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## **The ombudsman in higher education : a study of the limitations of ombudsing as a departmental conflict resolution tool within a larger university environment.**

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THE OMBUDSMAN IN HIGHER EDUCATION:  
A STUDY OF THE LIMITATIONS OF OMBUDSING AS A DEPARTMENTAL  
CONFLICT RESOLUTION TOOL WITHIN A LARGER UNIVERSITY ENVIRONMENT

A Dissertation Presented

By

PETER COFFIN SARTWELL

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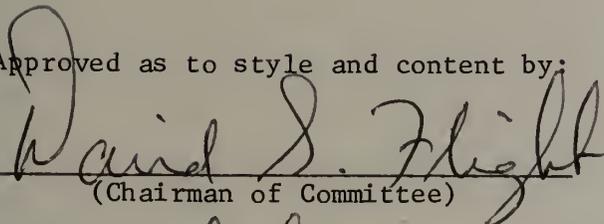
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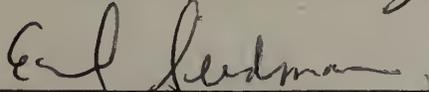
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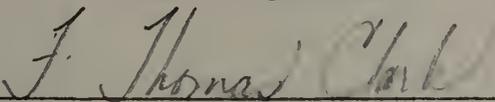
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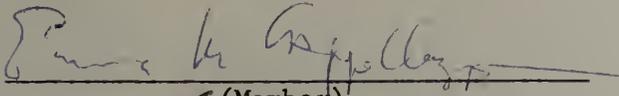
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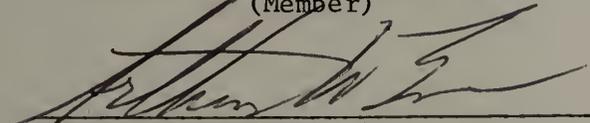
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AUGUST, 1972

A collegiate lad, ill at ease  
Overburdened by B.A.'s and Ed.D.'s  
Collapsed from the strain  
Said his doctor, "It's plain  
You are killing yourself by degrees!"

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The Ombudsman in Higher Education:  
A Study of the Limitations of Ombudsing as a Departmental  
Conflict Resolution Tool Within a Larger University Environment  
(August, 1972)

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Directed by: Dr. David Flight

ABSTRACT

Rationale

The increasing use of ombudsing services on American campuses has led to a number of variant explorations in the area of academic conflict resolution. In one such case, the School of Education of the University of Massachusetts at Amherst, established an ombudsman to deal with its own institutional discord. Functioning under an atypical mandate within an unnatural environment, the Office of the Ombudsman devolved into an aberrant configuration. This study seeks to examine the development of that ombudsing experiment, and to analyze those forces which were influential in shaping it.

Method

Through interviews, School records, the ombudsman's log, and participant-observer techniques, the study traces the evolution of the Office of the Ombudsman through the first three and one half years of its existence. The discrete use of selected case studies extracted

from the ombudsman's confidential files, provides an illuminating insight into mode of operation employed by the office in remediating interpersonal conflict and coping with those internal institutional pressures which tended to determine the limits of his outreach.

### Findings

The study indicates that the Office of the Ombudsman at the School of Education was only partly successful in remediating institutional conflict. The following five conditions were identified as serious impediments to effective ombudsing:

1. Lack of a clear and comprehensive mandate for action.
2. Poorly developed bureaucratic structure and low level of administrative accountability.
3. Lack of controls to safeguard the traditional prestige of the office.
4. Limited community' confidence in the integrity of the educational institution.
5. Expansive modifications of the role of the ombudsman.

### Conclusions

The study contents that the School of Education's Office of the Ombudsman proved to be ineffectual in monitoring the institution's bureaucracy. In spite of the unique circumstance in which the School's model was conceived and operated, the study suggests that an ombudsing tool may not be the best device for resolving institutional conflict on a departmental level.

## BACKGROUND

### A New School of Education Takes Shape

In 1968, Dr. Dwight Allen was appointed Dean of the School of Education of the University of Massachusetts at Amherst. His ascendancy to the post marked the beginning of a major reorganization for the School of Education. Under the original agreement between the Dean and the Trustees, Dr. Allen was to "build the School of Education substantially."<sup>1</sup> Promised a minimum of ten new faculty positions to commence this expansion, Dr. Allen succeeded in appointing thirty-two individuals to faculty posts in the School of Education where only fifty-nine had existed upon his arrival.<sup>2</sup> In addition to the influx of new faculty members, a number of doctoral candidates were recruited to enter a graduate program of study at the School. To draw people of high caliber, a Planning Doctoral Program was devised to attract graduate students by offering candidates a stake in the reorganization process as well as considerable latitude in the development of their own degree programs.<sup>3</sup> By the end of the Planning Year (May, 1969), Planning Doctoral Candidates numbered in the nineties.

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<sup>1</sup>Interview with Dr. Dwight Allen, University of Massachusetts (Amherst: June 14, 1971).

<sup>2</sup>Ibid.

<sup>3</sup>See Appendix, The University of Massachusetts Revolution in Education: A New Doctoral Program.

The reorganization effort for the School of Education was formally begun with a seventy thousand dollar retreat to the Colorado Rockies. Assembled together for the first time were the deans, faculty, planning doctoral students, staff, and friends of the School. Permeated by business meetings, suppers, outings, and small group sessions, the retreat served as both an orientation and pep rally for the upcoming planning year. For many of the new comers to the School of Education, the retreat helped to catalyze a sense of dynamism which became known as the "spirit of Colorado." The intensity of optimism present was reflected in the imposing slogans carried on two psychedelic buttons, "No is Not the Right Answer," "Now is the Right Answer;" both gifts from Dean Allen.

The myriad of dinners, business meetings, sight-seeing trips, and other small group activities had the effect of dissolving group anonymity in a very short time. By week's end, most of the group knew everyone by face; and many by name and interest. The retreat had the effect of generating many new friendships and aggravating certain older animosities. If it did nothing else, the retreat molded most of the participants into a relatively intimate and cohesive community that prevailed long after the School returned from Colorado.

No amount of excitement, however, could conceal the fact that the retreat suffered from inadequate communications, a serious and perhaps terminal disorder. In a group of over one hundred and fifty people collectively responsible for the creation of a new institution, rapid and accurate information exchange would seem vital to sustain organizational growth and community well being.

Although a news bulletin covered each day's activities, and nightly gatherings reviewed the progress of planning committees, neither

vehicle could satisfactorily keep the community abreast of all that was happening. By week's end, some of the participants began to sense that important decisions were being made outside of the designated town meeting forum. Benevolent despotism, irresponsible fiscal policy, hidden agenda, secret deals, favoritism, etc., became the ingredients of a wide assortment of rumors which circulated throughout the retreat. These rumors were often embellished in transit--frequently finding refuge in the School's folklore before undergoing investigation for accuracy.<sup>4</sup>

When the graduate division of the School of Education returned to the Amherst Campus, the official University semester was already a full week old. Undergraduates, not having shared in the Colorado experience, discovered that for them, the week's postponement of classes was only a prelude to the planning year. Little of the School's energies and resources were committed to undergraduate needs. Consequently, undergraduates received inadequate counseling and supervision, and all too often were needlessly subjected to clashing value systems and contradictory methodologies.

With a rift deepening between certain elements of the faculty and the Dean, and disillusionment growing in the ranks of the radical graduate students whose program rejections were demarcating the perimeters of "No is not the right answer," School communications continued to slide downhill throughout the planning year.

The newspaper, though expanded in size and depth, was relegated to a biweekly publication. "Town meeting" assemblies, held nightly in

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<sup>4</sup>Interview with Carlo Valone, Planning Doctoral Candidate, School of Education, University of Massachusetts (Northampton, Massachusetts: January 7, 1972).

Colorado, were called only occasionally and came to resemble a stock holder's meeting more than a forum.

Numerous individual efforts made to improve in-house communications during the planning year met with little success. Early in the semester, doctoral candidate Roy Forbes, proposed the establishment of an information retrieval system.<sup>5</sup> The idea failed to attract support. Sara VanCamp, editor of *Tabula Rasa* (the School biweekly), compiled and published a set of biographical sketches of the planning year personnel that proved valuable as a resource catalog. Dean Allen was persuaded by the author, to meet weekly with randomly selected groups of doctoral students of the School to discuss the state of the community. In addition, Dr. Allen made it a practice to interview each of his doctoral candidates at least once during the planning year.<sup>6</sup> Information exchange had reached such a low level by the spring semester of 1969, that the School's advisory council instructed a communications committee to explore all feasible means available to facilitate the better interchange of ideas.

Unfortunately, none of these mechanisms proved particularly successful in coping with a number of disputes involving the development of some new programs which had festered within the School of Education all during the planning year. The School's inability to manage conflict was compounded by a peculiar polarization which resulted from a disagreement arising between Dean Allen and certain members of the tenured faculty.

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<sup>5</sup>See Appendix, Memorandum: Proposal to Design and Implement an Information System.

<sup>6</sup>Allen, op. cit.

Unresolved internally, the dispute was appealed to the University's Tenure and Grievance Committee, thus giving it campus-wide exposure. At the moment when charges were being filed with the Tenure and Grievance Committee, the School of Education's administrative staff was preparing the preliminary defense of its new policies before the University's Faculty Senate. As a result of the action, a number of new faculty members and graduate students began equating dissent with treason, which had the effect on the community of quelling individual and collective expressions of disagreement, and thereby impeding conflict resolution.

For the remainder of the academic year, misplaced loyalties all too often suppressed the flow of vital self-criticism--limiting the options for reorganization, and binding the creative energies of everyone affiliated with the planning year.

#### A Change in Governance

Early in the second semester of the planning year, Dr. David Schimmel, professor of Education with a degree in law, discussed with Dean Allen the possibilities of supplanting the School's existing governmental procedures with a tailor-made constitution. Although the existing town meeting format had undergone modifications since its inception at the Colorado retreat, its evolution had been spasmodic and the vehicle was proving inadequate to meet the growth in the community's population as well as the increased complexity of the School's operation. Both men shared the view that the existent system was faulty in expediting matters requiring timely and forceful decisions. Consequently, upon the Dean's urging, Dr. Schimmel agreed to chair a committee to

explore alternatives in School governance, subject to the approval of the Education Assembly.<sup>7</sup>

The search for a plan was begun late in the spring of 1969. Dr. Schimmel was quick to realize that it would be necessary to tap a wide range of School interest and opinion if he was to be successful in developing a constitution that would meet with the acceptance of a working majority of the educational community. He attempted to achieve this goal by assembling a salaried staff of two graduate and two undergraduate students, and encouraged the participation of numerous doctoral students and faculty members to serve without remuneration in an adjunct capacity.

The staff was made responsible for examining pertinent literature in the field of academic governance, polling and collating community concerns and opinions, and evaluating various instruments of governance that might meet the needs of the School.

The investigations were concluded at the end of July and a summation of the work entitled the Interim Report on the Proposed Constitution was released to the School of Education in late August. The comprehensive seventy-four page document presented a heavily annotated case for adopting a formal set of procedures for decision-making outlined in constitutional form. In the section of the Interim Report dealing with decision review and conflict resolution, a case was made for the creation of an Office of Ombudsman. The position paper championed a search for options in conflict resolution that could be tailored to meet individual needs, and which might produce whole solutions free from the affective

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<sup>7</sup>Interview with Dr. David Schimmel, University of Massachusetts, (Amherst: June 22, 1971).

damage so often sustained in a court of law. The Report recommended the ombudsman serve as a conflict dispatcher: counseling individuals, mediating disputes, monitoring the administrative system, and overseeing decision-making with an eye to community goals and personal rights.<sup>8</sup>

By the fall semester of 1969, Dr. Schimmel had refined the Interim Report into a constitutional proposal and submitted it to the School of Education for approval. After surviving an initial rejection by the community, the Constitution was ratified by a close vote in November of 1969. The document states that the ombudsman ". . . shall assist the Executive Committee in coordinating the conflict resolution system," and ". . . shall assist individuals in the community in resolving any academic and administrative problems and disputes associated with the School of Education." To accomplish these tasks, the Constitution directs the ombudsman to utilize the tools of mediation and affective resolution. To ease the anticipated burden of the office, the Constitution suggests that the ombudsman be provided with secretarial and administrative help, and be released from some part of his normally assigned responsibilities.<sup>9</sup>

The document differs markedly from the United States Constitution in its assumption about the benevolence of government and the dangers inherent in the arbitrary abuse of executive power. It was designed to serve a community believed to be unified and in good order, where consensus

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<sup>8</sup>See Appendix, "Decision Review and Conflict Resolution," Interim Report on the Proposed Constitution.

<sup>9</sup>See Appendix, Constitution of the School of Education, Article IX, pp. 14-16.

prevailed and dissent existed at normal minimal levels. Despite efforts by the advisory staff to add a bill of rights to the document, no concrete devices were inserted into the School's Constitution to specifically protect the community against unwarranted and unjust power abuse.

### Summary

After undergoing a year and a half of zealous and occasionally disorderly reorganization, the School of Education attempted to institutionalize decision-making by adopting a written Constitution. Ignoring a legacy of unsettled disputes and long standing animosities, the conflict resolution provision of the School's Constitution instituted an Office of Ombudsman to ". . . assist individuals in the community in resolving any academic and administrative problems and disputes associated with the School of Education."<sup>10</sup>

In evading the dangers of confrontation politics, the Constitution provided for the most minimal enforcement procedures in the settlement of outstanding grievances. Conspicuously absent from the Constitution, as well, was any body of law or human rights which would shield members of the "community" from academic, administrative, or individual injustice. There was, in fact, no indication that the Constitution's architects prepared for the contingency of irregular and biased exercise of administrative power within the School community.

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<sup>10</sup>Loc. cit., p. 15.

## The Problem

The concept of ombudsing, relatively new to the American college campus, has had very limited exposure at a departmental level. Its premier trial at the School of Education of the University of Massachusetts at Amherst has put demands upon the office it was never designed to endure. Born of diverging expectations, unfulfillable optimism, and varying interpretations of intent, the Office of Ombudsman at the School of Education bumped its way through an academic year and a half attempting to satisfy an unrealistic omnibus mandate to resolve all of the School's conflicts and human confrontations.

The ombudsman struggled to resolve the myriad disputes that arose in an atmosphere of intense and sometimes hostile change, pushing his office far beyond its limitations. By the conclusion of the ombudsman's first term, he had been able to delineate the incongruities between demand and performance, and could only then begin to assess those impediments which hindered the proper functioning of the office.

The body of this study will attempt to cast some light on those factors which can restrain and occasionally neutralize the influence of the ombudsman's effectiveness.

## CHAPTER I

### INTRODUCTION

All of those accounts which touch upon any aspect of the School of Education or the happenings therein have been drawn from the initial experiences of this writer, who entered the Planning Doctoral Program in September of 1968 and continued with it until the fall term of 1972. Within that period of four years, the author actively participated in the life of the School community. Of particular importance to this paper were the experiences gained from serving as a staff assistant on the committee to investigate the feasibility of constitutional governance for the School, and the year spent as the ombudsman's assistant. Consequently, the author has elected to employ a participant-observer technique in compiling the data for the presentation of this dissertation.<sup>1</sup> The research technique has the limitation of depending on the author's perspective and value system; therefore, the process of analysis operates within those boundaries. The author, however, has attempted to document the period of time indicated and to make the study as comprehensive as possible.

This study of the ombudsman at the School of Education between the years 1969 and 1971 is an examination of that particular office. It is not the intention of the author, nor is it the purpose of this study to present a comprehensive analysis or historical descriptive study of

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<sup>1</sup>Roup, Phillips, et al. Preparation for Encounter, Peace Corp Training Manual for Participant Observation, Washington, D.C., 1966.

the School of Education in the years 1969 to 1971. Those events that have been chosen by the author were selected to expand, elucidate, or emphasize particular aspects and/or conditions which impinged on the role of the ombudsman.

Chapter I provides an overview to the problem which is to be analyzed. It examines the investigative processes employed in gathering information for the paper while defining the limitations of the study.

Chapter II will explore the origins of the ombudsman. Part one of that chapter will sketch a cursory history of the office from its ancient roots in Swedish law to its refinement as a dynamic monitor of Scandinavian civil government. The latter half of the chapter will focus on the evolution the concept has undergone since its transplantation to college campuses in America, and explore the contemporary state of ombudsing as it exists in academe today.

The third chapter will loosely chronicle the maturation of the Office of the Ombudsman of the School of Education under the stewardship of its first incumbent, Dr. David Flight. The study will trace the development of the office during this period through the use of selected case studies, noting the peculiar ombudsing configuration that emerged under the pressures of the unique environment of the School of Education.

In the fourth and concluding chapter, the author will examine those factors that limited the effectiveness of the ombudsman while working in the dynamic and occasionally unstable environment that prevailed at the School of Education during his first term of office. The chapter will consider the following issues:

1. The importance a clear mandate plays in establishing an effective ombudsing service.
2. The obstacles presented to an ombudsman by an environment lacking statues, firm policy guidelines, procedural stability, and bureaucratic accountability.
3. The manner in which institutional intimacy and familiarity influence the quality of ombudsing.
4. The role community trust and security play in the effective function of the ombudsman's office.
5. The problems involved in centering multiple service functions under the direction of an ombudsman.

The paper concludes with a brief look at the future of the ombudsman in American education.

## CHAPTER II

### REVIEW OF THE LITERATURE

#### A General Definition

The concept of ombudsing is less an invention of political law than it is the organic evolution of expanding bureaucratic governance. Since the idea continues to change and modify with time, no omnibus definition lends itself to all applications. The recent worldwide exportation of the device has led to so many different models of the office that the only sure definition is one that describes the workings of the particular entity under consideration.

