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JOHANNESBURG. August, 1953.

COMMENTARY

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EDUCATION

on

TRANSVAAL DRAFT CONSOLIDATING EDUCATION ORDINANCES.

The third draft of the Transvaal Consolidating Education Ordinance is under discussion now by the Provincial Council and for this reason it is as well to sum up the present position and to analyse the gains or losses to teachers, parents and children which have re-sulted from the appointment of the Select Committee. A number of the provisions of the third draft (published 21st May, 1952) are an im-provement on the original draft (published 25th June, 1953).

Powers granted to the Administrator and Director.

An important gain is that the excessive powers originally granted to the Administrator and Director have been slightly curbed.

Specifically, the following provisions should be noted. In Clause (4) (2) (c) of the first draft the Administrator was empowered to prescribe by regulation the manner in which the Teachers' Associations could nominate candidates for appointment to Advisory Boards. In the third draft he is empowered merely to give "direction" to the manner in which the candidates shall be nominated. In Clause 4 (2) (a) The Director was empowered to become the Chairman of an Advisory Board, whereas in the final draft he may only nominate a Chairman, other than himself. Clause 65 of the original regulations gave the Administrator unprecedented powers in that he could make re-gulations for carrying out the provisions of the Ordinance, "the generality of his powers not being limited to the matters provided for in this Ordinance". This clause has been entirely deleted from the third draft of the Ordinance.

There was intense opposition to the powers given to the Director over private schools (Chapter IX) and these too have been somewhat restricted. Clause 102 (3) (a) of the original Ordinance provided that no teacher could be employed by a private school unless the Director approved his appointment and continued service. On the recommendation of the Select Committee this provision no longer applies retrospectively to teachers already in the employ of these schools. It is, however, highly unsatisfactory that all new appointments to private schools have to be approved by the Director.

Another concession is that the original Ordinance made the Another concession is that the original ordinance made the curriculum in a private school subject to the approval of the Director ind this has now been limited to his approval of the "basic" curriculum. Clause 106 (i) of the original draft empowered the Administrator to withhold, reduce or withdraw a grant to a private school if he was in any way dissatisfied with the "conduct, management, tone or policy" of the school, staff or proprietor, but this ridiculous provision has been deleted from the third draft, on the recommendation of the Select Committee Committee.

Teachers' Conditions of Service: Generally speaking the provisions for teachers' conditions of service have been slightly improved in the third draft. Clause 82 of the new Ordinance provides for greater protection to teachers who become redundant and Clause 79 (1) improves the position of fulltime temporary teachers. The stringent regulations with regard to teachers engaging in work outside the Department have been relaxed slightly. (Clause 81).

Married Women Teachers.

The Select Committee states in its Report that strong evidence in favour of the permanent employment of married women teachers was received by them and although they have attempted to provide for the provisions in the third draft of the Ordinance are extremely con-fused. Clause 67 (1) (a) (iii) regularises the practice of employing in a permanent capacity married women who are the breadwinners in the family. Section 87 (a) allows for the teacher who resigns on marriage to reapply for a permanent post, but this is non-pensionable employ-ment. Although, on the recommendation of the Select Committee, the Administrator is empowered to draft regulations to include those for the conditions of service of married women teachers (Clause 121) the right of married women to permanent employment, equality of pay and equality of conditions of service has not been conceded.

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School Boards:

The original draft of the Ordinance provided for the election of School Boards on an individual ballot as in General Elections and required prospective candidates to pay cash deposits on nomination. The Education League, together with other organisations, protested strongly against this and, on the recommendation of the Select Committee, these provisions (Clauses 13 (8) (a) - (d) and Clauses 15 -16 of the original draft were deleted; the postal ballot re-introduced and the provisions for cash deposits eliminated.

The first draft debarred all public servants, Members of Parliament and Members of the Provincial Council from offering them-selves as candidates for School Board elections (Clause 24 (f)) but these provisions have been deleted on the recommendation of the Select Committee. (The restrictive clauses, still apply under the public servi Acts.) An unfortunate change is the provision that a casual vacancy. on a School Board shall be filled by nomination of an alternate by the remaining members of the Board (Clause 30 (1) (b) of the third draft) whereas it was formerly filled by holding a by-election, unless . the vacancy occurred within six months of the date of election of a new Board. We feel that the new clause is unsatisfactory in cases where the vacancies are the result of members resigning because of a disagreement on policy or principle. Such matters should then be tested by an election.

