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Reference No E 0468

MR WILSON

cc Dr Walker

Education Bill

I have now read the Bill, and some further points follow. Of the Schedules, I have read only Schedule 2. I am sure that there remain points which we could not pick up without a major exercise and indeed some of those in this list might turn out, on closer examination, to be without substance.

Clause 2

2. Dr Walker has already pointed to the main questions which arise on this Clause. I would only add that the real damage seems to me to be done by the words in line 7 'in relation to each of them' and the reference to 'each key stage' in paragraphs (a), (b) and (c). Taken together these seem to require that all the core and foundation subjects should be compulsory, and subject to attainment targets, right up to the age of 16.

Clauses 3(4)

3. This subsection gives the Secretary of State power to change the National Curriculum by order. You will remember that Ministers were agitated by the possibility that Mr Benn might one day become Education Secretary. Clause 3(4) would apparently make it easy for him to use the National Curriculum provisions for his own purposes, for example by making peace studies a core subject. This also touches on the Prime Minister's fears about over-centralisation.

Clause 27

4. Clause 27(4)(a) exempts capital expenditure from financial delegation and apparently leaves it fully under the control of the LEA. This would appear to give a hostile LEA the power to starve a school it did not like of expenditure necessary to expand or

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even maintain it. But it cannot be said that this is inconsistent with an E(EP) decision (the point was never raised there, although it was referred to in a brief). There was however some doubt expressed at an earlier stage in H.

Clause 33

5. Subsection (6) says that the costs of dismissing staff should not be borne from a school's delegated budget unless the LEA has 'good reason' for deducting it from the budget. This seems to be more general than the provision, which the Prime Minister and Chief Secretary disliked, that the LEA could deduct such costs if it thought that an employment tribunal would find the decision to be unfair rather than if the tribunal actually found it to be unfair. The judgment as to what is 'good reason' is presumably one for the LEA. The provision now in the Bill was mentioned by Mr Baker (in his minute of 12 November) but I suspect that the Prime Minister, preoccupied by the argument about the employment tribunal, did not realise - I did not - that the LEA would be able to refuse to pay redundancy costs where they had good reason on any ground.

Schedule 2

6. Dr Walker has already pointed to the power of an LEA to refuse an appointment in a financially delegated school if they are not satisfied that the proposed appointee meets certain requirements. I would only add that the power to refuse appointment if they are not satisfied that the requirements are met gives the LEA the benefit of a test which is not very stringent because it is negative. It could be made more stringent by giving them the power to refuse appointment only if they are satisfied that the requirements are not met.

7. Paragraph 3 gives the CEO of an LEA the right to attend governors' meetings of a school enjoying financial delegation which discuss appointments. This was not explicit in the discussion at E(EP), which toned down the proposal that governors

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should take account of the CEO's advice to one that they should consider it. Maybe the argument is that the CEO cannot give advice unless he attends the meetings (Clause 34 gives the Secretary of State power to order such attendance in the case of aided schools).

Clauses 47-52

8. These sections seem to me at risk of making the governing body a self-perpetuating oligarchy. The 'first governors' of a GM school are to be the governors of the school when under LEA control, with power to make up their own numbers when necessary, they are to be in a majority on the new governing body, they are to hold office for 5 to 7 years, and the presumption is that future vacancies should be filled by the existing governing body. This might work where the governors themselves decided to opt for GM status, it might not work so well when the decision was imposed on them by a ballot of parents. But, again, it cannot be said that on this point the Bill overturns an E(EP) decision.

Clause 57

9. Apparently there is no provision here or elsewhere that no new collective agreements prohibiting compulsory redundancy or promising compensation in excess of the statutory level should be enforced against any LEA or governing body. E(EP) decided on such a provision on 26 October. The provision would seem to be necessary to protect not just schools opting for GM status but also Inner London boroughs becoming LEAs in place of the ILEA, and polytechnics.

Clause 67

10. There is apparently no reflection here of the E(EP) view (on 21 July) that a GM school could return to the LEA sector only by the vote of an 'overwhelming majority' of Governors and parents, and that the Secretary of State would not normally be willing to change the status of a GM school within the first 10 years.

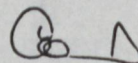
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Clauses 70(3) and (10)

11. These subsections appear to provide that when a GM school decides to become independent - an option the Prime Minister was anxious to maintain for it - a sum equal to the value of its premises should be paid to the LEA. Would not this be a substantial deterrent to opting for this course?

Clause 115

12. The life of the ILEA residuary body does not appear to be limited to 3 years, as E(EP) decided on 28 September.



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Economic Secretariat
9 December 1987