

OMBUDSMAN OF BRITISH COLUMBIA

Special Report No. 4

to

*The Legislative Assembly
of British Columbia*

**CERTIFICATE OF THE
ATTORNEY GENERAL**



April 21, 1982

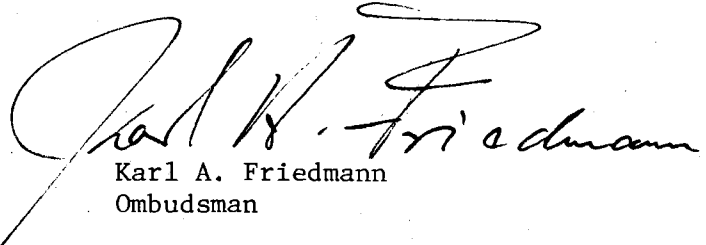
The Honourable Harvey W. Schroeder
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings
Victoria, British Columbia

Mr. Speaker:

It is my duty under Section 17 of the Ombudsman Act, R.S.B.C. 1979, chapter 306, to report to the Legislative Assembly that the Attorney General has exercised the powers conferred on him by Section 17 of the Ombudsman Act. The Attorney General has made such a certificate.

In accordance with Section 30(2) of the Ombudsman Act, I now make a special report to the Legislative Assembly. I have attached in the appendix to this report my correspondence with the Ministry of the Attorney General and other related documents.

Respectfully yours,



Karl A. Friedmann
Ombudsman

OMBUDSMAN OF BRITISH COLUMBIA

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I. INTRODUCTION

Horse racing and betting are not very often associated with the search for administrative justice. Yet several people associated with the horse racing industry have appealed to me as Ombudsman to investigate two grievances:

- (1) That a government report on horse racing ought to be accessible to them, and
- (2) that an official commitment made to release that report to the public was not kept.

People associated with the horse racing industry are deeply affected by government regulation. They also happen to be free-spirited people playing in high stakes financially, dedicated with single-minded determination to this sport. What the government does in regulating their sport is important to them: it will affect enjoyment of their sport and their purse. They recognize the need for government involvement in the sport and the industry, but they expect government to be fair. Sport without fairness is not sport. It comes naturally to expect fair play from government.

In March 1979 the then Attorney General, the Honourable Garde Gardom, announced that he had started "a complete review of the horse racing industry in British Columbia". A committee of officials from three ministries would "review and assess all issues". Briefs from several clubs and associations had been submitted.

One year later the press reported the completion of the study on the horse racing industry and quoted the present Attorney General, the Honourable Allan Williams, as stating "I will discuss it with my people, probably this week, and it will be made public".

The committee report was not made public and my complainants did not gain access to it. Three individuals complained to me independently of each other in 1980 and 1981.

It is my duty, under section 22 of the Ombudsman Act, to form an opinion on the merits or lack of merits in a complaint after completing an investigation. I obviously cannot form such an opinion without an investigation: I must know all the facts relevant to the decisions complained about. My most elementary task, therefore, is to gain a full appreciation of the facts pertinent to the complaint.

In this particular case an investigation would seek to determine the nature and status of the report in question; whether reports of this kind are or are not normally made public; whether or not those who made some

input to the study would have some access to the report even if it was not generally published; whether or not a commitment had been made by government representatives to publish the report or to give interested groups and individuals access to it; and finally, if there was such a commitment, what reasons were advanced for the government's decision not to fulfill that commitment. Without such information I cannot decide whether the complaint is substantiated or not substantiated.

Section 15 of the Ombudsman Act gives me broad powers of access to relevant information, and it is my right and duty to determine which information, documentation or evidence I seek. The Ombudsman Act also gives the Attorney General in section 17 certain rights to make a certificate:

"17. Where the Attorney General certifies that the entry on premises, the giving of information, the answering of a question or the production of a document or thing might

- (a) interfere with or impede the investigation or detection of an offence;
- (b) result in or involve the disclosure of deliberations of the Executive Council; or
- (c) result in or involve the disclosure of proceedings of the Executive Council or a committee of it, relating to matters of a secret or confidential nature and that the disclosure would be contrary or prejudicial to the public interest,

the Ombudsman shall not enter the premises and shall not require the information or answer to be given or the document or thing to be produced, but shall report the making of the certificate to the Legislative Assembly not later than in his next annual report."

The Attorney General has issued such a certificate in this case. The certificate was issued on June 5, 1981, suspended at my suggestion by the Attorney General shortly after that, and reinstated by him on March 4, 1982.

It is important to note that the Attorney General cannot, under the terms of section 17, order that I cease investigating a complaint. He can only certify that certain information or documentation may not be requested by the Ombudsman. It is conceivable with some complaints that my investigation could continue and that I might reach a conclusion on the merits of such complaints even though the Attorney General's certificate put part of the information outside my purview. However, in this case I am unable to continue my investigation because the Attorney General's blanket certificate has put all information beyond my lawful inquiry. Under these circumstances I am unable to gather the necessary information and unable to form an opinion on the merits of the complaints before me.

I now report the making of this certificate to the Legislative Assembly, as is my obligation under section 17 of the Ombudsman Act. Ombudsman legislation in other provinces and in Commonwealth countries confers similar certification powers on the respective Attorneys General.

According to my information the certificate issued by the British Columbia Attorney General in the present case is the first such certificate made in the fifteen year history of Ombudsmen in Canada and indeed the first use

of such a power in the twenty year history of Ombudsmen in Commonwealth countries. The following is a full account of the events leading up to the certificate, and my observations, for the information of the Legislative Assembly.

II. OFFICIAL COMMITMENTS AND THE COMPLAINTS

As related above the then Attorney General, the Honourable Garde Gardom, had announced in March 1979 the formation of a study committee to examine the horse racing industry in British Columbia. My first complainant stated:

"The Attorney General and other Cabinet Ministers plus members of the study group advised that the study would be made public. Now we are told they may not release it to the public. As a taxpayer and concerned citizen, I would respectfully ask you to secure a copy for me."

A second complainant wrote to me in June 1981 as follows:

"I am writing to you as a taxpayer, breeder of horses and owner, with respect to the Provincial Government's Public study into the horse racing and breeding industry. At the Public Meeting at the Hotel Vancouver in December of 1979, we were told it would be made available in early 1980. We cannot get a copy. Can you help?"

A third complainant made a similar request later in June 1981, referring to "the Public study into the Horse Racing Industry of 1979 and early 1980". He mentioned the unsuccessful efforts of the Breeders' Society and certain of its members to get a copy of the report on The Horse Racing Industry.

Enclosed with the first complaint was a March, 1979 press release issued by the Attorney General, announcing the study (Appendix A) and a February 14, 1980 press clipping quoting the Attorney General, the Honourable Allan Williams, as saying that the report was completed and would be made public (Appendix B).

All three complainants stated that they were firmly convinced that various Ministers and government officials had committed themselves to making the results of the study public. The Minister of Deregulation had written to the B.C. Thoroughbred Breeders' Society on April 26, 1979, closing his letter with this statement:

"On completion of the report, contents will be made public."