Usually, an ombudsman is an elected or appointed individual charged with monitoring the exercise of power of the institution that has commissioned him--with the intent of humanizing and streamlining governmental practice. Normally, ombudsmen are authorized to aid individuals who hold reasonable grievances against government and have access to no other existing avenues of appeal. Ombudsmen are never empowered to change existing laws, provisions, procedures, or policies of government; and they are strictly limited in the selection of tools available to them in the pursuit of their tasks. The American Assembly has defined the ombudsman as ". . . an independent high-level officer in civil government who receives complaints from citizens, inquires into matters involved, and makes recommendations for suitable action. His

remedial weapons are persuasion, criticism, and publicity. He cannot arbitrarily reverse administrative action."<sup>1</sup>

### The Origins of the Ombudsman

It is the consensus of scholars that the concept of ombudsman was born in Scandinavia. Bertil Wennegren, Stockholm's ombudsman in the late 1960's, traces the emergence of the office back one thousand years to the very foundations of Swedish law. Early ombudsmen, or "Länsmen," acted as agents of the king, collecting fines and attending to those duties assigned by royal decree.<sup>2</sup>

Wennegren places great stress on the traditional respect for law in Sweden. He suggests that over the thousand years of civilized order in his nation, the individual has come to understand the meaning of justice and sought to have his rights defended against excesses of authority. Furthermore, the Swedish king is oath bound to faithfully defend the law of the land and insure its just execution. Tradition dictates that individuals may petition the monarch with grievances when dissatisfied with administration of government.<sup>3</sup>

Eventually the office of ombudsman was formally acknowledged in Sweden under the Order of the Chancery, issued in 1713 by Charles XII.

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<sup>1</sup>Report of the 32nd American Assembly, "The Ombudsman," (New York: Columbia University, October, 1967), p. 6.

<sup>2</sup>Bertil Wennegren. "The Rise and Growth of Swedish Institutions for Defending the Citizen against Official Wrongs," The Ombudsman or Citizen Defender: A Modern Institution, The Annals of the American Academy of Political and Social Science, Volume 377, (Philadelphia: 1968), p. 2.

<sup>3</sup>Ibid., p. 6.

The Högste Ombudsmannen (Supreme Procurator), was instructed to ensure that the laws of the state were obeyed, and that public employees properly administered those laws efficiently and equitably. In 1719, a directive was issued changing the name of the office to its present title, Justitiekansler.<sup>4</sup>

During the Eighteenth Century, the sponsoring power behind the ombudsman shifted from the King to the Estates and back again. In the Constitution of 1809, the position of Justitiekansler was firmly established as an officer of the king.<sup>5</sup> The document calls for the selection of an ". . . able, impartial person, versed in law and having experience as a judge." The Justitiekansler, it states, will function as the Crown's chief law officer; representing the King in all matters affecting the right of the State, as well as prosecuting cases against officials derelict in the execution of their duties.<sup>6</sup>

As a result of the power struggle that ensued between the Crown and the Parliament over the Constitution of 1809, a second ombudsman (the Justitieombudsman) was created by the legislature with powers and responsibilities similar to those of the Justitiekansler. Although both the origins and intent of the office have been obscured by time, Swedish ombudsman Alfred Bexelius speculates that, in creating the Justitieombudsman, the Parliament acted to limit the power of the Royal Cabinet.<sup>7</sup>

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<sup>4</sup>Sten Rudholm. "Sweden's Guardians of the Law: The Chancellor of Justice," The Ombudsman: Citizen's Defender, ed. Donald Rowat, (Toronto: University of Toronto Press, 1965), p. 1.

<sup>5</sup>Ibid., p. 18.

<sup>6</sup>Ibid.

<sup>7</sup>Alfred Bexelius. "The Origin, Nature, and Function of the Civil and Military Ombudsmen in Sweden," The Ombudsman or Citizen Defender: A Modern Institution, The American Academy of Political and Social Science, Volume 377, (Philadelphia: 1968), p. 11.

In 1914, the Swedish Parliament, faced with a military reorganization, created still another ombudsman (Militieombudsman) to oversee the system of justice peculiar to the armed forces. The creation of the new office, rather than expand the area of responsibility open to the ombudsman, merely reordered it and reduced the case load of the Justitieombudsman.<sup>8</sup>

The Office of Justitieombudsman began to deviate from the operational policies dictated for it under the Constitution of 1809 shortly after its inception. Moving away from prosecution, the ombudsman began to issue memoranda citing official mishandling and bad judgment, in lieu of judicial indictments.<sup>9</sup> This procedural innovation of appealing to good faith and common sense replaced the threat of punitive indictment, and has become the universal hallmark of ombudsing.

#### The Concept Gains International Recognition

The practice of ombudsing was adopted by Finland in 1919, where it continues today. Because the idea was never disseminated through other than Scandinavian languages, the concept received little attention elsewhere in the Western world.<sup>10</sup> The institution of ombudsing gained its first major international exposure through the energetic efforts of Professor Stephan Hurwitz, who assumed the role of Denmark's first ombudsman

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<sup>8</sup>Ibid., p. 12.

<sup>9</sup>Ibid., p. 14.

<sup>10</sup>Hing Yong Cheng. "The Immersion and Spread of the Ombudsman Institution," The Ombudsman or Citizen Defender: A Modern Institution, The American Academy of Political and Social Sciences, Volume 377, (Philadelphia: 1968), p. 21.

in 1955. His writings and speeches appear to have kindled great interest in the field.<sup>11</sup>

Since 1955, a number of widely varying national, provisional, state and local governments have adopted the ombudsman concept. These include New Zealand, Britain, Guyana;<sup>12</sup> Alberta, New Brunswick; Hawaii, Illinois; Buffalo, New York; and San Diego, California.<sup>13</sup> The idea is presently under consideration for adoption in the United States, where proposals for the institution of a national ombudsman have been regularly introduced in the Congress since 1965.<sup>14</sup>

Any cursory study of the history of the ombudsman reveals that the concept has undergone extensive pragmatic bastardization. Tax collectors, inspector generals, and king's prosecutors have all at one time served in the role as ombudsmen. The many forms of the office may, in some measure, explain why ombudsing has proven so adaptable and exportable. Even in its modern forms, the institution had displayed such a high degree of flexibility as to permit its adoption in governments differing significantly in structure and form.<sup>15</sup>

#### The Danish Model

Of the models of ombudsmen currently in existence, the Danish example appears to be the one most important in influencing new experiments

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<sup>11</sup>Walter Gelhorn. Ombudsman and Others: Citizens' Protectors in Nine Countries, (Cambridge: Harvard University Press, 1966), pp. 5-6.

<sup>12</sup>Cheng, op. cit., p. 20.

<sup>13</sup>Howard Ray Rowland. "The Campus Ombudsman: An Emerging Role," Educational Record, Number 50, (Fall 1969), p. 443.

<sup>14</sup>Ibid.

<sup>15</sup>Cheng, op. cit., p. 22.

in the field. Certainly, some of the appeal of the Danish model to other nations can be attributed to the circumstances of its comparatively recent emergence. Since Denmark lacked the advantage of Sweden in having evolved a tradition of ombudsing, efforts to introduce the concept were met with both suspicion and resistance.<sup>16</sup> Consequently, the advocates of an ombudsman for Denmark were forced to overhaul the Swedish model--thereby inadvertently adapting the idea to the needs of the twentieth century state and rendering it fit for export.<sup>17</sup> Therefore, a look at the structure and operation of the Danish system will provide an insight into the functioning of the modern ombudsman elsewhere (keeping in mind that no two ombudsing models are identical).

Denmark is a nation of 16,619 square miles, containing a population of approximately 4,910,000 people.<sup>18</sup> There are approximately 1,400 local governments administering to the Jutland peninsula and the five hundred islands that make up her home territories.<sup>19</sup> The central government is responsible for the police, courts, and central highways; while local officials have charge of the public utilities and all solely regional matters. In addition, the central government influences many aspects of local life by setting standards in health, education, welfare, and other public services. The national government also assumes much of the responsibility for financing town and district affairs,<sup>20</sup> and is

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<sup>16</sup>Gelhorn, op. cit., p. 7.

<sup>17</sup>Gelhorn, op. cit., pp. 7-8.

<sup>18</sup>Luman Long (ed.). The 1971 World Almanac and Book of Facts, (New York: Newspaper Enterprise Association, Inc., 1971), p. 515.

<sup>19</sup>Gelhorn, op. cit., p. 8.

<sup>20</sup>Gelhorn, op. cit., p. 9.

authorized under the Danish Constitution to monitor the quality of administration of the otherwise independent municipal authorities.<sup>21</sup>

A constitutional monarchy since 1849, Denmark is ruled through a popularly elected unicameral legislative Assembly, and a Council of Ministers who are appointed by and responsible to the King. The Ministers are doubly accountable to the Crown and the Assembly for the efficiency of their respective departments.

Created in 1954 and amended in 1962 to include local officials under certain conditions, the office of the ombudsman in Denmark is directed to ". . . act to increase the guarantees for the lawful conduct of the government's civil and military administration." Excluded from the ombudsman's reach is the membership of the judiciary and the legislature.<sup>23</sup> Although he is a creation of the legislative Assembly, the ombudsman is in no way manipulated by it. Once appointed, the ombudsman (who, under law, may not be a member of the Assembly) is expected to function independently of all political influences throughout his appointed term.<sup>24</sup>

The ombudsman is elected (or reelected) by the Assembly after every parliamentary election. He must, according to the Constitution, be schooled in law, and he is barred from holding other employment during

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<sup>21</sup>I. M. Pedersen. "Denmark's Ombudsman," The Ombudsman: Citizen's Defender, ed. Donald Rowat, (Toronto: University of Toronto Press, 1961, p.

<sup>22</sup>Ibid.

<sup>23</sup>Henry J. Abraham. "The Danish Ombudsman," The Ombudsman or Citizen Defender: A Modern Institution, The Annals of The American Academy of Political and Social Science, Volume 377, (Philadelphia: 1968), p. 56.

<sup>24</sup>Ibid.

his tenure. High public stature entitles the ombudsman to draw a salary equivalent to that of a Supreme Court Justice.<sup>25</sup>

The Danish ombudsman's business comes from three sources: investigations, in-house initiation, and complaint. The former two methods are infrequently employed; while the latter constitutes the bulk of his work load.<sup>26</sup>

Complainants can contact the ombudsman only by submitting their grievance in writing. The aggrieved must include in the communication, his name and address, a description of the problem and any evidence pertinent to the matter. Customarily, complaints will not be considered that have been languishing more than one year.<sup>27</sup> The most frequently received complaints concern: ". . . (1) the qualification of an official in the decision-making process; (2) bias on the part of an official; (3) incorrect or incomplete available data resulting in harm to the petitioner; (4) failure of an official to specify a reason (or reasons) for a decision; (5) undue delay in an administrative process; (6) arbitrary, unreasonable, or capricious procedure; (7) rudeness or other negating official behavior; (8) willful official negligence; (9) any official act of mal-, mis-, or non-feasance in office."<sup>28</sup>

The ombudsman has complete discretionary powers over the cases he will act upon. He can dismiss a matter immediately upon receipt,

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<sup>25</sup>Ibid.

<sup>26</sup>Gelhorn, op. cit., pp. 18-22.

<sup>27</sup>Abraham, op. cit., p. 58.

<sup>28</sup>Ibid., p. 59.

although more often he makes a preliminary investigation before dispatching a case.<sup>29</sup> Approximately eighty percent of the cases are dispensed with after examination, while the remaining twenty percent receive a full investigation.<sup>30</sup> Even though the case may be handled by a number of aides in its passage through the office, final decisions are rendered by the ombudsman himself.<sup>31</sup> Regardless of the outcome, the petitioner is always notified of the final disposition of his case.

The ombudsman's actions normally take the form of a recommendation to the individual official responsible for the decision or issue in question. These recommendations are always short of a direct order, since the currently accepted role of the ombudsman is that of persuader not prosecutor. When recommendations are ignored (which is rare), the ombudsman may, according to the nature of the case, "instruct" an employee's supervisor, the public prosecutor, or the Danish Assembly to take some action. The meaning of the term "instruct" is interpretable under Danish law.<sup>32</sup>

#### The American Academic Experiment

The first office of academic ombudsing to emerge in the Western Hemisphere was established at Simon Fraser University in Vancouver, British Columbia.<sup>33</sup> In the United States, the first academic ombudsman

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<sup>29</sup>Pedersen, op. cit., p. 82.

<sup>30</sup>Abraham, op. cit., p. 59.

<sup>31</sup>Ibid.

<sup>32</sup>Ibid., p. 57.

<sup>33</sup>Howard Ray Rowland. "The Role of the Campus Ombudsman," A paper presented to the American Association for Higher Education, Discussion Group 30, (Chicago: March 3, 1970), p. 2.

was George Cloege, a chemistry professor appointed by the President of Eastern Montana College, of Billings, in 1966, to head that School's office.<sup>34,35</sup>

Interest in the adoption of the ombudsing institution in American colleges and universities has mushroomed in recent years. Of the world's known 164 practicing ombudsmen, ninety-four are affiliated with institutions of higher learning within the United States.<sup>36</sup> This recent proliferation roughly coincides with an era of unprecedented student unrest on American campuses and may be attributed to a precautionary reaction by college administrations in seeking means of avoiding the kind of violence that flared at Berkeley, Columbia, Jackson State and Kent State. Cornell and Columbia Universities, did, in fact, institute ombudsmen shortly after confrontations erupted between student activists and college officials.<sup>37</sup> Ironically, authorities in the field of academic ombudsing have repeatedly expressed reservations about the effectiveness of the ombudsman in both preventing or quelling political confrontation.<sup>38</sup> Rowland has further observed that ombudsmen can only work effectively in environments where stability and trust predominate.<sup>39</sup>

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<sup>34</sup>Ibid.

<sup>35</sup>Rowland. "The Campus Ombudsman: An Emerging Role," p. 443.

<sup>36</sup>"Practicing Ombudsmen as of September, 1971," Office of the Ombudsmen, Innovation in Student Life, (University of California, Irvine: 1971), (Mimeographed).

<sup>37</sup>Art Glickman. "Campus Ombudsmen Help Students Fight Against Bureaucracy," Wall Street Journal, November 11, 1969, p. 1.

<sup>38</sup>Ibid., p. 12.

<sup>39</sup>Howard Ray Roland. "A Study of the Ombudsman in Higher Education with Emphasis on Michigan State University," (abstract of Ph.D. dissertation, Department of Higher Education, Michigan State University, 1969), p. 5.

Some observers have attributed the appearance of the campus ombudsman to the rise of massive higher educational institutions and the attending bureaucratic complexity inherent in their operation.<sup>40</sup>

#### Variant Models

The practice of ombudsing has varied markedly from campus to campus with its appearance in American higher education. Some campus ombudsmen have expressed the belief that the office is so flexible and adaptable that it is capable of being fitted to any purpose and situation. In a number of instances, the shape and function of the office have undergone marked modifications.<sup>41</sup> At Columbia University, for example, the ombudsman fulfilled his charge by roving about the college campus, sampling the opinions of the campus community, and reporting his findings to the appropriate administrative officials.<sup>42</sup> The State University of New York maintained three ombudsmen who serve the community simultaneously.<sup>43</sup>

Some degree of uniformity in organization and function may now be evolving through the influence of publications by college ombudsmen like Norman and Rust, and such researchers in the field as Rowland and Poblano. These and other writers have taken much of the mystery out of the office,

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<sup>40</sup>Howard Ray Roland. "The Campus Ombudsman: A Grievance Man for Students," Today's Education: N.E.A. Journal, (October, 1969), p. 38.

<sup>41</sup>Ake Sandler. "The Ombudsman in Governance: Implications for Higher Education," a paper presented to the Conference on the Ombudsman in Higher Education, (Chico, California: May 4-6), 1969, p. 2.

<sup>42</sup>Glickman, op. cit.

<sup>43</sup>Claudia Buccieri. "Ombudsman: New Troubleshooter on Campus," a paper presented to the Conference on the Ombudsman in Higher Education (Chico, California: May 4-6), 1969.

making it possible for colleges to implement tested and proven ombudsing models. It is not unlikely that the influence of these writers will eventually lead to the appearance of a uniform American ombudsing institution.

#### A Working Definition

Putting technical differences aside, a general *raison d'etre* can be ascribed to the American campus ombudsman. Succinctly delineated by the Committee of Fifteen, the task of the ombudsman at Stanford University is defined as ". . . protect(ing) the interests and rights of members of the Stanford community from injustices or abuses of discretion, from gross inefficiency, from unnecessary delay and complication in the administration of university rules and regulations, and from inconsistency, unfairness, unresponsiveness, and prejudice in the individual's experience with university activities. The ombudsman exists to receive, examine, and channel the complaints and grievances of members of the Stanford community, and to secure expeditious and impartial redress."<sup>44</sup>

James Rust, the ombudsman at Michigan State University, has defined his job in terms of a series of sequential procedures, through which a client may move toward the resolution of his problem. Rust (1) "listens" to the client, and then, depending upon the nature of the problem, he may, (2) "advise," (3) "explain," or (4) "refer" him to the appropriate decision maker. When the case warrants, the ombudsman may find it necessary to (5) "review" the decision in question.<sup>45</sup>

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<sup>44</sup>The Stanford Daily, October 23, 1970, p. 5.

<sup>45</sup>James Rust. "The Ombudsman at Michigan State University," a paper presented to the Conference on the Ombudsman in Higher Education, (Chico, California: May 4-6), 1969, p. 5.

Alice Cook, Cornell's ombudswoman, stresses the importance of exhausting all remedies before seeking formal confrontation.<sup>46</sup> She has listed among her services those of "fact-finding, mediating, and arbitrating."<sup>47</sup>

San Jose State College's ombudsman, J. Benton White, has defined his role in overtly supportive terms. For White, the role of the ombudsman involves "restoring accessibility, furnishing alternative grievance channels, providing a place and giving hope to students."<sup>48</sup>

#### The Academic Constituency

As has been the tradition among governmental ombudsmen, campus ombudsmen have been logging client contacts and making the results of these experiences available to their constituency through periodic reports. In some instances, the ombudsman has recorded both the nature of the grievance and the composition of the clientele served. At Michigan State University it was discovered that among undergraduate students, upperclass, married males availed themselves more frequently of the ombudsman's assistance than underclass, unmarried females.<sup>49</sup> The same study revealed, that the College of Arts and Letters and the University

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<sup>46</sup>Alice Cook. Report of the Ombudsman at Cornell University, (September 15, 1969 to January 30, 1970), (Cornell University: February 17, 1970), p. 5.

