thought important that the term "Ombudsman" should not be seen to lose its currency. Legislation was passed in 1993 restricting use of the term "Ombudsman" unless the particular industry which uses the term gains the approval of the erstwhile Chief Ombudsman and is able to guarantee certain kinds of delivery of service.

VII. Relationship of Ombudsman Role to Courts and Ordinary Legal Processes

By undertaking a task which involves examination of organisations' powers and responsibilities, a question arises as to whether the Ombudsman office itself should be subject to judicial scrutiny if its investigation and recommendation breaches appropriate procedural or jurisdictional limits. In most jurisdictions, the answer is "yes". This susceptibility of the Ombudsmen to judicial review, which some would say is a discipline of its own, has led to a number of contemporary statements about the nature and efficacy of the role. The following examples suffice.

In 1984 Justice Dickson delivered the unanimous decision of the Supreme Court of Canada in *British Columbia Development Corporation v Friedmann*.[4] There, he said:[5]

> The limitations of Courts are also well known. Litigation can be costly and slow. Only the most serious cases of administrative abuse are therefore likely to find their way into the courts. More importantly, there is simply no remedy at law available in a great many cases... Read as a whole, the Ombudsmen Act of British Columbia provides an efficient procedure through which complaints may be investigated, bureaucratic errors and abuses brought to light and corrective action initiated. It represents the paradigm of remedial legislation. It should therefore receive a broad purposive interpretation consistent with the unique role the Ombudsman is intended to fulfil.

The judgment is also authority on the meaning and application of the phrase "matter of administration". This phrase frames the Ombudsman's area of jurisdiction and is to be construed widely, "encompassing everything done by governmental authorities in the implementation of government

4 [1984] 2 RCS 447 at 460, 463.
5 Ibid, at 463.

policy".[6] The Court held that only the activities of the legislature and the Courts should be excluded from the Ombudsman's scrutiny.

The role of the Ombudsman in that country was also challenged in *Re Ombudsman Act*, decided in 1970.[7] The Chief Justice of Alberta stated:[8]

> [T]he basic purpose of an Ombudsman is provision of a 'watchdog' designed to look into the entire workings of administrative cases. ...[He] can bring the lamp of scrutiny to otherwise dark places even over the resistance of those who would draw the blinds. If [his] scrutiny and reservations are well founded, corrective measure can be taken in due democratic process, if not no harm can be done in looking at that which is good.

In Australia, the judgment of the Federal Court in *Aboriginal and Torres Strait Island Commission v Commonwealth Ombudsman*[9] undertook a thorough review of the actions of the Ombudsman and contains a number of statements distinguishing between the judicial function and the Ombudsman function. The former was for making determinations on identified issues, the latter for "investigating, reporting and making suggestions". Several other Australian authorities have also delineated the Ombudsman role. In *Ainsworth v Ombudsman*,[10] Justice Enderby of the New South Wales Supreme Court said:

> It has always been considered that the efficacy of the [the Ombudsman] Office and function comes largely from the light [he] is able to throw on areas where there is alleged to be administrative injustice and where other remedies of the Courts and the good offices of Members of Parliament have proved inadequate. Goodwill is essential. When intervention by an Ombudsman is successful, remedial steps are taken, not because orders are made that they may be taken, but because the weight of its findings and the prestige of the office demands that they be taken.

In *Botany Council v The Ombudsman*,[11] the President of the New south Wales Court of Appeal, Justice Michael Kirby, also traversed the difference between judicial and Ombudsman function:

> [The] Ombudsman lacks the powers to make orders as a Court may do. But the sanction of the provision of a report to the responsible minister and to parliament and the requirement upon the minister to respond promptly to any such report also affords significant sanctions. These have proved effective in all jurisdictions in which the Office of the Ombudsman has been created, to obtain reconsideration of administrative action found by the Ombudsman to be unlawful, unreasonable, mistaken or wrong.

The Ombudsman's authority has also been challenged in the New Zealand Courts, although principally in recent times in regard to the Official Information Act jurisdiction.

VIII. Official Information Act Role of Ombudsmen

The Official Information Act was added to the Ombudsmen role in 1982. This second aspect is responsible for much of the comment about the role in contemporary politics and in contemporary Press coverage. Often one sees in the newspaper or in electronic media the words "obtained under the Official Information Act". This is a shorthand reference to a number of procedures which might have been actioned before publication has taken place.

