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The Ombudsman in Nova Scotia and Newfoundland

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The Ombudsman is a relative newcomer to Canadian provincial government.¹ The senior Canadian Ombudsman offices are located in Alberta and New Brunswick, both ten years old. The Nova Scotia Ombudsman has functioned for six years, and Newfoundland's Parliamentary Commissioner for a mere two years. It may therefore be too early to analyze their degree of institutionalization. The concept does enable us, however, to focus our attention on the most important questions regarding the early history of the Ombudsman institution in the Maritimes.

According to S. P. Huntingdon,² institutionalization may be resolved into two internal components, complexity and coherence, and two external components, autonomy and adaptability. The two most important external actors which affect the emergent Ombudsman institution are politicians, who created the office, and civil servants, who are the Ombudsman's main targets. This paper examines the attitudes and behaviour of politicians and civil servants to see whether in fact the Ombudsman is becoming institutionalized in these provinces.

Although the Ombudsman is a significant innovation in the provincial context,³ it should not be regarded as a panacea. The

*K. A. Friedmann, Associate Professor, Department of Political Science, University of Calgary. This comment was prepared for presentation at the Annual Meeting of the Atlantic Provinces Political Studies Association, Halifax, Nova Scotia, October 21, 1977. The material presented in this paper is part of a larger comparison of all eight provincial Ombudsman offices. The survey data used here were collected with the assistance of a grant from the Institute of Public Administration of Canada. My earlier studies on the Ombudsman were also supported by Canada Council grants. Both grant supports are gratefully acknowledged.

1. The literature on the Ombudsman is expanding at a rapid pace. The earliest summary on Canadian developments appeared before the first Ombudsman: S. V. Anderson, *Canadian Ombudsman Proposals* (Berkeley: Institute of Governmental Studies, University of California, 1966). Other major books on the subject are: W. Gellhorn, *Ombudsmen and Others. Citizens' Protectors in Nine Countries* (Cambridge, Mass.: Harvard University Press, 1966); D. C. Rowat, *The Ombudsman: Citizens' Defender* (2d ed. London: Allen & Unwin, 1968); L. B. Hill, *The Model Ombudsman: Institutionalizing New Zealand's Democratic Experiment* (Princeton, New Jersey: Princeton University Press, 1976)

2. S. P. Huntingdon, "Political Development and Political Decay" (1965), 17 *World Politics* 404

3. The Ombudsman was included in a recent study of provincial legislative

paper's second focus is therefore on the public policy question, "what kind of institution is the Ombudsman?" What are the functions of an Ombudsman, in terms of policy intent and an incumbent's role interpretation and role enactment? What impact does the organization have on policies, procedures and the provincial political system as a whole? Can one detect any changes in the citizen's liaison with the bureaucracy? To what degree has the Ombudsman improved the citizen's ability to cope with bureaucracy?

I am deliberately raising more questions than I can hope to answer in this paper. I am presently engaged in a detailed study of the Ombudsman's policy impact, but cannot yet present my conclusions. I was able to measure public attitudes toward the new office only in Alberta, mainly for financial reasons.⁴ I did attempt to measure clients' perceptions and attitudes toward the Ombudsman, but was unable to secure the necessary cooperation of the Ombudsmen themselves. I did manage, however, to obtain government permission to survey the two provinces' bureaucracies and I also completed a survey of MLAs' views on the Ombudsman in both provinces.

I must forego close examination of how institutional innovation occurs in Atlantic Canada, which would require thorough study of the political culture's receptiveness to innovation. In order to place the politicians' and civil servants' attitudes in context, I will outline the politics of adoption of the Ombudsman proposal and milestones in its subsequent development.

One aspect of political culture should be mentioned. Mildred A. Schwartz has found that party regularity in voting in Canada decreases from east to west.⁵ Party identification and conflict tend to be more pronounced in the Atlantic provinces,⁶ a view confirmed

innovation: Dale H. Poel, "The Diffusion of Legislation among the Canadian Provinces: A Statistical Analysis" (1976), 10 *Canadian Journal of Political Science* 605-626

4. Karl A. Friedmann, "The Public and the Ombudsman: Perceptions and Attitudes in Britain and in Alberta" (1977), 10 *Canadian Journal of Political Science* 497-525. See also K. A. Friedmann, *Comparative Aspects of Complaint Behavior and Attitudes Toward Complaining in Canada and Britain* (Vol. 2, Sage Professional Papers, Administrative and Policy Studies Series, 03-019)

5. M. A. Schwartz, *Politics and Territory: The Sociology of Regional Persistence in Canada* (Montreal: McGill-Queen's University Press, 1974) at chap. 6

6. To add a historical dimension, in a lighter vein, one should read the hilarious account of 19th century election politics by Addison Bown: "Old Time Politics in Newfoundland" (Lecture to the Newfoundland Historical Society, June 3, 1970).

by personal observations. Partisan conflict has had a bearing on the development of both Ombudsman offices considered in this paper.