<sup>47</sup>Ibid., p. 8.

<sup>48</sup>J. Benton White. The Ombudsman in Practice, a Report on the Ombudsman at San Jose State College, (San Jose: 1968), p. 4.

<sup>49</sup>Rowland. "A Study of the Campus Ombudsman in Higher Education With Emphasis on Michigan State University," p. 3.

College were over-represented; while Colleges of Education and Natural Sciences were under-represented.<sup>50</sup>

While some campus ombudsmen have been established solely to assist students, many others were specifically charged to attend the needs of all members of the campus community (students, parents, staff, faculty, administrators, employees, alumni, etc.). Recent reports by campus ombudsmen indicate that non-students have employed the services of the ombudsman more frequently than their numbers would suggest. At C. W. Post College, where the faculty constitutes only 4.2 percent of the total academic population (administration, faculty, staff, students), it accounted for nine percent of the complaints to the ombudsman for the academic year 1970-1971.<sup>51</sup> Correspondingly, the administration, which numbers only fifty in the 12,788 member community (.3 percent), constituted two percent of the ombudsman's business.<sup>52</sup> The overwhelming percentage of cases were instituted by students (eighty percent). This figure compares favorably with the percentage of student enrollment (eighty-six percent).<sup>53</sup>

Cornell's office of the ombudsman reports a parallel experience for the fall semester of 1969. Of the 176 total cases registered (complaints and inquiries), twenty-three were faculty-initiated.<sup>54</sup>

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<sup>50</sup>Ibid.

<sup>51</sup>Fran Foster. First Annual Report of the Office of the Ombudsman, a report covering the period of September 1, 1970 to September 1, 1971, issued to the C. W. Post Center of Long Island University, (Greenvale, New York: 1971).

<sup>52</sup>Ibid.

<sup>53</sup>Ibid.

<sup>54</sup>Cook, op. cit., p. 2.

Undergraduate students registered seventy-four, while graduate students accounted for thirty-four cases.<sup>55</sup> University employees availed themselves of the ombudsman assistance twenty-three times.<sup>56</sup>

#### Ombudsing Records

Ombudsmen employ no uniform system of cataloging the nature of individual client concerns, but a cursory reading of their reports would indicate that most offices encounter similar kinds of grievances. At San Diego State College, the ombudsman has listed as areas of major contention (in rank order): (1) residence fees, (2) disputes with faculty and policy, (3) outside college contacts, (4) parking fees, etc., (5) records and evaluations, (6) admissions and readmissions, (7) administrative machinery malfunctions, (8) financial problems, (9) residence, and (10) registration.<sup>57</sup>

Ombudsman James Rust catalogs his cases into academic and non-academic problems. Under academic matters, which compose approximately fifty percent of his business, Rust includes the issues of: (1) admission and registration, (2) instruction, (3) academic requirements, (4) academic status, and (5) academic advice.<sup>58</sup> Nonacademic problems include: (1) fees and tuition, (2) housing, (3) vehicle registration,

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<sup>55</sup>Ibid.

<sup>56</sup>Ibid.

<sup>57</sup>David G. Speck. "Ombudsman: A Review," Currents 1971, (January 1, 1971), p. 3.

<sup>58</sup>James Rust. An Ombudsman Looks at His Job, Michigan State University, (East Lansing: July 23, 1969), p. 4.

- (4) student employment, (5) use of school facilities and services,  
 (6) personal problems.<sup>59</sup>

#### Some Observations on Campus Ombudsing

Rowland considers the method of selection of the ombudsman "vital" to the healthy functioning of the office. The choice and affirmation is usually made by the student body, faculty, administration or any combination of these or their representative bodies. From his investigations, Rowland concludes that "the manner in which an institution appoints a campus ombudsman usually is consistent with its power emphasis."<sup>60</sup>

In his study of the operations of ombudsmen on several American campuses, Rowland has assembled a set of eighteen criteria he considers "essential to the proper functioning" of the office. Because of their comprehensiveness, they have been reproduced here. They are as quoted:

1. The institution with a campus ombudsman should have a relatively stable organizational structure, supported and trusted by most of the people within it most of the time.
2. The office of the ombudsman should be equivalent in salary and prestige to high-level academic and administrative positions.
3. The campus ombudsman should be a long-term faculty member at the institution, experienced in teaching and advising, and highly respected by students, colleagues, and administrators. Regardless of his academic discipline, he should have some rudimentary knowledge of law and be thoroughly acquainted with the civil ombudsman concept.

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<sup>59</sup> Ibid.

<sup>60</sup> Rowland. The Campus Ombudsman: An Emerging Role, p. 446.

4. He should be carefully selected by a committee of students, faculty, and administration. The actual appointment should be made or confirmed by the governing board of the institution upon the recommendation of its chief administrative officer.
5. He should be appointed for a two-year term, renewable by mutual agreement of the ombudsman and the selection committee.
6. The ombudsman should make widely publicized, periodic, general reports to all members of the institution. He also may make confidential reports and recommendations to the chief administrative officer, who should determine the extent of their circulation.
7. While serving as ombudsman, he should not be required to teach or perform other faculty duties.
8. He should have a private office, apart from the main administration building and easily accessible to students, with a secretary but not a staff.
9. The ombudsman should be receptive to individual student grievances, both academic and nonacademic, concerning the institution. He should decide which complaints are within his jurisdiction and competence and which of those merit his investigation.
10. He should use reasoned persuasion to bring about the redress of genuine student grievances as expeditiously and equitably as possible.
11. Where a pattern of student grievances develops, he should work for a change in the regulations, procedures, or personnel to prevent recurrence.
12. He should not conduct investigations on his own initiative but rather in response to student complaints.
13. The ombudsman should have access to all campus offices and files, except medical, psychological, and classified government records.
14. He should keep confidential records on each case he considers.
15. When rebuffed during an investigation, he should have the authority to appeal to the chief administrative officer for intervention.
16. He should not have the authority to take disciplinary action, reverse decisions, or circumvent regulations. His power should lie in his prestige, persuasiveness, and persistence in stating his views to persons involved in a grievance and, if necessary, to their organizational superiors.

17. He should supplement, not supersede, other means of redress for student grievances.
18. Decisions about continuing the office should be based on systematic sampling of students who have consulted the ombudsman.<sup>61</sup>

A survey of educational leaders from California colleges made by Ralph Poblano disclosed that some of the recommended procedures outlined by Rowland are not practiced universally by college ombudsmen. The California group tended to emphasize the inclusion of faculty, support staff, and administrators as well as students within the umbrella of the ombudsman's protection. Persons interviewed, including fifteen practicing ombudsmen, were unanimous in their agreement that the ombudsman should initiate inquiries when a need was perceived, rather than await external inauguration.<sup>62</sup>

This problem has continually plagued campus ombudsmen. The mandate under which the offices function rarely provide guidelines for internal intervention. Many ombudsmen perceive that excessive intervention could tarnish the impartial image of the office, earning itself the reputation of a gadfly.

#### Client Feedback

Feedback from clients serviced by campus ombudsmen, when available, has been favorable. Of the seventy-six questionnaires returned from a mailing of 146 sent to individuals who had called upon the ombudsman

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<sup>61</sup>Ibid., pp. 446-447.

<sup>62</sup>Ralph Poblano. "Campus Ombudsmen in California Universities and State Colleges," Phi Delta Kappan, (June, 1971), p. 581.

for help at C. W. Post College, seventy-nine percent responded affirmatively to the question, "Do you feel that this office was effective in helping you to resolve your problems?"<sup>63</sup> The remaining twenty-one percent responded negatively to the question.<sup>64</sup> Of those who replied to a survey by the ombudsman at Michigan State University, two-thirds of the respondents conceded they got help and/or relief from their frustration and hostility.<sup>65</sup> One-half felt their problem had been completely solved, while only one-third expressed the opinion that their grievance was not satisfactorily settled.<sup>66</sup>

#### Some Critics Express Doubts

There exists entirely too little published critical analysis of the American college ombudsman. On occasion, scepticism has been voiced about the ombudsman's uncertain role expectations<sup>67</sup> and his often ambiguous charge,<sup>68</sup> while the potential occupational hazards that are inherent in the vigorous pursuit of the office are only rarely alluded to.<sup>69</sup> The antithetical danger, that of the ombudsman exploiting the office, has been touched upon by Poblano, who hypothetically envisions several instances

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<sup>63</sup>Koster, loc. cit.

<sup>64</sup>Ibid.

<sup>65</sup>Rowland. "A Study of the Campus Ombudsman in Higher Education With Emphasis on Michigan State University," p. 4.

<sup>66</sup>Ibid.

<sup>67</sup>Poblano, op. cit., p. 580.

<sup>68</sup>Sandler, loc. cit.

<sup>69</sup>Poblano, op. cit., p. 581.

in which individuals could use the powers of the appointment to further private and selfish ends.<sup>70</sup> This theme is expanded in a paper delivered by Kellcher to a convention of ombudsmen, in which he chides his audience for assembling with the intent of perpetuating the institution. He makes a case that the ombudsman's effort should be directed toward putting himself out of business, and that the institutionalization of the office can only lead to the expansion of a bureaucratic hierarchy against which the ombudsman is, in theory, committed to streamline.<sup>71</sup>

Earle Clifford has published more about the conceptual weaknesses inherent in the exercise of ombudsing in American colleges than any other critic on the subject. He points out that the justification for the existence of the campus ombudsman rests on the following three questionable, if not unsupportable, assumptions: (1) as colleges become bigger, they become bureaucratic and impersonalized, (2) the commitment to, and the possibility for change within these institutions, is non-existent, and (3) no internal evaluation takes place within the administration of these schools.<sup>72</sup> Finding these fundamental premises unsound, Clifford has labeled campus ombudsing a "gimmick," serving mainly to route students to the right office. He sees the ombudsman model as being "too much borrowed" and "too poor a fit;" and consequently an unworthy substitute

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<sup>70</sup>Ibid., p. 580-581.

<sup>71</sup>Jerry Kellcher. "A Reaction to the Ombudsman's Institute," a paper presented to the Conference on the Ombudsman in Higher Education, (Chico, California: May 4-6), p. 1.

<sup>72</sup>Earle W. Clifford. "Second Thoughts on the Ombudsman in Higher Education," a paper prepared for presentation to the Conference on the Ombudsman in Higher Education at the University of Detroit, (Detroit: October 25, 1968), p. 1.

for a new model of organization, should change be the order of the day.<sup>73</sup>

### Summary

The ombudsman, or peoples' advocate, has evolved within the framework of one thousand years of Swedish law. Employed by both executive and legislative branches of government to guard against bureaucratic abuse, the concept has exhibited amazing resilience in enduring the demands made of it. Escaping the confines of Scandinavia in the early 1950's, ombudsing has gained worldwide notoriety, and been adopted by numerous civil governments.

The appearance of the American college ombudsman in the 1960's coincided with the ascendance of multiversities and the rise in campus unrest; a period of critical student activism.

With the exception of the earliest campus experiments that display some marked idiosyncrasies, the newer academic ombudsing models closely mimic the Danish civil office. Campus ombudsmen today number in the nineties.

The dearth of ombudsing data available today, can be attributed to the institution's recent arrival and its independent nature. Until such time as American campus ombudsmen agree to employ some uniform method of record keeping and data sharing, little can be ascertained about the overall impact of ombudsing on American higher education. The limited evidence available from individual colleges does indicate, however, that the ombudsman has achieved some degree of success in assisting

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<sup>73</sup>Ibid., p. 2.

members of the academic community in dealing more effectively with their respective institutional bureaucracies.

Critical analysis of the campus ombudsman is likewise almost non-existent. Until such time as the wave of ombudsing fever subsides, and a hard objective look is taken of the institution, it would be unrealistic to expect more than the descriptive speculations that presently serve as the only critical examination of the office.

## CHAPTER III

### AN EXAMINATION OF THE FIRST YEAR AND A HALF OF THE OMBUDSMAN AT THE SCHOOL OF EDUCATION

#### The Ombudsman Takes Office

Shortly after the Constitution was ratified, the Executive Committee nominated Dr. David Flight to serve the first term as ombudsman of the School of Education. The appointment was swiftly affirmed by the Dean and the School Council, permitting the ombudsman to assume office early in the spring of 1970.<sup>1</sup>

Traditionally the choice of an ombudsman would be made from a list of enduring, established, tenured professors well known to the community. However, the extent of the polarization that had split the School during its first year and a half was such that the committee elected to fill the position with a relative newcomer to the School.<sup>2</sup> Flight's limited familiarity with the history and operations of the School, a potential handicap at the onset of his term, was steadily erased with the experience of the office.

#### Many Hands Shape the Office

Dr. Flight quickly gathered about him an advisory committee of faculty members and graduate students who had expressed a willingness

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<sup>1</sup>See Appendix, Constitution of the School of Education, Article IX, pp. 14-15.

<sup>2</sup>See Introduction, p. 4.

to assist the ombudsman in clarifying the philosophical foundations of the office, transposing the ombudsman's charge from constitutional directive into an administratable service, and guiding the operation along through the first unsteady weeks.<sup>3</sup>

During the few months that intervened between the ombudsman's appointment and his first official appeal for help, Dr. Flight met with his advisors and attempted to untangle the foundation rhetoric of the Constitution and weave it into a viable conflict resolution procedure.<sup>4</sup> One outgrowth of these conferences was the circulation of a questionnaire designed to solicit from the community any grievances, past and present, actual and imagined, that might provide the ombudsman with cases for mediation or scenarios for study.<sup>5</sup> The response to the surveys was modest. Page two of the questionnaire, however, proved valuable in later months when it was subsequently retained as the ombudsman's record and work sheet.

#### Expectations Far Exceed Precedent

These rather involved preliminary preparations were in some measure precipitated by the ambitious charge of office outlined by the Decision Review and Conflict Resolution Section of the School of Education Constitution. The document loaded upon the shoulders of the ombudsman

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<sup>3</sup>Interview with Dr. David Flight, School of Education, University of Massachusetts (Amherst: June 4, 1971).

<sup>4</sup>Interview with John Ball, doctoral candidate, School of Education, University of Massachusetts (Amherst: July 9, 1971).

<sup>5</sup>See Appendix, Memorandum: Call for a Case Load.

many more responsibilities than are traditionally assumed by the office. In addition to the task of mediating disputes, the School of Education's ombudsman was instructed to coordinate with a judicial committee, an arbitration system. Most complicated and ambitious of his chores was that of actualizing a wholly new concept of affective resolution, one which prescribed sophisticated psychological remedies in search of fuller psycho-emotional understandings to inter-personal problems.<sup>6</sup> Ironically, the single universal function of ombudsmen the world over, that of overseeing the administration of bureaucratic government, was wholly ignored by the Constitution.

The glaring weakness of Article IX rested with its cosmic comprehensiveness. The roots of the trouble could be traced to a fundamental dispute which developed between Dr. Schimmel and certain student members of his staff; and centered on the stated rights of individuals in the community, and the mechanisms that should be evolved to protect those rights against incursion. Dr. Schimmel proposed to his staff that the creation of an ombudsman's office would effectively protect the rights of all parties in the School. Insufficient investigation on the part of the staff resulted in the creation of a badly designed conflict resolution policy.<sup>7</sup> Even Dr. Schimmel admitted in a later interview that he possessed only the most rudimentary understanding of the concept and

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<sup>6</sup>See Appendix, Constitution of the School of Education, p. 16.

<sup>7</sup>Interview with Richard Feldman, staff member of Dr. Schimmel's committee to investigate the feasibility of constitutional governance for the School of Education of the University of Massachusetts (Amherst: June 1, 1971).

practice of ombudsing at the time of its inclusion in the Constitution.<sup>8</sup> The short sighted effort taken to interconnect the office of the ombudsman with the judiciary system, and the untested theoretical affective resolution process, served initially to complicate the ombudsman's role-development.

The First Crisis:  
Establishing a Line of Authority

The first major grievance registered with the ombudsman tended to further complicate the ombudsman's efforts to operationalize the office. One of the original Planning Doctoral Candidates, A., charged that the administration had failed to protect his advertised right to pursue a program of his choosing.<sup>9</sup> The matter concerned the defeat of two programs designed by A. to integrate communal living and travel experiences into the School's curricula. The rejection of these activities had occurred more than fourteen months earlier, during the Planning Year (first year of the reorganization) when a committee of anonymous readers had reported negatively on both programs. A. had, at the time of the initial rebuff, pleaded his case before the Dean, who had expressed sympathy for the student, but lent no support for his programs. The

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<sup>8</sup>Interview with Dr. David Schimmel, University of Massachusetts (Amherst: June 22, 1971).

<sup>9</sup>Author's Note: The records of the ombudsman are held in strictest confidence. Only the ombudsman and his graduate assistants have access to the entire file. Individuals who have business with the ombudsman may, when circumstances warrant, view those records pertaining to their own cases. To preserve the privacy of persons having business with the ombudsman, this writer has, wherever feasible, arbitrarily substituted a letter in lieu of a proper name. In some cases, where a party to the dispute (not the agrieved) cannot be disguised without impairing clarity, then titles and proper names have been retained.

administration chose to follow a course of laissez-faire in acceding to the determinations of the reading committee to prohibit the presentation of certain courses, but demonstrated no compunction about assuming responsibilities for establishing an appeal procedure through which alienated individuals could plead their cause.

Cautioned against taking any action which would reflect unfavorably upon the School, A., somewhat confused over the meaning of the Dean's well worn slogan "No is not the right answer," rested his complaint. As the reorganization progressed, however, he found himself becoming steadily disenchanted with the evolving program at the School of Education; and in the spring of 1970, when he was denied a palatable assistantship, A. petitioned the ombudsman for aid.<sup>10</sup>

A.'s reasons for enlisting the assistance of the ombudsman were complex. He had served on the research staff that had assembled the Interim Constitution, and had been a prime petitioner for a strong conflict resolution component in the final governance system. A. candidly shared with the ombudsman his personal view that the judicial and conflict resolution sections of the Constitution would atrophy if not exercised quickly and vigorously; and conceded he had picked the official and constitutional route (the ombudsman) in seeking a redress for his grievance, over more subtle and "pragmatic" methods, in large measure to help establish precedent for the office.