6 Ibid, at 474.
7 (1970) 72 WWR 176.
8 Ibid, at 190 and 192.
9 (1995) 134 ALR 238.
10 (1988) 17 NSWLR 276 at 283
11 (1995) 37 NSWLR 357 at 363.

New Zealand is one of many countries where Parliament has determined that there should in general be freedom of access to information so that people can play an informed role in the democracy. This means, from a legal standpoint, that information is to be made available unless there is some withholding ground able to be invoked. It is the Ombudsmen who determine whether the withholding tests have been met. The position was different prior to the Official Information Act, when the Official Secrets Act 1951 was in force. This statute was modelled on United Kingdom legislation under which it was said, either literally or notionally, that governmental or official information was the property of the Queen and her advisers.

The drawbacks in this situation led to discussion in academic and political circles that there needed to be a better way. In the civil service itself, there was a prevailing climate of change. A 1964 Circular from the State Service Commission to Permanent Heads of government departments said that "information should be withheld only if there is a good reason". An Ombudsman investigation into the Security Intelligence Service in 1976 highlighted the need for information access. In 1980, a committee of senior civil servants chaired by a University academic produced a well-regarded report in favour of a more open approach to official information. This was the Danks Committee Report[12] which *Bridled Power* described as follows:[13]

> The Danks Committee report, from which the 1982 legislation sprang, was a document of high quality and considerable liberality. Titled *Towards Open Government*, the report came in two parts. The reasons the committee articulated for more open access to official information could be summarised as follows:
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> - a better informed public can better participate in the democratic process;
> - secrecy is an important impediment to accountability when Parliament, press, and public cannot properly follow and scrutinise the actions of government;
> - public servants make many important decisions that affect people and the permanent administration should also be accountable through greater flows of information about what they are doing;
> - better information flows will produce more effective government and help towards the more flexible development of policy. With more information available, it is easier to prepare for change;
> - if more information is available, public co-operation with government will be enhanced.

The Danks Committee concluded:[14]

> The case for more openness in government is compelling. It rests on the democratic principles of encouraging participation in public affairs and ensuring the accountability of those in office; it also derives from concern for the interest of individuals. A no less important consideration is that the Government requires public understanding and support to get its policies carried out. This can come only from an informed public.

To the surprise of some, legislation incorporating the committee's recommendations was passed quickly and came into force in 1983. The Official Information Act provides for people to have access to official and personal information held by Ministers of the Crown, government departments and local authorities. If a particular request for information to one of these organisations is declined, the requester has the right to ask an Ombudsman to investigate and review the decision.

12 Committee on Official Information, *Towards Open Government*, Vol. 1, General Report, December 1980.
13 Op. cit, p 188.
14 Op. cit, p 14.

The only reasons for refusing requests for information are those as set out in the Act. Upon taking up a complaint, an Ombudsman must review the information at issue and assess it against the withholding provisions set out. Some withholding grounds are conclusive: for example, prejudice to the security or defence of New Zealand, or serious damage to the New Zealand economy, or prejudice to maintenance of the law. The Ombudsman sights the information to ascertain that the claim may be made and then makes a recommendation. Other withholding grounds are defeasible by the public interest in freedom of information. These include protection of trade secrets, or protection of legal professional privilege. The Ombudsman sights the information and undertakes a balancing test, expressing the public interest in the particular situation and making a recommendation. Those recommendations are then considered by the withholding organisation and acted upon. There is a potential right of veto of an Ombudsman's recommendation by the Cabinet. There has, however, been no occasion of use of the veto, which is a measure of the efficacy of the Ombudsmen process. The Ombudsmen must also consider in each case whether the right to preserve personal privacy constitutes a factor in deciding if information should be protected or released. The Ombudsman must then determine whether or not the decision to withhold the information was made in accordance with the provisions of the official information legislation.

At the conclusion of an investigation, an Ombudsman may make a recommendation for release of the information sought. In certain circumstances, this recommendation imposes a public duty upon the organisation concerned to release the information. When undertaking investigations, the Ombudsmen always keep in mind the purposes of the legislation:

- to enable citizens to participate effectively in the making and administration of laws and policies;
- to promote the accountability of Ministers and officials;
- to provide for proper access by each person to information about that person; and
- to protect official information to the extent consistent with the public interest in the preservation of personal privacy.