Reference should here be made to another objectionable feature, namely, that "in the interest of education" the Administrator may elect not to divide a district into a ward for the purposes of a School Board election (Clause 10 (1)). In this event a panel of candidates is elected. As the decision is entirely at the discretion of the Administrator there is every possibility of this power being used for political ends. For instance, if there is a minority of political opinion a district, a decision not to divide that district into wards may enable that minority to elect the panel of candidates.

Perplexing Changes: Some of the changes appear to be meaningless. We see no reason why Clause 3 (1) (d) of the first draft which states that the aim of secondary education should be towards the <u>fullest</u> development of the individual pupil's own aptitude, should have been reworded and re-appear in Clause 3 (1) (e) (ii) with "further development" substituted for "fullest development".

Clause 63 (a) of the original version provided for the pay-ment of a bonus to bilingual teachers, but on the recommendation of the Select Committee, this provision has been deleted from the third draft.

Zoning:

The principle of zoning which requires children to attend schools within their residential areas is unchanged, but greater latitude is allowed to the Director in considering appeals. We feel it unfortunate that the reasons which the Select Committee considered the Director should take into account have not been embodied into the Ordinance, namely:-

- (a) the suitability of the curriculum;
- (b) the convenience of access and the avoidance of traffic danger;
- (c) the preference for co-education or for the single-sex
- school;
- (d) the family associations with a particular school; and (e) medical reasons. (Page 7. Report of the Select Committee).

The above-quoted reacons for permitting a child to attend a school outside the residential area are merely summed up in Clause 40 (2) (c) of the third draft in the phrase "(where) the circumstances are exceptional", which does not ensure that the five specific points will be taken into consideration.

Objectionable Features:

Home Language.

On major issues there are many provisions of the Ordinance which are objectionable. The chief, of course, is that the Language provisions re-enact the notorious Language Ordinance of 1949. It is very clear from the Report of the Select Committee that they received a great deal of evidence opposing the segregation of English- and Afrikaans-speaking children into two mutually exclusive groups and the non-recognition of the inalienable right of the parents to choose which language they wished to be regarded as the home language. Despite all the representations made, the Select Committee merely paid lip-service to parents' freedom of choice and left the principle virtually unchanged. It would be difficult to find, in any other Ordinance, a more cynical disregard of parents' rights. The original draft does not allow the parent to make any choice. The third draft, (Clause 57 (2)) now reads as follows:-

> "The parent shall be entitled to choose which of the two languages he desires to be regarded as the home language and the principal teacher shall, if satisfied after investigation as to the pupil's knowledge of the languages . . . determine the language so chosen as the home language of the pupil". (Our italics).

It would perhaps have been more honest to make no mention of the parent than to attempt to cover up by verbiage the fact that the parent is still not entitled to freedom of choice. In addition, the third draft introduces a further disability for the parent. The provisions in the first draft and in the Report of the Select Committee allow a period of 30 days for appeals against the decisions of the Inspectors and the Director with regard to home language. In the third draft this is reduced to ten days.(Clause 57 (4) and (6)). Non-European Education

Another example of paying lip service to a principle is the redrafting of the preamble to Chapter XI, dealing with Native education. The new preamble states that providing education for this section of the community is an urgent and immediate task. The provisions which follow this idealistic talk make it clear that non-European education will remain in as unsatisfactory a position as it has been in the past. It is also important to note that the provisions for the segregation of Coloured and Indian teachers (Clause 10° of the first draft) were reintroduced into the third draft (Clause 82) despite the strong recommendation of the Select Committee to the contrary. In the initial stages of the debate on the third draft the Administrator gave an assurance that these provisions would again be deleted, but vigilance is still required to ensure that this assurance is implemented.

Private Schools.