I. *The Politics of Adoption*

The Ombudsman idea has gained broad exposure in Canada since 1961. The Nova Scotia Legislature was the first in the country to commission a feasibility study, in 1964. The Committee, consisting of one Liberal and six Conservative MLAs, took less than four weeks to reject the idea. They feared that a "process of erosion" would adversely affect the "intimate contact between the legislator and his constituents" and lessen the "frequency of contact" between MLAs and Ministers.⁷ In other words, MLAs' stock-in-trade, constituency work, would face stiff competition from an Ombudsman. The Committee preferred to increase MLAs' expense allowances instead. In 1967, Alberta and New Brunswick established Ombudsman offices. Quebec enacted Ombudsman legislation in 1968, and Manitoba gave it serious thought. In February 1969, the Conservative government of Nova Scotia established a second Select Committee of the Legislature to consider "an Ombudsman Type of Official for Nova Scotia". The Committee heard submissions from the New Brunswick Ombudsman and many others, of which all but one were in favour of such an appointment.⁸ Interviewing the chairman of the Committee in 1969, I gained the distinct impression that the Committee had more or less been told to come up with a positive recommendation this time. They did so in February 1970, leaving the government to decide the timing. After coming to power late in 1970, the new Liberal government quickly passed an Ombudsman Act as one of its election priorities. The office opened for business in September 1971 as the fifth provincial Ombudsman.⁹ Quebec and Manitoba established theirs in 1969.

The typescript is to be found in the Newfoundland collection of Memorial University Library.

7. *Report of the Select Committee to consider "Ombudsman" Type of Official for Province of Nova Scotia*, Tabled March 13, 1964 at 12. Typescript in Nova Scotia Legislative Library.

8. A former MLA who had been on the 1964 Committee was still opposed to the idea and his explanation is interesting: "The particular nature of the political system in Nova Scotia with its hidebound, rigid party politics would prevent the Ombudsman from fulfilling his role as an unbiased observer and that his decisions would not bear any real authority." Quoted from T. J. McBride, *infra*, note 9

9. A more elaborate account of these events and an assessment of the first three

In December 1966, the House of Assembly of Newfoundland established a Select Committee to consider the need for an Ombudsman. The Committee took little over two years to complete its report, which strongly recommended the appointment of an Ombudsman.¹⁰ A bill was drafted and passed in June 1970, entitled "The Parliamentary Commissioner (Ombudsman) Act". For the next five years, the government refrained from proclaiming the Act or appointing an Ombudsman. In 1975, the Moores government finally appointed an Ombudsman. The Premier's choice was highly controversial.

II. *Starting Problems*

In contrast to other provinces, both the Nova Scotia and Newfoundland Ombudsmen have experienced very stormy rites of passage, for similar reasons. In the first month of operations, a specific case led to an altercation between the Nova Scotia Ombudsman and a Minister, at the latter's instigation. The following is a brief summary of the events: a truck driver complained to the Ombudsman, Dr. Smith, that he had been dismissed from his job with the Department of Highways. The Ombudsman began the investigation by sending the complaint to the Deputy Minister for comment. Without first sounding out the Ombudsman, the Deputy Minister presently informed Dr. Smith that the truck driver could have his job back. Dr. Smith informed the complainant. A few days later, the Minister of Highways issued an announcement that the truck driver would not be rehired, adding that a departmental inquiry had found that "the right decision was to fire him". It appeared to the public that the Minister had "overruled" the Ombudsman. A brouhaha soon engulfed the case. Dr. Smith accused the Minister of undermining public confidence in the Ombudsman's office. The Opposition claimed that the Minister had undermined the Ombudsman institution, converting it into a showy frill. The Attorney General opined sagaciously that the Ombudsman had "no power to override the decisions of cabinet ministers". The Leader of the Opposition challenged the Premier either to clarify the Ombudsman's powers or to "vacate the office instead of making it a sham". The Premier did neither. The truck

years of the Nova Scotia office are contained in T. J. McBride, "The Nova Scotia Ombudsman" (1975), 2 Dal.L.J. 182-200

10. *Report of the Select Committee on the Appointment of an Ombudsman*, Province of Newfoundland, 1969

driver did not regain his job, and the Ombudsman did not undertake to see if the complaint was indeed justified, or that the "second firing" was in accordance with the law and with sound administrative practice. Dr. Smith did not resign, although he seriously considered it.

