



Indian Residential Schools
Resolution Canada

Résolution des questions
des pensionnats indiens Canada

PROTECTED

Your file votre référence

Our file Notre référence
A-2008-00024 / td

JUL 25 2008

Bill Curry
Parliamentary Correspondent
The Globe and Mail
100 Queen Street, Suite 1400
Ottawa, Ontario
K1P 1J9

Dear Mr. Curry:

This is in response to your request under the *Access to Information Act* received on June 25, 2008, concerning the following records:

"An advisory panel of church and government officials was established in 2007 to study the issue of children who disappeared at IRS and/or may be buried in unmarked graves. This panel was to have issued advice to the Commissioner of the T&R Commission.

I would like copies of all reports and materials provided by this panel to the commissioners of the Truth and Reconciliation Commission.

The search for this request should focus on the period from May 1, 2008 to present."

The processing of your request is now complete. Attached are copies of all the accessible documents (9 pages) you requested. Please note that the TRC Commissioners have not yet discussed the recommendations, nor confirmed any research strategy described in the briefing document. As such, certain information has been severed pursuant to paragraphs 21(1)(a)(b) and (d) of the *Act*. A copy of these paragraphs is attached.


Canada

Please note that under the *Access to Information Act*, you may bring a complaint about the handling of this request to the Information Commissioner within sixty (60) days from the date of this letter. The Information Commissioner's mailing address is:

Information Commissioner
Place de Ville
112 Kent Street, 22nd Floor
Ottawa, Ontario, K1A 1H3.

If you have any questions regarding this request, please contact Thomas Dastous at (819) 934-7180. Please refer to our file number in any communications regarding this matter.

Yours sincerely,


Stewart Cook
Coordinator
Access to Information and Privacy

Encl.

OPERATIONS OF GOVERNMENT

Advice, etc.

21. (1) The head of a government institution may refuse to disclose any record requested under this Act that contains

- (a) advice or recommendations developed by or for a government institution or a minister of the Crown,
- (b) an account of consultations or deliberations in which directors, officers or employees of a government institution, a minister of the Crown or the staff of a minister participate,
- (c) positions or plans developed for the purpose of negotiations carried on or to be carried on by or on behalf of the Government of Canada and considerations relating thereto, or
- (d) plans relating to the management of personnel or the administration of a government institution that have not yet been put into operation,

if the record came into existence less than twenty years prior to the request.

Exercise of a discretionary power or an adjudicative function

(2) Subsection (1) does not apply in respect of a record that contains

- (a) an account of, or a statement of reasons for, a decision that is made in the exercise of a discretionary power or an adjudicative function and that affects the rights of a person; or
- (b) a report prepared by a consultant or an adviser who was not a director, an officer or an employee of a government institution or a member of the staff of a minister of the Crown at the time the report was prepared.

R.S., 1985, c. A-1, s. 21; 2006, c. 9, s. 149.

MISSING CHILDREN & UNMARKED BURIALS: RESEARCH RECOMMENDATIONS

This paper was prepared by a Working Group of multi-party representatives under the direction of the Interim Executive Director of the TRC. Its primary objective was to explore options and make recommendations to the TRC Commissioners on undertaking research into the issue of Missing Children and Unmarked Burials.

ISSUE:

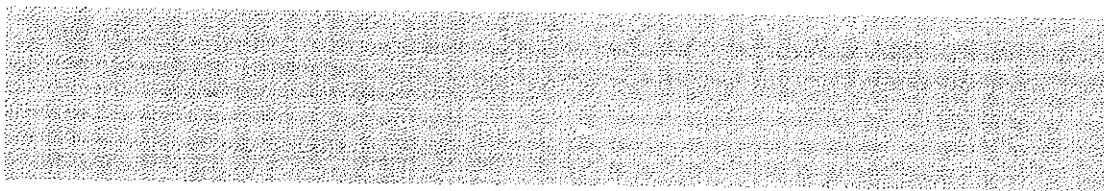
As part of its examination into the history of Indian Residential Schools (IRS), it is recommended that the Truth and Reconciliation Commission

OBJECTIVE:

As part of its five year mandate, the TRC is required to prepare a report on the history and legacy of the IRS experience.

