

THE ANNUAL REPORT

by Dr. Bernard Frank

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PREFACE

In July 1979, The International Ombudsman Institute published an OCCASIONAL PAPER by Dr. Stanley Anderson entitled "THE OMBUDSMAN'S ANNUAL REPORT - A Discussion Paper". Dr. Anderson's thesis covered a number of subjects including some statistical Analysis, and asked the question "For whom is the Annual report actually written?" He also included a number of recommendations.

Dr. Bernard Frank, the current President of the I.O.I. has recently written an update which closely ties in with Dr. Anderson's original paper. It was my inclination at first to re-issue Dr. Anderson's paper appending Dr. Frank's paper. However, after reading the latter, and discussing it with Dr. Frank, I have decided to issue it as Occasional Paper No. 33 on its own.

The Ombudsman's Annual report is an important function of his work and indeed manifests to all and sundry what his/her office has done in the preceding year. The main questions still have to be answered, however, "for whom do we really write this tome?"

When I was Ombudsman for Alberta (1974-84) I became more and more discouraged each year that even the Legislators seemed to gloss over it, and the media was only interested in it if it was of a sensational nature. The Public at large rarely, if ever really read it. I began to feel towards the end that the whole exercise was a waste of time, except my legislation demanded that I issue it.

I commend Dr. Frank's paper therefore as another contribution to those Ombudsmen who are struggling with this problem, and I trust you will find it helpful, as I have.

Randall E. Ivany

I. THE ANNUAL REPORT

Bernard Frank

I. INTRODUCTION

The annual report is the subject of my paper in this panel on "The Public's Right to Know of the Ombudsman -- the Reporting Function." Dr. Stanley V. Anderson delivered a paper on annual reports at the 1976 Edmonton World Ombudsman Conference and said it was a continuation of a discussion on reporting complaints at the 1975 Halifax Canadian Legislative Ombudsman Conference. (Stanley V. Anderson, "The Ombudsman's Annual Reports," International Ombudsman Institute Occasional Papers #2, April 1, 1979). And so once again Canadian soil is the place for further discussion on the topic of annual reports.

Dr. Anderson began his paper with the questions as to whom and for what purpose annual reports exist. He enumerated seven groups, one of which was the general public. The Edmonton Conference discussion shows it is not easy to answer the question for whose benefit annual reports are written--the legislature, the chief executive, the administrative agencies, the general public, the Ombudsman office staff, other Ombudsmen, and scholars. (Report of the Proceedings, First International Ombudsman Conference, September 6th to 10th, 1976, Edmonton, Alberta, Canada, Dr. Randall Ivany, Editor. See Remarks by Mr. Oliver Dixon, Professor Stanley V. Anderson, Sir Idwal Pugh, Nordskov Nielsen, Professor Larry Hill, and M. Aime Paquet, Pages 38-39).

This Conference does not struggle with the narrow question for whose benefit annual reports are written. The theme poses a more fundamental question--is the Ombudsman a champion of people's rights? The title of this panel is a flat affirmative statement that the reporting function is part of the public's right to know of the Ombudsman. This title implies that an Ombudsman cannot be much of a champion of people's rights if an Ombudsman does not recognize the people's right to know. To know what? I interpret this to mean the public's right to information and I shall shortly set forth my views on the minimum information which should be given to the general public.

Professor Anderson in his paper postulates the special concern of the public as "wanting to be altered or reassured, and, in either case, entertained." I prefer Professor Hill's comments at Edmonton that the interest of the public in the reports must be located in the accountability of the Ombudsman.

I have therefore viewed the annual reports from the viewpoint of accountability as the basis of the public's right to know. In doing so, I limited myself to the current annual reports from eight Canadian Provinces (before British Columbia) and the four United States (Alaska, Hawaii, Iowa, and Nebraska).

Accountability to me means that the Ombudsman endeavors to furnish in the annual report as much information as possible concerning the office of the Ombudsman which will supply answers to the following questions:

1. What did the office cost as compared with the budget for the office?
2. How many persons make up the staff?
3. What was the volume of complaints and non-complaints (inquiries, requests for information)?
4. What was the number of complaints within jurisdiction? Not within jurisdiction?
5. What was the disposition of the complaints and non-complaints? How many complaints were resolved?
6. By what means did complaints and non-complaints reach the Ombudsman?
(Discretionary)
7. From which locations did the complaints and non-complaints come? (Discretionary)
8. What agencies were complained against?
9. What was the number of complaints carried over from the prior year and the number not disposed of during the reporting year?
10. How long did it take the Ombudsman to handle complaints and non-complaints?
(Discretionary)