What was the upshot of the controversy? It created a lasting impression among the media and the public that the Ombudsman was not very effective. For two successive years, the rate of petitioning complaints received by the Ombudsman fell off by more than 50%.¹¹ Dr. Smith's relationship with provincial politicians remains strained.¹²

The starting problems in Newfoundland also revolved around party politics. In May 1975, the Conservative Premier, Mr. Moores, nominated Mr. Ambrose Peddle, a former Conservative MLA and MP, for the position of Parliamentary Commissioner. The Leader of the Opposition denounced the choice as "a filthy act of political patronage", and made it an issue in the Assembly. The government refused to bend to Opposition pressure. After a recess, "to cool tempers", the Opposition Leader voted in favour of Mr. Peddle's appointment. It is difficult to assess the damage inflicted on the Parliamentary Commissioner institution by this episode. Mr. Peddle has tried hard not to let it affect his work, but my interviews in Newfoundland indicate that the matter was still sensitive two years later.

III. *Defining the Ombudsman*

I need not review the entire lexicon of scholarly efforts to define the Ombudsman,¹³ Professor Larry B. Hill has developed a com-

11. In 1971 there were 86 complaints per 100,000 population; in 1972 only 37 complaints and in 1973 about 42 complaints per 100,000 population. In 1974 the office changed its reporting practice and a reliable comparison with the earlier years is not possible.

12. In his very report to the Assembly he lectures MLAs on the so-called non-political nature of the Ombudsman. One gets the impression — from reading the 1975 Report of the Ombudsman — that politicians in Nova Scotia are a particularly bad lot: always engaging in "political interference" and taking "political advantage" of the Ombudsman (1975 Report at 7-8). Dr. Smith has also vowed to stay away from complaints with "political" overtones.

13. Earlier contributions were made by D. C. Rowat, *supra*, note 1 at XXIV; S. V. Anderson, *Ombudsman Papers, American Experience and Proposals* (Berkeley: Institute of Governmental Studies, University of California, 1969) at 3; Gellhorn, *supra*, note 1 at 420-439; W. B. Gwyn, "Transferring the Ombudsman" in S. V. Anderson, ed., *Ombudsmen for American Government* (Englewood Cliffs, New Jersey: Prentice-Hall, 1968) at 38-49

prehensive definition which enumerates the structural and functional characteristics of the institution:

The classical ombudsman is 1) legally established, 2) functionally autonomous, 3) external to the administration, 4) operationally independent of both the legislature and the executive, 5) specialist, 6) expert, 7) nonpartisan, 8) normatively universalistic, 9) client-centered but not antiadministration, 10) both popularly accessible and visible. The institution's mission is to generate complaints against government administration, to use its extensive powers of investigation in performing a post-decision administrative audit, to form judgments that criticize or vindicate administrators, and to report publicly its findings and recommendations but not to change administrative decision.¹⁴

Some of the structural characteristics require further explanation, which Professor Hill's forthcoming book¹⁵ provides.¹⁶ "Functionally autonomous" designates the Ombudsman as an independent organization in its own right; the staff may be small but the Ombudsman office is not an appendage of a larger organization. "Operationally independent of both the legislature and the executive" makes the important distinction between statutory establishment and legislative selection of the office-holder, and the Ombudsman's ability to conduct the office without interference from the legislature or the executive. Professor Hill emphasizes that the legislative connection *per se* does not guarantee the Ombudsman's independence, even from the executive, due to executive control over the legislature in most contemporary Parliamentary regimes. The Ombudsman's duty to report to the legislature is not a ritual expression of his subordinate status, but an excellent opportunity to publicize his findings and recommendations. *De facto* independence is crucial to the Ombudsman in performing the functions assigned to him by a constitution or a statute.

Ombudsmanship is a full-time occupation ("specialist"). Ombudsmen become experts in sound administrative practice. They and their staffs are experienced professionals. The Ombudsman's selection usually is the product of party consensus. The office's operating procedures are rigorously non-partisan and impartial,

14. L. B. Hill, *supra*, note 1 at 12

15. L. B. Hill, *Ombudsmen, Bureaucracy and Democracy* (forthcoming from Oxford University Press)

16. I wish to express my appreciation for Professor Hill's permission to quote from an earlier manuscript of his forthcoming book.

unbiased and non-discriminatory. Ombudsmen operate on rational-legal principles (“normatively universalistic”).

The functions performed by the Ombudsman are quite straightforward but often misunderstood. The Ombudsman facilitates the lodging of citizen complaints against public administration. This phrase is preferable to Hill’s “generate complaints”, which suggests that the Ombudsman brings complaints into being. The term, “generate” is quite appropriate when the Ombudsman investigates a complaint at his own initiative, a right which exists in most jurisdictions but is infrequently used, except in Sweden.

Ombudsmen have been granted broad powers of investigation and rights of access to government officials and their files. These powers are used to audit administrative decisions, which may either be upheld or criticized. If the latter, the Ombudsman usually seeks corrective action and may recommend that the original decision be reversed or modified. He may not impose any change on an administrator. Many people — including complainants and civil servants — mistakenly believe that the Ombudsman does have, or should have such a power. However, that premise, if accepted, would transform the Ombudsman into a different kind of institution, a kind of super-decision-maker, and his value as an impartial investigator would be lost. The Ombudsman may disclose his findings and recommendations to the media, the legislature and the public.