In recent years the Ombudsmen have considered requests for matters affecting, for example:

- the level of salaries of chief executives and other Council officers;
- the redundancy packages given to officers whose positions have been terminated;
- discussion papers presented to Ministers or committees for consideration;
- detailed financial information;
- employment related information, such as references provided in confidence;
- information about building permits and planning applications;
- identities of informants.

It can be seen that there is a wide range of requests. There were approximately 1000 official information requests through the Ombudsmen's Office during this past year. Several well known cases have

involved the Official Information Act, including *Police v Ombudsman*,[15] *TVNZ v Ombudsman*[16] and *Queenstown-Lakes District Council v Wyatt Co NZ Ltd*,[17] each of which has referred to the constitutional underpinning of freedom of information in New Zealand.

CONCLUSION

I now wish to draw together the two streams, of classic Ombudsman and of the Official Information Act role, and to address some general remarks about the future of the office.

A question often posed to Ombudsmen world-wide is whether the ordinary community sufficiently understands the redress offered by the service. This is no area for complacency. In New Zealand, the legislation has been in force for more than 30 years, and the jurisdiction has been extended to cover local government, state-owned enterprises and schools. The daily workload of the two Ombudsmen sees several hundred cases open at any given time and some thousands are dealt with each year. And yet there needs to be continuing publicity given to the work of the office. This can be in the media, through the country's ethno-minorities, in school publications and by receiving public airing in Parliament and its select committees. The New Zealand office continues to handle more complaints annually. In 1965 the total was 743; in 1975, 1163; in 1985, 1994; in 1995, 4606 and in the present year the total has well over 5000.

Publicity is vital. The notion of the office being one of last resort for the community must be preserved. It also seems appropriate to ensure that the office is reactive to complaints by individuals and is not engaged in what might be termed artificial solicitation of complaint. It is generally agreed that low key but regular publicity and dissertation regarding its services meets the matter best.

It might be thought that the Ombudsman office, by having grown incrementally for over 30 years, all over the world, would have an assured position in the framework of every modern State, and that nothing would emerge to replace it. Two developments of the past 18 months would suggest so: the installation of an Ombudsman (entitled the Public Protector) in the new South African Constitution, and a suggestion that there be an Ombudsman in a new Constitution for Fiji with entrenched constitutional provisions for the office. But there is no room for complacency regarding ongoing growth, because whilst the office has certainly grown through two generations (taking 1960 as a baseline), government administrations of the mid-1990s can be of a far different size and style and may exert a much different influence on the citizenry. In New Zealand, widespread economic reform and restructuring of government enterprise have reduced the numbers in the civil service. Many people are now working under contract and for shorter periods. Successive Governments have adopted a funder/provider split with many of the providing functions being delivered by the private sector, rather than by government departments. In these terms, it could be argued that the need for an Ombudsman service in New Zealand has lessened. But yet, the number of complaints referred to our office continues to increase each year.

15 [1988] 1 NZLR 385.
16 [1992] 1 NZLR 106.
17 [1991] 2 NZLR 180.

Is recourse to the Ombudsman a worthwhile asset to the ordinary citizen? The question is intriguing because the term "redress" usually connotes the ability to obtain some kind of order or sanction against a department or organisation. That ability to bring down sanctions is one reserved to judicial tribunals. The Ombudsmen have, at least in New Zealand, never been granted such powers and neither have any been sought. Professor Larry Hill, in *The Model Ombudsman,* commented poignantly that "... one of the institution's most interesting puzzles is its apparent effectiveness, despite minimal coercive capabilities."[18]

The emphasis has always been on the Ombudsmen's ability to persuade the parties to some kind of resolution. It can certainly be said, from a New Zealand standpoint, that Ombudsman recommendations have an enviable record of being adopted, even if not in the short term, then certainly in the medium and longer terms. In a slightly different context, the Fiji Constitution Review Commission, chaired by New Zealander Archbishop Sir Paul Reeves, observed in its August 1996 Report:[19]

> The Ombudsman is authorised to make a finding generally as to the legality, reasonableness or justice of the matter complained of, and to make recommendations as to the appropriate remedial action which should be taken. The findings and recommendations are usually given to the state servant responsible for managing the relevant department or agency of the government. Unlike a Court or tribunal, the Ombudsman has no power to order or direct. Although his or her recommendations are not mandatory, in the event that they are not followed, the Ombudsman has the power to report the matter to Parliament. The Ombudsman's power is therefore rightly described as the 'power to persuade'.