SCOPE:

s.21(1)(a)
s.21(1)(b)
s.21(1)(d)



MANDATE:

- The TRC Mandate (Schedule "N" of the Indian Residential Schools Settlement Agreement) offers the following provisions for undertaking historical research:
 1. The TRC will "identify sources and create as complete an historical record as possible of the IRS system and legacy." [Section 1(e)];
 2. The TRC shall "employ interdisciplinary, social sciences, historical, oral traditional and archival methodologies for statement-taking, historical fact-finding and analysis, report-writing, knowledge management and archiving." [Section 3(a)];
 3. The TRC will present a "report on historic findings and recommendations within two years of the launch of the Commission with the possibility of a six month extension." [Section 8(b):Two-Year Timeline];
 4. "The Commission shall conduct such research, receive and take such statements and consider such documents as it deems necessary for the purpose of achieving its goals." [Section 9];
 5. "Canada and the churches will provide all relevant documents in their possession or control to and for the use of the TRC... subject to and in compliance with applicable privacy and access to information legislations, and except for those documents for which solicitor-client privilege applies and is asserted." [Section 11];
 6. "Canada and the churches are required... to provide access to their archives." [Section 11].
 7. "A research centre shall be established, in a manner and to the extent that the Commission's budget makes possible. It shall be accessible to former students, their families and communities, the general public, researchers and educators who wish to include this historic material in curricula" subject to applicable privacy legislation. [Section 8(b): Five Year Timeline; Section 12];

- While the TRC Mandate offers considerable scope for undertaking historical research, it's ability to undertake formal investigations is limited. The Mandate specifically states that the TRC:
 1. Shall not hold formal hearings, nor act as a public inquiry, nor conduct a formal legal process [Section 2(b)];
 2. Does not possess subpoena powers [Section 2(c)];
 3. Cannot compel participation in any of its activities [Section 2(c)];
 4. Cannot identify a person without their express consent [Section 2(j)];

s.21(1)(a)
s.21(1)(b)
s.21(1)(d)

5. Cannot make findings or express conclusions regarding the misconduct of any person unless such findings or information has already been established through legal proceedings, by admission or by public disclosure [Section 2(f)];
6. Cannot make any reference in any of its activities, report or recommendations of possible civil or criminal liability of any person or organization unless such findings or information has already been established through legal proceedings, by admission or by public disclosure [Section 2(f)].

ANALYSIS:

Overview:

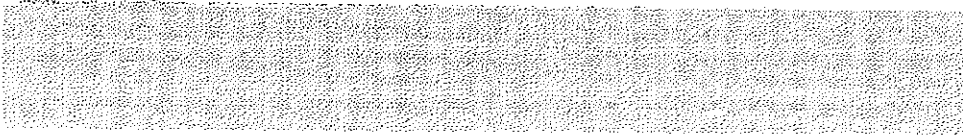
- Questions into incidents of death and disappearance in the residential schools were raised publically in early 2007, although survivors and their supporters have been concerned with these issues for many years.
- In response to questions tabled in the House of Commons, Minister Jim Prentice (former Minister to the Office of Indian Residential Schools Resolution Canada, IRSRC) asked Mr. Bob Watts, Interim Executive Director for the TRC, to form a Working Group to examine the issue and explore options for further research.
- The Working Group is comprised of representatives from major national Aboriginal organizations, a national organization representing former students of Indian Residential Schools, the churches, and the federal government.
- The Working Group also engaged the expertise of Professor John Milloy who was the Chief researcher for the Royal Commission on Aboriginal Peoples on issues pertaining to the history of the Indian Residential Schools. He is also the author of *A National Crime: Canadian Government and the Residential School System, 1876-1986*, (Winnipeg, 1999).
- The Working Group met on a regular basis throughout the summer/fall of 2007 and the winter of 2008.
- During the course of its discussions, the Working Group identified the key questions and priorities which should govern research into the Missing Children issue. It emphasized the need for research to be comprehensive, professional, timely, and sensitive to the needs and concerns of survivors and their families.