It has been argued that, in addition to his specific investigative functions, the Ombudsman also has more general functions, such as to reform public administration and to lessen alienation from government. Whether or not actual Ombudsmen see these functions as part of their role and seek actively to pursue them must be determined empirically.

IV. *Politicians, Bureaucrats and the Ombudsman*

As stated above, I did complete a survey of politicians and bureaucrats in each province. The questionnaire for bureaucrats was more lengthy and detailed than that for politicians. The major topics covered in the surveys were: perception about functions, knowledge and beliefs about the Ombudsman, attitudes towards the Ombudsman, and evaluations of his performance.

Table 1 shows the samples and returns. Every MLA received a

questionnaire.¹⁷ The bureaucracy sample consists of all upper level administrators: Deputy Ministers, Assistant or Associate Deputy Ministers, Executive Directors, Directors, some Department Heads and a small number of chairmen of provincial boards and commissions. My earlier survey of the bureaucracy in Alberta¹⁸ led me to include only the bureaucratic elite.

1. *Perception of Ombudsman Functions*

Both groups of respondents were asked to rank five functions in order of importance from a list of nine function statements drawn from the literature and the responses to an open-ended item in the Alberta bureaucracy survey in 1971. To quantify the results of over 1500 possible individual responses, I adopted a simple weighting procedure.¹⁹ The rankings shown in Table 2 show the aggregate "opinion" of each of the four samples on the functions of the Ombudsman.

Table 1
Survey Samples and Returns

Province	Sample N	MLA		Public Service		
		Returns N	%	Sample N	Returns N	%
Newfoundland	48	31	65	183	130	71
Nova Scotia	45	22	49	214	140	65

MLAs and bureaucrats both see the Ombudsman's primary role as a redresser of individual complaints. "Putting a human face" on bureaucracy came second. The samples' insistence that the citizen exhaust all traditional avenues of appeal before resorting to the Ombudsman may be defensible in principle, but makes little sense

17. The higher return from Newfoundland is probably attributable to the fact that 90% of the questionnaires were handed to MLAs personally with an explanation by the author while the Assembly was in session in June 1977. In Nova Scotia the questionnaires had to be mailed while the House was not in session.

18. K. A. Friedmann, "Controlling Bureaucracy: Attitudes in the Alberta Public Service towards the Ombudsman" (1976), 19 *Canadian Public Administration* 51-87

19. The lowest (fifth) ranked statement was given one point, the fourth ranked 2 points *etc.* up to the first ranked statement: 5 points. All the points given by each of the 4 groups were summed to arrive at one group ranking (*e.g.* MLAs-Nfld.) for each statement.

from a practical point of view. It reveals a desire to impose a serious limitation on the scope of the Ombudsman's intervention: he must not short-circuit or upstage existing appeal mechanisms to Departments, Ministers or MLAs. The low ranking of the general administrative reform function is surprising too, partly because it is deemed to be very significant in the theoretical literature, and partly because the response seems to call into question some of the more significant activities of the Ombudsman.

Table 2
Ranking of Nine Ombudsman Functions
(MLA and Public Service) by Province

	Rank			
	MLAs		Public Service	
	Nfld.	N.S.	Nfld.	N.S.
To right individual wrongs	1	1	1	1
To make bureaucracy more humane	3	2	2	2
To act as a last recourse when all other avenues have been tried	2	3	3	4
To increase citizens' confidence in public administration	6	6	4	3
To help the poor, underprivileged, <i>etc.</i> citizen	4	4	6	6
To induce public servants to exercise more care in dealing with the public	5	5	5	5
To lessen popular alienation from government	7	8	8	7
To reform and improve public administration	9	7	7	8
To vindicate public servants when they are unjustly accused	8	9	9	9

It is difficult to gauge the extent to which these perceptions express the respondents' beliefs about what the Ombudsman is, or what the Ombudsman ought to be. To the extent that they express factual beliefs, the response tends to show that particular Ombudsmen may emphasize one function over another. To the extent that they express normative beliefs, the responses show the fragility of the legitimacy of the general reform function of the Ombudsman, which could limit his utility in the political system.

The public service samples were also asked to describe, in their own words, the "greatest advantage" and "greatest disadvantage" of the Ombudsman idea. Tables 3A and 3B display the results.

Bureaucrats clearly see the citizenry as the main beneficiary of the institution, which provides an additional, objective, non-partisan external review mechanism. Table 3B also shows that bureaucrats are critical of the public for abusing the Ombudsman by complaining about trivial matters or skipping regular appeal channels (items 1 and 4). Items 5 and 6 embody suggestions for making the Ombudsman more effective and relevant, while items 2, 3, 7 and 8 indicate some dissatisfaction with the operation of the office or the incumbent. The perceived advantages outweigh perceived disadvantages roughly by a two-to-one ratio, if one reverses the direction of items 5 and 6 in Table 3B.

