

Notes for Remarks

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The Once and Future Ombudsman

It is wonderful to see so many old friends and be back in the family again.

Our theme this morning: "The Once and Future Ombudsman".

It was Tennyson who wrote of the death of Arthur, "*the once and future king*", as Arthur's tombstone proclaimed.

Perhaps the line from Tennyson's poem which is most appropriate today is: "*The old order changeth, yielding place to new . . .*" Unlike King Arthur's mortal fate, however, we as Ombudsman do not need to worry over the text of tombstone inscriptions, or do we?

True, we have a rich institutional history, a more recent past which built a strong foundation.

True, Ombudsmanship is alive and well today and has, I believe, a vibrant and dynamic future.

We who claim dominion over the term "Ombudsman" must read Tennyson as an imperative:

"The old order is changing. It is yielding place to the new."

We live in new times where the President of the US who ran in a campaign that featured Face book and Twitter and now elected, is on the *Tonight Show* with Jay Leno, text messaging from his blackberry.

Changing times - a new generation waiting to be heard. In today's reality, the public is likely to have access to considerable information with which to challenge government, accessing blogs and internet communications. A person with a complaint today may consider whether to go on a talk show or to send an e-mail to an official, expecting a reply in hours or less. A new generation evaluates the quality of design of an Ombudsman's website and its interactivity before deciding if it is worth filing a complaint.

"The old order is changing. It is yielding place to the new" and my thesis is that the Ombudsman institution is also changing. . . again.

History is replete with now defunct institutions which flourished in their time, failed to change, and became obsolete.

We must be open to understanding the nature of the external change in terms of practice and style so we can respond with change about how we work, what tools we need to use.

I think we must also be sure we don't change for change's sake, that we are cautious about change, so the institution and concept remains a vital and sought - after element of good governance.

But I emphasize – we must change if we are to remain relevant and add value.

This is not the first time the Ombudsman has encountered big shifts.

The grafting of the original Ombudsman concept on to the Parliamentary system was a miracle of political architecture and engineering. The shift of the Ombudsman from a role of ensuring that public officials were behaving properly to a role of intermediary and facilitator of disputes was another shift away from an older order.

The role I play as Ombudsman for Toronto is one of those new developments in Canada. My position was established by the Ontario Legislature through the *City of Toronto Act* which required that the City appoint an Ombudsman and equip that office with the powers and independence of a legislated Ombudsman. I am sure there are many examples of new situations ready for the application of the Ombudsman concept, but the one I want to concentrate on today is that of the Ombudsman as an essential instrument of progressive municipal governance.

I am not the latest incumbent in a time-hallowed institution. I am starting from scratch – every single thing I do is “for the first time”. I do not have tradition to call upon to support the amount of budget I will need, the protocols with Council and the city's public service, nor how the Ombudsman's office fits in with the City's complex system of committees, public corporations, authorities and boards.

The structure of the city itself is in a state of evolution as the result of six cities and a metro government amalgamating ten years ago. Like no other order of government, the City has no party system creating challenging dynamics of discipline, consistency and governance. At the same time, this is the 5th largest government in Canada with a public service of over 52,000 employees and 45 legislators.

In this cauldron of change, there is so much potential in the “yielding to the old order and creating the new” so that the Ombudsman concept both thrives and goes far beyond issues of administrative justice. The situation calls upon the Ombudsman concept to fully develop its capacity also to be an instrument which meaningfully connects “the people” - especially vulnerable and marginalized peoples -- on their own turf -- with powerful institutions including governments.

The public served by the Toronto Ombudsman, as compared to the Ontario Ombudsman, is exceedingly diverse, urbanized, and living with a very high population density: 2.6 million people living in a geographical area a ninth the size of Prince Edward Island.

I submit these realities change the very nature of traditional Ombudsmanship.

I mentioned diversity.

Half of the public served by my Office were born outside Canada, a third use in their homes one or more of 140 languages other than English. 36% of all immigrants living in Ontario are in Toronto. 20% of all Canadian immigrants live in Toronto.

These are significant statistics for an Ombudsman to take into account, since it means that the chances are that a person with a complaint was dealing with a city public servant of a very different cultural background, with differing expectations of what should have happened, and what now should happen to end the dispute. It has significant implications for the setting of “fairness standards” and equitable service delivery.

There is another difference for a municipal Ombudsman. No order of government plays a more direct role in peoples’ daily lives than municipalities. City governments deal with local transportation, the water we drink, potholes, graffiti. They collect our waste, provide for daily recreation, deal with streets and sewers, public health, economic development. There are urgent issues of homelessness, urban renewal and youth recreation in Toronto. City councilors are closer, more accessible, better known than one might find at other levels of government.

Public servants are neighbours, and themselves part of “the public”, It is our neighbours who make the city work as they plow snow, pick up trash, take applications, care for children, provide security.

Put these three factors together –

- close personal, more frequent relationships of city government with its residents,
- greater diversity and density of people,
- greater involvement of city government in people’s daily lives

They all offer greater opportunity for mistakes to be made and for unequal treatment to occur.

There are more factors involved around which to determine how equity should be offered, to determine when inequity has taken place. Power, privilege and attitudes function to create policies, practices and processes that often alienate and exclude those of us who are not “in power”, those of us “without influence”, those of us not at the table, those of us unable to exercise our rights in ways that will be heard or acted on.

In Toronto, with our demographics, this requires critical attention. We cannot leave whole sectors of our communities out in the cold. Soon after the Toronto public was informed of my appointment, I had over a hundred complaints which would have been on my desk if I had had a desk and before I had a published telephone number. I believe this speaks to the way municipal issues literally hit close to home.

It speaks clearly to the fact that people in Toronto want to be heard when and as complaints and issues arise. expect the Toronto public will expect from their Ombudsman what they expect of city government generally – easy access, rapid response, and treatment which demonstrates great sensitivity to each person’s prescription as to the way things should be in their own part of Toronto – from their own point of view, of course.

Another area which is unexplored territory is the difference in roles of provincial legislatures and City Councils. The difference I refer to is this: Provincial governments concentrate on lawmaking and political decision-making; City Councils not only have these same functions but they are also frequently involved in administrative functions and decision-making. We usually assume that administrative decisions are reviewable to determine if administrative justice has prevailed.

Does this mean that a municipal Ombudsman may have jurisdiction over aspects of the legislative branch in a way which is currently not at all common?¹

For decisions which are political, of course, it is the electorate to whom accountability is owed, and it is the electorate to do as it sees fit. My commitment, my hope, my expectation is that with the assistance of an Ombudsman to even the playing field in resolving complaints, the City of Toronto will be better administered and that all segments of the population, of communities - will feel that they have a voice, that their voice will be heard, and that they are empowered to participate in creating change.

Thank you for your attention.

¹ For example, a City Committee of Council decides to allot priority arena time to teams who belong to the Soccer Association, meaning non-member teams may not get any ice time, is this an administrative decision which would bring it within the Ombudsman’s jurisdiction, or is it a political decision outside the Ombudsman’s reach?