s.21(1)(a)
s.21(1)(b)
s.21(1)(d)

s.21(1)(a)
s.21(1)(b)
s.21(1)(d)

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Key Considerations:

Any approach to historical research conducted by or on behalf of the TRC must take into account the following key considerations:

1. Independence:
 - Although it is a government body, the TRC will operate as an independent entity separate from the parties to the Settlement Agreement.
 - The integrity of the TRC's research process will be defined in part by the ability of the TRC to maintain its independence from Canada and the churches.
2. Timelines:
 - The TRC is required to submit its report on the history and legacy of the IRS system two years after the official launch of the TRC.
 - This does not preclude the possibility of further research being undertaken throughout the duration of the TRC's five year mandate.
3. TRC Mandate:
 - The TRC's research methodology must respect the Principles and terms of the TRC Mandate while ensuring the highest ideals of scholarly integrity and cultural sensitivity.
4. Legislative Requirements:
 - The federal Privacy Act defines how federal departments collect, use, disclose and store personal information.
 - Many historical documents and all oral testimony contain information of a personal nature. Consequently, the TRC will need to establish appropriate safeguards to ensure the security of the documentation it collects.
5. Statement Taking:
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- [REDACTED]

6. Historical Documents:

- Canada and the churches have committed to providing the TRC with access to their archives along with all relevant documents in their possession or control subject to applicable privacy legislation.
- Researchers engaged in the Missing Children project will require access to the archives of Canada and the churches.
- Protocols for undertaking archival research will be established by the TRC in consultation with Canada and the churches.

7. Access to Information:

- During the course of its mandate, all information collected by or on behalf of the TRC will be accessible to the public in accordance with the Access to Information and Privacy Acts.
- With the establishment of the TRC's National Research Centre, material created or received by the TRC mandate will be available to former students, their families and communities, the general public, researchers and educators, subject to applicable privacy legislation and any recommendations by the Commission concerning the continued confidentiality of the records.

s.21(1)(a)
s.21(1)(b)
s.21(1)(d)

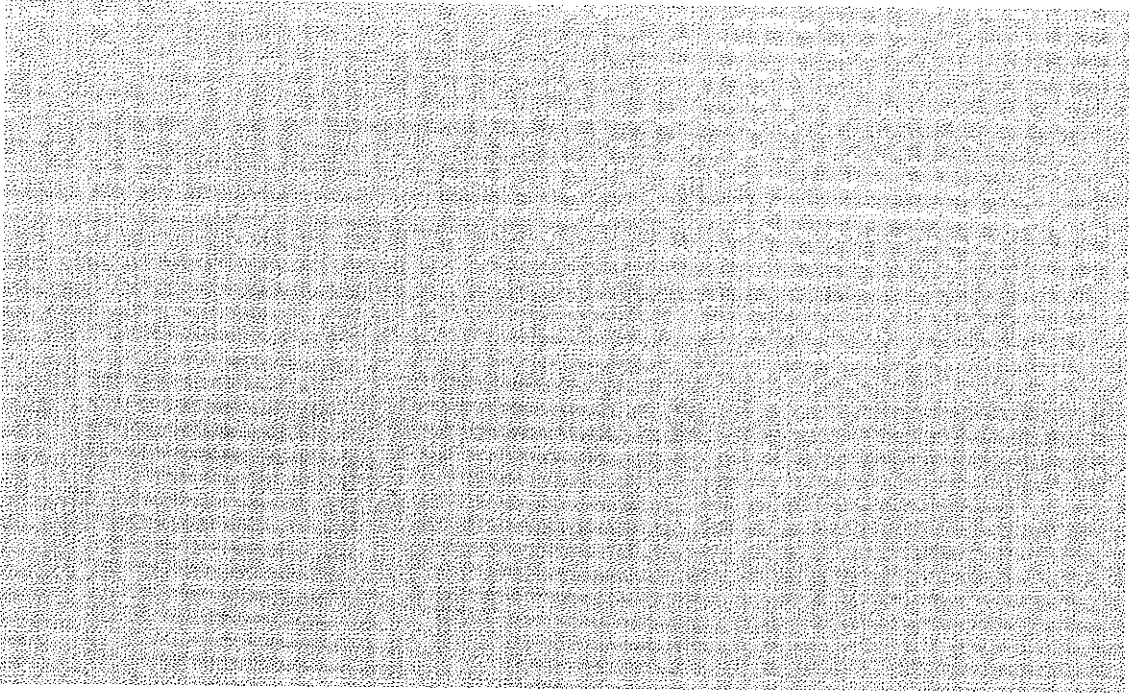
RECOMMENDATIONS:

- Research into Missing Children and Unmarked Burials (to be known as the Missing Children Research project) comprises three distinct components:
 1. Information Collection
 2. Information Storage
 3. Information Analysis

- [REDACTED]
- [REDACTED]

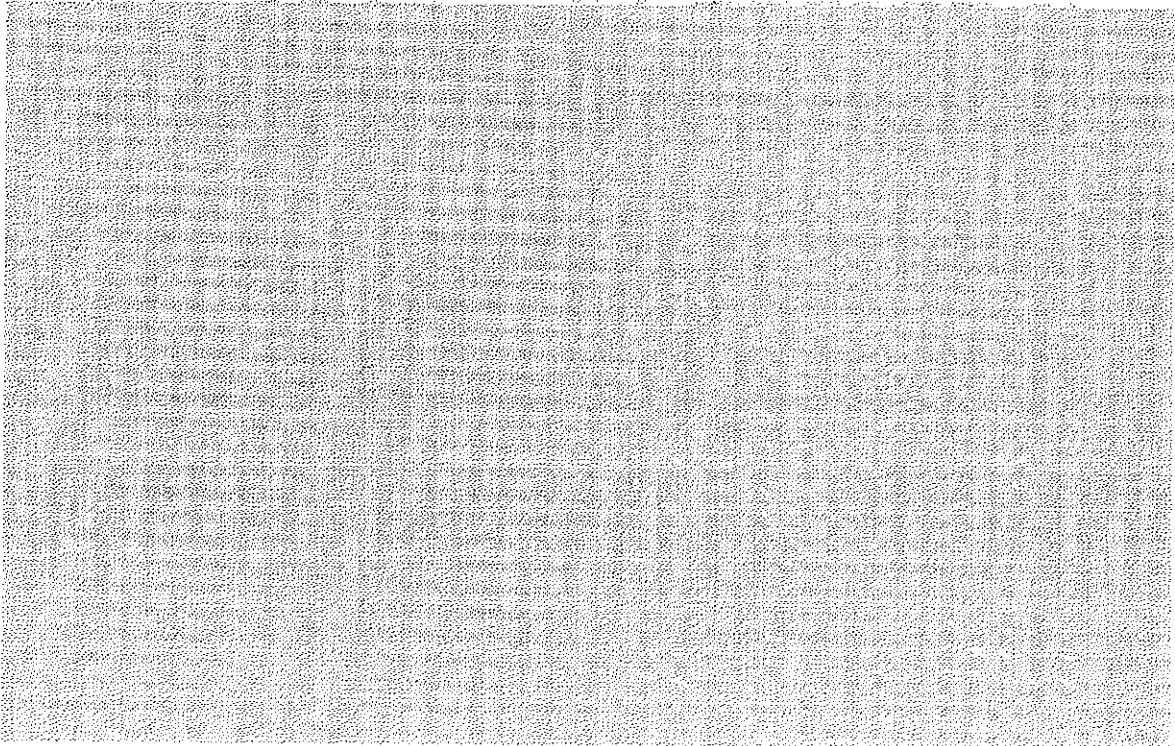
1. Information Collection:

- [REDACTED]

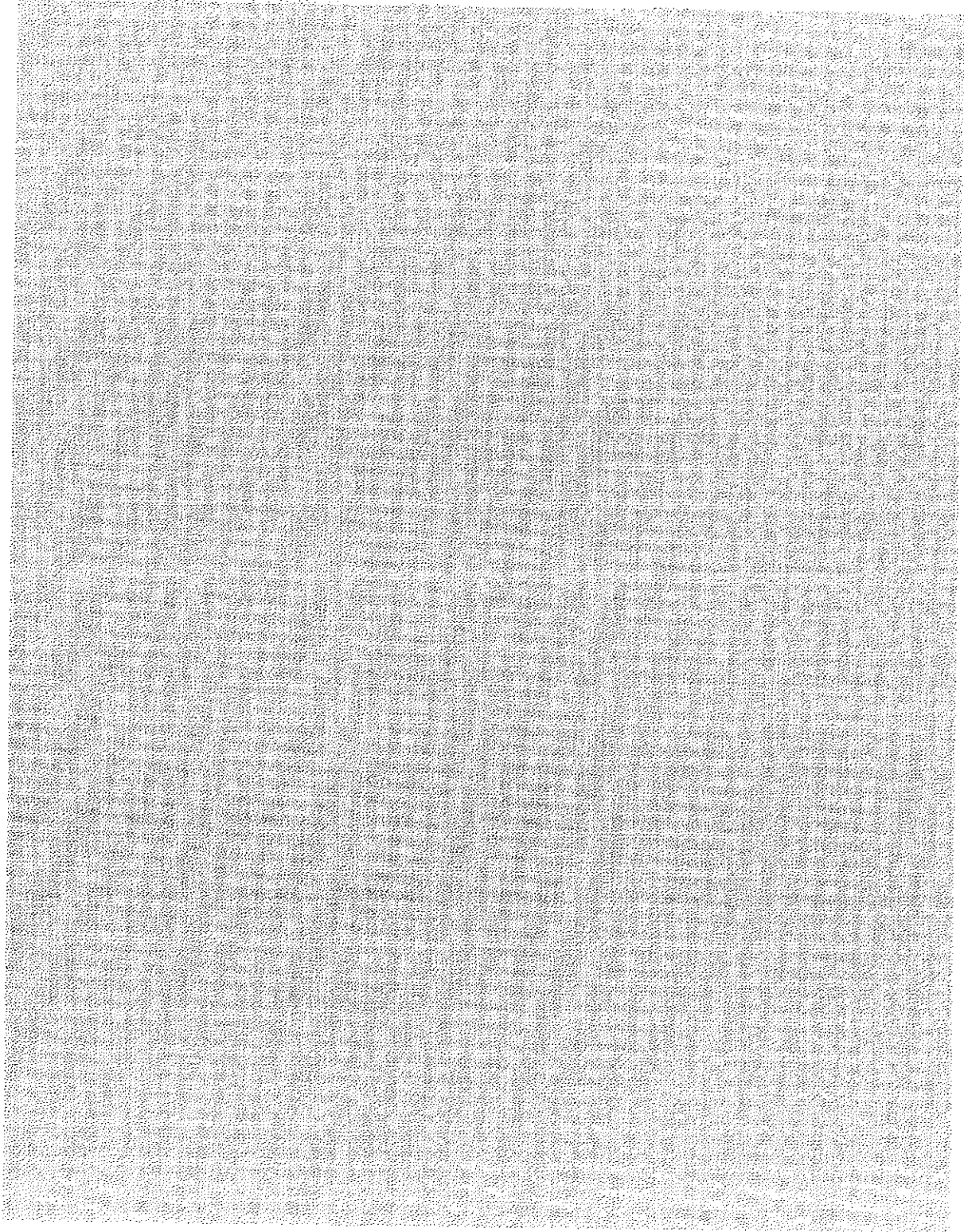


s.21(1)(a)
s.21(1)(b)
s.21(1)(d)