2. *Beliefs about the Ombudsman in the Public Service*

Public service respondents alone were asked about their knowledge of the Ombudsman as a person and an institution. The response (Table 4) was weak and patchy. Affective responses, items 2 and 6, comprise about one third of all answers. The ratio of statements of praise to statements of criticism is three or four to one, which is an indication of favourable beliefs about the offices and/or the incumbents.

3. *Attitudes towards the Ombudsman*

Politicians and civil servants were both asked in several direct questions about their attitudes towards the Ombudsman. We will

Table 3A
Greatest Advantage of the Ombudsman Idea
(Public Service) by Province

	Nfld.	N.S.
1. Impartial, non-political, objective review	21	24
2. Justice and fair play for the public	32	15
3. New (additional) channel of complaint	14	21
4. Controls bad administration	12	13
5. A last resort (recourse)	10	8
6. To help people	2	11
7. Redress for the underprivileged	4	6
8. Other	5	2
Totals (N)	100% (92)	100% (115)

Table 3B
Greatest Disadvantage of the Ombudsman Idea
(Public Service) by Province

	Nfld.	N.S.
1. Easy to abuse, petty complaints	25	24
2. Criticism of operation (of present office)	13	18
3. (Serious) adverse consequences for public administration	13	11
4. Creates false expectations, confusion	9	13
5. Lack of power/jurisdiction/or resources	9	13
6. Political interference/political appointment	10	4
7. Too much power/one individual too powerful	6	2
8. Criticism of incumbent or his background	4	1
9. Other	12	14
Totals (N)	101% (69)	100% (84)

Table 4
Information on Person/Institution of
Ombudsman (Public Service) by Province

	Nfld.		N.S.	
	First Response	Second Response	First Response	Second Response
1. Not much, nothing, forgot	32	3	22	0
2. Praise of incumbent or operation	22	31	27	30
3. Structural/operational information	12	13	20	15
4. Background of incumbent	13	6	10	23
5. Name of incumbent	6	0	11	7
6. Criticism of incumbent/operation	7	41	6	15
7. Met him, heard speech, saw on TV	6	3	1	3
8. Specific case reference	2	3	1	5
9. Other	0	0	2	3
Totals (N)	100% (90)	100% (32)	100% (110)	101% (40)

review these briefly before considering a more indirect measure of attitude.

Tables 5 and 6 show that bureaucrats in both provinces are overwhelmingly in favour of the idea of an Ombudsman, and the

need for an Ombudsman in their jurisdictions. Although a majority of Nova Scotia and Newfoundland MLAs concurred, a substantial minority expressed reservations or doubts. This phenomenon was particularly noticeable in Nova Scotia. None of the respondents chose "strong disapproval", however. Table 7 shows that there were no statistically significant differences between Government and Opposition parties in Newfoundland. There were, however, significant differences between Government and Opposition parties in Nova Scotia; the governing Liberals tended to express approval of the Ombudsman idea more often and more emphatically than the opposition Conservatives. Personal interviews which I conducted in 1976 show that a portion of New Democrat objections were based on their initial unfavourable impression of the handling of the truck driver case, which persisted six years later.

Table 8 demonstrates that personal acquaintance with the Ombudsman tends to be associated with greater acceptance of the idea. There are also signs that approval increased as contact with the Ombudsman became more personal and intensive.

MLAs and bureaucrats were asked to evaluate their Ombudsman by the question, "What general impression have you gained of the Ombudsman (work, performance, approach, etc.)?" Table 9 displays the response. The Nova Scotia bureaucracy rated the Ombudsman higher than its Newfoundland counterpart, although Nova Scotia politicians rated the Ombudsman somewhat lower than

Table 5
Approval of Ombudsman Idea (MLAs
and Public Service) by Province

	MLAs		Public Service	
	Nfld.	N.S.	Nfld.	N.S.
Approve Strongly	50	18	23	30
Approve	30	50	68	62
Uncertain	20	9	8	6
Disapprove ^a	0	23	2	1
Totals ^b	100%	100%	101%	99%
(N)	(30)	(22)	(119)	(140)

^aA "Disapprove strongly" response was, of course, provided in the questionnaire but not one respondent chose it.

^bBecause of rounding totals will be more or less than 100%.

Table 6
Need for Ombudsman
(MLAs and Public Service) by Province

	MLAs		Public Service	
	Nfld.	N.S.	Nfld.	N.S.
Definitely Yes	36	24	20	24
Yes	48	38	64	63
Uncertain	13	14	14	10
No ^a	3	24	3	3
Totals	100%	100%	101%	100%
(N)	(31)	(21)	(118)	(140)

^aNo respondent chose "Definitely No".

their Newfoundland colleagues. This result is a little surprising; I thought the more recent controversy over Mr. Peddle's appointment would have affected Newfoundland MLAs' response more strongly than it apparently did.