Essentially, A.'s case encompassed two rather broad grievances--one part stemming from a long standing disillusionment over the "Planning

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<sup>10</sup>"Case No. S-70-2-64," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: March 17, 1970).

Doctoral Program,"<sup>11</sup> and seemingly calling for some kind of affective resolution; and the second part dealing directly with the question of assistantships, and presumably seeking remunerative restitution. Either matter would have required considerable effort in resolving and would have absorbed the energies of untold staff members and administrators. Fearing an exhausting and lengthy bureaucratic entanglement, A. framed his grievances in terms of "breach of promise" and "non-support"; and named Dr. Dwight Allen as the litigant.

Once again A. found his cause confounded by a crisis in administrative accountability. The School's Constitution had attempted to decentralize certain decision-making powers, while retaining the ultimate discretionary powers in the hands of the Dean. Consequently, the Constitution legitimized a number of small semi-autonomous administrative units. These centers and projects acquired control of many of the assistantships and distributed them according to their own requirements and priorities, frequently without regard for the greater need of the School community.

A.'s struggle with Dean Allen to reassert the synapse between delegated powers and central authority deeply concerned the ombudsman as well, who was soon to discover that his effectiveness in monitoring administrative malfunction would rest upon the strength of the School's lines of authority and individual decision-making accountability.

A.'s complaint proved to be a mixed blessing for the ombudsman. While the case provided Dr. Flight with a primary vehicle with which to

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<sup>11</sup>See Appendix, The University of Massachusetts Revolution in Education: A New Doctoral Program.

test those hypothetical imperatives explored by the ombudsman and his advisory committee, its scope and confounding ambiguity made handling difficult. Had the case been encountered at a time when the ombudsman was more experienced, he would not have pressed the matter without extensive editing of the charges and modification of the suggested redress.

Following a series of lengthy interviews with A. in which matters of direction, remediation, and impact were discussed; the ombudsman dispatched a letter to the Dean sketching the nature of the complaint. Between March 27 and July 9, 1970, when the protagonists finally sat together to mediate their differences, six letters and uncounted telephone calls passed between the ombudsman and the Dean's office. When a date for the confrontation was set, Dr. Flight engaged the services of Dr. Alan Lieberman, a member of the Psychology Department at the University of Massachusetts, to serve as a mediator.

Dr. Allen and A.'s interpretation of the responsibilities of the office of the Dean so differed, that no substantial understandings between the two were arrived at. Several alternative assistantships were discussed and explored, but those proved unsuitable or unavailable; and A. left the mediating session with little more than the intangible satisfaction of having pursued his case as far as it could be carried through legitimate institutional channels.

This first case marked the beginning of a long search by the ombudsman for some measure of administrative accountability within the decision-making hierarchy of the School of Education. Throughout these negotiations, Dean Allen, the School's acknowledged chief administrative officer, asserted a claim that his powers were so thoroughly delegated

that many decisions were rendered outside of the scope of his authority. The matter was further complicated when the Dean was unable or unwilling to identify the agent responsible for a particular area of concern.

Throughout his term of office, the ombudsman encountered the problem of isolating and confronting the administrator or agency that would willingly assume a decisive and positive accountable posture in similar conflict situations. When accountability was screened or denied, the ombudsman's effectiveness in resolving bureaucratic mismanagement was paralyzed.

A case could be made that the administration had not reached a sufficiently mature level of operation where it could best benefit from the services of an ombudsman. (The ombudsman, an instrument of established bureaucracy, may be too specialized an institution to render assistance to a free-wheeling juvenile administrative operation.)

Fortunately, the ombudsman fared somewhat better than his client during the four month ordeal. He learned the importance of pushing for the speediest reasonable adjudication of matters by sacrificing most formalities, and retaining only the basic amenities in expediting his duties. In future cases, most correspondence was dispensed with in favor of direct contact whenever feasible. Striving to avoid the long delays created by schedule conflicts, Dr. Flight severely curtailed the use of third party mediators; and established a plan requiring parties in dispute, unable to make prompt appearance at grievance hearings, to appoint proxies bearing full bargaining powers when negotiating in ombudsing session.<sup>12</sup>

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<sup>12</sup>Interview with Dr. David Flight, University of Massachusetts (Amherst: September 14, 1970).

### The Staff Doubles in Size

It became apparent to Dr. Flight, as A.'s case extended into the summer months, that the chore of ombudsing was more than one man could handle efficiently. Although the Constitution had suggested that provision be made for the creation of a support staff to assist the ombudsman, funds had never been allocated to actualize the proposal.<sup>13</sup> When the ombudsman's plight was revealed, the administration made available to the ombudsman's office one graduate assistantship to be filled at the discretion of the ombudsman.

Dr. Flight notified several prospective recipients of the existence of the money, openly advertising the position to the School community in an effort to protect the office of ombudsman from charges of favoritism and secrecy.<sup>14</sup> (Such complaints involving other divisions of the School, were in fact, subsequently registered with the ombudsman.)<sup>15</sup>

From the surprisingly large pool of applicants, Dr. Flight selected one of the original "Planning Doctoral Candidates" who had a reasonable understanding of the institutional mechanics of the School of Education and had a passing acquaintance with most members of the School community. He had been a contributor to the Constitution, worked in behalf of a strong conflict resolution mechanism, and supported the office of the ombudsman from its inception.<sup>16</sup>

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<sup>13</sup>See Appendix, Constitution of the School of Education, p. 15.

<sup>14</sup>Flight, loc. cit.

<sup>15</sup>"Case No. S-71-3-RS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: February 4, 1971).

<sup>16</sup>Flight, loc. cit.

### Reorganization

With the addition of the new staff member, the ombudsman was able to totally reorganize his office in such a way as to provide more personal and complete service than had been previously possible. The appointment required a minimum outlay of twenty hours of work per week. The assistant's time, it was decided, would be divided among manning the office, processing grievances, consulting with the ombudsman and attending to the miscellaneous administrative duties associated with the job.

The ombudsman's office space--a highly unsuitable, open graduate student study room, containing a couch, several desks and a telephone--was staffed by the ombudsman's assistant in scheduled staggered hours three days per week. When not manning the office, the ombudsman's assistant placed himself on twenty-four-hour call at his home.

Notices were placed in strategic places throughout the School of Education building as well as in the School's weekly bulletin, advising the community of the availability of ombudsman's services.

As the academic year progressed, student feedback confirmed the ombudsman's long held suspicion that undergraduates were either oblivious of the existing conflict resolution procedure or had only a vague understanding of how the service could benefit them. To better advertise the activities of the ombudsman, David Flight scheduled a series of mini-talks to students in strategic education courses, and was instrumental in authoring a feature story in the university's undergraduate daily.<sup>17</sup>

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<sup>17</sup>The Massachusetts Daily Collegian, February 22, 1971, p. 5.

The previous semester's experience had indicated that there was too little business to occupy a full-time ombudsman on work release, and too much work for a faculty member to divide his energies between teaching and resolving conflicts. It was felt that the ombudsman had committed too many hours to handling simple, uncomplicated and routine matters which could be more readily expedited by others. It was therefore decided that the ombudsman's assistant would interview all clients, offer counseling and referral service in those cases where the situation warranted, and periodically advise the ombudsman of the actions taken. Only in those matters requiring the judgment, prestige, or persuasiveness of the ombudsman, would Dr. Flight be drawn into a case.

The ombudsman expanded his Advisory Committee in an effort to better represent the needs of undergraduates, racial minorities, and new arrivals at the School. Recruitment was not altogether successful, and after convening only once at the beginning of the fall semester, the group was relegated to a paper existence and never again called into advisory session.

#### Creative Affective Resolution Proves Elusive

The Constitution directed the ombudsman to facilitate an affective conflict resolution procedure that would have had disputants "find creative solutions to their conflict through a deeper understanding of themselves, the other party and the basis of their conflict."<sup>18</sup> Of all the ombudsman's charges, this one proved to be the most difficult to fulfill. Neither the ombudsman nor his assistant had a solid background in

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<sup>18</sup>See Appendix, Constitution of the School of Education, p. 16.

the areas of psychological conflict resolution. Although help was sought from members of the School community, few individuals were able or willing to aid the ombudsman in a search for an effective process. A scan of the existing literature shed little light on the problem and yielded even less in the way of applicable guidance.

The ombudsman's assistant was, however, able to transpose several popular devices--role playing, task sharing, and group confrontation--into potential conflict resolving tools that it was felt might prove useful in attacking disputes in which ill feelings and inter-personal animosity obstructed settlement. Eventually he had planned to employ one of these synthetic approaches in calming a gnawing hostility that had been hampering his working relationship with a fellow graduate student.

Shortly before the ombudsman's assistant could put into motion the summoning mechanisms, M., the target of his animosity, appeared in his office in a bristling rage. An intense confrontation between the two followed a few introductory amenities, subsiding only after emotional energies were exhausted. Although both parties discussed the merits of employing a number of affective simulations to catalyze interaction, M. and the ombudsman's assistant concluded that none was needed; and no further formal encounters were scheduled. It was evident, however, that the single incident was definitely successful in dissipating the crippling hostility which had blocked communication;<sup>19</sup> and provided a model for dealing with future affective conflict cases.

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<sup>19</sup>"Case No. F-70-15-FS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: October 29, 1970).

In a later case involving graduate student E., and a dean, bad feelings had ensued over the manner in which the transfer of an assistantship was handled. Although the grievance encompassed a number of issues, none of the suggested redresses called for tangible recompense. Essentially, E. was seeking recognition and approval for services she had rendered to an organ of the School that was under the supervision of Dean K. She was angry with Dean K., whom she perceived as being unappreciative of her efforts and insensitive to her personal feelings. The case clearly called for affective resolution. When the ombudsman explored the possibilities of applying an affective simulation to the complaint, certain underlying weaknesses in the concept were revealed which virtually ruled out further consideration by the ombudsman of initiating affective games except in the most accomodating circumstances.<sup>20</sup>

Before a process of affective conflict resolution can be instituted with any hope of success, all parties must agree to its value and desirability. Anyone engaging in affective resolution games must be willing and able to devote sizable blocks of time and energy to playing out the simulations, and must bring to the exercise sufficient intelligence and openness to glean an understanding of the subtle truths revealed by such devices. Given these conditions, almost any form of confrontation procedure, sensitively conducted, should bring forth positive results. Consequently, the ombudsman's experiences with affective grievances led him to develop a policy of confronting all inter-personal

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<sup>20</sup>"Case No. F-70-5-GS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: October 30, 1970).

problems in a direct, immediate, and forthright manner; facilitating "creative" modes of remediation only at the specific request of the aggrieved parties.

### Three Modes of Action

A wide range of concerns were served by the ombudsman's office during its first complete year of operation. The records reveal that the ombudsman acted officially in behalf of clients on thirty-one occasions. (These figures do not recount the myriad clandestine and unofficial conversations held between the ombudsman's staff and concerned members of the community who chose not to pursue a grievance beyond the party, bar, or alcove of its revelation.)

### Consultation--Prerequisite to Action

All formal contacts with the ombudsman's office were logged according to their final disposition. Each case was begun with a consultation in which the client did most of the talking, the ombudsman most of the listening. At the conclusion of this preliminary meeting, the ombudsman and his client assessed the merits of the particular case, focussing on the most desirable solution, and what consequences, remote and immediate, might ensue from following a particular course of action.

Many petitioners, after unburdening themselves of their unhappiness, and/or weighing the prospective price of an encounter, elected not to carry their grievance farther. During consultation, the ombudsman took particular pains to aid a client in weighing his decision carefully, while avoiding influencing the final judgment.

In a case that terminated in consultation, T., a Planning Doctoral candidate who was nearing the completion of her formal study at the School, expressed distress over the unorthodox manner in which a newly recruited faculty member, bearing few academic credentials, had been administered a qualifying comprehensive examination on the day of his arrival at the School. T. suspected that the faculty member had never taken any course work from the School of Education (or any other graduate institution). The examination had been, in her eyes, a hypocritical sham, staged to meet political needs and devoid of educational worth.<sup>21</sup>

On the first telling, T. appeared to be most offended over the ethical implications of the event. Upon clarification, however, T. revealed that her concern was more economic than educational. Fearing that the reports of the incident would reach other institutions where she and her husband were applying for employment, she wished to find some way of protecting the reputation of the School of Education's doctoral degree.

T.'s grievance went directly to the center of the problem of maintaining quality control over the academic program in the School. With no School-wide uniform minimum graduate standards set for residence, course load, certification, and credentialing during the Planning Year; the responsibility for determining requirements was not clearly fixed. In the case under consideration, the comprehensive examination committee was heavily represented by deans and members of the School's administrative

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<sup>21</sup>"Case No. F-70-1-C," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: September 16, 1970).

hierarchy. Clearly, questioning the unprecedented speed with which the examination was administered would lead T. toward a confrontation with Dean Allen over his educational ethics.

T. feared such a confrontation might further tarnish the School's academic reputation, and raise the ire of the administration. T. concluded that her professional future would not be served by pressing a formal complaint.<sup>22</sup>

In another case involving similar client risks, X., a doctoral candidate got into difficulty with the administration while delivering a guest lecture to an assembly of undergraduate methods students. In the course of the presentation, X. while presenting certain personal views of the biological influences on human behavior, employed some colorful verbiage to forcefully impress his meaning upon his audience. Unfortunately, several members of the audience, comprised largely of girls between the ages of nineteen and twenty-two were offended by the subject of discussion and the language used. A complaint was registered with one of the administrative deans who subsequently invited X. to meet with him and discuss the incident.

Several days after he emerged from the meeting, X. came to the ombudsman for help. In X.'s opinion, he had suffered a grave humiliation at the hands of the administration. He felt that the dean had prejudiced the issues and violated the spirit of the meeting by rendering a harsh and unwarranted assault on his individual teaching style. Believing himself dressed down in a most unprofessional manner for a seemingly trivial

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<sup>22</sup>Ibid.

misunderstanding, denied the opportunity to confront his detractors, and prevented from presenting his case before an impartial audience; X. expressed the belief that he had not been granted reasonable due process.<sup>23</sup> Cognizant of the possible harm to his career that a feud with a top school administrator might generate, X. elected to defer any action to be taken in his behalf. Some weeks later, X. advised the ombudsman of his decision not to carry the matter further. Like T., he stated that his reasons for not following up on dispute were connected to his future employment security.<sup>24</sup>

In the preceding two cases, the question of institutional integrity and credibility were brought into focus. The ombudsman was frequently discouraged from thoroughly pursuing the complaints of clients who feared the after-effects of taking strong action against the administration. The low level of esteem in which some individuals held the School of Education served to block remedial action by the ombudsman, and had the stultifying effect of perpetuating the very disturbing elements that had precipitated the initial conflict.

Armed with those traditional ombudsing tools of persuasion, criticism, and publicity (effective only in a benevolent and responsive bureaucracy), the ombudsman found himself unable to assuage the doubts of individuals who feared the wrath of an administration perceived to be vindictive. When the ombudsman failed to build some rudimentary level of client trust in the access to justice, he was prevented from rendering tangible assistance to petitioners.

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<sup>23</sup>"Case No. S-71-7-C," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: March 3, 1971).

<sup>24</sup>Ibid.

Not all of the cases which terminated in a consultation were abandoned from faint heart or mistrust. A doctoral candidate, K., who was instrumental in managing one of the more controversial experimental independent study programs at the School of Education, wished to bring a complaint against certain instructors and an administrator who had failed to support verbal commitments made to his students at the start of the fall semester. Consultation with the ombudsman disclosed that K. had not adequately conferred with the Dean of Academic Affairs about the problem. The ombudsman recommended that K., in keeping with office policy of first exhausting all possible remedies before registering a complaint, confer with the School's Dean of Academic Affairs in an attempt to negotiate some settlement. K. was apparently successful in negotiating the problem with the Dean, and required no additional assistance from the Ombudsman's Office.<sup>25</sup>

Grievance: The Logical Outcome  
Of Contention and Commitment

The ombudsman grouped all complaints directed against individuals or subdivisions of the School which moved beyond the consultation stage, under the category of grievances. These intense, often personal problems constituted the smallest percentage of the ombudsman's business.<sup>26</sup> But, because of their delicate nature, grievances accounted for a much greater investment in time than their numbers would suggest.

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<sup>25</sup>"Case No. F-70-10-C," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: September 29, 1970).

<sup>26</sup>See Appendix, "Synopsis of the Ombudsman's Records 1970-71," School of Education, University of Massachusetts (Amherst).

In one such case, Q., a foreign-born graduate student, believed that she had been the victim of discrimination because of her national origin. Reluctant to bring charges at first, she applied for help from the ombudsman only after a fellow student persuaded her that she should seek such assistance. The incident arose when Q. had telephoned a professor (Z.) requesting permission to enroll in one of his course offerings. In the ensuing conversation, Q. came to understand that foreign students were not welcome in the program.

The ombudsman advised Q. to call or visit Professor Z. and attempt to clarify the dispute. Q. refused to communicate further with Z. and made it clear she would drop the matter before taking such a step. The ombudsman, disturbed by the possible repercussions that might grow out of this festering contention, waived his normal procedures; and with Q.'s permission, related her story to the instructor--being careful to preserve Q.'s anonymity.<sup>27</sup>

When questioned, Professor Z. vaguely recalled the telephone call in question and was bewildered by Q.'s interpretation of what transpired. He offered to meet with Q. at her convenience, and analyze the conversation in depth. In reviewing the content of the conversation with the ombudsman, Professor Z. recalled having used the word "quota" in explaining his policy of limiting enrollment, and attributed a semantic misunderstanding as the cause of the confusion.

When Z. learned that Q. wished to remain anonymous and had refused to meet with him, the instructor offered to write a letter explaining

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<sup>27</sup>"Case No. F-70-12-GS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: December 2, 1970).

the semantic misunderstanding and offering apologies for any inconvenience suffered. Such a letter was relayed by the ombudsman to Q., whose identity has remained unknown to Professor Z. to this day.<sup>28</sup>

Q.'s reluctance to disclose her identity to Z. did not result from shyness or fear of personal recrimination. With her assistantship bringing her into frequent and intimate contact with the entire instructional staff, Q. did not wish to risk incurring any damage to the good will she had built up in her efforts to develop a strong liaison between the faculty and the undergraduates. Q. conceded that one ethnic insult might be a small price to pay to sustain the high quality of service she had secured for the long neglected undergraduate student body of the School.