The members of the industry were invited to "Public Hearings on the Horse Racing Industry in British Columbia". Briefs submitted were "available for viewing at the Race Commission offices" prior to the public hearings in December 1979.

The Secretary of the Study Committee wrote to those who had made a contribution to the public hearings soon after the hearings as follows:

"The Committee members of the Horse Racing Study have asked that an expression of appreciation be passed along to you for the information presented at the recent Study Hearings at the Hotel Vancouver. The manner of presentation and the content of all the briefs were very impressive and informative.

The Committee is currently studying the presentations with a view of preparing a report for the provincial government before year end. You will be informed immediately of all results or future activity in connection with this Study."

My complainants took that last sentence as a clear and formal official commitment to make the Study Committee's findings and recommendations public. They also stated that they recalled similar commitments made to them orally at the Public Hearings.

III. OMBUDSMAN'S EFFORTS TO OBTAIN RELEVANT INFORMATION FROM THE
ATTORNEY GENERAL

On October 24, 1980, I notified the Deputy Attorney General of my decision to investigate the first complaint (Appendix C). On November 7, 1980, an Assistant Deputy Minister responded to my notification letter (Appendix D). He described the study committee as one which reported to the Attorney General and was comprised of public servants from the Ministry of the Attorney General, the Ministry of Finance and the B.C. Racing Commission, all of which we already knew. He further volunteered that subsequent to the report of the committee, the Horse Racing Tax Amendment Act, 1980 was introduced. He went on:

"With respect to the specific report mentioned by [the complainant] it must be understood that this was an internal study conducted for the Attorney General pertaining to his responsibilities to administer the Horse Racing Act in the Province. The report was prepared by government officials for the Attorney General's use. There was no undertaking, at the commencement of that study, that the report would be public. Within the Ministry it is considered that that report is a management report to the Attorney General to assist him in the discharge of his responsibilities under the statute."

On December 23, 1980, my investigator met with the Assistant Deputy Minister to discuss the response from the Ministry. He described, in general terms, the content of the report and the changes to the legislative scheme governing horse racing which are now in place. He stated that briefs had been submitted to the study committee from interested groups. He attempted to explain the position of the Minister concerning the release of the report.

Although the question of what official commitments had been made about the release of the report was an important aspect of the complaint, I felt that the issue ultimately was whether the report was or was not of the type that could and should be released. The Ministry's position at this point appeared to be that the report was an internal document, prepared for a Minister and confidential. To form an opinion about the merits of the complaint and the Ministry's position I would have to review the source documents - beginning with the study committee's report and the files concerning it.

In the first weeks of January 1981, several unsuccessful attempts were made by telephone to arrange for my access to these papers. On January 21, 1981, my investigator wrote to the same Assistant Deputy Minister requesting that he make arrangements for providing the information (Appendix E). He responded by saying he would be pleased to meet again and discuss the report (Appendix F). His office was contacted to clarify that it was not a meeting that had been sought. Rather, it was production of the documents which had been requested.

On February 5, 1981, the Assistant Deputy Minister forwarded a memorandum stating that the report was one "prepared by senior government employees for the express consideration of the Attorney General" and he was "not disposed, nor empowered, to release reports prepared in confidence

for a Minister of the Crown" (Appendix G). It appeared to me that whether the Assistant Deputy Minister was disposed to release information was quite irrelevant. What would have been relevant was an argument made under the terms of the Ombudsman Act that either I had no jurisdiction to investigate the complaint, or that my right to require a person to furnish information relating to an investigation had been superceded. No such argument had been made. It seemed at this stage that the Ministry was obscuring the distinction between the subject of the complaint - whether the report should be released to the complainant and whether a commitment had been made to release the report - and the Ombudsman's authority to obtain documents for the purpose of conducting an investigation.

On February 16, 1981, I sent a formal request to the Assistant Deputy Minister for the report and the relevant Ministry files (Appendix H). The report was sent but not the files. The Assistant Deputy Minister informed me that he had discussed the matter with the Attorney General who was of the view that the report was prepared "in anticipation of deliberations by the Executive Council", and was therefore the type contemplated by section 17 of the Ombudsman Act (Appendix I). This appeared to be a new argument. However, the Attorney General did not at that time, issue a certificate under section 17 of the Ombudsman Act, and I received the report from the Assistant Deputy Minister with the

advice that the Attorney General felt that my assessment of the report would clearly show that

"disclosure will be of no assistance in dealing with your investigation for [the complainant], and moreover, disclosure will not usefully serve the general public interest."

I was asked to respect the confidentiality of the report.

There were several aspects of this short letter which disturbed me.

First, to refer to section 17 of the Ombudsman Act and to produce the report seemed contradictory. Second, if what the Assistant Deputy Attorney General meant by "disclosure" was the release of the report to the complainant, then I was concerned that his statement reflected a basic misunderstanding of my investigation process. I had reached no decision about the merits of the complaint. At this stage no findings had or could be made on whether the complaint was substantiated or not. Even if I decided eventually in favour of the complainant's position my only action would take the form of a recommendation that the Ministry, not I, release the document. Such a recommendation would have been placed before the Attorney General for his decision.

Third, I found that I could not accept, without further investigation, the Ministry's unsupported contention that disclosure would not serve the public interest. This was part of the issue I had to determine.

I could not envisage coming to any informed decision - as is my duty under section 21 or 22 of the Ombudsman Act - without seeing the relevant information and establishing what the facts and merits of the particular case were.

Therefore, on March 9, 1981, I repeated my request for the Ministry files connected with the study committee. I asked for them by return mail (Appendix J). After I received no response to the letter and to a telephone message, I once again sent a formal request on March 30, 1981 (Appendix K). The next day, I learned from the Executive Director of the Civil Law Section of the Ministry of the Attorney General, that the Assistant Deputy Minister had referred the matter to him. He stated that the Ministry was in the process of "requesting confirmation from the Attorney General that he would issue a certificate under section 17 of the Ombudsman Act respecting the report and any information or files connected with it." He advised that he should be in a position to respond by April 6, 1981 (Appendix L). I expressed my concerns by return mail (Appendix M).

By April 7, 1981, with no response of any kind, I phoned the Executive Director to seek an explanation and was told the file was no longer on his desk. I received written confirmation to that effect on the same date (Appendix N). I wrote to the Attorney General on April 13, 1981 setting out briefly the history of the matter and expressed my concern

that after six months and repeated requests, there had been neither production of the documents, nor a decision on certification. I asked for a speedy decision so that if the files were to be produced, my investigation could continue (Appendix O). Having no response, I wrote again on April 24, 1981 (Appendix P). On June 2, 1981, still without a reply, a certificate, or other lawful justification before me to obviate what would otherwise constitute an offence under the Ombudsman Act, I decided to have one of my staff members go to the Attorney General and request the information in person. However, in a meeting held that same day with senior staff of the Ministry on other matters, this case was discussed. A commitment was made that a response would be forthcoming within 48 hours.

On June 5, the Attorney General certified that the production of the report or any information connected with it might result in or involve the disclosure of deliberations of the Executive Council. His letter stated:

"It is clear that the study undertaken by the committee of government officials into the horse racing industry, and the report of that committee were for the sole purpose of the deliberations of the Executive Council into several aspects of the horse racing industry in British Columbia with a view to the initiation of necessary legislative change." (Appendix Q)

I was asked to return the report. I did.