A. The Statutory Requirement for Annual Reports.

Every Canadian Provincial Ombudsman statute specifically requires an annual report, as does the American Bar Association (ABA) Model Ombudsman Statute for State Governments. None specify the form or content. However, each statute does set a somewhat general guideline on what the Ombudsman is to report--exercise of functions (Alberta, New Brunswick, Nova Scotia, Iowa, and Nebraska); exercise and performance of functions and duties (Manitoba); exercise of powers, duties, and functions (Newfoundland); affairs of office (Ontario and British Columbia); activities and recommendations(Quebec); activities (Alaska, Hawaii, ABA); and exercise of powers and performance of duties and functions (Saskatchewan).

The Canadian statutes do not in stating to whom the report must be made recognize the existence of the public and require reporting only to the legislature or an officer of the legislature. On the other hand, Alaska and Hawaii specify the legislature and public. Iowa and Nebraska include the Governor with the legislature. The ABA misses no one--the Governor, the legislature, or any of its committees, the public, and discretionary agencies.

Only one Ombudsman statute (Quebec) covers publication and distribution by the official publisher--in a manner determined by resolution of the National Assembly, or, failing such resolution, by order of the Lieutenant-Governor in Council.

It is obvious that the public's right to know of the Ombudsman by way of the annual report will not be found in most statutes. Furthermore, each Ombudsman is free to develop the form and content of the annual report, without statutory requirements, and it is not clear for whom the Ombudsman is writing the annual report. In any event, it is questionable as to whether the Ombudsman is writing the annual report for the benefit of the general public.

2. The Form of the Annual Report.

Eleven of the 12 annual reports under review were in book or booklet form. The sole exception was Nebraska where the 1977 Annual Report (the latest) and brochure for the public was combined. In 1976, the Nebraska Ombudsman changed the format to reduce preparation

expense and to give annual reports multiple purposes. The result is an 3 1/2" by 8 1/2", containing a title page, four pages of text material and three tables. The 1978 annual report has not yet been published. Nebraska's Ombudsman stated that since annual reports are read only by a few, that by reducing the size and increasing the distribution more of the public will be exposed to the assistance available. The Nebraska experiment deserves review as an innovation. Its format does lend itself to being placed in the hands of more members of the public and from that view-point worthy. But it is in my opinion still a brochure and does not fill the requirements of what I believe should be in an annual report based on accountability to the public.

Quebec's annual report, published in French, consists of two books. The first book (1978 Annual Report) has a letter of transmittal dated March 1, 1979, and was accompanied by a separate nine-page summary in English. The second book (1978 Annual Report) has not yet been published. Prior second books contained case summaries and statistics. I have insufficient information on the reasons for the Quebec procedure or the impact on the Quebec National Assembly and the public so that I am not in a position to evaluate critically the Quebec system of two volumes. However, the system must involve additional staff work, printing and distribution costs--factors which must be considered against the results flowing from the issuance of two reports instead of one.

Ontario leads a lonely group in North America with two reports, each covering six-month periods. Furthermore, until the Sixth Report (October, 1978--March, 1979), the previous three reports had a volume 2 which consisted of a complaint-by-complaint summary of all grievances dealt with and completed during the reporting period. This has now been discontinued. A further change has been announced by Ontario in that the annual report will in the future be a yearly report rather than two six-month reports. In order to do this, content will be reduced.

A single annual report is the pattern in North America, and with Ontario changing its procedure, only Quebec will be publishing two volumes for its annual report.

It should be noted ten of the annual reports were in English, one in French only with a short separate English summary (Quebec), and one in both English and French (New Brunswick).

3. Contents of the Annual Report.

A. Letter of Transmittal

For whatever it may be worth, only Nebraska, Manitoba, and New Brunswick did not have separate letters of transmittal, although the latter two did address the introduction portion of the reports to Speaker.

B. Table of Contents.

All annual reports with the exception of Nebraska had a table of contents.

C. Remarks--Comments--Discussion.

Remarks, comments, and discussion were contained in every report ranging from one to many pages. This, of course, is discretionary with each Ombudsman, but remarks, comments, and discussion are helpful to the public.

D. Theme.

Only Alaska had central special theme--that of the Ombudsman game mixed with humorous text and several cartoons. This lends itself to handling serious subjects lightly and makes the annual report more readable by the public. But it would seem to me that too much lightness may sometimes result in the reader getting more interested in the "cuteness" of the captions, cartoons and humorous texts than in the basic messages which the report is seeking to convey.