The ombudsman established a precedent early in his term of office of pursuing all complaints made in good faith to the limits of his outreach, regardless of the nature of the problem or the limited prospects of satisfactory remediation. While opening the ombudsman's services to the broadest constituency, such a policy occasionally necessitated prosecuting certain cases whose legitimacy and prospects appeared doubtful. In certain instances, individuals appealed to the ombudsman only after all other options were closed. Too frequently the situation had been allowed to fester from bureaucratic inattention, resulting in a crisis of such magnitude, that no remedies could be effectively administered.

In one such case, F., a senior undergraduate, applied for help from the ombudsman when his practice teaching appointment was prematurely

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<sup>28</sup>Ibid.

terminated by the administration at the school to which he was assigned. F. insisted that he had become the victim of a monstrous plot instigated by his cooperating teacher, and he demanded that the School of Education reassign him to another position or grant him his teaching credentials without further delay.<sup>29</sup>

As F. recounted his misadventures to the ombudsman, he exposed numerous inconsistencies in his story. Nevertheless, the ombudsman dispatched his obligations by arranging a meeting between F., F.'s supervisor, and an administrator of the School's Undergraduate Affairs Office. At the conference all existing options for remediation were presented to F. for his consideration. He flatly rejected them all, sticking to his initial demand that he be graduated without further complication. When the meeting reached a stale-mate; F. declared that he was withdrawing his grievance from the office of the ombudsman, and announced somewhat apologetically that he considered it would be necessary to put the issue into the hands of some unnamed political powers. F. thanked everyone for their efforts, took leave of the group and never returned to the ombudsman's office.

A conference was convened by the parties remaining after F.'s dramatic departure. Everyone present expressed distress over F.'s state of mental health, which it was felt had been aggravated by the exercise in practice teaching. The ombudsman was mystified as to how F., in his present condition of instability had secured a practice teaching assignment; and why his supervisory team had not detected the trouble sooner.

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<sup>29</sup>"Case No. S-71-9-GU," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: April 14, 1971).

Student over-enrollment, limited resources, and inadequate staffing, it was learned, had precipitated a crisis in services; and subsequently curtailed the kind of guidance and supervision necessary to sustaining a high level, more intimate liaison between the School and its practice teachers.<sup>30</sup>

#### Request--Clear Need in the Absence of Conflict

The bulk of the ombudsman's cases were classified as requests. This category included all applications for improved services, information, clarification, and miscellaneous assistance. Though often borne out of a very real sense of frustration, requests only infrequently featured the affective alienation common to most grievances.

Some of the ombudsman's happiest hours were spent servicing those simple uncomplicated requests that enhanced the quality of life at the School of Education. It was in the area of requests that the ombudsman came closest to rendering a tangible service to his constituency within the School community. Unencumbered by client animosities, multifaceted issues, or hidden agenda, the ombudsman was most free to transform requests into concrete needs and strive for their tangible and immediate satisfaction.

In one such case, a middle aged undergraduate student complained about the quality of the selection at the vending machine center in the

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<sup>30</sup>Ibid.

School lounge. More specifically, she suggested that the carbonated beverages be augmented with milk and other natural dairy products.<sup>31</sup>

The ombudsman investigated the matter and learned from the secretarial staff who patronize the vending machines that they had made a similar request to their supervisor some weeks before. The supervisor had in turn relayed the request to the appropriate university officials, and had received assurances that the matter would be investigated in due time.

The ombudsman placed a call to the administrator responsible for the maintenance of the vending machine operation on campus, and exacted a promise to make the necessary improvements in services. Within a few days, the route salesman had added natural citrus juices and whole and skimmed milk to the existing selection.<sup>32</sup>

Insignificant in and of itself, this early case clearly demonstrated how effectively the ombudsman could work within the confines of the relatively orderly and accountable bureaucracy that existed at the university level. He was subsequently to discover that direct negotiations with the School of Education's volatile bureaucracy frequently failed to secure the changes desired. As a result, the ombudsman began turning away from the traditional charge of the office in favor of a more personal approach, which strove to win advantage for the client before attending to the errant administrative machinery. Trade, barter

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<sup>31</sup>"Case No. F-70-2-RS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: September 25, 1970).

<sup>32</sup>Ibid.

and manipulation were added to the ombudsman's arsenal in an effort to secure quick and effective service for his clients.

In the following two case studies, the ombudsman's office concentrated its energies upon finding a solution to the immediate problem, rather than rectifying the bureaucratic causes of the matter.

One morning near the close of the spring semester, an undergraduate appeared in the ombudsman's office waivering between fury and tears. The young woman, C., had just left the undergraduate advising offices, where she had been informed that, lacking one credit module (one-fifteenth of an academic credit), she could not graduate unless the deficit were erased within four hours.<sup>33</sup>

The ombudsman's assistant, knowing of a faculty member who was both sympathetic to people victimized by modular bookkeeping, and reasonably liberal in his use of the system; directed C. to his office. The professor and C. collectively designed a task to be fulfilled for the fractional credit--thus enabling her to meet her requirements and graduate as planned. The ombudsman was careful to alert the leadership of the student advising office of the credit module negotiations in progress, and exacted a pledge of support which would insure the transaction's realization.<sup>34</sup>

When an undergraduate student, R., complained that an administrator, responsible for placing practice teachers, had reneged on a promise

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<sup>33</sup>"Case No. S-71-14-RS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: May 17, 1971).

<sup>34</sup>Ibid.

to locate her in a school for the handicapped; she approached the ombudsman for assistance. Her first inclination was to bring charges against the persons she held responsible for the administrative oversight. The ombudsman, cognizant of the shortage of practice teaching slots, suggested to R. that she should focus her efforts on securing alternative placement.<sup>35</sup>

In the course of his business, the ombudsman had rendered a token service to the director of a small teacher training program who was rumored to be placing student teachers in a school for the deaf in Canada. The ombudsman verified the rumor; and, a few phone calls later, R., and a second student who had experienced similar difficulties, had been located in the Canadian school.<sup>36</sup>

A few requests handled by the ombudsman were loaded with dissatisfaction, and would have been classified as grievances had they not been very skillfully structured by clients to gather facts rather than bring charges. In one such case, D., a tenured faculty member, invited the ombudsman to assist him in gathering from the Personnel Committee, answers to a set of twenty-one questions designed to ascertain the explicit criteria utilized in deciding recommendations for promotion, tenure, and merit pay. When petitioned by the ombudsman's office, the chairman of the Personnel Committee declined the invitation to respond to the inquiries in writing; but agreed to explore the questions in the presence

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<sup>35</sup>"Case No. F-70-11-RS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: December 2, 1970).

<sup>36</sup>Ibid.

of D., the ombudsman, and the other members of the Committee. The ombudsman scheduled a conference between R. and the members of the Personnel Committee; and with the consent of all parties present, taped the session for later transcription.<sup>37</sup>

The question and answer session exposed a number of apparent irregularities and inconsistencies in the execution of the Committee's duties. At one point, the investigation disclosed the existence of an independent Personnel Policy Committee, charged expressly with the task of developing the guidelines upon which the Personnel Committee was to base its working criteria. Testimony revealed, however, that the Personnel Committee had been little influenced by its sister advisory body, never having met nor significantly collaborated with the Personnel Planning Committee during the academic year.

Despite seemingly clear justification for bringing a grievance against the Personnel Committee, D., who had demonstrated a long standing disaffection for the "New" School of Education through his collaboration on a number of complaints registered with the University's Tenure and Grievance Committee, chose not to pursue the matter further through the ombudsman's office.<sup>38</sup>

#### Bureaucratic Regulation Proves Ineffectual

The concept of ombudsing as practiced at the School of Education under the leadership of Dr. Flight might best be described as client

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<sup>37</sup>"Case No. S-71-1-RS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: January 3, 1971).

<sup>38</sup>Ibid.

centered. The ombudsman was careful to act only at the request of a client, and he extended his investigative arm only when gathering information for a particular case. This policy was conceived during the infancy of the ombudsman's practice, and was designed to conserve the limited resources of the office. It was hoped that restraint of the ombudsman's investigative powers would minimize any adverse administrative reaction that might otherwise impair the execution of his duties.

When, however, routine fact finding uncovered abuse and mismanagement, the ombudsman felt obliged to seek corrective measures to remedy bad practices.<sup>39</sup> Surprisingly the School's Constitution made no mention in its conflict resolution section as to what course of action the ombudsman should take in dealing with administrative malfunction. Focusing exclusively on the problems of individual alienation, the Constitution chose to ignore the historical and traditional role of the ombudsman-- that of overseeing the just and expeditious execution of good administration in favor of individual conflict management.<sup>40</sup> Further, the Constitution failed to provide the ombudsman with strong judicial backing, or develop a clear line of appeal through which his office could petition for help.<sup>41</sup>

Cognizant that the ombudsman's power to enforce recommendations was no greater than his power of persuasion, Dr. Flight appealed to the Judiciary Committee to declare the scope of its authority and make itself ready to adjudicate matters that might be referred to it by his office.

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<sup>39</sup>Flight, loc. cit.

<sup>40</sup>See Appendix, Constitution of the School of Education, Article IX.

<sup>41</sup>Ibid.

After a long delay, the Judicial Committee issued a report on judicial procedures to Dr. Flight, who, upon studying the document and sensing the committee's reluctance to become involved, sought alternative routes for influencing administrative process.<sup>42</sup> The School Council provided a second logical existing alternative instrument with which the ombudsman might have influenced administrative practices. Periodically, the Council invited the ombudsman to appear before it and deliver a summary of his activities. Unfortunately for the ombudsman, the School Council was still very much entangled in its own growing pains and giving indications of suffering from premature impotence. When the ombudsman did periodically report to the Council, his observations never influenced action, and on occasion, illicit more amusement than support.<sup>43</sup>

A case might be made that in a community as small and intimate as the School of Education, no individual could long maintain the image of a cool, impartial, detached figure--so important in sustaining the prestige of the ombudsman in civil government. If familiarity had the effect of eroding the ombudsman's influence, then it would follow that his power would disintegrate accordingly.

Finding all traditional advocates unresponsive, the ombudsman sought counsel and support from certain sympathetic middle management bureaucrats within the administrative structure, whom it was believed, could bring influence to bear on the School's decision-makers. One of these School administrators, S., generously pledged his complete

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<sup>42</sup>Ibid.

<sup>43</sup>Flight, loc. cit.

cooperation to the ombudsman in seeking to find solutions to those problems both men believed to be potentially hazardous to the welfare of the School. In the two cases that follow, the ombudsman's staff availed itself of that assistance in an effort to rectify those inept and inadequate administrative practices encountered in the course of the year's activities.<sup>44</sup>

In the first such case, B., an undergraduate Education major, protested to the ombudsman that a six-dollar lab fee, assessed in one of her courses, was excessive, arbitrary, and unwarranted. B. had been told by the instructor that most of the revenue from the fees was needed to pay for the purchase and maintenance of a movie camera being used in the course. The remainder was being applied to service charges made by the School for video taping equipment. In the course of her own investigation, B. had learned from an employee that most of the money being collected from her class in lab fees was being skimmed off for the purpose of liquidating previously incurred liabilities. It was further learned that the camera being used by the class was not new when acquired, and would be written off as an expendable item within two years of purchase. After expressing her displeasure over the payment of the lab fees with the instructor, B. affirmed her intention not to pay the charges. In her petition to the ombudsman, B. asked that the office make available

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<sup>44</sup>Ibid.

to her the regulations governing the levying of charges for laboratory materials.<sup>45</sup>

In the ensuing investigation, the ombudsman conversed with representatives of both the University's Provost Office and the Office of Administration of the School of Education. Both sources produced compatible guidelines which forbade the imposition of charges for expendable goods (items costing less than twenty-five dollars and/or having a life expectancy of not more than two years).

By a pleasant coincidence, bureaucrat S., was at the time of the inquiry, reviewing the laboratory fee requests for the upcoming semester. Although dissatisfied with some of the required justifications accompanying many of the requests (including several from the instructor in question), S. reluctantly informed the ombudsman that his office would be unable to audit the dispensation of student monies beyond departmental acquisition. He supported the ombudsman's contention that the situation was ripe for abuse, and would require constant vigil. S. informed the ombudsman of his intention to formulate policy recommendations designed to better regulate the acquisition and use of lab fees, and appealed to Dr. Flight not to raise the matter with the School Council until after those proposals had received consideration from the School's major administrators. The ombudsman acceded to the request.

The ombudsman did, however, prosecute B.'s grievance through an appeal to the department that had issued the charge. After much discourse

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<sup>45</sup>"Case No. F-8-GS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: November 4, 1970).

<sup>46</sup>Ibid.

without agreement, the departmental administrator, empowered to manage class revenues, released B. from payment of laboratory fees.<sup>46</sup>

In a second case involving money and School policy, L., a graduate student who had been seeking financial support, petitioned the ombudsman to study and report on the procedures utilized in awarding a particular set of assistantships. A borderline grievance, the request sought an explanation of the criteria employed by one of the School's departments leading to the awarding of an assistantship to a graduate student; who in L.'s eyes, appeared to lack the experience and maturity of most other candidates. Dispelling any ambitions to recapture the appointment, L. requested only that the department in question make known to him what factors had influenced the decision.<sup>47</sup>

Such an inquiry was long overdue. The School of Education contributed to the support of 278 graduate students in the fall semester of 1970, by distributing \$852,650<sup>48</sup> in assistantships and fellowships among its 1,277 pupils.<sup>49,50</sup> The number and nature of grants had never been

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<sup>46</sup>Ibid.

<sup>47</sup>"Case No. S-71-3-RS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: February 4, 1971).

<sup>48</sup>"UM/A (University of Massachusetts at Amherst) 1970-71 Data Sheet," Office of Institutional Studies, University of Massachusetts (Amherst: November, 1971), p. 17.

<sup>49</sup>"Graduate School Fact Book," University of Massachusetts at Amherst (Amherst: December, 1970), p. 2.

<sup>50</sup>Author's Note: In collecting raw data for this paper, this writer continually encountered discrepancies in figures relating to the activities of the School of Education. Responsible officials at the School were most generous in their help, but rarely were they able to supply accurate head counts or dollar amounts upon request. Therefore, the reader should consider all such figures close approximations.

disclosed to the community in an orderly and consolidated form, and the way the parcels were distributed was rarely made public. Tradition had dictated that individual departments within the School dispersed financial assistance independent of any School-wide guidelines and/or control. This practice led certain graduate students to suggest that the assignment of some money had been politically influenced, and that the unwillingness on the part of departments to advertise the availability of assistantships had had a detrimental influence on student morale.

On four separate occasions during his term of office, the ombudsman was petitioned to question some aspect of the graduate support system. In the course of these inquiries, the ombudsman investigated such matters as the rights and responsibilities of assistantship holders, the accountability of support recipients, the precedents of assistantship renewal privileges, and the right of access to information on all matters pertaining to financial support.<sup>51</sup>

L.'s case provided a perfect opportunity for the ombudsman to draw together the impressions gained from previous investigations, and develop a set of uniform guidelines that would govern the distribution and maintenance of assistantships--hopefully stripping away some of the secrecy and confusion surrounding financial support.

While satisfying L.'s suspicions that arbitrary criteria were employed in awarding the particular assistantships under examination, the ombudsman was much less successful in convincing his liaison in the Administrative Affairs Office or members of the School Council that the

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<sup>51</sup>"Case Numbers S-70-2-GU, F-70-GU and S-71-3-RS, Office of the Ombudsman, School of Education, University of Massachusetts (Amherst).

distribution of financial support was too important a matter to remain unregulated.

The failure of the ombudsman to secure the changes he deemed critical to insure reasonable standardization of the distribution and maintenance of assistantships, marked the collapse of the office as a bureaucratic monitor. The impact of the failure was most deeply felt by the office staff. The ombudsman's assistant, long disillusioned by the School administration's apparent unwillingness to institute uniform policy, found himself faced with the choice of dividing his time between lobbying the School Council for support of improved administrative practices, or devoting greater energy to the needs of individual client concerns. Given the record of the Council in instituting bureaucratic reform, the ombudsman elected to concentrate his attention on immediate client assistance.<sup>52</sup>

#### A Major Crisis is Averted

On only one occasion during his term of office was the ombudsman faced with a major grievance involving large numbers of people that threatened to disrupt normal school operations. That grievance was brought by four upperclass undergraduates who claimed to be the elected representatives of those students enrolled in the "methods block." The three men and a woman, officers of the Students National Educational Association local chapter, were seeking relief from what they believed

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<sup>52</sup>Flight, loc. cit.

to be an unreasonable and unrealistic work load assigned by the instructors of the Science, Mathematics, Language, and Social Studies methods courses. The grievants sought relief from the dilemma by seeking to: (1) enlarge the size of the instructional staff or improving access to the present one, (2) increase the number of accredited academic offerings, (3) replicate the most popular offerings, (4) consolidate the methods requirements, and (5) reallocate resources of the School to undergraduate education.<sup>53</sup>

The crisis had been precipitated by a temporary reorganization of the teacher training program, which was to be superceded by still another program change proposed for the upcoming academic year. Under the final reorganization, formal classroom presentations and course credits were to be replaced by individual learning contracts, performance criteria, and credit modules. The methods instructors, faced with a semester's holding action, had put together the temporary program in hopes of making the transition smoothly. Old wounds, inflicted during three years of neglect for teacher training, had left the undergraduate body ripe for protest; and the additional hostility triggered by the new make-shift programs appeared to have catalyzed the rebellion.