Despite the small concessions outlined on Page 1, the control granted to the Administration over private schools is extremely disturbing. As we have mentioned, the Director must approve all new appointments to the teaching staff (thus being empowered to debar, if he wishes, the appointment of a leading educationist from overseas). His power to approve the school calendar is unaltered and may be the cause of conflict when he disapproves of a calendar drawn up with regard to the observance of religious festivals. (Clause 105 (3) (v) of the third draft). The provisions of the first draft which excluded all new private schools from grants-in-aid and made it impossible for ex-

The provisions of the first draft which excluded all new private schools from grants-in-aid and made it impossible for existing schools not receiving such a grant to apply for one, are reenacted in the third draft (Clause 106 (a)). This cannot but be designed to ensure that a minimum of private schools will be able to exist and to ensure that very few, if any new private schools

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will be established in the future and that gradually all our educational institutions will be State-controlled under a very rigid system. This ignores entirely the very vital contribution private schools have made to education in the Province, and the way in which they have eased the burden on the seriously understaffed and overcrowded Government schools.

Civic Rights of Teachers.

Here again the Select Committee paid lip service to the principle of civic rights of teachers and, following their recommendations, the third draft incorporates a few concessions. (Clause 83). Teachers are entitled, provided that they do not indulge in party political propaganda in school, to become active and open members of political parties. They are entitled to offer themselves as candidates to Municipal, Provincial and Government bodies, but they must resign on the date when their <u>nomination</u> is accepted. This latter provision nullifies the apparent concession granted. The proposal of the Education League in this connection was that resignation should be required only on <u>election</u>, thus giving teachers full civic rights,

What remains to be done.

The importance of the volume of protests against the original draft of the Ordinance cannot be underestimated. They resulted in the appointment of the Select Committee and numerous improvements were obtained. It is true that on the major issues of home language instruction, parents' freedom of choice, civic rights, freedom for private schools, premanent employment of married women teachers, little, if anything, has been gained, but the authorities have been forced to recognise that public disapproval and opposition exists, and it is only by continued protests and concerted demands that the day will be won for an enlightened and tolerant educational system in the Transvaal.

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TRANSVAAL CONSOLIDATING EDUCATION ORDINANCE FIRST DRAFT SELECT COMMITTEE THIRD DRAFT 25th June, 1952. November, 1953. 21 May. 1953. Definitions: Pg. 8. (xxii) "Private school means a school, Pg. 8. "Private school means class or institution not established or a school which is not a State maintained in terms of Chapter X or XI and school." (xxi) which is attended by 20 or more children of compulsory school going age" CHAPTER I: CENTRAL CONTROL OF EDUCATION: CHAPTER I: CONTROL AND POLICY OF EDUCATION: CHAPTER I: CONTROL AND POLICY OF EDUCATION. 3 (1) (d) No mention of Home Language. 3 (1) (d) "The provincial educational policy shall be planned 3 (1) (d) Ignores mention of so as to provide for a comprehensive educational service and "Home language" recommended to have regard to the general principle of home language in-. by Select Committee. struction that in so far as may be compatible with the economical expenditure of public funds and with the required standard of efficient instruction, children shall be educated in accordance with the wishes of their parents." Advisory Boards: (Constitution of) 4 (2) (a) "The Director or any person nomi-4 (2) (a) " A person nominated by the Director, such person to 4 (2) (a) Recommendation of nated by him (who) shall be Chairman". be Chairman and to remain in office during the pleasure of Select Committee adopted. the Director. " 4 (2) (c) "Three persons who in the opinion 4 (2) (c) Unchanged. 4 (2) (c) Unchanged. of the Admininstrator are thoroughly conversant with ed. conditions in the Tvl." 4 (2) (c) contd. ".. at least one person 4 (2) (c) Recommended deletion of reference to knowledge of 4 (2) (c) Recommendation of shall be appointed on account of his primary school work. Select Committee adopted. special knowledge of primary school work" 4 (4) (a) Appointments for 4 & 2 years. 4 (4) (a) Recommended 5 and 3 years 4 (4) (a) 5 and 3 years 6 (h) Recognition of Teachers Associations 6 (h) Unchanged. 6 (h) Unchanged. -1-

