AUTHORITY and POWER in the GOVERNANCE of PUBLIC EDUCATION

A Study of the Administrative Structure
of the
British Columbia Education System

by

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ABSTRACT

The education system of British Columbia is constituted by statute. The constitutional statute is called the Public Schools Act (1972). The Public Schools Act Regulations are part of the Act. This Act names various officials (constituents). The constituents include the Minister of Education, the Deputy Minister of Education, Provincial and District Superintendents, Teachers, Principals, Trustees and such persons as may be required to give effect to the provisions of the Act.

If it is assumed that the term administration refers to acts of governing, controlling, inducing co-operation and similar kinds of acts, then it may be the case that many constituents of the British Columbia education system engage at least periodically in some form of administrative action. Each constituent that acts administratively has some authority and/or power over someone or something. This capacity may be regarded as a basis of many administrative relationships among the education system's constituents. The Public Schools Act establishes what kinds of authority and degrees of power each constituent has. Without a careful examination of the statutory provisions of the Act, the kinds of legal administrative authority and the degrees of power of the system's constituents cannot be determined.

The central problem of the study is to determine the kinds of statutory administrative authority and power of the constituents of the British Columbia educational system.
The problem is approached by establishing the nature of the political context within which the administration of education takes place; and by analyzing the statutory documents governing education in British Columbia.

The study sets out the many statutorily posited relationships of constituents, and concludes that there is a strong parallel between political and administrative action and that administration in education cannot be fully appreciated without attention to the political context of provincial government which is the source and operating environment of public education.

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INTRODUCTION

The rule of law is apparently universal: it is the yolk which coheres society's ingredients; but law followed blindly can be nothing more than a burden which somehow seems to restrict and confine the subject to whom it applies. If nothing else, most citizens stand close to a state of awe before the law. The result may be a confused fear which causes one to attribute a loss of freedom and a lack of initiative to the omnipotent "they". For those in education for whom this may be the case, then the acquisition of some understanding of that area of law which affects their professional sphere may in some significant degree, help to dispel their fears and show them how to work with the statutes more effectively and so help to realize more fully some important educational goals.

It may be the case that schools exist primarily for a society's benefit as much as for the individual's. Compulsory attendance in Canada originates from the thesis that democracy -- itself taken to be a fundamental good -- best flourishes when the population receives uniform schooling and when the population achieves some measure of intellectual enlightenment. Anything so universally required must be conceived to be of very great importance; and anything of such great importance with which one deals professionally, surely requires careful study in all its dimensions, not the least of which are the statutory relations posited for its constituents and their responsibilities.
If school personnel are to understand their roles, then because their positions are creations of the legislature and products of the ensuing statutes, it may be well to study those procedures which give them life. In other words, it seems reasonable that teaching, and, more particularly, the understanding of the objectives of teaching, can be more fully appreciated when examined within the statutory context which began the whole of the educational process in the modern state.

Teachers, as special kinds of servants of the law, are not, in their roles as teachers, expected to express normative statements or to prescribe educational objectives. It is the prime task of the teacher to execute the wishes of the public as set out in the Public Schools Act (1972). For this purpose, teachers must understand their objectives as clearly as possible for they are public trustees in charge of a significant portion of the mental growth of the children of others. It is not the purpose of the teacher to make or change school objectives but to interpret the public's directives and to execute them faithfully.

The objectives of many studies are expressed in very precise terms because their characterizing marks are few. For example, an attempt to show memory behaviour in bacteria will be exceedingly limited in scope. However, during the period when bacteria were unknown, the literature of the potential field of microbiology was comprised mainly of exploratory analyses of many variables according to
various assumptions with the result that clarification emerged of what precisely might be studied by micro techniques. In many areas of administration in education, progress remains at a rather preliminary stage. There are many topics but few show signs of having tight, theoretical bases which may distinguish them as apart from other subjects. It is an ongoing search for precision. In form, this study is no different.

At first, one might assume that a study involving the Public Schools Act would enable him to determine the possible outcomes of serious Board-School conflicts, teacher dismissal suits and the like. The results may help a little in such cases; but the study does not equip one to be his own lawyer in the slightest. It is an attempt to understand the governing mechanisms of the provincial education system of British Columbia.

A reader of the study should be able to find a means of answering a wide range of educational questions. For example, to what degree is a teacher responsible for the day-to-day curriculum? Is a Principal free to organize the school programme any way he chooses? Does the law allow a school to fail a student? May a Board of Trustees directly guide educational policy of schools? To what degree is a District Superintendent an agent of the Department of Education and to what degree is he a district's educational leader? What functions should Trustees expect of their District Superintendent? These are typical questions for which the results of this study could indicate some reasonable
answers. It is in sharp contrast to studies in case law where the kinds of issues analyzed, while not uncommon, are not the variety encountered in every-day situations or which materially affect the conduct of one's educational responsibilities. Suits over school bus accidents would be an example of case law issues often dealt with under the heading of school law.

This then, is a study in administration and its context is education; and the context of education is the political centre of provincial government. It is not a study of the clerical management of a school, the Board of Trustees, or of the Department of Education. Administration is a process the parameters of which are framed by the principles of administrative law; and while the reader may, at times, begin to think otherwise, this is not a study of law, especially not in the ordinary sense of the constitutional division called the judiciary. In short, the study conceives the education system as an administrative division of government, constituted by the provincial legislature and placed under the control of the executive branch of government. It is the structure of executive governance of the system which is analyzed at some length and the machinery by which policy is implemented. Thus, where policy is taken to mean the formation of a doctrine or philosophical disposition (a governing rule), administration refers to the process of execution to achieve the required policy outcomes in accordance with the principles inherent in that policy.
It may be useful to delimit the study somewhat generally, not only in terms of what it purports to do, but also in what it does not purport to do. For this reason, a brief look at some rather simplified characteristics of administrative law may assist in clarifying the ways in which that field is relevant and the ways in which it is not.

The study does not deal with the position of Secretary-Treasurer or with issues of education finance.

The legal rights of personnel are not considered.

While all clauses of the Public Schools Act have been examined, only those which provide information suitable for the central problem are discussed.