E. Staff

The public's right to know should include information concerning staff and personnel. The treatment in the annual reports ranged from no information at all (New Brunswick and Nova Scotia), mention of positions but no names (Newfoundland), important staff changes only (Ontario), listing of names and positions (Alberta, Manitoba, Nova Scotia, Quebec, Saskatchewan, Alaska and Hawaii), to pictures in addition to the names and positions (Iowa).

It may well be that prior reports listed names and positions but the public should not be required to page through reports for several years in order to get a complete picture.

F. Finances.

Finances was not mentioned in the current reports of Manitoba, New Brunswick, Saskatchewan, Hawaii, Iowa, and Nebraska. Reference was made to the cost in round figures in one report--Nova Scotia. The Third Report of Ontario for 1977 contained considerable financial information. The Sixth Ontario Report did not contain budgetary or expenditure figures but did have a discussion on costs arising out of word processing systems, a new lease, automobiles, and microfilming. The Fifth Annual Ontario Report was not available to me at the time of the preparation of this paper but I do not believe the Fifth Report contained budgetary or expenditure information. There were sufficient financial data in the Alberta, Quebec, and Alaska reports, the latter containing financial statements from a certified public accountant.

G. Statistics.

Perhaps the most sweeping disclosure by all Ombudsmen studied related to statistical information concerning operations of the offices. Reports varied greatly in the specific types of tables and charts but in my opinion all annual reports fulfilled the functions of the public's right to information.

The type of information and the method of disclosure (text, chart, table) was discretionary with the Ombudsman. The most significant types of information in my opinion were:

1. Complaints received during the year--all.
2. Inquiries and other contacts during the year--majority.
3. Number of complaints held over from prior years and number carried over to year following reporting--all but one (U.S.)
4. Complaints handled during the year--all.
5. Disposition of complaints--all.

6. Agency involved--all but one (U.S.).
7. Method by which came to Ombudsman--majority.
8. Time involved to close file--Ontario.
9. Breakdown by sex--New Brunswick.
10. Geographical source--all but two (U.S.).
11. Breakdown by language--New Brunswick.
12. Complaint-by-complaint summaries showing file number, subject, disposition and department or agency involved--(Manitoba and Nova Scotia. Newfoundland contained a short summary of all cases in 1978 within jurisdiction. Ontario--to be discontinued in 1979).

H. Case Summaries

With the exception of Nebraska, all reports contained summaries of selected cases, and in the case of Newfoundland summaries of all 1978 cases within jurisdiction. One report--Hawaii--contained a cumulative index of selected case summaries contained in all Hawaii annual reports. The selection of cases for inclusion in the reports is, of course, discretionary with the Ombudsman. I could not discern any system which guides an Ombudsman in selecting a case. But since we are concerning ourselves with the right of the public to have information, it would seem to me that the cases selected should be representative of the types coming to the Ombudsman and should include not only the so-called big cases but also the so-called small cases. As has been said so often before in the Ombudsman world, what we would term a small case is a very important case to the complainant. Cases should illustrate the types of complaints that are coming to the attention of the Ombudsman, the handling of the case by the Ombudsman, and the resolution. The summaries of cases are in my opinion a vital section of the annual report and should continue to receive ample coverage.

I. Statute.

Only five current annual reports contained the Ombudsman statute of the jurisdiction. I did not go back over all reports issued to determine whether the statute had been in a prior

annual report, as I am sure had been done in some instances. But it would seem to me from an informational basis the statute should be included in each annual report.

J. Index.

The only index in any report was contained in the 1977 Quebec second book.

K. Language.

English was the sole language used in ten reports. The Quebec reports were in French with a separate brief summary in English for the first book. The New Brunswick report contained both English and French sections.

4. Conclusion

It is difficult to determine from any annual report except that of Nebraska that it has a definite tilt toward the public. As a matter of fact, as I said before, it is difficult to know for whose benefit the report is published. Perhaps it might be best to say that the annual report is intended to show the Ombudsman office to best advantage and what goes into a report depends solely on the Ombudsman and his staff. Nevertheless, an annual report if it is to fulfill a function of informing the public should contain at least the following information:

1. Remarks, comments, and discussion.
2. Names and positions of staff.
3. Financial statements in some detail, showing expenditures against budget.
4. Statistical information meeting minimum requirements.
5. Selected case summaries.
6. The Ombudsman Act.