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First Draft.	Select Committee.	Third Draft.
7 (d) <u>Bursaries</u> :	7 (d) Limiting clause that Director shall not grant bursaries for Vocational schools or Universities.	7 (d) Recommendation of Select Committee adopted.
CHAPTER II: LOCAL MANAGEMENT OF SCHOOLS: Establishment and Constitution of Beards. 9 (2) one member appointed on account of "his knowledge and interest in education for coloureds, Asiatics and <u>Natives</u> "	9 (2) Recommended deletion of reference to "natives".	9 (2) Reference to "natives" deleted.
10 (1) Division of districts into wards.	10 (1) Administrator need not divide a particular dis- trict into wards.	10 (1) Recommendation of Select Committee adopted.
	11 (3) Addition: Definition of "electoral division"	11 (3) Adopted.
	12 (d) Addition: Proclomation to be published in one English and one Afrikaans newspaper.	12 (d) Adopted.
13 (8) (a) -(d) Provided for cash deposits.	13 (8) (a) -(d) Deleted.	13 (8) (a) -(d) Deleted.
15 - 16 Arrangements for voting as in General Elections	15 - 16 . Arrangements for postal ballot	15 - 16 : Postal ballot
19. Administrator may set aside "election".	19 Administrator may set aside "nomination & election"	19. "nomination & election"
<u>Jualifications of members of School Boards</u> : 24 (f) Disqualified "any person employed in Public Service, the Railways Admins. or the services as defined in the Public Services Act. (M.P's and M.P.C's).	24 (f) Recommended deletion of this clause.	24 (f) Deleted. Public servants not debarred.
Period of Office of School Board Members: 26 (2) five years	26 (2) three years	26 (2) three years.
Dissolution of Boards: 31 (2) (b) Board may be dissolved if "in opinion of the Director " it fails to perform its duties.	31 (2) (b) Virtually unchanged.	31 (2) (b) Unchanged.
36 (2) Special meetings of Board at request of 3 members	36 (2) At the request of 1/3rd. of members.	36 (2) 1/3rd. of members.
39 (3) (a) "The Director shall transmit to each Board copies of reports, amended if deemed fit by him"	39 (3) (a) Recommended that 'fit' be changed to 'necessary' -2-	39 (3) (a) 'necessary'. Right of Director unchanged.

First Draft.	Select Committee	Third Draft.
36 (5) "All meetings of a board shall be open to the public except when by resolution of the board it re- solves itself into a Committee."	36 (5) <u>Addition</u> : "and the board shall so resolve itself into a committee when considering any report transmitted (by an inspector)or any other matter which it considers should be dealt with confidentially. "	36 (5) Adopted.
Zoning: 40 (2) (c) "The parent of a pupil (refused admittance) may within 30 days appeal to the Director whose decision shall be final".	Principle unchanged. 40 (2) (c) " the parent may appeal to the Director who may, if he is of the opinion that the circumstances are exceptional, set aside such refusal"	Frinciple unchanged. 40 (2) (c) Recommendation of Select Committee adopted.
School Committees: 48 (1) (a)	48 (1) (a) Textual changes.	48 (1) (a) As Select Com.
 Governing & Advisory Bodies: 52	52 Textual changes.	52 do
CHAPTER III: RELIGIOUS INSTRUCTION IN SCHOOLS: (In their Religious education, as in the Cape).	Report the Select Committee recommends the appointment of a	organisers or supervisors of
53 (2) " instruction in Bible history".	53 (2) " religious instruction".	53 (2) As Select Com.
53 (3) Parents who do not want religious instruction	53 (3) Text elaborated.	53 (3) As Select Com.
CHAPTER TY LANCHAGE AND EDUCATION. (The clauses with reg	and to Home I an there instruction have been neverled but the	

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CHAPTER IV. LANGUAGE AND EDUCATION: (The clauses with regard to Home Language instruction have been reworded but the principle is unchanged. The parent does not have freedom of choice. N.B. Remarks of Select Committee in this connection. The machinery for testing children is elaborated.

57 (2) Choice of language - parent not mentioned.	57 (2) <u>Alteration</u> : "The parent shall be entitled to choose which of the two languages he desires to be re- garded as the home language and the principal teacher shall, if satisfied"	57 (2) Adopted.
57 (5) Parent entitled to appeal to Director within 30 days.	57 (3 <u>30</u> days.	57 (4) <u>ten</u> days
57 (7) Appeal to Admin.v. Director within 30 days.	57 (6) <u>30</u> days.	57 (6) <u>ten</u> days.
65. The Admin. may from time to time make regulations the generality of his powers not being limited to the matters provided for in this Ordinance."	65. Recommended that 'ordinance' be changed to 'chapter'.	65. Entire clause deleted.