Sensing the need for haste, the ombudsman assembled all parties to the grievance in conference. The four subject areas were suitably represented and so positively disposed to negotiations, that a spirit of compromise and amiability permeated the meeting and all subsequent transactions. The methods instructors unanimously expressed sympathy for the

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<sup>53</sup>"Case No. S-71-4-GS," Office of the Ombudsman, School of Education, University of Massachusetts (Amherst: February 16, 1971).

plight of the undergraduates, and promised to reexamine their individual programs in an effort to standardize and coordinate work loads to insure that performance criteria could be satisfied with reasonable output.<sup>54</sup>

The negotiations were concluded when the concerned student body assembled in a public meeting and voted to accept the revised program requirements. The ombudsman's office sustained its communication's link between both factions for the remainder of the semester, but was not called upon to render further service.<sup>55</sup>

Throughout these negotiations, the ombudsman was troubled by the specter that he might be perpetuating an ineffectual bureaucracy through vigorous ombudsing. By negotiating potentially troublesome upheavals, the ombudsman suspected he might be shielding the administration from the only pressure which might affect constructive change within it.

#### Synopsis of the Year's Activities

In all, the ombudsman handled forty-six formal problems during the academic year of 1970-71. These figures represent only official cases, and do not include a host of informal inquiries which, for a variety of reasons, were not logged and may have numbered half again this figure. Although the great bulk of the ombudsman's clientele were students (thirty-nine); faculty, administrators, and non-professional staff accounted for a small but significant part of the ombudsman's services.

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<sup>54</sup>Ibid.

<sup>55</sup>Ibid.

Nine of the cases were terminated in simple consultation, but thirty-seven cases (requests and grievances) required two or more steps to resolve.<sup>56</sup>

In most cases, the ombudsman was able to ascertain how successfully he had satisfied his client through a direct follow-up interview. In twenty-four instances, clients expressed satisfaction with the outcome of their cases. On nine occasions, the client was displeased with the results of the ombudsman's efforts.<sup>57</sup>

The records of the ombudsman should not be viewed as a complete picture of conflict resolution at the School of Education. In addition to the considerable malcontent that was never formally registered with the School's ombudsman, no fewer than six complaints involving the School of Education were lodged with Dr. Ellsworth Barnard,<sup>58</sup> who had been appointed to initiate a campus-wide ombudsing service beginning in the spring of 1971.<sup>59</sup> Dr. Barnard's policy, with which Dr. Flight was in full agreement, dictated that clients not be subjected to needless horizontal referral. He therefore attended to all cases pertaining to the School of Education directly and without consultation with Dr. Flight. Those six grievances were concerned with teacher preparation certification (two cases), teacher preparation placement (one case), grades and honors (one case), and admissions (two cases). Dr. Flight and Dr. Barnard

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<sup>56</sup>See Appendix, Synopsis of the Ombudsman's Records, 1970-71, School of Education, University of Massachusetts (Amherst).

<sup>57</sup>Ibid.

<sup>58</sup>Interview with Mrs. Phyllis Foster, Secretary to the Ombudsman, University of Massachusetts (Amherst: March 8, 1972).

<sup>59</sup>The Massachusetts Daily Collegian, February 4, 1971, p. 2.

also worked independently in support of one individual who was appealing a University honors policy.

The two ombudsmen fostered a splendid working relationship throughout the spring semester by maintaining independent offices and serving their respective clientele. During the School of Education Marathon, a week-long colloquium of educational topics presented to the community in April, both gentlemen collaborated on a panel presentation exploring the field of academic ombudsing.

#### The Office Changes Hands--Continuity is Broken

In the spring of 1971, Dr. Flight notified the Executive Committee that he would resign his appointment at the end of the academic year; and suggested that the body nominate a successor immediately--thereby encouraging a smooth transition of ombudsing administrations. Delays in filling the office, unfortunately, thwarted efforts to permit the new ombudsman an opportunity to undergo the proposed orientation.

At the semester's end, only two cases remained unresolved. One of these was concluded under Dr. Flight's guidance during the summer session. The other, involving a School building modification, was awaiting the results of a feasibility study being conducted by the University.

#### Summary

In the spring semester of 1970, David Flight began a year and a half term as the School of Education's first ombudsman. During his first term of office, Dr. Flight strove to shape an ombudsing tradition for his constituency by transposing the Constitution's conflict resolution section

into a functioning service. Handicapped by an omnibus directive and an amorphous mandate, the ombudsman and his advisory council watched as the office developed expediently from the pressure of client needs.

With the acquisition of a graduate assistant in the fall, the ombudsman was able to greatly expand the scope and range of his services. During the final complete academic year of service, the ombudsman secured permanent quarters, established regular hours, and instituted a uniform operating policy. Through improved logistics and expansive advertising, the ombudsman succeeded in servicing forty-six formal inquiries and dozens more informal requests.

The ombudsman catalogued his cases under three broad categories: (1) consultations (matters terminating short of external action), (2) requests (matters requiring pursuit without confrontation), and (3) grievances (matters involving human conflict). A review of his records reveal that he rendered services to students, faculty, and administrators in fifteen trouble areas.

In spite of some degree of success in remediating the majority of complaints to the satisfaction of his clients, the ombudsman became increasingly disillusioned by his inability to prevail upon the School's decision-makers to influence the quality of bureaucratic administration, and enhance the efficiency of institutional governance. This crucial short-coming was never satisfactorily rectified by the office, and caused the ombudsman to eventually abdicate his self-assumed duties as a monitor of bureaucratic operations. Turning his attentions to the primary needs of his clients, the ombudsman finished out his term of office securing whatever immediate pragmatic gains he could win for those individuals who engaged his services.

A highly refined and sophisticated bureaucratic monitoring device, ombudsing proved itself to be an utterly unsuitable conflict resolution tool for the School of Education. The over-specialized ombudsing concept was forced to undergo a major redefinition in order to function under the extraordinary pressures generated by the School's volatile administration. Lacking power to institute change or enforce orderly process, the ombudsman failed to significantly influence the School in developing a viable and stable administrative mechanism.

## C H A P T E R        I V

### CONCLUSIONS

The creation of the ombudsman is steeped in the legal and social antiquity of Swedish culture, and yet the concept has remained sufficiently viable to undergo major modifications throughout its thousand years of development. A captive instrument of both the monarchy and parliament, the ombudsman has survived manifold power manipulations and redefinitions to emerge a valuable and compatible servant of bureaucratic government in Scandinavia.

The latent, but well broadcast success of the ombudsman, induced other governments to adopt the concept to their own individual needs-- frequently with gratifying results. The apparent universal adaptability of the institution inspired certain innovators to apply the idea to the academic community in hopes of improving the quality of bureaucratic services, and thereby insure the domestic tranquility of campus life. Within a very few years after its introduction to American campuses in 1966, the ombudsing concept was operating in nearly one hundred colleges and universities throughout the United States.

The proliferation of campus ombudsmen was achieved only after an extensive remodeling of the Scandinavian model. Consequently, the effectiveness of the office was sometimes stretched to the limits of its fullest potential, and beyond. A number of new ombudsing configurations were introduced to academe. Their scope and responsibilities were so great as to distort the traditional parameters of the institution.

In one such instance, the School of Education of the University of Massachusetts at Amherst, wrestling with the myriad problems inherent in the rebuilding of a "new" institution, established an ombudsman responsible for the maintenance of the project's entire conflict resolution procedure. Impaired by a lack of clear guidelines, traditions, and precedents; the ombudsman became entangled in a void of poorly developed and weakly executed constitutional governance. In order for the office to function at all, the ombudsman was forced to limit his constituted catholic mandate in favor of a more restricted and sometimes emasculated formula.

#### Five Impediments to Effective Ombudsing

##### An Elusive Mandate Sires an Insecure Office of Ombudsman

It was clear from the beginning of the first ombudsman's term that little serious research or study had been invested in the creation of the office. A low level of political sophistication, coupled with flaming optimism, led to the development of a seriously flawed conflict resolution procedure saddled to a single individual--the ombudsman. Broad generalities of purpose and power so permeated the conflict resolution component of the School's Constitution, that it left the office with more uncertainty than support; necessitating the ombudsman to write his own job description, cultivate his own power base, and establish parameters of control that reached beyond the dictates of his office.

Many of the preliminary difficulties faced by the office could have been foreseen and avoided had the constitutional design team realistically provided for the inevitability of confrontation--building a

strong judicial review procedure independent of all other remedial functions. This would have released the ombudsman from such alien tasks as peace-maker, public defender, therapist, and attorney general for the entire School community. Had the charge of ombudsing been better understood by the Constitution's designers, its role would have been restricted to those functions that serve and strengthen bureaucratic governance through private advocacy and public exposure.

Bureaucratic Inconsistency and Lack of Administrative  
Accountability Complicate the Ombudsman's Task

Time and again, clients petitioned the ombudsman for assistance in rectifying apparent irregularities in the application of a rule or regulation. The ombudsman's investigation frequently disclosed that these individuals were not penalized by a misinterpretation of an established policy, so much as through an absence of policy. Within the School of Education, tradition and precedent were viewed as impediments to innovation. The consequent bureaucracy that sprang from this non-precedent approach to management preserved its innovative flavor at the price of consistency and continuity. Too few policy constants were ever clearly articulated by the administration, compounding the confusion over the School's official position. Minor bureaucrats were frequently forced to assume responsibility for policy-making in critical situations. This had the effect of creating conflicting policies within the institution, and frequently led to the pointless reinvention of solutions to problems already solved. Anarchy led to inefficiency, and inefficiency to indirection.

It must be remembered that the ombudsman is a company man, servant and guardian to the bureaucracy that created him. He is charged with the task of monitoring a functional bureaucracy for the express purpose of insuring the continuation of good administrative services. As a dependent extension of the bureaucracy whose only power is derived through the good will of the administration, the ombudsman can be expected to be no more effective than the government he serves. When the quality of administration falls below a certain level of excellence, the ombudsman falls victim to the bureaucracy in much the same fashion as his clientele.

#### Familiarity Diminishes the Ombudsman's Stature

The ombudsman discovered that he was handicapped in his efforts to upgrade the level of administration by the relative informality of the School of Education and the high degree of intimacy that permeated the atmosphere of the institution.

Traditionally, the ombudsman commands special homage. In civil government he is accorded great prestige, and his opinions and pronouncements are received with special deference. While in the employ of the government, the ombudsman maintains a status not unlike that of a major jurist, and remains isolated from the compromising pressures of politics.

No precautions were taken by the School's Constitution or the School Council to shield the ombudsman from the dangers of losing his prestige of office through frequent and intimate interaction with the community. Quite to the contrary, the Constitution allows that the ombudsman will carry on his normal duties while devoting one half time to the business of ombudsing. In keeping with that spirit, Dr. Flight

attempted to fulfill his role as ombudsman while continuing his duties as a teacher, administrator, committeeman, and community member.

The ombudsman's exposure to the community in these differing roles may have diminished the myth of prestige that traditionally constitutes an important element in the office's image. Familiarity proved to be no hindrance to the ombudsman in investigating and mediating simple individual difficulties that required no bureaucratic reform. However, on those occasions when the ombudsman was pressed to present a case for administrative review and change, his recommendations were greeted with general indifference by the School Council. So apathetic was the Council's response, that the ombudsman shifted his energies away from monitoring bureaucracy, and concentrated his efforts in favor of small individual claims. The resulting withdrawal of such services deprived the School of Education, already seriously handicapped by a want of institutional self-evaluation, of any responsible internal policing which might have led to needed policy and procedural reform.

#### A Crisis in Confidence Impedes Effective Ombudsing

Throughout his term of office, the ombudsman encountered a number of clients who expressed reluctance to pursue grievances beyond the safe and private stage of informal consultation. Many individuals shared a common view that the School was unwilling to take steps toward internal reform, and feared the risk of reprisals should they press hard for equitable remediation of their respective injuries.

Traditionally, the ombudsman wields no power. What influence he does exert is derived in large measure from the collective sense of

confidence with which his constituency views the state of justice within the institution. When community confidence in the institution's good will fails, aggrieved individuals lose faith in the establishment and all of its myriad extensions (the ombudsman included).

Throughout his term, the ombudsman was cognizant of the forces of suspicion and mistrust that were at work, eroding community confidence. As a result of this flagging confidence, many serious matters were never officially confided to the ombudsman. All too frequently, clients preferred to squelch complaints rather than risk the dangers involved in seeking the ombudsman's assistance.

#### Ambitious Experimental Charges Complicate the Office

In its quest for simplicity and economy, the Constitution made the well-meaning but unfortunate error of assigning the ombudsman the responsibility for overseeing the mechanism for affective resolution. The concept of providing affective resolution was, perhaps, the most innovative aspect of the entire Constitution. Through repeated trials however, the ombudsman discovered that he could not effectively administer affective resolution in addition to his regular tasks without devoting excessive time and effort to the endeavor. Such added responsibilities tended only to intensify his burden.

Care should have been taken to make the ombudsman's job as direct and uncomplicated as possible. However deserving the concept of affective resolution, it should have been explored under a distinct and independent control with adequate staff and budgetary resources.

## The Future of the Ombudsman in Education

American higher education is presently caught up in an ombudsing mania. The number of campus ombudsmen continue to proliferate into the decade of the 1970's. As happens so often in education, the idea has assumed a faddish quality. Already, certain public secondary school systems have begun flirting with variant forms of ombudsing in an effort to reduce rising internal tensions.

Of those institutions that have already adopted the concept, few have expressed any significant displeasure with ombudsing; and to date, none has publicly announced any intention of discontinuing the service. If Parkinson's Law concerning the staying power of bureaucracies is to be believed, then it is reasonable to assume, on the basis of the evidence available, that the campus ombudsman will be with us for a very long while.

There can be little doubt that the ombudsman is an unequaled monitor of bureaucratic administration. As a respected member of the establishment, he is able to move freely throughout the bureaucratic machinery, calling attention to inefficiency and inequity within the structure. He has become a proven source of quick relief for the citizen frustrated by bureaucratic malfunction. Even the weakest and most ineffectual ombudsman is certain to render occasional help to someone who might not otherwise have had access to assistance.

### Recommendations

It can only be hoped that any academic institution contemplating the addition of an ombudsman to its staff, will first make a comprehensive

study to assess the feasibility of the idea. Such a study should examine the appropriateness of an ombudsman with regard to the institution's size, newness, stability, governmental structure, bureaucratic responsiveness, and traditions. Only after an institution has made an exhaustive accounting of its own nature and needs, and thoroughly familiarized itself with the limitations of the ombudsman, should it initiate the process.

No such study was carried out by the School of Education at the University of Massachusetts in Amherst, as a prelude to inaugurating its ombudsman (one of the first departmental ombudsmen in the United States). As a consequence, the School failed to employ its ombudsman effectively during its first term of office. Introduced into an unsuitable environment, and laden with extraneous duties; the ombudsman was never quite able to concentrate the full potential of his office on the major administrative problems that haunted the School of Education during its first years of reorganization.

Hopefully, as more is understood about the campus ombudsing, institutions considering the inclusion of an ombudsman to their staff will find themselves better able to utilize the full range of his potentialities.

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A P P E N D I X

THE UNIVERSITY OF MASSACHUSETTS REVOLUTION IN EDUCATION:

A NEW DOCTORAL PROGRAM

by

Dwight W. Allen,  
Dean  
School of Education  
University of Massachusetts

The Fall of 1968 marks the beginning of a new era at the University of Massachusetts School of Education. The entire academic year will be spent in planning and developing programs to fill a 1969-70 School of Education catalogue which reads in essence "To Be Announced." The faculty will spend the year "tending" the current programs while at the same time deciding what programs ought to be offered in a school of education designed to meet the needs of an increasingly complex future. All programs, including teaching credentials, bachelor's, master's, and doctoral degrees have been discontinued effective September 1969 and will be subject to the scrutiny of a recently expanded faculty.

As part of this comprehensive planning effort, the School of Education has instituted a one-time-only Special Doctoral program, which now has approximately 40 participants. The candidates in the program share strong academic background, a wide diversity of talents and interests, and a strong commitment toward having an impact on some particular aspect of the educational realm. The overarching concern of the program is to enhance the planning capacity of the school by drawing on exceptional and diverse talent while at the same time providing a stimulating and relevant environment for graduate education.

The essential ingredient which makes the program distinctively unique in graduate education is the fact that all special doctoral students will be expected to participate as voting members on the faculty committees engaged in the school's planning activities. Thus, a major portion of each graduate student's credited work toward his degree will be spent in actively planning programs for future students who might share his own professional talents and educational interests. A student, for example, whose special interests were in educational psychology and its relevance for secondary teacher training could devote

the major portion of his first year's graduate program to planning of the objectives, scope, content, and specific experiences which are appropriate for future graduate students with similar interests.

The unique status of special doctoral students as active members of faculty planning committees which are strongly committed to the revitalization of the discipline education promises to be particularly exciting and relevant. The planning work itself will be both facilitated and deepened by the participation of exceptional talent sufficiently unfamiliar with educational jargon to approach the most basic assumptions from fresh perspectives. And, at the same time, the special doctoral students will be receiving experience which has no academic match in terms of its relevance, stimulation, and rigour.

Upon completion of the planning year, the special doctoral students will continue with a completely individually designed program of course work, practical experience, and research which they have outlined with their advising committees. Upon completion of their course work they will then be examined orally by a faculty committee of their own choosing, with attention focused on the student's individual objectives. The students will write dissertations which will probably be based on their planning work, and thereby earn their doctoral degrees. The major thrust of the program is to assure that students are fully involved in all aspects of the planning of degree and credential programs in which their successors will participate.

The most promising features of the program -- a sixty-to-forty faculty-student ratio and ten to fifteen hours per week of intimate association in planning the goals and procedures for the entire school of education constitute a core requirements for doctoral work that could well surpass any possible combination of courses. The close, more than one-to-one

relationship with faculty and involvement in planning all aspects of the School of Education stand out as very likely candidates for an essential experiential component for all future doctoral programs. Thus, rather than being required to take courses with indeterminate and often limited benefit, graduate students in future programs modeled after the Special Doctoral Program might have a long-term, intensive planning effort with close contact to faculty as the core requirement of their degree work.

The comprehensiveness and intensity of the planning efforts which are scheduled for 1968-69 at the School of Education promise to make the Special Doctoral Program one which requires total commitment and offers total involvement. The program has been initiated as a one-time-only affair, but should it prove successful it is not unlikely that many of the graduate programs planned during the coming year will include similar practicum experiences which capitalize on the responsibility, relevance, and dynamism inherent in any truly functional research enterprise.