Chapters VII and VIII of the study must be read with caution because only an administrative tribunal will determine actual authorities and powers. In some cases, ordinary courts of law will provide such distinctions. Tribunals, however, are not bound by the customs of ordinary law or precedent. Hence, even decisions of tribunals are no certain guide to future decisions. Further, this is not a study in law, and any analytical conclusions should be regarded as tentative insofar as legal implications of any kind may arise on occasion.

A review of legal treatises quickly reveals the seeming ease with which legal minds reach concurrence on many points of law through their adversary methods of analyses. Of course, the ease is deceptive for it also
becomes clear that precedents, the synthesized principles adduced from considering many previous cases of law, are the result of the most painstaking efforts upon the part of the judiciary. Unfortunately, even a cursory review of texts on administrative law quickly reveals the unanimous conclusion that no satisfactory definition of this field has yet been produced. Consequently, the separation of law from the process of administration can be achieved only in a general way.

Professor Garner, in his text, *Administrative Law* makes about the clearest 'definition' of the subject while, at the same time, provides the further distinction of this kind of law from others. He says:

Administrative law is not concerned only with law.

...

Administrative "law" is also concerned with Ministerial circulars and memoranda, decisions of local authorities or public corporations...of the several administrative tribunals none of which would be recognised or applied by "ordinary" courts of law.

It follows, therefore, that the essential subject of administrative law is rules which govern the conduct of the general business of a government -- in accordance with the principles inherent in their policy. The specific field in which these rules are made, applied and adjudicated includes the various kinds of governmental agencies and their inter-relationships and the relationships between agencies and

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ii Ibid., p. 2.
between all of these and the private citizen. As Garner concludes, administrative law is:

...concerned with the preservation of order, the welfare of the citizen and the rights of the individual as against the government of the country, and also with the machinery by which such matters are protected.\textsuperscript{iii}

At this point, one may begin to suspect, and rightly so, that the various administrative agencies are given powers and powers of rule-making which may be used to affect the rights of private citizens; and wherever this may be the case, many conflicts of interest may arise and some sort of adjudicatory process is required to resolve the disputes. However, as Garner's definitional treatment of administrative law indicates, this kind of law is not easily equated with standard common law concepts. Actually, it is not a matter of requiring a somehow different kind of law. It is simply that there are laws or principles which in some ways and to varying degrees preclude the judicial branch of government from having authority over administrative agencies and over their internal procedures. Thus, before expanding upon the earlier reference to the nature of the administrative process and drawing demarcation lines between that process and its field of law, it is necessary to examine carefully the sources and nature of administrative agencies. While it is a lengthy diversion, it will serve to make many points specifying the conceptual context for the term administrative structure which could not be made otherwise.

\textsuperscript{iii} Garner, \textit{Administrative Law}, p.3.
The essential objective of this study is to determine the kinds of administrative authority and power of the main constituents of the B.C. educational system. On the surface, that objective would portend only an examination of the Public Schools Act. The examination would produce basic data of the constituent relations. However, it is not sufficient simply to determine constituent relations, not if the study is to assist teachers and administrators in understanding the statutory dimensions of their roles; and this is a secondary objective of the study. To reach this latter objective, it is necessary to understand that education in British Columbia is a provincial government activity. The administration of education here is founded in a political context. This study asserts that without an examination of the political context, much of the significance of the analysis of the Act would be lost. The systemness of educational administration is lost without a larger context. For this reason, the first chapter introduces concepts of political systems. Because the administration of education takes place within a political system, it seems reasonable to introduce the idea of a system. The essential point of Chapter I is that the main ingredient of a system is the idea of a "bonding force". This notion is later translated into the concept of political governance (Chapter VI).

Again, since education is totally the responsibility of government, the political aspect of administration cannot be overemphasized. Chapter II con-
ceptualizes the nature of politics. The "bonding force" idea of Chapter I is characterized in Chapter II as the governing functions within a political system. The essential idea is that while a system may be described, its meaningfulness as a system is little understood until that which governs the relationships of the components is identified. The terms policy, authority and power are introduced and defined. Policy is taken to mean 'a general value to be allocated'. This is somewhat like David Easton's thesis that politics is the authoritative allocation of values. Easton's concept of politics is used throughout the study as the means of cohering the political with the administrative. One line of the parallel between politics and administration is the allocation of values; the other line is the allocation of strategies. Both politics and administration share the fundamental feature of the authoritative allocation of something. Thus, in order to understand the statutory conditions as analyzed in Chapters VII and VIII, Chapter II sets out the basic distinctions necessary to distinguish administrative acts from legislative acts.

Chapter III describes the basic characteristics of Canadian Government. At this point, the study begins to focus sharply on the larger context within which education and its administration operates. While at first this chapter may seem to simply treat what is readily available in social and political texts, it does in fact, bring together certain information not readily available to
teachers and administrators. For example, the information provided by Professor Garner's volume, *Administrative Law* would not ordinarily be known by many. Even though the material exists in a variety of sources, the important points of administrative law would not be appreciated without this chapter. The main objective of Chapter III is to set up the background of the governing machinery of Canadian Government so that something more than a simple static, nominalistic description of 'politics in action' emerges. Ministerial powers and accountability are not widely known or understood. To appreciate the complicated nature of the position of the Minister of Education, its authority and power, Chapter III is necessary. Perhaps it may best be regarded as the equivalent as a survey of the literature in the field.

Chapter IV, "Government Administration", focuses most sharply upon the administrative domain of the governmental structure. What is important to keep in mind at this point is that the description generated of government structure is the paradigm for the structure of all sub-divisions of governmental administrative agencies. Chapter IV determines the source of provincial administrative bodies and represents their basic organizational form. The main structural details of government administration are laid out: ministerial accountability, the nature and effect of regulations, directives, by-laws and areas of authority. The objective here is to show the detailed dynamics of political administration and to lay out the structural characteristics of statutes. Thus, the chapter introduces statutory form and provides examples.
of how a variety of governmental administrative departments operate. Consequently, this section provides an essential interpretive guide to understanding the ranges of authority and power set forth or implied in the Public Schools Act. Without this chapter it would be very difficult to understand the origins of the structural characteristics of the education system or how the constituents were related.