Table 10 shows that Opposition MLAs in both legislatures were significantly less favourable in evaluating the Ombudsman than Government MLAs. MLAs who knew the Ombudsman personally also tended to be more favourable (see also Table 10). Civil servants who knew the Ombudsman, and those who have had more intense or more frequent contact with him, have shown the same tendency (see Table 11).

The civil service was asked, in very general and subjective terms, about its "fear" and "respect" of the Ombudsman.²⁰ Tables 12 and 13 present the response. Table 12 shows a virtually identical response pattern on the question of "fear" for both provinces.²¹ The response on "respect" follows the known evaluative pattern in the public service: the Nova Scotia office rates somewhat higher than the younger Newfoundland office. Should an administrator live in fear of an Ombudsman? There are at least three cases in which he should: (1) if the official's conduct is below par; (2) if the Ombudsman is arbitrary, unpredictable or unjust; and (3) if the

20. "It may be difficult to assess this, but assuming you had to form a judgment on administrators' attitudes towards your Ombudsman, how would you rate their fear of and respect for the Ombudsman — taking a general view of your colleagues?"

21. A preliminary analysis of the Ontario public service response on this question showed a significantly higher level of "fear".

Table 7
Approval of Ombudsman Idea (MLA) by Position in Legislature,
Party and Province

	Nfld. ^a		N.S. ^b		Nfld. ^c		N.S. ^d	
	Govt.	Opposit.	Govt.	Opposit.	Lib.	P.C.	Lib.	P.C.
Strongly Approve	43	60	29	0	57	43	29	0
Approve	36	20	50	50	21	36	50	33
Uncertain	21	20	7	13	21	21	7	0
Disapprove	0	0	14	38	0	0	14	67
Totals (N)	100% (14)	100% (15)	100% (14)	101% (8)	99% (14)	100% (14)	100% (14)	100% (3)

^aKendall's Tau B: -.12 (not sig.)
^bKendall's Tau B: .36 (sig. at .03)
^cKendall's Tau C: -.12 (not sig.)
^dKendall's Tau B: -.30 (sig. at .06)

Table 8
Approval of Ombudsman Idea (MLA) by
Acquaintance with Incumbent and Type of Contact by Province

	Nfld. ^a		N.S. ^b		Nfld. ^c		N.S. ^d					
	Yes	No	Yes	No	Personal	All	None	All				
Approve Strongly	54	33	24	0	46	40	63	50	0	20	13	40
Approve	33	17	59	20	18	60	25	33	25	40	75	40
Uncertain	13	50	6	20	36	0	13	17	25	20	0	0
Disapprove	0	0	12	60	0	0	0	0	50	20	13	20
Totals (N)	100% (24)	100% (6)	101% (17)	100% (5)	100% (11)	100% (5)	101% (8)	100% (6)	100% (4)	100% (5)	101% (8)	100% (5)

^aKendall's Tau B: .25 (sig. at .07)
^bKendall's Tau B: .49 (sig. at .007)
^cKendall's Tau B: .12 (not sig.)
^dKendall's Tau B: .35 (sig. at .02)

Table 9
 General Impression of Ombudsman's Performance
 (MLAs and Public Service) by Province

	MLAs		Public Service	
	Nfld.	N.S.	Nfld.	N.S.
Highly positive	19	14	5	18
Generally positive	45	48	51	64
Uncertain	26	14	39	16
Generally negative	7	24	4	2
Highly negative	3	0	1	0
Totals	100%	100%	100%	100%
(N)	(31)	(21)	(118)	(137)

Ombudsman sets very exacting standards of conduct. These data do not enable us to distinguish what "fear" or "fears" we are dealing with here. To obtain a more detailed response pattern, the civil service were asked, open-endedly, what they would praise or criticize most in the Ombudsman's performance. Tables 14 and 15 summarize the response. The weak response came as a surprise: 24% of Newfoundland respondents and 54% of Nova Scotia respondents offered an item of praise, while only 26% of Newfoundland respondents and 28% of Nova Scotia respondents offered some criticism.²² Over half of the "critical" responses (Table 15, items 1 and 5) encouraged the incumbent to publicize the office or advocated increasing its powers, hence must be interpreted as support for the institution. The residual body of criticism levels the charge of superficiality in investigations. Fairness, sincerity and thoroughness are the main items of praise among civil servants in both provinces.

One last evaluative question put to both MLAs and bureaucrats should be noted. Two questions were asked in conjunction, but the responses were recorded separately:

Do you feel that the Ombudsman's office has now become an effective institution? And does it matter much who is the Ombudsman at any one time?

22. The low level of the response is partly explained by the fact that a large number of respondents had used an earlier question to volunteer (mostly) praise and (some) criticism (see Table 4). Praise and criticism was coded in the present question only if it was listed specifically or where an express cross-reference was made to the earlier response.