TO: Executive Committee  
FROM: Roy Forbes  
DATE: September 25, 1968  
SUBJECT: Proposal to Design and Implement an Information System

Since the Executive Council is responsible for integrating the activities of all planning groups, and is also responsible for the dissemination of planning information to the community, it is therefore proposed, that an information system be established which will facilitate these two functions of the Executive Council.

The data base of the proposed Information System will contain descriptions of past and current activities of each planning group. A technique will be designed which will describe the relationships of the activities of the different planning groups. This data is not intended as a control of the duplication of effort, although one function will be to indicate the mutual interests of planning groups. The data may also be used in the analytical support of decision-making.

The data base of the system will also contain information pertaining to the financial and manpower resources of the School of Education. The resource information will be important in planning the implementation of suggestions of the planning groups.

Additional information which will be available in the data base are descriptions of the relationships between the School and the following:

1. other schools and departments of the University
2. other universities and colleges

3. public and private schools
4. government agencies
5. individuals, and
6. industry

This data will be valuable to the planning groups in designing the implementation of programs which result from the planning activities.

It is also proposed that the Information System be extended to include two additional areas. If the School hopes to see innovations replicated by others, some plans are necessary for achieving this goal. Therefore, it is proposed that a "market management" data base be included in the system. "Market management" implies both market development and market analysis. "What the market desires" should not necessarily be a criterion for selecting programs to implement, but this information will be valuable in determining methods for developing a market for replicating the innovations of the School of Education.

The second extension proposed as part of the Information System is an area of cost benefit and cost effectiveness analysis. The system's data base will provide information to support the activities of this area.

It is also proposed that the information system be designed to facilitate the implementation of the ideas expressed by J. W. Forrester.<sup>1</sup>

The above proposed Information System would be implemented in two stages:

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<sup>1</sup>J. W. Forrester. "A New Corporate Design," Industrial Management Review, Fall, 1965.

1. manual or card oriented system, and
2. computer oriented system.

All data will be available for inquiry by any member of the community. The data will also serve as one method of dissemination of the activities of the School.

Interim . Report  
on the  
Proposed Constitution ,

School of Education  
University of Massachusetts

August 18, 1969

## II. Decision Review and Conflict Resolution\*

### A. Introduction: The Case for Options.

This section is based on the assumption that the Constitution should provide people who believe they have a legitimate grievance with a number of options for resolving their conflict. These might include intervention by the ombudsman, "affective" resolution, mediation and arbitration, as well as judicial resolution. Thus, allowance can be made both for the nature of the grievance and the personalities of the parties involved. Conflict resolution might even be viewed as a learning experience since participants would be able to choose those grievance procedures which fit their own learning styles.

Evidence from our American legal system indicates that for parties in conflict to reconcile their differences, resolution must occur at a point short of formal judicial process.\*\* Once the grievance goes to court, the chance for compromise, discussion, and reasonable accommodation has been lost as the disputing parties tend to polarize and harden their positions. While the "winner" in a court case may feel himself vindicated, one party is bound to lose and the loser often feels wronged and embittered. But it is not just one party who loses; the community also loses -- for a public judicial conflict encourages people to "chase sides", revives old grievances, and expends large sums of time and emotional energy in non-productive ways. By providing a number of methods for decision review, short of judicial resolution, we may not save time, but we may be able to avoid much of the damaging results of "court cases" and still have people feel they had a fair chance to have their case heard.

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\*This section deals with alternative or secondary decision making when a problem or conflict is not resolved by the primary or initial decision process. And it recognizes that many initial decisions, by the Dean, the Council, or Centers, involve a resolution of conflicting opinions and pressures.

\*\*Legal Cases involving divorce, custody, support, and other domestic relations disputes are the type most analogous to dispute in an academic community. These legal proceedings tend to harden the position of each party who begins to

This is not to suggest that the option of judicial decision be abolished.

While judicial proceedings may not be the best way to resolve differences, it is critical that this option be available to all. For a community which does not guarantee its members the right to have their day in court, to have their cases fairly, fully, and publicly heard and decided, encourages its members to seek a hearing and redress outside the community or through other means destructive to the community.

B. The Ombudsman

The Ombudsman might assist in solving problems as well as resolving conflicts.

Ideally, he would be a person in whom students, faculty, and administration would have confidence. He should be appointed by the Executive Committee in consultation with the Dean and with the concurrence of 4/5 of the School Council.\* While his role should be a flexible one, not limited by the Constitution, he could be expected to:

1. Help those who don't know where to take their problem, don't know how to solve it or can't get a clear decision.

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\*\*cont.

exaggerate the grievances against him as well as the truth and righteousness of his position and to quickly believe in both. Judicial "resolution" thus becomes an adversary proceeding where each party seeks to build his own case and destroy the case of his opponent. In the process any hope of reconciliation or compromise between the parties is usually destroyed as soon as they enter the court room; if not, as soon as they begin "to prepare their case in a lawyers office".

For courts to "resolve" the case, they must find one party at fault. Therefore, each party digs up all the fault it can find with the other and excuses its own. This process is just the wrong way to reconcile differences. For if fault is the issue, then each party is usually at fault in not adequately understanding the difficulties, conflicts, and dilemmas of the other.

\*By requiring concurrence of 4/5 of the Council, we would insure that no Ombudsman lacked the confidence of a substantial minority of the community. While he could be elected, this might reduce his impartiality.

2. Use his "good offices" as a mediator or arbitrator in resolving conflicts and disputes.
3. Represent and assist people in "cutting through unnecessary red tape" and in making recommendations for improving the administrative system.
4. Serve as an alternative channel to hear complaints and receive suggestions concerning any school matter.
5. Have the right to serve as ex officio member of any committee.

In order for the Ombudsman to serve the needs of the Community (and also teach or study at least half time), it would probably be necessary for him to have a separate office and a full-time secretary and one or two graduate assistants. Without assistance, the Ombudsman's role could soon become a full time job.\* Or, if his office door was closed most of the time, the position could soon become symbolic or even considered a fraud. For most people want to know that "someone will be there to help" when a crisis arises.

### C. Mediation

This process might be a prerequisite to judicial resolution.\*\* Because of the problems involved in "going to court" (discussed above), the Constitution

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\*If the Ombudsman proves effective and the job becomes demanding, then the Ombudsman's role should be established as a full-time job.

\*\*Cases involving "official review" -- where the Dean objects to a recommendation of the Council or vice versa -- might be exempted from this process since such cases would presumably involve informal negotiating between the parties before either took their case to the judicial committee. Furthermore, time might preclude requiring an additional step in executive or legislative decision making -- especially if the idea of mutual review is accepted.

might provide that no individual could bring a dispute before the Judicial Committee until both parties had first attempted to negotiate their differences with the assistance of a mediator. The mediator might be the Ombudsman or any other person (within or outside of the School) who was mutually agreeable to the parties. Mediation would usually be a private and informal process, and procedures could be those agreed upon by the parties. The Ombudsman might be assigned the responsibility of facilitating this process through advice to the parties and prospective mediators.

#### D. Affective Resolution

This is an alternative that might involve roleplay, "confrontation", and other experimental approaches to conflict resolution. It differs from mediation in putting greater emphasis on the wide ranging psychological/emotional approaches to conflict resolution. This alternative would require the consent of both parties and, if unsuccessful, would not preclude any other option. The only rule would be that both parties agree to seek help in attempting to resolve their conflict. The Ombudsman could assist or a "facilitator" could be selected by the parties. Actual methods would vary according to the nature of the problem and the imagination and sensitivity of the people involved. Some of the goals would be:

1. to get the parties to face and accept the complexity of the motivations in the conflict situation and to understand and feel the stakes involved.
2. to facilitate change in the position of both parties; to give them ways out and open new directions that might lead to creative solutions.

While typically used before arbitration or judicial resolution, this approach might also be used as a post-judicial process to help resolve residual antagonism.

#### E. Arbitration

This is a less formal process, "in between" mediation and judicial resolution. It is similar to a court/process since its decisions are final. But unlike a judicial proceeding, arbitration need not be formal or open, the rules and procedures are not fixed, and the "judges" are not preselected.

While it is similar to mediation in its informality and flexibility, there are two fundamental differences. (1) The decision of the arbitrator is "binding" or final, and neither party can appeal; whereas the only decision in mediation is one the parties agree to, and if no agreement is reached, either party can appeal.

(2) Both parties must consent to arbitration, while any person with a grievance can require another to participate in mediation.

The arbitrator would be agreed upon by the parties. Where they can not agree, each would select a person to represent him, and the representatives would agree on an impartial third party who would serve as arbitrator, alone or with the two representatives.

#### F. Judicial Resolution

This would provide members of the Community an opportunity to have their case fully and publicly heard and finally resolved before impartial "judges". Judicial procedures would usually be fixed in advance and allow each party the right to representation, to call and question witnesses, and to present other types of evidence in his behalf.

A judicial committee (of 5 - 7 men) could be given the responsibility for developing and recommending guidelines and rules for a judicial process at the school - including which cases could be presented directly,\* which could not be considered without attempted mediation, and which would not be appropriate for judicial review.\*\*

This committee should also be the forum to resolve "review disputes" between the Dean and the Council (and perhaps other cases of schoolwide concern.) Its members could be selected by the Executive Committee and the Dean (e.g. 3 chosen by the Committee and 2 by the Dean). To insure that the committee is respected and

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\*e.g. questions concerning constitutional interpretation or a possible conflict between University and School regulations.

\*\*e.g. establishing a new policy which should be done through the Council or by Referendum.

ts decisions are considered legitimate, each member should be approved by the Dean and the Executive Committee, and be ratified by 2/3 of the School Council.

Ad hoc Judicial panels of 3 men could be established when both parties preferred to do so or in certain types of cases specified by the Judicial Committee. The panel would be set up by the Executive Committee which would nominate 3 persons to be approved by the parties. If the parties could not agree to a panel, then the case would be presented to the Judicial Committee.

#### G. Referendum

This would be an alternative form of decision making that could be used at the request of the Council or Dean or a certain % of the Assembly upon petition, perhaps by 10% or 15% of the students or faculty or both). Constitutional amendments, changes in basic school requirements, and other fundamental policy decisions would be the type that could be submitted to the Assembly through referendum.

#### H. Preliminary Recommendations

1. Alternatives. The Constitution should provide members of the community several options for resolving their conflicts including mediation, "affective" resolution, arbitration, and judicial resolution.
2. An Ombudsman should be appointed by the Executive Committee to assist individuals in mediating disputes, solving problems, getting decisions made, and improving the administrative system. To serve effectively, he should be relieved of half of his academic responsibilities and be assisted by a secretary and a graduate student.
3. A Judicial Committee should be established to develop guidelines and rules for a school judicial process and should be the forum for resolving "review disputes" between the Dean and the Council. Its members should be selected by the Executive Committee and Dean, and be approved by 2/3 of the Council.
4. A Referendum could be called by the Council, the Dean, or 15% of the Education Assembly.

Article I. The Dean

- A. General Powers and Responsibilities: The Dean is charged by the University of Massachusetts with administering the School of Education and promoting its development and effectiveness. Accordingly, he is the chief representative of the School externally and the academic and administrative leader of the School internally. The broad powers conferred on the Dean by the University shall be exercised within the framework of this Constitution in cooperation with the students, faculty and staff of the School of Education in accord with the rules and policies of the University and the Board of Trustees.<sup>1</sup>
- B. Budget: The Dean shall make recommendations to the School Council concerning the School's budget, substantial reallocations that may be required, and guidelines for the expenditure of state funds. He shall also be responsible for reporting to the School Council how state funds were spent and any proposed budget cuts which might jeopardize approved programs.<sup>2</sup> In addition, the Dean shall have the responsibility to approve the budget of all projects administered by the School that are not funded out of state appropriations.

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Since in this Constitution, the Dean delegates more of his power to the students and faculty of the School than is normal at this University, the Constitution would be binding only for the term of the present Dean. Subsequent Deans would have the right to ratify, renegotiate or reject the Constitution unless it is approved by the Board of Trustees. See Interim Report On the Constitution, August, 1969, hereafter cited as Interim Report, pp. 8-10. (Copies of the Interim Report are available at the School of Education Library.)

2

It is recommended that the proposed budget be in program terms as well as line items. While the Dean's office should approve budgets, it should not be able to expend project funds without the approval of the project director.

Constitution  
School of Education  
University of Massachusetts  
Amherst, Massachusetts  
December 1969

C. Representation: The Dean will assist faculty and students in the development and funding of educational projects in cooperation with government agencies, foundations, and university officials. To insure appropriate coordination, quality, and communication concerning proposals and commitments by the School:

- (1) Requests and proposals up to \$200,000 must be approved by the Dean and reported to the School Council.
- (2) Request and proposals for amounts over \$200,000 must be approved by the Dean and the School Council.
- (3) Any requests or proposals that are substantially changed in regard to budget or program must be reapproved by the Dean and/or School Council as required above.

D. Discretionary Authority

1. Executive Budget: The Dean shall have an executive budget to be used at his discretion for general support purposes. The amount of the Budget shall be negotiated each year between the Dean and the School Council or its designated committee, but it shall not exceed 10% of the School's general support funds. The Dean shall account to the School Council each year for his expenditures under his budget.
2. Faculty and Graduate Students: The Dean shall have a percentage of the faculty positions allotted to the School by the University to be

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This procedure would give the Dean and those designated by him to represent the School discretion and flexibility concerning smaller commitments and insure fuller review and coordination concerning larger amounts. The idea is to make the review procedure commensurate with the size of the potential commitment.

used at his discretion. The number of such appointments to be made by the Dean shall be negotiated each year with the School Council or its designated committee but shall not exceed 20%<sup>1</sup> of the positions available.

In addition the Dean shall be authorized to admit a certain number of graduate students at his discretion. The number shall be negotiated each year with the School Council or its designated committee but shall not exceed 15% of the number admitted.

## Article II. School Council

A. Responsibility: The School Council shall be the primary policy-making body of the School. It shall have specific responsibility for personnel policy, academic matters (not assigned to the Graduate Assembly), program development, priorities, and resource allocation. In addition, it shall undertake a continuing review and evaluation of the school administration, and shall report on this matter to the<sup>2</sup> Education Assembly at least once each semester.

B. Membership: The members of the Council shall include:

- (1) A representative from each center elected in accordance with procedures determined by each center and filed with the Executive Committee. Center directors may not serve as representatives of their centers.

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<sup>1</sup>

In any year when there are fewer than 5 faculty appointments allocated to the school, the question of whether any of these appointments should be made at the discretion of the Dean will be a matter of negotiation between the Dean and the School Council.

<sup>2</sup>

By ratifying this Constitution, the Dean would agree to recognize the School Council as the primary policy-making body of the School in accordance with the authority granted him by the Trustees of the University. This, however, would not relieve the Dean of his responsibility to the Trustees. Furthermore, nothing in this Constitution supersedes any rules or policies of the University or the Board of Trustees.

- (2) A representative of those not affiliated with any center until an Experimental Center is established and a representative is elected.
- (3) At-large representatives equal to the total number of center representatives, half students and half faculty. The faculty representatives shall be elected by the faculty. Half the student representatives shall be elected by the graduate students in full-time residence, and half shall be elected by the undergraduate representatives in the Education Assembly.
- (4) The Dean and Assistant Deans.
- (5) Three consultant representatives from outside the School of Education to be appointed by the Dean and approved by the Council. <sup>1</sup>

C. Alternates: Each Council member shall appoint an alternate who shall be approved at a Council meeting one week before he may serve. The alternate shall have the full rights of a member at

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<sup>1</sup>A. This body seeks to accommodate the conflicting goals of broad representation and effective operation. The Council, as provided above, would be composed of 31 people--11 center representatives, 1 non-center representative, 12 at-large representatives, 4 deans and 3 consultant members. This size is recommended as perhaps the largest group that could allow its members to fully discuss critical issues and perhaps the smallest group that could adequately represent the students, faculty, administration and the larger community. Representatives from each center would insure a diversity of views; an equal number of at-large representatives would insure popular representation by faculty and students. For a fuller consideration of the alternatives considered and the rationale for these recommendations, see Interim Report, "Decision Making at the School of Education: Alternative Forms and Forums," pp. 11-22.

B. Concerning at-large representatives: If the total number of centers is not even (e.g. 11), at-large representatives should be increased by one (i.e. 12). If the number of student representatives is not even (e.g. 7), the larger number of student representatives should be assigned to the doctoral students (i.e. 4).

C. The 3 (non-voting) consultant members, might, for example, consist of 2 representatives of the University (1 faculty and 1 administrator) and 1 representative of the Amherst public schools.

Council meetings when the regular member is not present.<sup>1</sup>

- D. Elections: Elections for Council membership shall be held in the spring, and members will serve for a one year term.<sup>2</sup>
- E. Chairman: A chairman shall be elected by the School Council to preside over its meetings. With the approval of the Council, the chairman shall determine Council procedures and may appoint a parliamentarian.
- F. Quorum: 2/3 of the voting members of the School Council or their alternatives will constitute a Quorum. If a representative or his alternate is not present for 2 consecutive meetings, that position may be declared vacant by the Council.
- G. Executive Committee: There shall be an Executive Committee of the Council composed of five persons elected by the new Council in the spring. The Committee shall be the primary coordinating body of the school and shall:
- (1) Organize and coordinate the standing and special committees of the Council and coordinate the committees established by the Graduate Assembly.<sup>3</sup>
  - (2) Coordinate the conflict resolution system with the Ombudsman.

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1

The purpose of requiring public appointment and approval is to encourage a more careful decision by the Council member and alternate, establish continuity, and guard against a member asking the first person he sees in the hall to represent him.

2

Elections to the School Council and the Executive Committee should be held at least 6 weeks before the end of the spring term to allow ample time for a smooth and informed transition.

3

This Constitution will use the term "Special Committees" rather than "Ad Hoc Committees."

- (3) Consult with the Dean on urgent matters. When consulting with the Dean on matters that are considered urgent by the Dean and at least 3 members of the Executive Committee, the Committee may act on behalf of the School Council.
- (4) Establish and coordinate a communications and feedback system for the School.<sup>1</sup>
- (5) Serve as an Election Board to establish an election calendar and coordinate elections provided for under this Constitution.
- (6) Determine who shall make any decisions not clearly established by the Constitution or the School Council.<sup>2</sup>
- (7) Prepare the agenda for School Council meetings in consultation with the Council chairman.