Chapter V, "Administration", attempts to clarify the meaning of administration as a result of the considerations developed in the preceding chapters. It concludes that a definition of administration which does not embrace a political dimension has little meaning for administration in education. The problem of defining administration is therefore carried into Chapter VI.

"Politics and Administration" takes the information of the earlier chapters, and by relating politics to administration through the concept of "authoritative allocation", defines the nature of administration in education. Three basic political steps are identified: a) the determination of what values are at issue (the policy); b) what values should be allocated; and c) which agency shall be charged with the required authority and power to administer the policy. These steps are paralleled administratively: a) determine the precise nature of the policy; b) choose which strategy will result in giving force; and c) distribute the responsibilities for execution to those with the necessary technical expertise. Consequently, the separate lines of
political and administrative activity are merged to show that the structures of each are very similar, only the content varies. It is hoped, therefore, that Chapters I - VI will enable the reader to go beyond the basic data produced in the later chapters and have a more meaningful understanding of the conditions which govern the relationships of teachers and administrators.

Chapter VII represents the actual statutory analysis. It determines the kinds of administrative relationships of the constituents of the education system in terms of the political structures set out earlier.

The last chapter (VIII) sets out the details of authority and power vested in each constituent.

To summarize the Introduction, it is very important to realize that the study views education as a governmental activity; its administration is necessarily and essentially political. Thus, an essential element of comprehending the system's constituent relations is first of all to understand the complexities of political administrative agencies generally, for that is the operating environment of the whole of education.
Observation and description are important for empirical science. Together, they provide the "what is" realm of fact -- assuming certain testing procedures are undertaken. Given the data of what is, some scientists are satisfied; others continue to ask why things are as they appear to be. What they seek are explanations. The explanations may take many forms. However, empirical scientists establish particular assumptions and from these assumptions they derive the criteria of an acceptable explanation. It is of importance here to note only that a system of logic consists of a set of rules for which described things or events may be accounted. These rules are neither good nor bad; they are simply conventions which the empiricist agrees to follow. It is in this latter area of conventions for explanations that controversy over meanings or implications of descriptions may arise. Assuming that everyone on the planet agreed as to what is fact in a particular instance, there is no assurance they would agree to the meaning of a set of facts, even given the same logic of explanation because it seems that accounting for facts is not a normative activity (apart from establishing initially the system of logic of explanations) whereas ascribing meaning to the facts may be a normative task. However, leaving questions of meaning aside for the moment, it seems proper to speak of a scientific explanation or at least a system of scientific explanation only when some set of rules or conventions
are postulated and followed by a community of scientists. Now when it comes to determining what constitutes a political system, certain rules or conventions must be established by means of which political facts may be accounted. It is something in the sense of these conventions that this study seeks to initially establish a conceptual framework for what might be meant by the phrase "a political system" and to subsequently apply that framework to the development of a conception of administration.

Writing of systems and entities, Walter Buckley notes that

We cannot make a neat division of those things that are and those things that are not systems; rather we shall have to recognize varying degrees of systemness.1

Now what makes a system or, what taken away, destroys a system, is a difficult problem. Take, for example, the solar system. What makes it a system? Empirical scientists have adequately accounted for the facts. Around the sun there revolves a number of planets. In principle, planetary behaviour could be considerably modified and still the resultant collection could be called a system. A number of planets could be removed and still there would be a solar system. Within limits, more planets could be added and still there could be a state of solar equilibrium. Perhaps the existence of equilibrium is central to a system. Different levels of equilibrium could be said to equal different degrees of "systemness". And yet, there may be conditions of equilibrium other than static. Suppose there were constant change in the solar system: planets changed orbits, some were

1 Walter Buckley, Sociology and Modern Systems Theory (Englewood Cliffs, Prentice-Hall, Inc., 1967); p.42. There is no intent to provide a 'systems analysis' of the education system of B.C.
added, others removed, and some changed rotational direction. In this latter case, there is a constant process of change and yet a maintenance of a fairly high level of complex equilibrium. This may represent homeostatic equilibrium wherein a balance of components at a high level of complexity is maintained. Going even further, suppose that this planet's solar system continually merged with other star systems and perhaps that resultant with other galactic entities. By the criteria of what constitutes Earth's solar system, it would be possible to say that Earth's solar system no longer existed; but it would also be quite possible that it had become a complex adaptive system and was maintaining what Buckley calls dynamic equilibrium or a system "state" characterized by continuously elaborating structures of organization. That is, rather than resisting change like a homeostatic system, the complex adaptive system changes through continuous evolution to higher levels of complexity. But the latter is still a system.

It may be fair to conclude at this point that while equilibrium is a characteristic of the systemness of the solar system, the empirical scientist must still account for equilibrium itself if he is to test that phenomenon as explaining the astronomical feature as a system. The rules of his empirical logic system require it.

In order to explain the presence of equilibrium of components, one has to account for their patterned behaviour. That is, some principle of unification
must be found. The empirical scientist will observe and
describe; and to make the story short, he will ultimately
find that the components interact in some regular fashion.
He will conclude that some bonding force, perhaps gravity,
is the essential ingredient that establishes equilibrium.
Hence, whatever kind of equilibrium he finds, there will
always be some bonding force. In other words, the components
always appear to follow some set of rules or laws. This is
not to impute some cognitive intelligence to simple matter
but simply to say that the empiricist can formulate general
descriptive laws which account for the regular behaviour of
a physical system's components. The essence of system in this
case then seems to be the adherence of the constituents to
some governing principles or rules. Without behaviour
following these rules, there would be no system. Thus, to
study a system is to study the rules which govern the con-
stituent's behaviour and position. To what degree then, can
this sort of analysis be applied to social systems and in
particular, to political systems?
II - POLITICS and EDUCATION

If the essence of systemness is the adherence of system constituents to governing rules or principles, then it should be possible to describe a political system by the kind of rules that govern the system. However, what is politics?

The term politics is used here to refer to the form, organization and administration of some social entity, and to the means of the regulation of its internal personnel and offices, together with the regulations governing the entity's behaviour with other social elements. In essence, politics refers to the governing relationships among people and their organizations. Viewed as a particular kind of social system, education must be regarded in some respects as a political system. Hence, those who would argue to keep politics out of education would be, in the terms of reference established here, asking that water be kept out of oceans, because politics is the essence of the administrative domain of education. This chapter and the next will help to substantiate these views.