The matter did not end there. At about that same time, I received letters from two other persons with similar complaints as stated earlier in this report.

IV. ATTEMPTS TO CLARIFY THE INTERPRETATION OF SECTION 17 CERTIFICATES

On June 19, 1981, I met with the Attorney General and, as a result of this discussion, he decided to suspend the certificate pending a study by his staff of the scope and application of section 17 in general, and the alternatives to certification in this case (Appendix R & S). While the attached correspondence reveals conflicting recollections of some aspects of the discussion at that meeting, there was a shared view that guidelines for the interpretation of section 17 would be articulated.

I awaited the results of the Attorney General's study. Correspondence in late September 1981 suggested that it would be well into October before I could expect a final position. On October 31, my solicitor was told that the Attorney General had decided to reinstate the suspended certificate. It was not until December 4, 1981 that the Attorney General wrote (Appendix T). In that letter, the Attorney General returned to the position in June: the view that the documents in this case fell within the terms of section 17. The alternatives to the certificate were rejected.

Any results of the Ministry's study of the scope and application of section 17 were not mentioned.

At the close of the letter, the Attorney General stated:

"I trust that this further explanation of my position will clarify any of the aspects of the matter which remain outstanding, and that you will acknowledge that this is an appropriate time to discontinue your enquiries into this subject. If there are matters of concern which you would wish me to receive, I would be pleased to hear from you.

If you are unable to terminate your investigation into this matter based upon the information which you presently have, then I will be left with no alternative but to revive the certification under Section 17 of the Ombudsman Act."

I could not follow the course of action contemplated in the Attorney General's letter. I recognized that if a certificate were issued further investigation and attempts to reach a decision on the merits of the case might be fruitless. However, if I terminated my investigation, it would be because a certificate had actually been issued with the effect of preventing further investigation. I could not cease investigating merely because the Attorney General was of the view that the documents fell within the terms of section 17.

I informed the Attorney General of my position. I also asked the Attorney General to clarify his interpretation of section 17 (Appendix U). The Attorney General's response did not address this issue (Appendix V). Rather, I was again invited to cease my investigation. I did not (Appendix W). On March 5, 1982 the certificate of June 5, 1981 was reinstated. I have now decided that further investigation will not permit me to reach an opinion on the merits of the complaints. Hence my investigation has now been discontinued.

V. COMMENTS

It must be apparent by now that frustration and delay were the hallmarks of this case. However, the central issue raised by this case is the scope of the certification power available to the Attorney General under section 17 of the Ombudsman Act.

This section provides three grounds on which the Attorney General can issue a certificate affecting my power to obtain information: where disclosure might

- (a) interfere with or impede the investigation or detection of an offence;
- (b) result in or involve the disclosure of deliberations of the Executive Council; or
- (c) result in or involve the disclosure of proceedings of the Executive Council or a committee of it, relating to matters of a secret or confidential nature and that the disclosure would be contrary or prejudicial to the public interest.

It is the second ground on which the Attorney General appears to base his action in this case. He has certified that the "production of the report or the giving of information, the answering of a question or the production of a document or thing connected with it might result in or involve the disclosure of deliberations of the Executive Council."

What would "result in or involve the disclosure of deliberations of the Executive Council" is a phrase capable of wide interpretations. Most narrowly construed it would refer to accounts of the actual discussions of the Executive Council. A wider interpretation would include documents which are submitted to Cabinet and become the direct subject of its deliberations. The broadest construction of "deliberations of the Executive Council" would encompass all documents prepared by public servants on matters which subsequently might arise in the discussions of the Executive Council. This could include any study of an issue pursued at any level within a Ministry or even any information connected with such a study. The argument would be that such material had or would contribute (though perhaps not in a positive way or in any great degree) to the formulation of a general Ministry position which had been or would be eventually presented to the Executive Council. It could be argued that disclosing such information, regardless of its remoteness from any position presented in Cabinet, might allow inferences - however speculative - about the discussions of the Executive Council.

I have seen only the report of the study committee on horse racing and therefore cannot comment on the nature of the other documents (files) certified by the Attorney General. Without breaching the confidence I was asked to respect, I can say that the report itself contains no records of the Executive Council, no reference to any deliberations of the Executive Council and no minutes reflecting the input or interplay of Executive Council members.

The Attorney General has stated that the study and report "were for the sole purpose of the deliberations of Executive Council into several aspects of the horse racing industry in British Columbia with a view to the initiation of necessary legislative change". The Ministry had stated earlier the report was prepared for two Ministers in "anticipation of the deliberations of the Executive Council". It has never been claimed that the report was or will be made a formal submission or was placed before the Executive Council. Further, it has never been claimed that, without the report actually being tabled, the Executive Council was apprised of it and/or discussed its contents. More than anything the report of the study committee on horse racing appears to be the product of an interdepartmental task force conducted by public servants.

I have no need or desire to be privy to the discussions of the Executive Council. I must, however, carry out effectively my responsibilities under the Ombudsman Act. In its broadest reading, section 17 could be used to deny to the Ombudsman a large body of government information. This would seriously affect my ability to investigate many of the complaints within my jurisdiction. Recognizing the intent of the Ombudsman Act and the confidentiality of the Ombudsman's investigations, I would have hoped that every effort would be made to limit and confine the use of section 17. However, in this the first instance of certification, it is difficult to determine how section 17 is being interpreted. The Attorney General has provided me with little constructive assistance. What remains of concern to me for the future is the scope which section 17 is to be given.

I now report this matter to the Legislative Assembly as I am obliged to do under section 17 of the Ombudsman Act.

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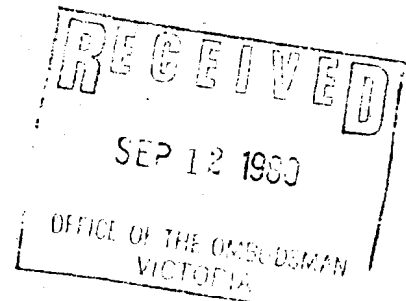
* For ease of reference, the remaining pages are consecutively numbered in the upper right-hand corner of each page.

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MINISTRY OF THE ATTORNEY-GENERAL

FOR RELEASE THURSDAY, MARCH 22, 1979



HORSE RACING STUDY

VICTORIA - Attorney-General Garde Gardom announced the provincial government has undertaken a complete review of the horse racing industry in British Columbia.

Representatives from three ministries: Finance, Economic Development, Attorney-General and the Racing Commission will meet in Vancouver over the next few months to review and assess all issues involved.

Briefs have been submitted jointly to the Government by members from the B.C. Jockey Club, B.C. Thoroughbred Breeders Society and Horseman's Benevolent and Protective Association containing recommendations for incentive awards to B. C. breeders and owners of racehorses, as well as a request for a decrease in the level of taxation on monies wagered at the track.

The Government committee is to examine the implications of varying the level of provincial taxation.

and the applicability of sales tax in transactions involving claiming horses. Often horses are claimed several times in one racing season, and at present are taxed on each sale.