There shall be a chairman of the Executive Committee who shall be elected by the Executive Committee.<sup>3</sup>

And the Committee shall be allocated sufficient secretarial and administrative assistance as determined by the School Council.<sup>4</sup>

<sup>1</sup>This Committee and its staff would be responsible for disseminating information on major decisions, policies and proposals of the Dean's office, the committees, the Council and other groups and establishing a procedure for providing those groups with feedback from the Community.

<sup>2</sup>

While the Executive Committee is not prohibited from making substantive decisions, this should not be its role. Instead it should decide who should best make the substantive decisions rather than deciding on or recommending decisions or policy itself.

<sup>3</sup>

It is recommended that the Chairman be relieved of at least part of his regular School duties to enable him to carry out his responsibilities -- especially those of coordinating the Committee staff.

<sup>4</sup>

It is recommended that at least two doctoral students and one secretary be assigned to assist the Committee initially.

Article III. Mutual Responsibility and Review

- A. The Dean and the School Council shall be jointly responsible for making recommendations concerning planning, evaluation, general administration, public relations, new programs, and other areas of school-wide concern not otherwise assigned.
- B. To encourage close cooperation in the formulation of school policy and in making major decisions, the Dean and the School Council shall be granted the right to review the major policies and decisions of the other except where discretionary authority is assigned.

To implement this policy, major decisions by the Council or its Committees shall be submitted to the Dean for review, and major decisions of the Dean or his staff shall be submitted to the School Council for review. Decisions, to which there is no objection within 5 school days after they are communicated, become final. The reviewing party must submit his objections in writing to the other party and the Ombudsman. If a compromise can not be negotiated by the parties and the Ombudsman, the initiating party may appeal to the Judicial Committee. The Judicial Committee shall resolve the issue. The Dean and the Council shall jointly establish criteria for determining which decisions are of sufficient importance or controversy to be submitted for review. They may also agree upon additional procedures to expedite mutual review.

Article IV. The Committe System

A. Standing Committees

- 1. Personnel Committee. The Executive Committee shall nominate the chairman and the members of the Personnel Committee. Each nomination shall be submitted to the School Council and the Dean for approval. Approval by the School Council requires a 4/5 favorable vote on each

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nomination. A majority of the members of this committee shall be members of the School faculty and the Assistant Dean for Academic Affairs shall also be a member.<sup>2</sup> In accordance with University regulations, the faculty shall vote every two years to determine whether the School shall continue to have a Personnel Committee, and if so, its composition and method of selection.

2. Judicial Committee. The Executive Committee shall nominate the chairman and members of the Judicial Committee. Each nomination shall be submitted to the School Council and the Dean for approval. Approval by the School Council requires a 4/5 favorable vote on each nomination.
3. Evaluation Committee. The Executive Committee in consultation with the Dean, shall appoint a Constitution Evaluation Committee to continually review the operation of this Constitution and to make recommendations for its improvement and revision.

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 1

The intent is to insure that each member of this committee (as well as the Judicial Committee) is not opposed by any substantial minority of the School Council and is also acceptable to the Dean. Rather than seeking "political balance," the idea is to seek people acceptable to all major factions in the School and to prevent the committee from turning into a political arena at the expense of the issue or person to be judged.

2

The Personnel Committee thus selected would be concerned with promotion, contract renewal, tenure and related matters. It is recommended that the School Council determine how faculty allocated by the University should be allocated within the School, and that faculty recruitment and selection be coordinated by the Assistant Dean for Academic Affairs in cooperation with the relevant center, program or designated group. After the designated group and the Assistant Dean for Academic Affairs agree on the nomination, it should be approved by the Personnel Committee, except in cases of temporary appointments below the Assistant Professor level and visiting or part-time faculty which should be approved by the Dean.

4. Other Committees: The Executive Committee may establish any other standing or special committees as it sees fit and as requested by the the School Council, the Dean or other bodies provided for in the Constitution.

A. Chairman and Members: Committee chairman shall be selected by the Executive Committee in consultation with the Dean.<sup>1</sup>

Committee membership, not otherwise provided for in the Constitution, shall be determined by the Executive Committee in consultation with the committee chairman and the Dean and shall be based on the expressed interest of the members of the Education Assembly and on the need for balance. Membership on School Committees need not be limited to members of the Education Assembly.<sup>2</sup>

B. Committee Mandate: Each committee shall be given a Mandate which shall be formulated by the Executive Committee with the committee chairman. The Mandate should include the scope of the committee's responsibility and authority, to whom and when it shall report, the names of its members, and their term of office. The mandate should be published in the Tabula Rasa or otherwise communicated to the Education Assembly.

C. Procedures and Reports: To insure that all members of the community have a right to be heard, all committees considering important or controversial issues (as determined by the committee, the Executive Committee or the Dean) shall announce 5 days in advance at least one

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Selection of chairmen by the Dean and Executive Committee (rather than election by the Committee) is intended to insure that the chairmen are selected carefully and that the best person will be sought for the job. This should guard against the practice of committees electing the least busy or least unwilling member as chairman.

2

The need for balance would not only require a balance of students and faculty but also include members with new perspectives as well as expertise and members with direct involvement as well as those with objectivity. In addition, these factors shall be weighed against presumption in favor of smaller committees.

open hearing on each such issue before the committee, and publish a summary of its recommendations before they are submitted to the School Council. Furthermore, each committee shall submit a brief, informal report to the School Council each semester for publication in Tabula Rasa.

- D. Authority: To insure that committee reports are given substantial weight, committee recommendations shall not be amended at meetings of the School Council unless such amendments are approved by 3/4 of the Council.<sup>1</sup>

#### Article V. Education Assembly

- A. Responsibility: The Education Assembly shall be the major advisory body and general forum of the School of Education. In addition, it shall have legislative authority in the most important and controversial policy issues, as determined by the School Council or through referendum.<sup>2</sup> When considering such issues, the moderator of the Education Assembly, in consultation with the Executive Committee, shall invoke special procedures to promote maximum participation.<sup>3</sup>

The Dean shall call open meetings of the Education Assembly at least 2 times each semester at which he will report on the state of the school and answer questions by members of the Community.<sup>4</sup>

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<sup>1</sup>This would insure that changes would be based on the committee's study and deliberation as well as Council objections, not on a hasty amendment from the floor that might be passed by a narrow majority.

<sup>2</sup>"Controversial" issues would be those about which 2/3 of the Council did not agree. The "most important" issues would be those which had major, long term impact on the School.

<sup>3</sup>These would include "procedures for participatory decision making" outlined in the Interim Report (pp. 21-22) or similar procedures designed to insure general participation in discussing and deciding major issues.

<sup>4</sup>It is recommended that questions requiring detailed or precise information not readily available should be submitted in advance and should receive priority.

B. Membership: The Education Assembly shall be composed of all members of the instructional staff. This shall include all persons holding faculty appointments (including lecturers, instructors, and faculty of the Marks Meadow Laboratory School); persons holding professional appointments; and doctoral candidates in full-time residence. In addition, the Education Assembly shall include 30 undergraduate representatives; 10 representatives of Master's candidates and part-time graduate students, and 5 representatives of the school support staff elected by their respective constituencies. The number of undergraduate representatives shall be increased by the Executive Committee if they do not constitute at least 10% of the Assembly membership.<sup>1</sup>

The Education Assembly shall also include 12 representatives from outside the School of Education who will be nominated by the Dean and approved by the Assembly.<sup>2</sup>

Representatives shall be selected for a 1 year term in the spring.

C. Moderator: A moderator shall be elected by the Education Assembly in the spring to preside over its meetings. The moderator shall determine the Assembly rules of procedure with the approval of the Executive Committee. In addition, he may appoint a parliamentarian and shall establish the Assembly agenda in consultation with the Executive Committee and the Dean.

D. Quorum: When meeting as a decision making body, 40% of the members of the Education Assembly shall constitute a quorum. When deciding by ballot, a vote by 50% of the Assembly members will be required.

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1

"Support staff" should include all full time employees of the School who are not members of the Education Assembly. "Undergraduate representatives" should be elected by undergraduates who are majoring in education or enrolled in teacher certification programs.

2

This group for example, might consist of 4 representatives from the University (3 faculty and 1 administrator) and 8 representatives of the Massachusetts School System (2 teachers, 2 students, 2 parents, 1 superintendent and 1 principal.)

## Article VI. The Graduate Assembly

The Graduate Assembly of the School of Education shall be composed of all School members of the Graduate Faculty of the University and one third that number, not already members of the Graduate Faculty; elected by and from the Education Assembly. This Graduate Assembly shall be solely responsible for establishing School policy concerning graduate admissions and graduate degrees in Education, subject to the ratification of the School Council. In cases where new policy of this Assembly is not ratified by the School Council, present policy, as interpreted by the Assistant Dean for Academic Affairs, shall govern. The Graduate Assembly shall determine its own internal policies and procedures.

## Article VII. Consultant Assembly

In consultation with the School Council, the Dean shall establish a Consultant Assembly for the School of Education. This Assembly shall include representatives of the educational community of the Commonwealth and of other groups who will influence the effectiveness of the School and will be influenced by our students, faculty and programs.

The Consultant Assembly shall meet at least once a year to hear a report by the Dean on the state of the School and to be consulted concerning major programs and plans of the School. The establishment of this Assembly shall be viewed as an experiment which shall be evaluated after 2 years by the Dean, the School Council and the Consultant Assembly.

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1

The Graduate Assembly would be expected to deal with broad academic questions and set minimum standards which would leave each center considerable latitude for determining their own diverse standards and procedures in such matters as admissions and academic programs.

The School Council shall then determine whether this Assembly shall  
 continue to meet.

Article VIII. Centers and Special Programs

A. Centers: The learning Centers represent a major commitment of the School of Education to the purposes of these centers. To further these purposes and to promote diversity and experimentation, each center shall have substantial autonomy in organization and governance and in the development, evaluation, and revision of its programs, except as they significantly affect other centers or the school as a whole.

To promote quality programs and to justify the School's Commitment to them, centers shall:

1. Report to the School Council and the Dean concerning proposed new programs and rules of governance.
2. Submit an annual self-evaluation to the School Council and be evaluated annually by a Council and/or outside evaluation committee.
3. Operate under a three-year School Charter that automatically expires unless renewed by the Council.

The Council shall establish procedures and criteria for Annual and Charter review of existing centers and for the establishment of new centers.

B. Experimental Center: It shall be the policy of the School of Education to encourage the establishment of an Experimental Center supported by or affiliated with the School of Education. This Center should coordinate the offering of spontaneous and experimental educational experiences by students and faculty and should facilitate the testing of new courses. The Experimental Center should establish procedures and criteria for

offering "provisional credits" for educational experiences which may be awarded post hoc when such experience meets the standards of a school evaluation committee. The Council and the Dean shall be responsible for establishing an Experimental Center.

- C. Special Programs: Special Programs are small or experimental educational ventures by student/faculty interest groups that are given provisional recognition by the School of Education for up to two years. The School Council shall publish flexible procedures and guidelines for the establishment of such programs which shall operate under a renewable charter. The Council shall also establish procedures and criteria for the annual evaluation of Special Programs and for determining when Special Programs can qualify for center status.
- D. An Experimental Fund: To encourage continuing experimentation and innovation at the School of Education, the Dean shall budget a sum each year to support experimental programs that could not find support in any of the established centers. Procedures and criteria for making grants from the Experimental Fund shall be recommended by a special School committee.

#### Article IX. Conflict Resolution

- A. An Ombudsman shall be nominated by the Executive Committee and approved

1  
See p. 50 of the Interim Report. It is recommended that an Experimental Center be the focus of members of the School of Education Community who wish to associate with others interested in experimental educational activities rather than with any of the established centers or programs.

2  
If centers are allocated support budgets, the Experimental Fund should be budgeted a sum equal to at least 10% of the total support budget of all the centers. Until such time, it is recommended that the Experimental Fund be allocated a minimum of \$10,000 each year. While center members should not be prohibited from receiving grants from the Fund, it is recommended that a majority of the committee that recommends procedures for the operation of the Fund should not be members of any center.

3  
See Interim Report pp. 52-57, especially "The Case for Options," pp. 52-53.

by the Dean and 4/5 of the School Council. He shall assist the Executive Committee in coordinating the conflict resolution system - especially in mediation and in developing procedures for affective resolution. He shall assist individuals in the Community in resolving any academic and administrative problems and disputes associated with the School of Education. To serve effectively, he should be relieved of part of his responsibilities and be given appropriate secretarial and administrative assistance, and he shall have the right to serve ex officio on any School Committee, Council or Assembly. He shall be appointed in the spring to a one year term.<sup>1</sup>

B. Mediation and Affective Resolution.

1. Role of Ombudsman: In consultation with the Executive Committee, the Ombudsman shall have primary responsibility for facilitating mediation and affective resolution. He shall appoint a panel of consultants to assist him in developing procedures and in serving as mediators and facilitators as needed.
2. Mediation: This process shall be a prerequisite to judicial resolution, except as otherwise provided.<sup>2</sup>

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1

Initially he should devote at least half time to his duties as Ombudsman and should be assisted by a full time secretary/administrative assistant and/or one or two graduate assistants. See Interim Report pp. 53-54.

2

Mediation (or Affective Resolution) should be the primary and preferable way of resolving conflicts between individuals or groups in the School of Education. Because of the problems involved in "going to court" (discussed in the Interim Report pp. 54-55.), this section requires parties to disputes to first attempt to negotiate their differences with the assistance of a mediator. The mediator could be the Ombudsman or other skilled persons (within or outside the School), and mediation would be a private and informal process. Every member of the School community would be expected to participate in mediation procedures, if requested to do so.

- B. Affective Resolution: This is an experimental approach to conflict resolution that requires the consent of both parties. It places greater weight on more recent psychological/emotional approaches and seeks to help the parties find a creative solution to their conflict through a deeper understanding of themselves, the other party and the basis of their conflict.
- C. Arbitration: This is a less formal alternative to judicial resolution requiring the consent of both parties. Arbitration decisions shall be final. In consultation with the Dean and the Executive Committee, the Judicial Committee shall establish arbitration procedures for the School.<sup>1</sup>
- D. Judicial Resolution: This will provide members of the School community the opportunity to have their case fully and publicly heard and finally resolved. The Judicial Committee shall recommend rules and guidelines for judicial procedures for approval by the Dean and the School Council. These procedures shall allow parties to the dispute the right to representation, to call and question witnesses, and to present relevant evidence on their behalf.

#### Article X. Referendum

The Dean or 15% of the members of the Education Assembly may call a referendum. A majority vote of the total membership of the Education Assembly will carry a referendum. The Executive Committee shall decide on procedures for the referendum. A referendum supersedes any policy of the Dean or School Council.<sup>2</sup>

#### Article XI. Ratification

This Constitution shall be ratified when a majority of the faculty

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1

Arbitration would be an alternative method of resolving "review disputes" between the Dean and the School Council, if both agreed.

2

A Referendum may be called to establish or change any policy in the area of mutual responsibility or within the general responsibility of the Dean or the School Council.

and non-faculty members of the Education Assembly, voting separately, have approved it by secret written ballot and the Dean has concurred<sup>1</sup> in writing.

Article XII. Interpretation

The Judicial Committee shall serve as the interpreter of this Constitution. During the first year this shall be done in consultation with the Chairman of the Constitution Committee.

Article XIII. Amendments

Constitutional Amendments may be proposed by the Dean, the School Council or by petition of 20% of the Education Assembly. Amendments may be approved by 4/5 of the total membership of the School Council<sup>2</sup> or by 2/3 of the total membership of the Education Assembly.

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1

The rationale for separate voting is presented in the Interim Report p. 61 and pp. 8-10.

2

Normally, amendments would be submitted to the Education Assembly. Amendment by 4/5 of the School Council provides a more flexible and economical alternative for non-controversial amendments. In case of possible conflict, amendments by the Education Assembly would supersede an amendment by the School Council.



Excerpts on the Ombudsman from originating documents.

from the Constitution of the School of Education:

Article IX. Conflict Resolution

- A. An Ombudsman shall be nominated by the Executive Committee and approved by the Dean and 4/5 of the School Council. He shall assist the Executive Committee in coordinating the conflict resolution system - especially in mediation and in developing procedures for effective resolution. He shall assist individuals in the Community in resolving any academic and administrative problems and disputes associated with the School of Education. . . .
- B. Mediation and Affective Resolution
  1. Role of Ombudsman: In consultation with the Executive Committee, the Ombudsman shall have primary responsibility for facilitating mediation and affective resolution. He shall appoint a panel of consultants to assist him in developing procedures and in serving as mediators and facilitators as needed.
  2. Mediation: This process shall be prerequisite to judicial resolution, except as otherwise provided.
- C. Affective Resolution: This is an experimental approach to conflict resolution that requires the consent of both parties. It places greater weight on more recent psychological/emotional approaches and seeks to help the parties find a creative solution to their conflict through a deeper understanding of themselves, the other party, and the basis of their conflict.

from the Interim Report on the Proposed Constitution:

B. The Ombudsman (p. 53)

The Ombudsman might assist in solving problems as well as resolving conflicts. . . . While his role should be a flexible one, not limited by the Constitution, he could be expected to:

1. Help those who don't know where to take their problem or don't know how to solve it or can't get a clear decision.
2. Use his "good offices" as a mediator or arbitrator in resolving conflicts and disputes.
2. Represent and assist people in "cutting through unnecessary red tape" and in making recommendations for improving the administrative system.
4. Serve as an alternative channel to hear complaints and receive suggestions concerning any school matter.

CONTACTING THE OMBUDSMAN

Name \_\_\_\_\_ Date \_\_\_\_\_

Address or phone for reply \_\_\_\_\_

Summary statement of problem \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Suggested redress \_\_\_\_\_

\_\_\_\_\_

Elaboration of detail: history of problem, actions taken toward attempted resolution, unsatisfactory responses encountered, etc.:

Is this a real and present case for which intervention is requested? \_\_\_\_\_

Or is it a case from the past for our analytic use? \_\_\_\_\_