2. Information Storage:



3. Information Analysis:

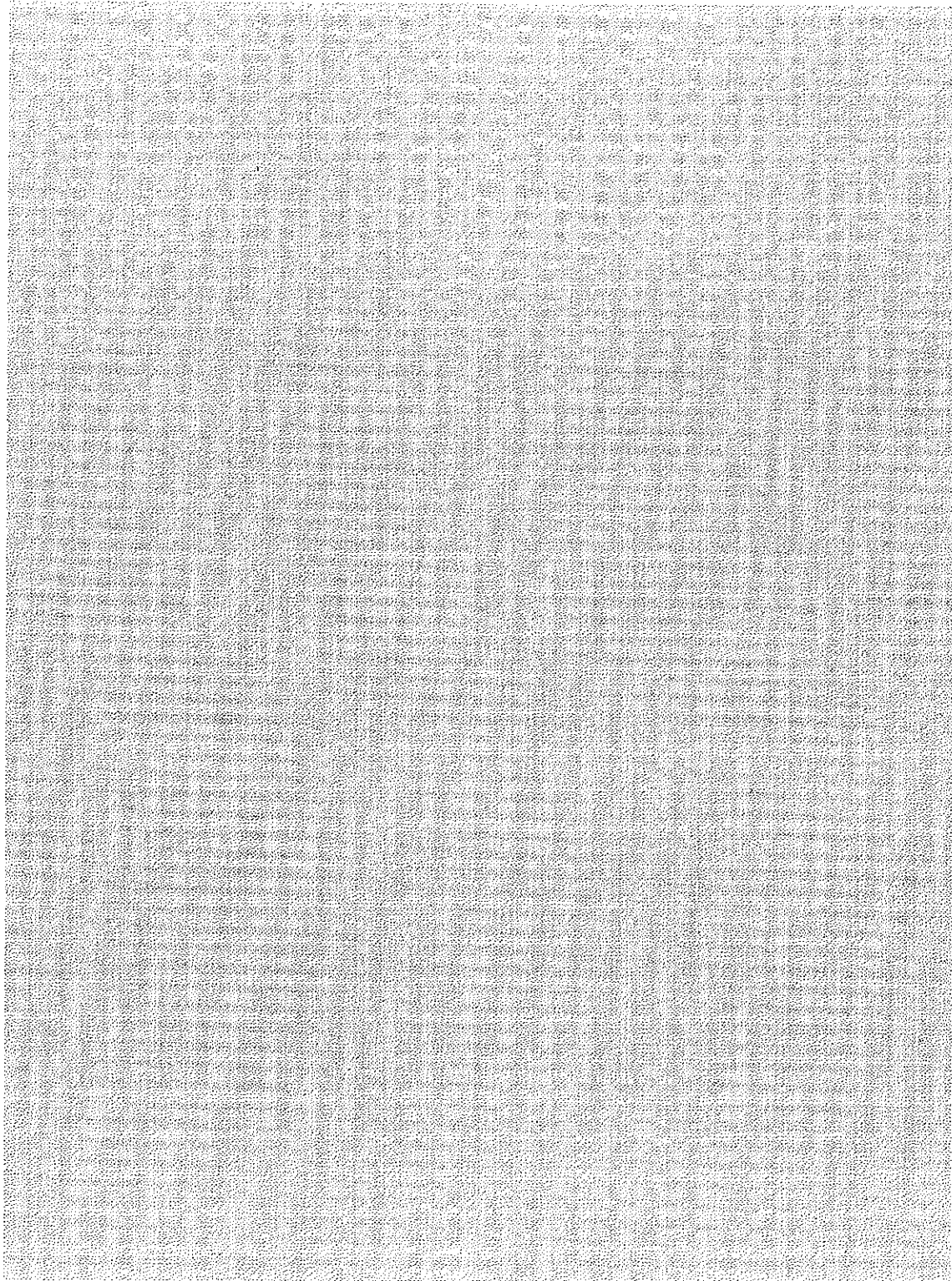


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s.21(1)(d)