The term political action can be used to refer to the process of influence exerted by members of a political system. Given such a view, it may be said that politics is associated with the influencing of policy. Semantically, the association is sound; and in fact, members of an organization concerned with its administration are also necessarily con-
cerned with policy, for it is the administrator's duty to
give effect to policy. The difficult question is whether or
not an administrator should influence policy. Doubtless, there
are many studies which show that administrators do influence
policy; but it is not clear in all cases that they should
exert significant influence. It is not unreasonable that if
one is charged with a responsibility that he question his
terms of reference concerning the policy; but once the
assignment is accepted, there appears to be no valid reason
for trying to modify a policy except where discretion is
given to do so.

Politics and administration are often
dealt with as separate subjects. Clearly, there is at least
a flavour of one in the other and indeed, it may be that
politics is the process by which the administrator operates.
Perhaps an analysis of each, politics and administration, can
show the processual relationship of the former to the latter.
The benefit will be to realize that form (politics)
cannot be sensibly separated from content (administration).

If the term system can be accepted
temporarily at least as referring to a collectivity of things
or persons behaving in concert according to some set of rules,
then the simplest approach to what is a political system may
be to deal first of all with the term politics.

Earlier it was noted that the term politics
is used here to refer to the science dealing with the form,
organization, and administration of some social entity. The term is now further limited to refer to people who are constituted for some purpose. While it is possible to speak of the political behaviour of organizations, of positions and the like, the context for the moment is people: the constituents occupying positions in the Provincial Civil Service. When the terms form, organization and administration are used, a conception of relatedness arises. In other words, one is likely to think of how constituents are related to one another when issues of form, organization and administration are raised. In fact, much contemporary literature deals exhaustively with the relational issues of power and authority when attempting to analyze the political domain of organizations. One example is the tidy summary of approaches to political analysis presented by Lutz and Iannaccone in their volume *Understanding Educational Organizations: A Field Study Approach.*

Lutz and Iannaccone equate the concept of power with influence. They assert that

"...the word power used alone, will have as its referent behaviour directed toward influencing others whether successful or not."

Further along, they assert that

*Politics is the process of influence which results in an authoritative decision, having the force of law, by a governmental body such as a school board.*

Clearly the authors consider politics to be a field of

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3 Ibid., p. 11.

relationships among people in their organizations and that the key to the system they represent is the concept of influence. It is, for them, the principle of unification. It is difficult, however, to visualize influence except in terms of cause and effect of actors and their actions. That is, influence could be said to be the summative effect of a certain class of constituent behaviours such as persuasion of others by some means. The "process of influence" would most likely be the actions of some constituents which could be observed and described operationally. If this is so, then the political analysis belongs to the first stage mentioned at the beginning of the last section, namely, observation and description. It is important to note that the explanatory stage of inquiry or analysis requires an answer to the question with the form of "why is X as it appears to be." In terms of the solar system example, one must ask: if influence is the essential ingredient of a political system, what is the process of influence? Is that process analogous to the bonding force necessary to cohere elements into a system? It may be well to point out here that since the immediate objective is to find the generic form of whatever characterizes the nature of systemness in a political system, it is of no importance what other uses of the term influence may be intended by Lutz and Iannaccone. This is not a critique of their work; but use is made of some of their statements since they seem to represent fairly a significant segment of current writing in political issues in education.
It can be seen by referring to the earlier example of the solar system that the process of influence would be analogous to the concept of equilibrium. Thus it is necessary to examine what gives rise to the process of influence: what governs the behaviour of those who seek to exert influence. The term govern suggests laws or law-like behaviour. It would be helpful in this case to make a distinction between a natural and a social law. A useful way of marking each is to think of a natural law as a statement describing a relationship among things that seems constant, that is, an invariant relationship. Such laws are the laws of gravity and of conservation of energy. Social laws differ from natural laws in that the former prescribes what ought to be the case. In ordinary language usage, one often encounters the statement of the form "the laws governing planetary motion" used in much the same sense as the phrase "the laws governing school boards." But it is important to remember that the latter phrase does not presume a state of invariance in the laws as may be presumed for natural laws. For example, it may be invariably true or factual that any human society makes laws governing itself. This might be called a sociological law much in the same way as the law of gravity is a physical science law. Social laws, however, prescribe how members of the society shall behave. It is in this sense that one can say that human behaviour is governed by normative rules. Going back then to the question of what governs the behaviour of those who seek to influence others, it is reasonable to assume that various things may cause one to try to influence
another, but the **means** of exerting influence will be governed by normative rules.

Something that might be called a 'general theory' of politics is sought; and it seems that the term influence is something more like a strategy rather than an encompassing concept. A political system is comprised of a multitude of elements or aspects. There still remains the task of sorting out just whatever might be the essential or characterizing nature of political activity.

From time to time, one encounters in educational literature various admonitions to keep politics out of education. The desirability of such a preference is not at issue here. The issue is simply whether it is possible to assert that education is possible without recognizing a political aspect. This study argues that politics is not only as necessary to education as air is to human life; politics form the "genetic building blocks" of education. Without politics, there could be no education system. Indeed (though such a claim is in the domain of the political scientist) without politics, there could be no society. Obviously, such claims can only be substantiated within the context of meaning developed for the term politics.

**Politicking** is the ancient art of cajoling, persuading and maneuvering. Various levels of sophistication in the art exist. Politicking may range from convincing a neighbour to share one's view that dandelions are not pretty lawn flowers and so maneuver him to remove them, to persuading
a Prime Minister that energy exports should be curtailed. Numerous examples could be cited. They would all share at least one important characteristic: person or group A wants person or group B to share a certain value. Depending upon the complexity and importance of the issues, politicking often leads to a shifting of positions for power. The main objective of such maneuvering is to ensure the establishment of some kind of general value over some area in society -- and that area may be as simple as a neighbour's lawn or as complex as an entire planet. This study takes the notion of a general value to be synonymous with the term policy. From the preceding discussion, it follows that politics is intimately related to policy. But these common sense notions about politics are not sufficiently precise to suggest a conceptual framework for analyzing the political dimensions of administrative authority and power in the governance of public education.