The committee also will review the matter of Sunday racing which is presently prohibited by regulations in the both Municipal Act and the Vancouver City Charter.

Other issues under review will include the length of racing seasons and the setting of racing dates. These aspects of the industry are presently controlled by Cabinet as set out in the Horse Racing Regulation Act. Elsewhere in North America this responsibility is given to the government-run Racing Commission.

Methods of subsidizing owners and breeders and an incentive to improve the quality of their stock and thereby increase public interest in the sport will be included in the study.

At present the B.C. Racing Commission subsidizes racetracks in the interior of the province and on Vancouver Island by returning a percentage of the provincial tax as a grant to aid development of facilities. This program will be examined to determine if some perpetuating mechanism would offer these tracks a better base for long-range plans.

The overlap of federal-provincial jurisdictions governing racing and the extent of regulations administered by the B.C. Racing Commission also will be reviewed.

"I expect this study will give us a realistic picture of the needs of the racehorse industry in British Columbia and an accurate evaluation of its potential as a benefit to the people of the province," stated Mr. Gardom.

The government committee will examine both standardbred and thoroughbred racing throughout B. C. and study comparative information from other parts of Canada and the world.

16 THE COLONIST, Thurs., February 14, 1980

Study of racing industry to be made public soon

A study of the horse racing industry in B.C. has been completed and is in the hands of the government, Attorney-General Allan Williams said Wednesday.

"I will discuss it with my people, probably this week, and it will be made public," Williams said.

The study, conducted by the attorney-general's, finance and industry ministries and the B. C. Racing Commission, was to examine the implications of varying the level of provincial taxation and the possibility of applying sales tax in transactions involving claiming horses.

Often horses are claimed several times in one racing season, and at present are taxed on each sale.

Also under review was Sunday racing, currently banned by the Municipal Act and the Vancouver city charter, the length of racing seasons and the setting of racing dates, and methods of subsidizing owners and breeders to improve their stock.



File No: 80 1161

October 24th, 1980.

Mr. Richard H. Vogel,
Deputy Attorney-General,
Ministry of Attorney-General,
5th Floor - 609 Broughton Street,
Victoria, B.C.,
V8V 1X4.

Dear Mr. Vogel:

I have received a complaint from _____ which appears to affect
your Ministry.

Briefly, _____ contentions are as follows:

On March 22nd, 1979, it was announced by the Ministry of the
Attorney General that a complete review of the horse racing
industry in B.C. would be undertaken. It was stated that
representatives from three Ministries were to meet and that
briefs had been submitted by interested groups. On February
13th, 1980, the Attorney-General was quoted as saying the
report had been completed and would be made public.

_____ alleges that he has recently been informed that
the report will not be released. He feels that as a taxpayer
and concerned citizen he should have access to this report.

The purpose of this letter is to notify you, as required by section
14(1) of the Ombudsman Act, R.S.B.C. 1979, c.306, of my intention to
investigate the matter. At this point I have no opinion as to the
merits of the case, and I look forward to receiving the cooperation
of your staff in obtaining the relevant information.

Mr. Richard H. Vogel

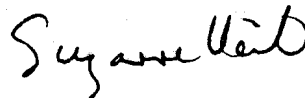
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October 24th, 1980.

To ensure that your Ministry has an opportunity to outline its position on this matter and provide me with any relevant information, I will delay any investigation for two weeks to give you time to respond.

I have asked Lynn Langford of my Victoria office to investigate. Kindly direct your reply to her attention. Please telephone Ms. Langford if you wish to discuss this matter, or the format of your reply, prior to forwarding a written response.

Yours sincerely,



Karl A. Friedmann,
Ombudsman.





Province of
British Columbia

Ministry of
Attorney-General

Fifth Floor
.09 Broughton Street
Victoria
British Columbia
V8V 1X4

OFFICE OF THE
DEPUTY ATTORNEY-GENERAL

RECEIVED
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VICTORIA

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OUR FILE H 250-2
YOUR FILE 80 1161

November 7, 1980

Ms. L. Langford,
Office of the Ombudsman,
8 Bastion Square,
Victoria, B. C.
V8W 1H9

Dear Ms. Langford:

I acknowledge your correspondence of October 24 from the Office of the Ombudsman to Deputy Attorney General Richard Vogel respecting the above matter. To review, in 1979 the then Attorney General announced he would undertake a review of the horse racing industry with the view to determining those actions which government might take to vitalize that industry. A study committee, reporting to the Attorney General, was constituted from staff of the Ministry of Attorney General, Ministry of Finance, and the Horse Racing Commission. That committee produced a report which was referred to the Attorney General and considered by Mr. Williams on his assuming those responsibilities.

Subsequent to receiving that report the government introduced the Horse Racing Tax Amendment Act in 1980 which is aimed broadly at stimulating the British Columbia industry through the reallocation of funds heretofore collected under the paramutual tax. In summary, the bill will provide for an increased level of government support for the British Columbia industry.

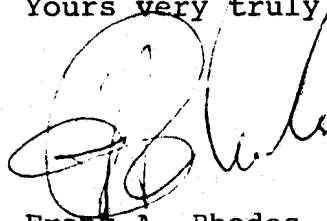
With respect to the specific report mentioned by it must be understood that this was an internal study conducted for the Attorney General pertaining to his responsibilities to adminster the Horse Racing Act in the Province. The report was prepared by government officials for the Attorney General's use. There was no undertaking, at the commencement of that study, that the report would be public. Within the Ministry it is considered that that report is a management report to the Attorney General to assist him in the discharge of his responsibilities under the statute.

- 2 -

Further, the Attorney General spoke to the matter of the Horse Racing Tax Amendment Act in 1980 and has met with representatives of the industry to overview major findings of the report and to detail government intentions with respect to assisting the industry.

I trust this clarifies the situation for you. If however you require any additional information I would be pleased to discuss the subject with you.

Yours very truly,

A handwritten signature in black ink, appearing to read 'F. Rhodes', written over the typed name.

Frank A. Rhodes
Assistant Deputy Minister
Support Services

FAR:b



File No: 80 1161

January 21st, 1981

Mr. Frank A. Rhodes
Assistant Deputy Minister
Ministry of Attorney General
5th Floor - 609 Broughton Street
Victoria, B.C.
V8V 1X4

Dear Mr. Rhodes:

Further to the letter of October 24th notifying you of our investigation of _____ complaint and our December 23rd meeting, I would like to review the report prepared for the Attorney General on the horse racing industry and all files and information with the Ministry concerning this report.

I have had some difficulty in reaching you recently. Would you please provide me with this information or contact me to arrange a convenient time and place to review the documents.

Yours sincerely,

Lynn Langford
Senior Investigator



Province of
British Columbia

Ministry of
Attorney-General
OFFICE OF THE
DEPUTY ATTORNEY-GENERAL

MEMORANDUM

To: Ms. Lynn Langford
Senior Investigator
Office of the Ombudsman
8 Bastion Square
Victoria, B. C.