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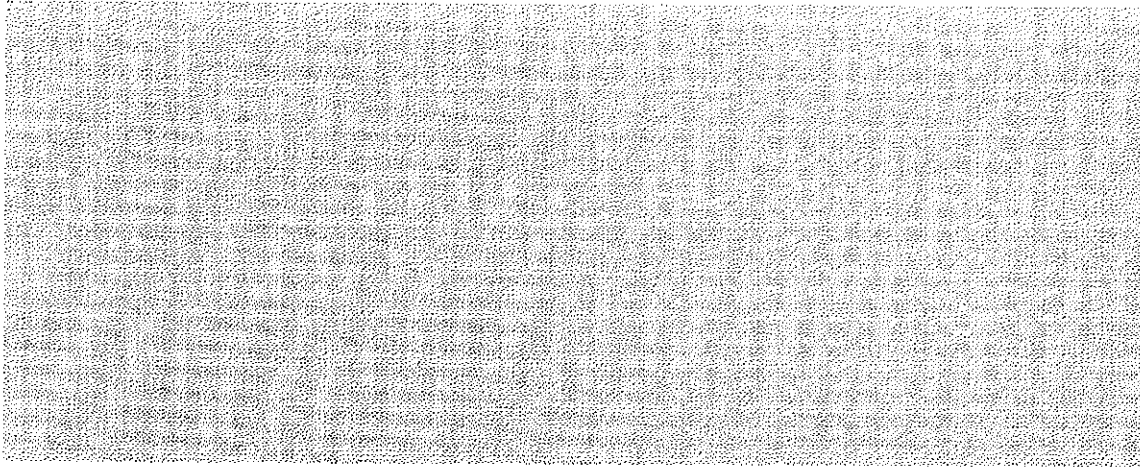


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s.21(1)(d)

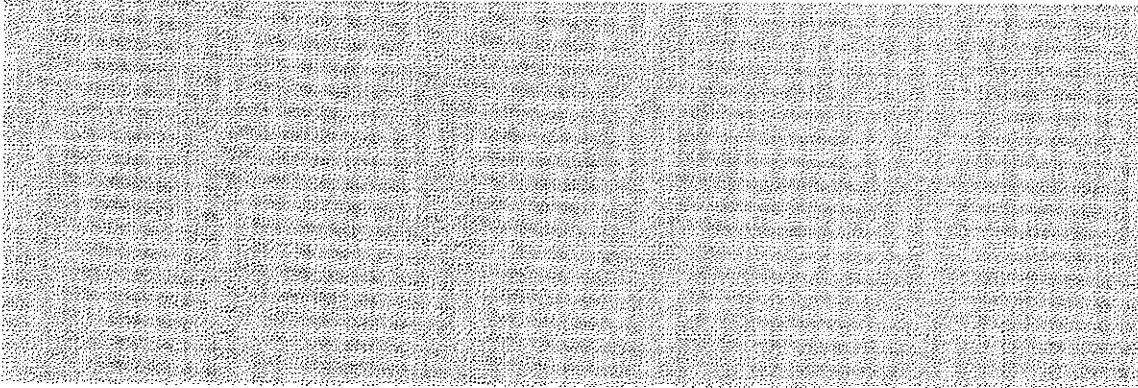
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NEXT STEPS:



- s.21(1)(a)
- s.21(1)(b)
- s.21(1)(d)