In order to define 'polities', concepts which encompass the political aspects of the administrative system must be found. These concepts must be sufficiently embracing to include the major aspects of a political system, not just some aspects of that system.

There are three key terms in the title of this study: authority, power and governance. Each is fundamental to any political system but none appears adequate to function as the prime conceptual descriptor of a political system. But the combined analysis of each will produce a theme -- a locus for formal description -- of any political system. Remember that what is needed is a statement that can
function as the principle of unification.

Governance is a term usually associated with the concept of the state. One can search for the basic characteristics of the state. It may seem to be begging the question, but to try to assert what the state is would be not unlike trying to say what gravity is. Both are all around, they cause bodies to interact and so on; but each seems to lack denotable characteristics. It can be said that the state maintains social order and does so through its agent, the government; but this view does not help in trying to identify political activity. It is the kind of governance that is important to a description of a political system but even knowing the kind of governance that may operate will not help delineate the form of whatever it means to be political. The notion of the state is a part of the generic concept sought after because connotative definition is too imprecise a means by which to characterize anything as seemingly complicated as a political process.

One of the most frequently used concepts to analyze political activity is power. It certainly has merit as a research tool because it presumes to analyze an activity: the process of person or group A trying to influence B. The merit rests on the assumption, of course, that anything that can be identified as influence also has political relevance. However, the question here is not whether the power concept approach to political analysis has merit but to ask if the approach is sufficiently generic to be used as the prime distinguishing characteristic of whatever it means to act
politically. Power meets the criterion of being a highly recurring phenomenon in political domains to be studied intensively and therefore, there should exist a great deal of recurrent political data necessary to formulate political generalizations. However, power does not seem to be the only major concept for studying political activity for surely, not all political activity is that of struggle for control of position. In other words, it is doubtful that all political activity can be characterized as a struggle to control the will of others. From power concepts there emerges elitist theories of governance: the tendency of power to settle into the hands of a few. Whatever power analysis reveals, it seems reasonable to conclude that it has as its central focus the behaviour of actors within a political system and not the political system itself. For this reason, power is not chosen here as the prime concept for political analysis. The task still remains to find a concept which will help determine the meaning of politics as it applies to some social system.

Some twenty years ago, David Easton developed an argument in his volume The Political System which provides a most comprehensive and useful conception of politics. This study uses Easton's thesis as a major premise for its conceptual framework by which the political domain of the administration of public education will be analyzed.

The third key term in the title of this

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4 David Easton, The Political System (New York, Alfred A. Knopf, 1953); pp. 129-ff. It is Easton's phrase, "authoritative allocation" that has been used rather than a precise application of his thesis.
study is authority. It may be said that the policy-making process constitutes the political system. Individuals, groups, organizations and institutions seek authority to formulate social policies and that process may be called the political process. Easton calls this "authoritative policy." It may be deduced from Easton's arguments that politics is the process of authoritative allocation of values for a society. While an example can be made of any piece of governmental legislation, one of the more current themes of the process of authoritative allocation of values is that of ecology. The value implied is simply that certain kinds of natural resources must be preserved. To this end, various kinds of legislation such as "green belt" reserves are promulgated. Bounties are taken off wolves and placed on soda pop cans. The idea is that some social preference of the majority (though perhaps often instigated by an elitist minority) is given effect through legislation and so becomes law. If the general view of politics being the authoritative allocation of values can be justified, then some interesting and useful distinctions can be made between authority and power in the administration of education.

A policy statement is one which portends to give some things to some people and to deny other things to these people. In essence, a policy is an allocation of values. Given this view of policy, it requires no

6 Easton, op.cit., p. 129.
7 Easton, op.cit., p. 130.
elaboration to understand the constant quest for power in political arenas. The opportunity to design and allocate values is much sought after. A vast corps of legislative lobbyists has arisen for two basic functions: to persuade others of certain values and to manage power.

Policy-making, however, must not be confused with decision-making. The latter is administrative.* Thus, the legislature may decide to manufacture doughnuts rather than buy a product which is not union made. This is the expression -- and allocation -- of values. Once this choice is made, the administrator must execute the policy. Values are allocated through the maze of society in many ways. This study looks at only one source of allocation: the political institution of provincial government and its Department of Education. (While these are two distinguishable bodies, this study assumes the premise that public education is an integral part of provincial governmental responsibilities and is composed of two major elements: a) the policy-making Cabinet, and b) the administrative division, the Department of Education. This will be discussed at greater length in a subsequent chapter). It is to this entity that the term authority is ascribed and the meaning of authority for this study is again provided by Easton.

A policy is authoritative when the people to whom it is to apply or who are affected by it consider that they must or ought to obey it.

The value of this definition is simply that it is possible to

8 Easton, op.cit., p. 132.

* The difference is essentially in the kinds of decision making in each case.
determine the authority of the policy makers by observing whether or not those to whom the policy applies obey the rules. There may be many reasons why one follows a policy: moral, custom, or fear of penalty. But authority is best determined by observing who follows what is prescribed. In British Columbia schools, certain patriotic rituals have been prescribed: oaths of allegiance, singing the national anthem and many others. If authority were placed on a scale, it would have rated rather low in the observations of how many schools were following the policy were counted. At the same time, the policy was enforceable and the legal authority was unquestionably complete. There are, therefore, two domains of authority to be accounted for when speaking of the allocation of values, informal and formal. In some political context a person may have complete legal authority but no power to exercise that authority. The Cabinet may have the authority to nationalize a provincially incorporated company, but it may lack the power to do so. In this case, power implies a concept of accountability and survival of the government. This distinction and dilemma will be taken up in some detail in a subsequent chapter. For the moment, it is of importance to note that something is taken to be authoritative only when those to whom it applies accept it as binding. Easton sums this view by saying that

The property of a social act that informs it with a political aspect is the act's relation to the authoritative allocation of values for a society.

He further argues that

A minimum condition for the existence of any society is the establishment of some mechanisms, however crude or incoherent, for arriving at authoritative social decisions about how goods, both spiritual and material, are to be distributed, where custom fails to create other patterns. 10

This study assumes that this is true not only of society generally, but of any social sub-system such as education.