Lynn
Date: January 27, 1981

File:

Your file: 80 1161

Thank you for your memorandum of January 21.
In accord with our meeting of December 23, 1980
I would be pleased for you to attend at my office
and I will discuss the matter of the report
prepared for the Attorney General pertaining to
the Horse Racing Industry in the province. I
cannot recall our having discussed "all files and
information with the Ministry concerning this report."

I would appreciate your contacting my office and
arranging for a meeting at your convenience.

Frank A. Rhodes
Assistant Deputy Minister
Support Services

FAR:b

80-1161-05



Province of
British Columbia

Ministry of
Attorney-General
OFFICE OF THE
DEPUTY ATTORNEY-GENERAL

MEMORANDUM

To: Ms. Lynn Langford
Office of the Ombudsman
8 Bastien Square
Victoria, B. C.

Date: February 5, 1981

I regret that I was absent from the office and did not receive your phone call of today's date. However, I would confirm my previous advice to you with respect to the matter of the report commissioned by the Attorney General with respect to the Horse Racing Industry in the province. That report, as I have indicated on numerous occasions, is one which is confidential to the Attorney General and I am not disposed, nor empowered, to release reports prepared in confidence for a Minister of the Crown. The report was prepared by senior government employees for the express consideration of the Attorney General and I would suggest that if you do not find favour in the response which I have provided that you may wish to undertake direct discussions with the Attorney General.

Frank A. Rhodes
Assistant Deputy Minister
Support Services

FAR:b

cc: The Hon. Allan Williams, Q.C.



Province of
British Columbia

Office of the
Ombudsman

Legislative Assembly
8 Bastion Square
Victoria
British Columbia
V8W 1H9
Telephone: (604) 387-5855
Zenith 2221

File No: 80 1161

February 16, 1981

Mr. Frank A. Rhodes
Assistant Deputy Minister
Support Services
Ministry of the Attorney General
5th Floor - 609 Broughton Street
Victoria, B.C.
V8V 1X4

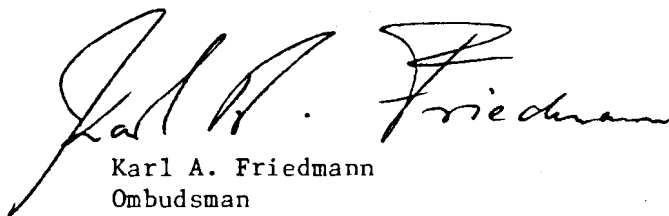
Dear Mr. Rhodes:

The receipt of your February 5th, 1981 memo is acknowledged.

Pursuant to section 15(2)(b) of the Ombudsman Act, R.S.B.C. 1979, c.306, I am requiring that you produce the report prepared on the horse racing industry and any files or information with the Ministry concerning this report.

I shall expect this information to be delivered to my Victoria office by 10:00 a.m., Monday, February 23rd, 1981.

Yours sincerely,


Karl A. Friedmann
Ombudsman

cc: Mr. Richard H. Vogel
Deputy Attorney-General



Province of
British Columbia

Ministry of
Attorney-General

Floor
60-61 Droughton Street
Victoria
British Columbia
V8V 1X4

OFFICE OF THE
DEPUTY ATTORNEY-GENERAL

OUR FILE

YOUR FILE 80 1161

February 20, 1981

Dr. Karl A. Friedmann
Ombudsman
8 Bastien Square
Victoria, B. C. V8W 1H9

Dear Dr. Friedmann:

Re: and the Report
of the Committee looking into
Horse Racing in British Columbia

I acknowledge receipt of your letter of February 16 with respect to the above matter.

I have discussed this issue with the Attorney General. It is the Attorney's view that the Report of the Committee looking into Horse Racing in British Columbia is of the nature of reports contemplated by Section 17 of your Legislation as it was prepared for the Attorney General and Minister of Finance in anticipation of deliberations by the Executive Council.

However, the Attorney is of the view that your personal assessment of the report will clearly indicate that disclosure will be of no assistance in dealing with your investigation for and moreover, disclosure will not usefully serve the general public interest. Accordingly, the report is made available for your information only and the Attorney has requested that you respect the confidentiality of this document.

I trust you find this satisfactory.

Yours very truly,

Frank A. Rhodes
Assistant Deputy Minister
Support Services

FAR:b
encl.
cc: Hon. Allan Williams, Q.C.

Mr. Frank A. Rhodes

- 2 -

Section 31(b) states:

A person commits an offence who, without lawful justification or excuse, refuses or intentionally fails to comply with a lawful requirement of the Ombudsman or another person under this Act."

I shall expect you to deliver this information to my Victoria office on Tuesday March 31st, 1981 at 11:00 a.m. At that time I shall wish to discuss with you the reason why I have received no response.

Yours sincerely,

"SIGNED BY"

Karl A. Friedmann
Ombudsman



Province of
British Columbia

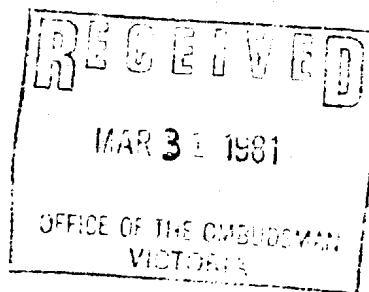
Ministry of
Attorney General

Legal Services to
Government
Parliament Buildings
Victoria
British Columbia
V8V 1X4

BY HAND

March 31, 1981

0140-3



Dr. Karl Friedmann
Ombudsman
8 Bastion Square
Victoria, B. C.
V8W 1H9

Dear Dr. Friedmann:

Re: and the Report of the
Committee Looking into Horse Racing in B.C.

Mr. Frank Rhodes has referred your letters of March 9 and March 30, 1981, addressed to him in the above matter to me.

It is the position of the Attorney General, communicated to you on February 20, 1981, by Mr. Rhodes, that the Report of the Committee as well as information or files connected with the Report, being the documents which you requested in your letter of March 30, 1981, are of the nature contemplated by section 17 of your legislation as they were prepared for the Attorney General and the Minister of Finance in anticipation of deliberations by the Executive Council.

We are in the process of requesting confirmation of the Attorney General that he would issue a certificate under section 17 having the result that the Ombudsman shall not require the Report, the information to be given or the documents to be produced. I should be in a position to respond by April 6, 1981. I trust you will be prepared to give us the time to receive the Attorney's instructions in the face of your demand for this information by Tuesday, March 31, at 11:00 a.m.

In the future please address all correspondence in this matter directly to me.

Yours truly,

Norman J. Prelypchan
Executive Director
Civil Law

NJP:md



April 7, 1981.

DELIVERED BY HAND

O 140-3

Dr. Karl Friedmann
Ombudsman
8 Bastion Square
Victoria, B.C.
V8W 1H9

Dear Dr. Friedmann,

Re: and the Report of the
Committee Looking into Horse Racing in B.C.

I wish to confirm our telephone conversation in which I advised you that I was not being obstructionist in replying to your request for information of March 31, 1981.

As I had indicated to you in my letter of the same date, I have presented Mr. Rhodes' position to the Attorney General requesting confirmation that he would issue a Certificate under Section 17.

I have spoken to him today and he is still deliberating on whether the Certificate should be issued.

Please feel free to contact the Minister directly if you have any reason, further, to question the veracity of what I have indicated in correspondence between us.