Table 10
 Evaluation of Ombudsman Performance (MLA) by
 Position in Legislature and Acquaintance with Incumbent by Province

	Nfld. ^a				N.S. ^b				Nfld. ^c				N.S. ^d			
	Govt.		Opposit.		Govt.		Opposit.		Govt.		Opposit.		Know Incumbent		Yes	No
Highly Positive	33		7		23		0		20		17		19		0	
Generally Positive	53		33		54		38		52		17		56		20	
Uncertain	13		40		15		13		20		50		6		40	
Generally Negative	0		20		8		50		8		17		19		40	
Totals (N)	99%		100%		100%		101%		100%		101%		100%		100%	
	(15)		(15)		(13)		(8)		(25)		(6)		(16)		(5)	

^aKendall's Tau B: .48 (sig. at .002)

^bKendall's Tau B: .45 (sig. at .01)

^cKendall's Tau B: .22 (sig. at .09)

^dKendall's Tau B: .39 (sig. at .02)

Table 11
Evaluation of Ombudsman Performance (Public Service)
by Acquaintance with Incumbent by Province

General Impression	Nfld. ^a		N.S. ^b	
	Know Incumbent Yes	Know Incumbent No	Know Incumbent Yes	Know Incumbent No
Highly Positive	7	5	30	9
Generally Positive	73	43	62	65
Uncertain	20	46	7	23
Negative	0	7	2	3
Totals (N)	100% (30)	101% (88)	101% (60)	100% (77)

^aKendall's Tau B: .26 (sig. at .001)

^bKendall's Tau B: .29 (sig. at .0001)

Table 12
Administrators' Fear of the Ombudsman
(Public Service) by Province

	Nfld.	N.S.
None at all	28	31
Very little	48	46
Some	21	23
A great deal	3	0
Totals (N)	100% (117)	100% (132)

Table 13
Administrators' Respect for Ombudsman
(Public Service) by Province

	Nfld.	N.S.
A great deal	8	23
A fair measure	46	55
Some	36	18
Little	8	4
None	2	1
Totals (N)	100% (113)	101% (130)

Table 14
Praise for Ombudsman (Public Service)
by Province

		Nfld.		N.S.	
		First Response	Second Response	First Response	Second Response
1.	Fair, impartial, objective	32	25	42	16
2.	Integrity, sincerity, dedication	15	25	16	11
3.	Thorough, efficient, effective	17	0	7	32
4.	Competent, good decisions, good job	10	25	9	16
5.	Helped people	10	13	7	5
6.	Determination, Independence	2	0	5	21
7.	Likes person or background	2	0	1	0
8.	General function — acceptance	1	0	1	0
9.	Other	10	13	12	0
Totals		99%	101%	100%	101%
(N)		(41)	(8)	(76)	(19)

Table 15
Criticism of Ombudsman (Public Service)
by Province

		Nfld.		N.S.	
		First Response	Second Response	First Response	Second Response
1.	Not enough P.R., low profile	50	33	33	0
2.	Unfair, biased towards complainant	0	0	0	17
3.	Superficial, inefficient, ineffective	9	17	30	17
4.	Dislikes person or background	19	50	5	0
5.	Not enough power, lacks jurisdiction	6	0	15	0
6.	Incompetent, bad decisions	6	0	3	0
7.	Rigid, legalistic approach, stubborn	3	0	3	33
8.	Other	6	0	12	33
Totals		99%	100%	101%	100%
(N)		(32)	(6)	(40)	(6)

Some 75% of both MLAs and bureaucrats felt that the office-holder mattered very much; personal knowledge of the Ombudsman made no difference. This response means that, regardless of who the office-holder is, the individual will always be very significant.

Table 16 lists the responses to the first part of the question, whether the Ombudsman has become an effective institution. There is an interesting disparity in responses between the two provinces: the Nova Scotia bureaucracy rates the effective institutionalization of the Ombudsman higher than the politicians; vice-versa in Newfoundland.

V. Opinion Statements and Attitude Scales

Both sets of questionnaires contained a series of statements expressing a wide range of effects which the Ombudsman allegedly has on public administration, clients, etc. The responses were intended to be used for Lickert and Guttman-type attitudinal scales, analysis of which is still incomplete. Table 17 lists a sample of such statements and the responses obtained. I have made this selection in order to round out information on the relevance of partisan conflict in the political culture to the emergent Ombudsman institution. The

Table 16
Ombudsman As Effective Institution
(MLAs and Public Service) by Province

	MLAs		Public Service	
	Nfld.	N.S.	Nfld.	N.S.
Very Effective	3	5	0	8
Effective	67	57	49	63
Uncertain	20	14	48	27
Ineffective	7	24	2	1
Very Ineffective	3	0	2	1
Totals (N)	100% (30)	100% (21)	101% (117)	100% (139)

last three statements listed in Table 17 tap issues raised in the short history of both Ombudsman institutions. Only item 4 among MLAs produced a statistically significant difference.²³ This is apparently the residue of the perennial debate in Nova Scotia about the relative merits of an institutional Ombudsman versus the MLA as a constituency Ombudsman, which led to the initial rejection of the Ombudsman concept in 1964. It still appears to be an banner around which opposition to the Ombudsman rallies.