It is now possible to begin an examination of the relationship between the conception of politics expressed here and a conception of administration.

Historically, the purpose of Parliament has been to make laws for the peace, order, and good government of Canada. Sweeping as it may appear, this purpose as stated recognizes implicitly the myriad complexities of a modern society characterized by a vast array of industrial entities, public and private organizations of all kinds, and the need for rules and regulations to maintain their order and to control the possibility of indiscriminate practices as may be viewed as unjust within the nation's constitutional framework. The ensuing complexity gave rise to the three major functional branches of government: the executive, the legislative and the judicial. These three branches act in concert to a) devise federal and provincial policy, b) to enact legislation giving legal life to executive policy and c) interpret and define the activities of the first two branches.

The Executive

It is the prime function of the executive to formulate and direct general governmental policy; and it is the executive which creates the need for a somewhat informal fourth branch of government, the administrative. Since the executive branch formulates policy, it requires not only some means of converting the policy into law, but also some means of seeing the policy is actually executed and this in turn raises problems of inspections, inquiries and the enforcement of standards. Thus, the day-to-day controls of government
over private citizens really arises from the executive branch. For example, the executive has decided that only certain citizens may operate a motor vehicle. This policy in turn requires a licensing agency, an inspection agency, and indeed, a very large array of governmental sub-agencies all of which taken together represent one of the many administrative departments of a government and whose operations in sum represent an administrative function. Further, since various kinds of disputes arise between citizens and these agencies, some sort of mechanisms are necessary for their reconciliation. Most frequently, these are called administrative tribunals rather than courts of law, and the reason for this distinction will become apparent when the general analysis returns to the specific case of education as an administrative function of government.

The Legislative

The legislative branch of government enacts rules which bind the private citizen and, when such rules are made in accordance with appropriate procedure, the courts of law will consider those rules to be law. Parliament is said to be omnicompetent. It may enact statutes concerning one person, but such statutes will be recognized by all governmental constituents as law. The legislative process involves not only the precise procedures of statutory enactment but the business of house debate, inter- and intradepartmental discussions and in general, all preparatory work prior to the actual procedures of enactment. A phrase commonly used
for the preparatory activities is the *travaux preparatoires*.

The Judicial

The functions of the judicial branch of government have been alluded to already. Garner sums them quite appropriately by saying that for the judiciary to act:

i) there must be a *lis inter partes*, or a dispute between two or more parties;

ii) the proceedings in the *lis* must have been initiated by one (or more) of the parties to the *lis*, but not by the tribunal itself or by some government agency or other body not being a party to the *lis*;

iii) as a general rule, the deciding judge, having found the facts and applied the appropriate principles of law thereto, has little discretion in coming to his decision; he may not be influenced by preconceived principles of policy, but must apply prescribed rules of law so as to reach a decision.

Points concerning the relationship of the judiciary to the administrative process will be made as that process is reviewed in a subsequent chapter. At this point, it is important to note the general branch functions. From Garner's criteria, it can be seen that the judiciary provides the means for settling disputes which are brought before the courts. It is not the function of the judiciary to make laws: the function is to provide clarity and fuller meaning of statutes. The judiciary, by making such distinctions, enforces statutory and common law for litigants who seek redress.

Separation of Powers

Much has been written on the subject of the

separation of powers of the executive, legislative and judicial branches of government. Comment on the topic is made here only to caution that such issues are of little importance to this particular study. Given the written form of constitution of the United States of America, there is, perhaps, greater need for examining the issue. As for Canada, Garner argues that not only is the search for such a separation of powers exceedingly difficult, it is a separation that would likely be harmful were it to be made.11 Certainly, there is obvious overlap in functions and this overlap is necessary. However, it does not seem that attempts to make distinctions beyond those given above would have little direct bearing on the problems of the administrative process themselves.

Parliamentary Powers

It may be thought that a careful review of higher governmental bodies is not specifically the subject matter of administration. However, administration is part of a hierarchy and an understanding of governmental form is necessary to appreciate the nature and emergence of the administrative elements. Whatever powers administrative bodies have, it is unquestionably true that their powers derive solely from higher authorities and therefore, the rules that govern parliament, together with the rules by which parliament governs, must be studied in order to grasp the concept of the administrative process. It is this kind of complex interrelated-

ness that seems to be making administration a more and more difficult topic to understand. Essentially, this segment of the study establishes the premises of a more important topic, that of delegated legislation and the procedures which actually create administrative bodies.

The Sovereignty of Parliament

Quoting H. W. R. Wade in his article on "The Basis of Legal Sovereignty", D. C. M. Yardley writes:

An orthodox English lawyer, brought up consciously or unconsciously on the doctrine of parliamentary sovereignty stated by Coke and Blackstone, and enlarged upon by Dicey, could explain it in simple terms. He would say that it meant merely that no Act of the sovereign legislature (composed of the Queen, Lords and Commons) could be invalid in the eyes of the courts; that it was always open to the legislature, so constituted, to repeal any previous legislation whatever; that therefore no Parliament could bind its successor and that the legislature had only one process for enacting sovereign legislation, whereby it was declared to be the joint Act of the Crown, Lords and Commons in Parliament assembled. He would probably add that it is an invariable rule that in the case of conflict between two Acts of Parliament, the later repeals the earlier.