Yours truly,

Norman J. Prelypchan
Executive Director
Civil Law

NJP:ml

c.c. The Honourable Allan Williams, Q.C.
Mr. Frank Rhodes



Province of
British Columbia

Office of the
Ombudsman

Legislative Assembly
Chestnut Square
Victoria
British Columbia
V8W 1H9
Telephone: (604) 387-5855
Zenith 2221

April 13th, 1981

The Honourable Allan Williams
Attorney General
Parliament Buildings
Victoria, B.C.

Dear Mr. Williams:

Re: _____ and the Report of the
Committee looking into Horse Racing in B.C.

In the attached letter, I notified your Ministry on October 24th, 1980, of a complaint I received from _____ and my decision to investigate the matter. Mr. Frank A. Rhodes responded on November 7th and discussed the background to the report. He claimed that it was an "internal study conducted for the Attorney General pertaining to his responsibilities to administer the Horse Racing Act in the Province."

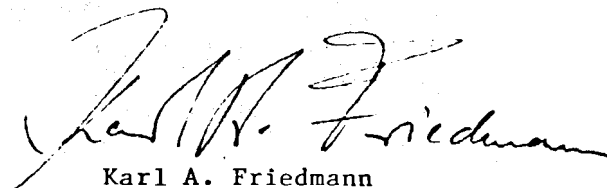
My investigator met with Mr. Rhodes on December 23rd. Following unsuccessful attempts to contact Mr. Rhodes after that meeting, my investigator wrote to Mr. Rhodes on January 21st, asking for an opportunity to review the report and all information and files concerning it. Mr. Rhodes responded by indicating he would be pleased to discuss the report. My investigator contacted his office to clarify that it was not a meeting that had been suggested. Rather, access to the information had been requested.

Mr. Rhodes' memo of February 5th, 1981, stated that he was "not disposed, nor empowered, to release reports prepared in confidence for a Minister of the Crown." Whether Mr. Rhodes is or is not disposed to release a report is quite irrelevant. The only relevant question he might raise is whether I as Ombudsman am entitled to see the information under the provisions of the Ombudsman Act. He did not try to argue that I had no right to the information under any specific statute.

Following a formal demand for the report and the files, I received the report but not the files. In the covering letter I was advised that it was your view that the report was "of the nature of the reports contemplated by section 17" of the Ombudsman Act, as it was prepared "in anticipation of deliberations by the Executive Council." I was told that I was given the report because you were of the opinion that it would clearly show that "disclosure will be of no assistance in dealing with (my) investigation for Mr. , and moreover, disclosure will not usefully serve the general public interest."

I cannot envisage coming to any informed decision about the merits of Mr. complaint without seeing all the information available. I have been provided with the report. I requested that Mr. Rhodes have the files in my office by March 30th. Mr. Prelypchan intervened and requested time until April 6th. I sent a further letter to Mr. Prelypchan on March 31st to request an explanation of this further delay. My letter remained unanswered and I had to phone Mr. Prelypchan on April 7th to seek an explanation. He claimed the matter was no longer on his desk and the matter was now before the Attorney General. It has been suggested that you are now considering certifying the report and other material. If you do issue a certificate under the terms and reasons laid out in section 17, I, of course, can no longer pursue the production of the information. I am required, then, to make a report to the Legislative Assembly. However, at this point, six months after Mr. complaint to me, there has been neither certification nor production. Although I recognize the constraints on your time, I would appreciate being informed as soon as possible whether a certificate is to be issued, or that the files are to be provided so that my investigation may continue.

Yours sincerely,



Karl A. Friedmann
Ombudsman

Attachment



Province of
British Columbia

Office of the
Ombudsman

Legislative Assembly
8 Bastion Square
Victoria
British Columbia
V8W 1H9
Telephone: (604) 387-5855
Zenith 2221

April 24, 1981

The Honourable Allan Williams
Attorney General
Parliament Buildings
Victoria, B.C.

Dear Mr. Williams:

Re: and the Report of
the Committee looking into Horse
Racing in British Columbia

In my letter of April 13, I outlined my repeated efforts to obtain information from your Ministry in order to pursue my investigation of complaint.

I also requested that you advise me as soon as possible whether a certificate under Section 17 of the Ombudsman Act was to be issued.

As I have had no response, I assume that no certificate has been issued. I, therefore, once again ask that the information be produced.

Yours sincerely,

Karl A. Friedmann
Ombudsman

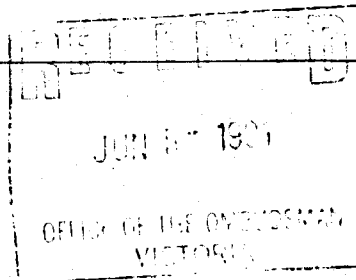


Province of
British Columbia

Ministry of
Attorney General

Government Buildings
Victoria
British Columbia
V8V 1X4

OFFICE OF THE
ATTORNEY GENERAL



June 5th, 1981

Dr. Karl A. Friedmann,
Ombudsman,
8 Bastion Square,
Victoria, B.C.

Dear Dr. Friedmann:

On February 16, 1981 you addressed a letter to Mr. Frank A. Rhodes, Assistant Deputy Minister requiring the production of the report prepared on the horse racing industry and any file or information within the Ministry of Attorney General concerning that report, pursuant to Section 15 (2) (b) of the Ombudsman Act.

Recognizing the importance of the investigations undertaken by you into matters coming properly to your attention, the most careful consideration has been given to your request.

It is clear that the study undertaken by the committee of government officials into the horse racing industry, and the report of that committee were for the sole purpose of the deliberations of the Executive Council into several aspects of the horse racing industry in British Columbia with a view to the initiation of necessary legislative change.

Accordingly I certify pursuant to Section 17 of the Ombudsman Act that the production of the report, the giving of information, the answering of a question or the production of a document or thing connected with it, might result in or involve the disclosure of deliberations of the Executive Council.

Yours very truly,

Allan Williams,
Attorney General



Province of
British Columbia

Ministry of
Attorney General

Constitutional and
Administrative Law
Fifth Floor
609 Broughton Street
Victoria
British Columbia
V8V 1X4

June 25, 1981

Dr. Karl A. Friedmann
Ombudsman
8 Bastion Square
Victoria, B.C.

Dear Dr. Friedmann:

Re: - horse racing report


This will confirm the meeting in the Minister's office on June the 19th attended by the Minister, the undersigned, yourself and Mr. Parfitt. In light of representations made the Minister agreed to consider the section 17 Certificate, dated the 5th day of June, 1981 "suspended" until further study has been carried out. This was found to be an acceptable procedure to all in attendance.

I am to carry out the further study. The general question relates to what situations section 17 of the Act appears to have reference.

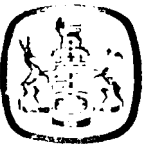
My initial task will be to zero in on the file. I will read the Commission Report and peruse the file to which you desire access. Once I have formed some preliminary views I will meet with Mr. Parfitt to discuss them. A meeting including yourself and the Minister should follow soon afterwards. Hopefully that process will resolve the matter and my attention will then turn to the broader aspects of s. 17 and it is intended that the same meeting process will again be adopted with a view to finding common ground and consensus on the general question pertaining to the scope of s. 17.