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First Draft

CHAPTER V: TEACHING STAFF.

Select Committee

Third Draft

66. <u>New Clause</u>: Provisions of this Chapter apply to all schools, except native schools.

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Appointments: Note by Miss M. McLarty, M.P.C. on the provisions in the Third Draft for the employment of Married Women Teachers.

68. Provision for Selection Committee of 3 members.	68. Recommended that all provisions for Selection Committee be deleted.	69 (1) Ignored recommendation and re-introduced Selection Committee of <u>five</u> members.
68 (6) Functions of Selection Committee.		69 (6) Functions of Selection Com. as in first draft.
70 (1) Consideration of Applications.	70 (1) Recommended changes.	70 (1) Recommendations ignored.
76 (1) Temporary teachers.	76 (1) Textual alterations.	76 (1) Adopted.
77 (1) "The Director may appoint any person to occupy a permanent teaching post, to a teaching post not attached to a provincial ed. institution to serve the Department in a manner prescribed by the Director."	77 (1) Textual alterations.	80. As in first draft.
79 (1) (a) Teachers' Salaries. " Provided that the Director in fixing the commencing salary of such teacher may take into account the <u>previous teaching or</u> other experience of such teacher."	79 (1) (a) " may take into account the whole or any portion, according as he may in each case recognise of the previous teaching or other experience of such teacher."	81 (3) As Select Committee.
79 (1) (b) <u>Redundancy</u> :" Provided that if such teacher refuses to accept such other teaching post, he shall be deemed to have resigned and shall have no further claim against the Department".	79 (1) (b) Recommended greater protection for teachers; viz. distinguishes between assist. teachers and Principals & vice-Principals; guarantees salaries in downgraded posts for 2 years; gives teacher right to elect whether to remain at down graded post.	82 (1) (a) (b) & (c) Recom- mendations of Select Com. re Redundancy adopted.

First Draft.	Select Committee	Third Draft.
Clause 109. <u>Segregation of Teachers</u> : Provisions for Coloured teachers in Col. schools, Indian teachers in Indian schools etc. (Chapter X)	109. Chapter X. Recommended deletion of entire clause and stated "the present time (is) inopportune for mak- ing such a radical change". (Pg. 7 of Report).	82 (3) (a) (b) a (c) This clause reintroduced in its entirety in this Chapter.
Responsibilities and Rights of Teachers: 81 (a) "No teacher shall perform or engage himself to perform remunerative work outside the service of the Dept. with the prior permission of the Director."	81 (a) " no teacher shall for payment, gain or other- wise outside his post engage in any work which in the opinion of the Administrator is detrimental to the conscientious performance of his work"	84 (a) (b) As Select Com.
the conclusion that such rights with attendant safeguard	(Pg. 7) "Strong representations on this question were made. Is should be entrenched in the Ordinance". Clause 85 of 3rd ical parties, to stand for election to Municipal, Frov. and st resign when <u>nomination</u> is accepted.	draft adopts the recommend-
84. Married women.	Addition: "Provided further that nothing herein contain- ed shall be construed as precluding a married woman from applying to be appt. permanently as a teacher."	87. As Select Com. but see note by Miss McLarty on Page 4.
•		87 (b) (ii) Appears to nulli- fy protection given to teachers in 82 (1) Medundancy.
86 (b) <u>Miscouduct</u> . "(a teacher who) without the authority of the Director undertakes any private agency or work connected with performance of his duties (shall be guilty of misconduct)".	86 (b) Recommended that this clause be deleted.	89. Clause deleted.
89 (1) Inquiry into misconduct. method of informing teacher.	89 (1) Recommended that teacher be informed in writing.	92. in writing adopted.
92 (2) <u>Leave</u> .	92 (2) (e) Addition: Accouchement leave.	95 (2) (iv) Granted.
CHAFTER VI. COMPULSORY EDUCATION. NO CHANGE.		
CHAPTER VII. ADMISSION OF PUPILS TO PROVINCIAL EDUCATIONAL INSTITUTIONS. NO CHANGE.		
CHAPTER VIII. PUBLIC EDUCATION. NO CHANGE.		
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First Draft.	Select Committee	Third Draft.
CHAPTER IX. PRIVATE SCHOOLS FOR WHITE CHILDREN.		
102 (3) (a) (i) "No person who has not been registered with the Department as a teacher shall be employed or retained as a teacher unless the Director has ap- proved of his appt. or continued service."	102 (3) (a) (i) <u>Addition</u> : "Provided that the provisions of this para. shall not apply in respect of any person who on the date of the coming into operation of this Ordinance is employed as a teacher, unless he ceases sub- sequently to that date to be employed as a teacher."	105 (3) (i) Recommendation of Select Committee adopted.
102 (3) (a) (ii) "the curriculum shall be approved by the Director".	102 (3) (a) (ii) "the <u>basic</u> curriculum shall be approved by the Director."	105 (3) (ii) "basic"
102 (3) (a) (v) "The school calendar shall be as approv- ed from time to time by the Director".	No recommendation.	Nó change.
106 (a) Provides that no pte. schools not receiving grants and no new schools shall be eligible for grants.	No recommendation.	No change.