... It follows, therefore, that there is one, and only one, limit to Parliament's legal power: it cannot detract from its own continuing sovereignty.12

Yardley continues, saying that:

Professor Wade goes on to show how various jurists have doubted the full validity of this orthodox view, but it is submitted that he effectively disposes of these critics' arguments.13


13 Ibid., p. 3.
The Prerogative

From the established sovereignty of parliament, there appears to be little executive significance to the Royal Prerogative. Technically, the prerogative is that residue of power left vested in the Crown, and is neither dependent upon nor regulated by statute. In Canada, the Queen's representative, The Governor General, cannot act except in accordance with Ministerial advice. It is constitutional convention that the Crown cannot act except in accordance with ministerial advice. The procedure of ministerial advices being executed by the Crown constitutes Orders-in-Council. The principle of ministerial responsibility provides a control over such actions. The 1971 invocation of the Canada War Measures Act is an example of an order-in-council executed through Royal Prerogative. The ensuing parliamentary debates gave ample evidence that while an order-in-council is as much legislation as an Act of Parliament, only parliamentary agreement not to pass contrary legislation permitted the order-in-council to survive. However, this represents parliamentary control over the prerogative. The prerogative is quite free of any judicial controls.\textsuperscript{14}

Ministerial Organization

The 1960 Royal Commission on Government Organization reports that:

The Prime Minister is selected by the Governor General,

\textsuperscript{14} Garner, \textit{op. cit.}, p. 40.
being the person who, in the opinion of the Governor General, currently enjoys the support of the majority of members in the House of Commons.

The members of the Cabinet are selected by the Prime Minister, appointed by the Governor General to the Queen's Privy Council for Canada, and compose the Committee of Council on whose advice the Governor General acts.

The Governor General acts only through ministers, in order to ensure that some minister is responsible for every decision taken and is answerable for it to the House of Commons; sometimes this accountability is collective, but in some circumstances it is personal. 15

Consequently, the executive power is exercised by the Governor - in - Council federally, and by the Lieutenant Governor - in - Council provincially. This organ is most frequently called the Cabinet in Canadian government. The Royal Commission continues to say:

The Governor - in - Council --the Governor General acting on the advice of the Privy Council -- is the formal executive body which gives legal effect to those decisions of Cabinet which are to have the force of law. In composition, the two bodies -- Cabinet and the Committee of Council -- are identical. 16

It appears as though the ministers may enact what laws they wish; but it must be kept in mind that their power is not simply derived from being in the position of ministers but from having the preponderance of public support and the consequent support of the majority of the House of Commons, the supreme legislative authority. The result is legitimacy of executive power both legally and by popular consent of the constituents.

15 The 1960 Royal Commission on Government Organization (Ottawa, The Queen's Printer, 1960); v.5.

16 Ibid., v.5.
Although the commissioners were examining federal government organization, the basic structural form and procedures obtain provincially. Thus, provincial powers are as full and complete as those of the Dominion -- they simply have smaller scope. Quoting Justice Riddell, Dawson notes that:

The powers of the legislature of the province...are the same in intension though not in extension as those of the Imperial Parliament. The legislature is limited in the territory in which it may legislate, and in the subjects; the Imperial Parliament is not -- that is the whole difference.  

Ministerial Accountability

The previous sections give clear evidence that the provincial body known as the Lieutenant Governor-in-Council may enact laws and regulations which have the force of law by means of an order-in-council. Thus, while no minister isolated from his colleagues can generally enact laws (for exceptions, see section on Delegated Power), any minister may submit recommendations to the Lieutenant Governor-in-Council and upon their consent, create a law. Obviously, without some means of parliamentary control, democracy would lack ample opportunity to flourish. Of this, Dawson comments:

...that they [ministers] are at all times responsible to the House of Commons lies at the very root of Canadian politics, and it was the acceptance of this convention, ...that a century ago transformed representative government into responsible government.  

If the legislature censures a Cabinet action, either the

18 Ibid., p. 274.
executive or the legislature must resign.

Among ministers' responsibilities in the sense of accountability, one of the more significant is the convention of Cabinet solidarity. In public, they must appear to agree upon each others actions. This necessarily requires that in the course of general administrative duties, a minister must keep his colleagues informed and obtain their consent before advancing proposals for enactment. Failing to achieve collegial support, a minister may give up his views or resign. This would indicate that not only is a minister personally responsible but the entire Cabinet shares the same burden. Censure of one minister will be taken to be censure for all.

While it may be only of passing interest, the responsibility of the Cabinet extends only to the legislature, not to the senate, in the case of a federal body.

Garner sums the concept of ministerial responsibility by saying that:

The whole system, however, still depends upon fundamental conventions of the constitution, such as:

a) the collective and individual responsibility of Ministers;

b) the Cabinet must have the support of the House of Commons;

c) members of the Cabinet must be members of one or the other of the Houses of Parliament;

d) the Sovereign is entitled to information from the Cabinet but must act on the advice of her Ministers.  

The same conventions obtain for Canada. Reporting upon

Although administrative authority is possessed by ministers individually, their political power is held in common. Consequently, the role of the individual minister must always be related to his membership in the group. In effect, for all matters to which his authority extends, it is the task of each minister to devise courses of action acceptable to his colleagues to ensure that administration follows the agreed course, to interpret the public interest in day-to-day situations (consulting his colleagues when necessary), and to answer for the conduct of those matters, first, to his colleagues, and, on behalf of the government, to Parliament.

The fact that power is held and exercised collectively means that all important decisions of policy are taken by the group rather than by individuals. Moreover, the principle of collective control extends to the administrative process within the several departments.

This chapter has presented a brief resume of the Government of Canada. The essential governmental bodies connected with issues to be treated subsequently in this study have been identified. Their chief characteristics have been noted and those points of continuing interest for further reference constitute what may be called informally the possible conclusions. They are the facts expressed and implicit which provide some of the context for the further and more precise development of the administrative process as promulgated by provincial legislation.

The following assertions form the base for fixing such things as Departmental powers and responsibilities, origins of delegated legislation, ministerial control, and the execution of government policies.

a) The executive branch of provincial

20 The 1960 Royal Commission on Government Organization, v.5.
government is composed of the Cabinet ministers and the Lieutenant Governor.

b) The prime function of the Cabinet is to formulate general government policy and to arrange for its execution.

c) The Cabinet generally creates public administration bodies.

d) The provincial legislature is omnicompetent.

e) The judicial branch of government settles disputes brought before it.

f) The Judiciary does not make laws.

g) The Royal Prerogative, for this study, has exceedingly little significance.

h) The Lieutenant-Governor, while free to express his views, must act only upon the advice of the Cabinet and in accordance with such advice as the Cabinet may give.

i) The power of a single minister to make regulations as defined by the Regulations Act must be expressly given.
IV - GOVERNMENT ADMINISTRATION

The literature now extant on that "branch" of the government called the Administrative is not very extensive, particularly in Canada. Dawson notes that a volume on Canadian government written thirty years ago would not have contained even a chapter on administrative powers.\(^1\) Even today, the status of the term "law" in administrative law is in some confusion. Nevertheless, as the general introduction to this study has already indicated, the complexities of the modern state are enormous; and growth of the Canadian Civil Service has reached the point where a minister of a department can no longer practically administer all the business of the department himself. Sheer size has necessitated a delegation of powers.