23. Kendall's Tau B: .44 (sig. at .0006).

Table 17
Opinion Statements (MLA and Public Service) by Province: Percentages

Statement	MLA						Public Service					
	Province	Agree Strongly	Agree	Uncertain	Disagree	Disagree Strongly	Agree Strongly	Agree	Uncertain	Disagree	Disagree Strongly	
Administrators challenge the jurisdiction of the Ombudsman less often than they ought to do.	Nfld.	0	7	71	21	0	0	9	66	25	0	
	N.S.	0	0	43	57	0	2	6	58	34	1	
The Ombudsman's jurisdiction should be extended wherever possible.	Nfld.	14	39	29	11	7	0	22	47	28	4	
	N.S.	5	38	19	29	10	2	16	42	37	3	
The Ombudsman should have the power to make decisions, not just recommendations.	Nfld.	7	21	24	38	10	0	13	14	64	9	
	N.S.	0	10	29	48	14	1	10	22	60	7	
Provincial elected representatives function as "grievance men" and an Ombudsman is not really necessary.	Nfld.	0	7	10	72	10	2	14	16	64	5	
	N.S.	10	24	29	38	0	2	9	10	75	5	
Offices such as the Ombudsman's should not be filled by former politicians.	Nfld.	25	11	7	50	7	30	48	13	10	0	
	N.S.	19	19	19	38	5	23	54	13	10	0	
It is of cardinal importance that the Ombudsman's office be as independent as possible of elected officials.	Nfld.	35	52	0	14	0	49	47	2	2	1	
	N.S.	29	43	5	19	5	42	52	1	4	1	

Table 18
Attitude Scale (MLA and Public Service) by Province

	MLAs		Public Service	
	Nfld.	N.S.	Nfld.	N.S.
Low — favourable	13	9	12	7
Low — medium	19	23	43	32
Medium — high	52	50	37	52
High — favourable	16	18	9	9
Totals	100%	100%	100%	100%
(N)	(31)	(22)	(120)	(140)

The lack of a significant difference of opinion on the fifth and sixth statements of Table 17 is also noteworthy.

I constructed an experimental Guttman-type scale based on twelve opinion statements for MLAs and ten for the civil service.²⁴ Table 18 displays the results. MLAs are slightly more supportive than civil servants. The Nova Scotia civil service is somewhat more supportive than its Newfoundland counterpart. The scale shows a much more highly dispersed attitude pattern in all four groups than the responses to the direct questions in Tables 5, 6 and 9 would lead one to expect.

VI. Conclusions

It is much too optimistic to expect Ombudsman organizations to become institutionalized in Huntingdon's sense within two years or even six. We are dealing with a process, *i.e.* an organization gradually becomes more accepted and influential in its political environment. Both provincial Ombudsmen were confronted with serious initial challenges from external sources from which neither has fully recovered. Partisan politicians in both provinces saddled the Ombudsmen with onerous problems of credibility, authority and status.

The problems facing the two Ombudsmen are similar, but not identical. It should be easier to find solutions in Newfoundland than

24. The scoring technique is as follows: for every item (statement) "passed" (*i.e.* showing a positive, favourable attitude towards the Ombudsman) a respondent received one point. Points for ten/twelve items were summed and grouped in 4 categories, as shown in Table 18. The scale is really a cumulative scale, utilizing, however, Guttman-type scoring.

in Nova Scotia. In Newfoundland, MLAs are more agreed about the basic premises of the Ombudsman concept than in Nova Scotia. The only impediment to party consensus on the office concerned the partisan background of the Premier's choice. The Opposition remains concerned about Mr. Peddle's performance; if Mr. Peddle can convince the Opposition of his vigorous impartiality, it would remove the only serious barrier to institutionalization. A change of government might achieve the same result.

Doubts about the need for an Ombudsman lingered among Nova Scotia MLAs long after they had established the office. These doubts persisted among a substantial minority of MLAs who eyed the Ombudsman warily as a competitor for their constituents' loyalties and affection. The Ombudsman's initial unsuccessful showdown with the government caused some MLAs who were originally in favour of the concept to see some of its limitations, particularly its lack of authority. Lacking real authority, they argue, the Ombudsman can only act as a government apologist, hardly a state of affairs which the Opposition would support. I am pessimistic about the prospects for resolving this dilemma in the short run owing to the apprehensive attitudes among many MLAs for as long as six years. In the long run, changes in personnel may help solve this problem, but the process of gaining influence and credibility may be further delayed.