I expect to be in a position to meet with Mr. Parfitt on the matter sometime during the month of July.

Yours truly


E.N. Hughes, Q.C.
Barrister and Solicitor
Legal Services to Government

ENH/rb



To: Mr. Ted Hughes, Q.C., July 23, 1981.
 Ministry of Attorney General.

From: Mr. Brent Parfitt,
 Office of the Ombudsman.

RE: Meetings of June 25, 1981 and July 10, 1981

Further to our meetings of June 25 and July 10, 1981, this letter is to review the files to date.

1. _____

We are happy that the Attorney General has "suspended" the section 17 certification of your file. There is some confusion, we feel, over the certification process and the merits of the case.

The certification process under section 17 of the Ombudsman Act is to be used in specific circumstances, i.e., where the production of a document or thing would impede an investigation or detection of offence, result in or involve disclosure of deliberations of the Executive Council or result in or involve disclosure of proceedings of the Executive Council or a Committee of it relating to matters of a secret or confidential nature where the disclosure would be contrary or prejudicial to the public interest. Where one of those issues is at stake, then certification may be the appropriate way to deal with our request.

However, after discussions with the Attorney General, we sensed that he was using certification as a method of protecting crown privilege, i.e., the Minister had indicated to Dr. Friedmann and myself that he felt he had the discretion to decide whether or not to release a report prepared for him on his instructions. This seems to be the main issue in our complaint and is one on which we hope to come to a decision after a complete investigation. However, by using the certification process to certify all documents and files relating to the report, we have no way of addressing the merits of the case.

It is our feeling that certification is not the appropriate way to deal with the matter. Indeed, there may be merit to the Attorney General's argument concerning crown privilege, but we could not make that finding without the necessary information.

One more aspect that should be noted is that the Ombudsman would not be releasing the report in any event, but may recommend, if the facts so indicate, that the Attorney General release the report.

(The remainder of this letter is not included as it is not relevant to this case.)



Province of
British Columbia

Ministry of
Attorney General

Parliament Buildings
Victoria
British Columbia
V8V 1X4

OFFICE OF THE
ATTORNEY GENERAL

December 4, 1981

Dr. Karl A. Friedmann
Ombudsman
8 Bastion Square
Victoria, B.C.

Dear Dr. Friedmann:

This letter is further to my letter to you of June 5, 1981 and the matters which were discussed at our meeting of June 19, 1981.

At the outset I must respond to an apparent mis-interpretation of the matters which we discussed on June 19, 1981. Mr. Brent Parfitt, who attended that meeting with you, wrote to Mr. Ted Hughes, Q.C., on July 23, 1981 and in that communication he said "we sensed that he was using certification as a method of protecting a Crown privilege". I wish it to be clear that this is not the case and I cannot recall any remark by me during the course of that meeting which could leave that impression. While I clearly recognize that the Crown privilege exercisable by me as Attorney General is available in many circumstances, I also appreciate that the claiming of such privilege might entitle you to conduct an investigation for the purpose of ascertaining whether or not the privilege was being properly used. In these circumstances, where the elements under Section 17 of the Ombudsman Act exist, such an approach would be clearly fruitless and therefore I am left with no alternative than to exercise the process which the statute provides in a case such as this. I assure you that if the matter had rested upon the Crown privilege, I would have clearly stated that position long ago.

.../2

- 2 -

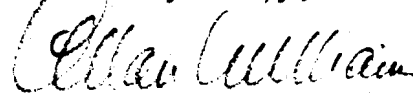
Since our meeting on June 19, 1981, Mr. Hughes of my staff and I have considered your proposal, i.e., that we review our files on this issue and permit you to examine those files up to some point in time which I consider appropriate. Frankly, I find this to be a startling suggestion because it might be perceived that I was inhibiting an investigation which you were undertaking and would leave you in the position of enquiring the basis upon which the particular point in time was selected. Additionally, in view of the position which I have taken with respect to the application of Section 17 of the Ombudsman Act, such a procedure is, in my view, unsupportable.

When I wrote to you on June 5, I set out the nature and purpose of the study and I emphasized that the report of the committee was for the sole purpose of deliberations of the Executive Council into a number of aspects of the horse racing industry with a view to the introduction of legislative change - particularly in a matter touching upon taxation and Crown revenues. I also must reiterate my statements to you at our meeting on June 19, to the effect that two aspects of the report remain outstanding and are the subject of consideration and discussion between me and Attorneys General in other provinces and with Ministers of the Government of Canada. These discussions have been ongoing for the better part of the last year and, depending on the outcome, will likely necessitate legislation at the initiative of the Federal and Provincial Governments. To this extent, the report and related file material deal not only with deliberations of the Executive Council but with matters of a confidential nature, the disclosure of which, pending the outcome of current discussions and in the light of prospective legislation, would be prejudicial to the public interest.

I trust that this further explanation of my position will clarify any of the aspects of the matter which remain outstanding, and that you will acknowledge that this is an appropriate time to discontinue your enquiries into this subject. If there are matters of concern which you would wish me to review, I would be pleased to hear from you.

If you are unable to terminate your investigation into this matter based upon the information which you presently have, then I will be left with no alternative but to revive the certification under Section 17 of the Ombudsman Act.

Yours very truly,



Allan Williams
Attorney General



Legislative Assembly
Province of British Columbia

OMBUDSMAN

8 Bastion Square
Victoria
British Columbia
V8W 1H9
Telephone: (604) 387-5855
Zenith 2221

January 5, 1982

The Honourable Allan Williams
Attorney General
Room 232, Parliament Buildings
Victoria, B.C.

Dear Mr. Williams:

Re: The complaints concerning the Report of the
Committee looking into Horse Racing in British Columbia

In your letter of December 4, 1981, you state that unless I terminate my investigation, you will revive the certification under section 17 of the Ombudsman Act. I fail to understand in what way the matter rests with me at this point. From my reading of the Ombudsman Act, it seems clear that it is the Attorney General who, in the context of section 17, decides to certify that the Ombudsman cannot require the production of certain information or documentation. It is only after certification occurs, that I as Ombudsman determine whether or not an investigation can continue, given the fact that certain information will not be available for scrutiny.

The decision to certify is yours alone. I cannot, as your letter appears to suggest, accept the responsibility for your decision and terminate my investigation in tacit and informal acknowledgement of the fact that you feel the documents fall within the terms of section 17. To follow such a course would avoid the duty placed upon me by section 17 of the Ombudsman Act: to report the making of a certificate to the Legislative Assembly.

Because I view certification as such a serious step, the grounds for this action should, I feel, be clear and specific. However, some doubt exists with respect to at least two significant points. First, if your decision is to certify, under what subsection of section 17 would you be acting? In your letter of December 4, 1981, you speak of "matters of a confidential nature, the disclosure of which ...would be prejudicial to the public interest" in relation to "deliberations" of the Executive Council. You do not refer to "proceedings" of the Executive Council or a committee of the Executive Council. Should I assume that your statement that the report in question was for "the sole purpose of deliberations of the Executive Council" means that the report was submitted to the Executive Council and discussed and considered as such by that body?