To sum up, New Zealand barrister and writer Dr Graham Taylor (who co-incidentally worked as legal counsel to the Ombudsmen in the 1980's), in a paper published in *Judicial Review of Administrative Action in the 1980s*,[20] described administrative review as being available by three broad means: first in the courts, secondly under the Official Information Act, and thirdly by referral to the Ombudsmen. If the jurisdiction of the third of these is to remain meaningful, there must be regular review and reappraisal of the role. The Ombudsmen must be able to operate in an independent fashion; they must be encouraged to be flexible in resolving items, particularly where dispute has occurred; and they must retain credibility both with the public and with those organisations subject to coverage. One of the keys to maintaining credibility for the Ombudsmen office is that the incumbent should never be seen to become an advocate for either complainant or organisation. The Ombudsman should be seen to undertake a separate and distinct review. If there is a role for advocacy, it should be restricted to the Ombudsman advocating the particular recommendation in a particular case, following an independent review.

Let me end with four quotations, the first from *Bridled Power*:[21]

> The introduction of Ombudsmen has had a healthy effect on decision-making in the New Zealand Government. They provide the check of independent scrutiny with full access to the relevant information and the possibility of publicity about erroneous Government decisions that affect individuals.

18 L B Hill, *The Model Ombudsman Institutionalizing New Zealand's Democratic Experiment* (Princeton University Press, New Jersey, 1976), p. 12.
19 Para 15.45
20 "May Judicial Review Become a Backwater?" in M Taggart (ed), *Judicial Review of Administrative Action in the 1980s* (OUP, Auckland, 1986), p 153 at pp 159-160.
21 Op cit, p 227.

The second quotation is from Hon Mrs Anson Chan, then Deputy to the Governor of Hong Kong:[22]

An Ombudsman has a difficult job. [He] has to maintain [his] independence and impartiality, not an easy task as many issues become more and more politicised. And a good Ombudsman should always try to strengthen the relationship between the public and the government. It is only too easy to find fault in a way that will adversely affect the credibility of the government and demoralise staff. It is all the more difficult to make constructive criticisms that will enable civil servants to understand how they can do their jobs better, thereby improving the standard of service to the community, and at the same time enhancing the public understanding of why a government takes the decision it does. An Ombudsman needs courage, intelligence, determination and sensitivity to do [his] work successfully.

The third quotation is from Justice Kantharia, Ombudsman of the State of Maharashtra, India:[23]

The basic foundation of the institution of Ombudsman is to ensure that citizens should not be the victims of actions of the bureaucracy or other functionaries. The central feature of the institution is that the investigation and association of administrative conduct would confirm the basis for proposals as to future conduct of the bureaucrats. The purpose of investigation is not only the redress of individual complaint, but prevention of future ones. Thus an Ombudsman is able to make suggestions for improving performance and better service to the citizens in the light of experience gained while investigating into public grievances. The institution has to be quite alert to prevent maladministration. To put it precisely, the institution of Ombudsman is a device by which the state provides free service of an independent investigator for looking into citizens' complaints and submits its own decisions and suggestions for remedial action.

The final quotation is from New Zealand's first Ombudsman, Sir Guy Powles, who declared upon taking office:[24]

The Ombudsman is Parliament's person — put there for the protection of the individual, and if you protect the individual, you protect society. I am not looking for any scapegoats or embarking on any witch hunts. I shall look for reason, justice, sympathy and honour, and if I don't find them, then I shall report accordingly.

22 Speech to 15th Australasian and Pacific Ombudsman Conference, Hong Kong, November 1995.
23 "Ombudsman and Ethical Practices in Public Administration", Fifth Australasian and Pacific Ombudsman Conference, Hong Kong, November 1996, p 8.
24 Sir Guy Powles, "The New Zealand Ombudsman - The Early Days" (1982) 12 VUWLR 207.