CHAPTER X. EDUCATION FOR COLOURED AND ASIATIC CHILDREN AND PERSONS. Clause 109 of this chapter (segregation of teachers) re-introduced in 3rd. draft as Clause 82 (3). (See Fage 5). Otherwise no change.

CHAPTER XI. EDUCATION FOR MATIVES. Select Committee Report - Page 7. "It was found necessary to have the whole of Chapter XI. redrafted. The new clause 110 now sets out the general aims more comprehensively, makes explicit provision for the establishment of local controlling bodies and for the recognition of religious and other societies that interest themselves in and assume responsibility for the establishment and maintenance of schools for native children. It was also found necessary to empower the Administrator to make differential regulations appropriate for the various types of schools and their differing conditions. "

The Third Draft incorporates the Select Committee's recommendations in accordance with the above. See also comment on clause 9 (2) of 1st and 3rd drafts. (Page 2).

CHAPTER XII. GENERAL AND MISCELLANEOUS. NO CHANGE.

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ADDENDA. First Draft Definitions:	Select Committee	Third Draft.
Pg. 8 (xxii)		"State school" not defined.
CHAPTER I. CONTROL AND POLICY OF EDUCATION. 3 (1) (d) (ii) Courses for secondary education. Aim shall be "fullest development of the individual pupil's own aptitude"	3 (1) (d) (ii) Idealism toned down. "further develop- ment" substituted for "fullest development".	3 (1) (e) (ii) As Select Committee.
4 (2) (c) Advisory Boards: "Provided that the Adminis- trator may prescribe by regulation the manner in which teachers' Associations may nominate candidates for for appointment in terms of this paragraph.	Unchanged.	4 (2) (c) "Provided that the Administrator <u>may give</u> <u>directions</u> "
10 (1) Districts to be divided into wards.	10 (1) Provides that the Administrator need not divide a ward into a district "in the interests of education".	10 (1) As Select Committee.
CHAPTER II. LOCAL MANAGEMENT OF SCHOOLS. 30 (1) (b) Casual vacancies on School Boards. Provides for by-election unless within 6 months of new election.	30 (1) (b) 4dministrator shall call upon "remaining members to nominate a qualified person"	30 (1) (b) As Select Com.
CHAPTER IV. LANGUAGE AND EDUCATION. 63 (a) Provides for a bonus for bilingual teachers.	63 (a) Recommends deletion of this clause.	Clause dcloted.
<u>CHAPTER V: TEACHING STAFF</u> : 76 (1) Appointment of temporary teachers. Provides that no temporary teacher may be employed for more than 4 con- secutive terms to a particular post without approval of School Board.	76 (1) Recommends that a temporary teacher shall only be removed from a particular post after 4 consecutive terms upon the demand of the School Board.	79 (1) As Select Committee.
<u>CHAPTER IX. PRIVATE SCHOOLS FOR WHITE CHILDREN</u> . 106 (i) "If the Administrator is in any respect dissatis- fied with the conduct, management, tone or policy" of private school, staff or proprietor " he may withhold, reduce or withdraw the grant or make or continue it sub- ject to such conditions or safeguards as he may deem fit".	106 (i) Recommended deletion of this provision.	Delcted.
CHAPTER XI. EDUCATION FOR NATIVES:	110. Preamble mentions principles of native education and urgency of task.	112. As Select Committee.

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