The Honourable Allan Williams

- 2 -

Apart from the central issue of certification of the documents in this matter, you commented in your December 4, 1981 letter on my proposal concerning a review of the file material. I want to clarify my position. This suggestion was made in the context of a discussion in which you informed me both that the certificate you had issued on June 5, 1981 would be suspended, and that you would consider general guidelines for the exercise of your discretion under section 17. My suggestion stemmed from the hope that a more reasonable alternative to a blanket certification of whole files might be found. Obviously, I do not know what the files surrounding the study committee's report contain. However, the press release from your Ministry announcing the commencement of the study states that material was submitted by interested groups from outside the government. I also understand that submissions were made at a public hearing held in December of 1979. If the file contains information of this type, I suggested that individual documents which specifically fall within the terms of section 17 could be excluded and the remainder of the file produced together with a general description of the documents which were deleted.

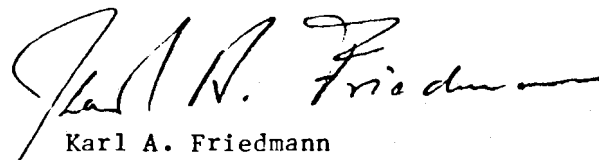
You mentioned in our discussion in June 1981 that you did not like the idea of culling files. I agree with you on that point completely. I must be apprehensive if I am presented with culled files. However, if files contain material which you feel you must certify under Section 17 my preference must clearly be to see at least the remainder of the file in order to determine if a conclusion on the merits of the complaint before me can be reached.

With respect to your comments on confusion between a claim of Crown privilege and certification under section 17, I asked Mr. Parfitt to review his notes of our June 19 meeting. His notes clearly indicate that you expressed concern about your discretion to hold back on publication of a document prepared for you at your request. Hence his comments to Mr. Ted Hughes on July 23, 1981. You have now clarified your position on the issue of Crown privilege with respect to this file.

Finally, I note that your letter only refers to complaint. Since our discussion in June, I have notified Mr. Hughes of two other complaints I received which involve the release of the report and would thus be affected by your decision to certify.

Although I recognize the constraints upon your time, given the fact that this matter has been fraught with delay, I would appreciate a response as soon as possible in January 1982.

Yours sincerely,


Karl A. Friedmann
Ombudsman

Province of
British Columbia

Ministry of the
Attorney-General

Government Buildings
Victoria
British Columbia
V8V 1X4

OFFICE OF THE MINISTER

File No. 0140-3

January 22, 1982

Dr. Karl A. Friedmann
Ombudsman
8 Bastion Square
Victoria, B.C.

Dear Dr. Friedmann:

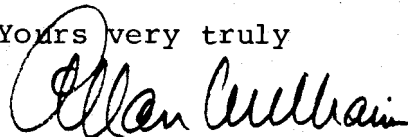
Re: Complaints concerning the report of the committee
looking into horse racing in British Columbia

Your letter of January 5th has been received. It is clear to me that you have either misunderstood or misconstrued the matters discussed at the June 19th meeting in my office. I must reiterate that it was on your suggestion that I consider what portion of the file could be made available to you that I agreed to suspend my certification under s. 17. I have made my conclusion on that question known to you and my reasons for arriving at it.

Let me make it abundantly clear that in my December 4th letter to you, I was not in any manner attempting to pass to you the decision that rests with me with respect to certification. Rather, I was hopeful that my comments might lead you to reconsider your position with respect to this complaint and to then exercise the discretion that rests with you to cease your investigation.

If you are not prepared to now exercise your discretion in the foregoing manner, please let me know.

Yours very truly



Allan Williams
Attorney General

RECEIVED
JAN 28 1982

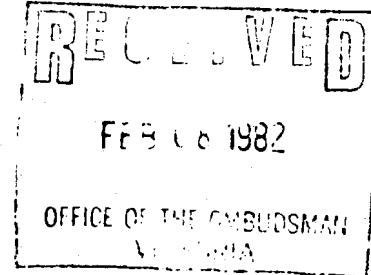


Province of
British Columbia

Office of the
Ombudsman

Legislative Assembly
8 Bastion Square
Victoria
British Columbia
V8W 1H9
Telephone: (604) 387-5855
Zenith 2221

February 5, 1982.



The Honourable Allan Williams
Attorney General
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Mr. Williams:

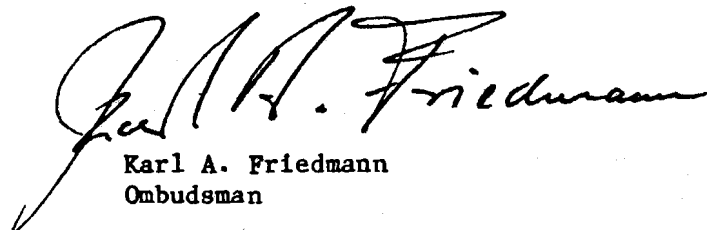
Re: Complaints concerning the report of the committee
looking into horse racing in British Columbia

In response to your letter of January 22, 1982, I am requesting the production of the report and files pursuant to section 15(2)(b) of the Ombudsman Act. The report and files obviously relate to the investigation of the above complaint. Further, as I understand it, no certificate under section 17 is in force.

In addition to the ultimate question of whether the report should be released to the complainants, the complaints also raise a secondary issue for investigation. That is, whether commitments were made by Ministers and public servants to release the report. I am pursuing this issue as well.

I can add no more to the position which I set out in my last letter.

Yours sincerely,


Karl A. Friedmann
Ombudsman

Province of
British Columbia

Ministry of
Attorney General

Parliament Buildings
Victoria
British Columbia
V8V 1X4

OFFICE OF THE
ATTORNEY GENERAL

RECEIVED
MAR 5 1982
at 3:05 p.m.
OFFICE OF THE OMBUDSMAN
VICTORIA

Our file: O 140-3

March 4, 1982

Dr. Karl A. Friedmann
Ombudsman
Legislative Assembly
8 Bastion Square
Victoria, British Columbia
V8W 1H9

Dear Dr. Friedmann:

Re: Complaints concerning the report of the
committee looking into horse racing
in British Columbia

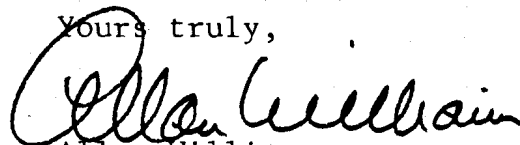
I regret that my January 22 letter of explanation to you has not resulted in the exercise of your discretion in the manner that I had hoped.

The content of my June 5 Certificate issued under section 17 of the Act, discloses the basis on which the certification was made. I reviewed my position at our June 19 meeting and further expanded on it in my December 4 letter to you.

The reasons that prompted me to first issue the Certificate remain as valid today as they did when our respective offices commenced correspondence on this subject.

Your recent communication leaves me no course other than to reinstate the June 5 Certificate which has been under suspension since June 25. Accordingly, that Certificate is now reinstated and thus in full force and effect.

Yours truly,



Allan Williams
Attorney General