However, the increase of size has created other problems. The delegation of powers to subordinates has helped in maintaining governmental control over its administrative duties regarding its policies, but the delegation process takes place at the expense both of the legislature and the judiciary. The legislature generally lacks the professional expertise to maintain close administrative control over all departmental operations, and the judiciary, because of the peculiar nature of subordinate legislation, lacks access to the administrative process. Courts of law

\(^1\) R. MacGregor Dawson, \textit{op.cit.}, p. 264.
could be given sufficient powers to act in administrative disputes, but the ensuing size of the judiciary could be unconscionably huge; and it too lacks the professional knowledge necessary to deal effectively with the natures of so many specialized bodies as the Administrative represents. The consequent was the formation of the general practice of creating delegated legislation.

Two short quotes are worth noting at this point. The first voices a learned view on the growing importance of the administrative dimensions of government and the second advances a definition of administration that gains more precision than the earlier references to the term -- more precise in that it provides a sharper focus for this chapter of the study.

The rise of administrative bodies...probably has been the most significant legal trend of the last century and perhaps more values today are affected by their decisions than by those of all the courts, review of administrative decisions apart. They also have begun to have important consequences on personal rights.22

Administrative law is a term sometimes used to describe the rules of organization and procedure which govern the internal workings of executive offices. I do not use the term in that sense at all. By administrative law I mean the provision of statutes conferring rule making and adjudicatory powers upon organizations in government outside the judicial branch, and the rules and orders entered by those agencies pursuant to such powers.23

What then are the means by which these curious bodies caught between Parliament and the judiciary come into being?


23 Ibid., p.3.
This chapter answers that question and sets the stage for the beginning of the analysis of the status of the constituents of the education system as being members of such "outside" bodies as well as the rules by which they make regulations, orders and judgments.

Delegated Legislation

Extensive studies of the history of administrative bodies in Canada are long overdue. Most of the literature that does exist is in the form of government departmental reports, statutes and Royal Commission reports; and these all await the historian's approach. The need for such administrative entities, their areas of jurisdiction and their substantive activities are among the many important topics requiring study. Without such a background of information, it is only possible at this time to examine and describe the legislative process which creates administrative organs and endows them with their powers, and thus to see how they may function within their constitutional limits.

The executive branch of government may not take any action affecting the rights of citizens beyond the powers expressly given it by the legislature. Of course, the executive usually commands the majority of political power in the legislature and therefore, it may also lead that body which ultimately controls it. Hence, a given
executive may arrange to have rather large delegated powers to make laws in the form of regulations. Apparently, the risks of providing the executive with such power is warranted in view of the enormous volume of detail that must be attended to within the civil service ranks. It is common to encounter abusive references to the ponderous bureaucracy of civil servants; yet unlike the freedoms of private corporate personnel, the civil servant is in the position of affecting the personal rights of private citizens wherein a citizen's recourse for remedy, should he wish to contest civil servant authority, is not the readily accessible ordinary courts of law or the freedom to patronize another source for his services: his recourse lies in a confrontation with a rather huge administrative body, often empowered to sit in judgment of its own rulings. Consequently, the civil servant operates under close scrutiny by his superiors for the protection of the citizenry which he serves. The end result is a civil service whose realm is vast and whose minute decisions from day to day would totally overwhelm any legislature were it to attempt even passing scrutiny of the daily behaviour of the administration. In addition to the problem of volume, the technical expertise required in the sub-administration of each department tends to preclude the possibility of the legislature from maintaining close control over the administration. The partial answer to these issues was for the legislature to delegate, by statute, the necessary authority to the executive, which in turn, created subordinate legislation
to empower persons -- corporate and natural -- to make rules and regulations affecting the lives of private citizens.

When it is realized just how immense the effective power can be of delegated and sub-delegated legislation, it is understandable why traditions such as oaths of allegiance are retained and one can have more tolerance of situations where civil servants appear to apply almost blindly apply the details of their manuals in a situation. It is not a matter of indifference on the part of the civil service but a constant vigilance to see that instances of maltreatment of a citizen's constitutional rights do not occur. Bureaucracy can be viewed therefore, not as an evil but as a necessary, although at times a cumbersome, protective device of any democracy.

Orders - in - Council

The order-in-council is the most common form of delegated legislation. It is a decision of the Cabinet formalized while acting (provincially) as the Lieutenant Governor - in - Council. There must exist in some parliamentary statute the explicit permission to enact an order-in-council in any department. Generally, the statutory provision allowing this freedom derives from sections such as Sec (17) of the Public Schools Act (1971) which states:

For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor -
in - Council may make such regulations as are ancillary thereto and not inconsistent therewith and as are considered necessary or advisable and every regulation made under this section and section 18 shall be deemed part of the Act and has the force of law.24

Hence, the Cabinet makes a decision and advises the Lieutenant Governor to consent to the decision.

Many writers have exercised their pens vigorously debating the advantages and disadvantages of delegated legislation. Nevertheless, without this kind of executive power, government services would grind to a halt. Whereas one might simply argue that the main reason for delegated legislation was to promote efficiency, it is today a procedure of necessity for "the maintenance of peace, order, and good government." Were parliament to hold the passing of bills until all conceivable administrative implications were worked out, very little legislation would ensue. It is the procedure of delegation which allows for "field testing" of parliamentary statutes; and the provision of clauses like section (17) of the Public Schools Act (1971) allows constant technical modifications to be made as circumstances require. When providing the general authority to delegate, the statute may contain certain terms such as order, rules, regulations, and many others.

Legislation is usually considered to be general rules of continuing application to the public; an

order usually requires a particular person to do or not do some particular thing. Thus, an order by the Minister of National Revenue to a citizen to file a non-resident return would not be considered law. However, if the Legislature enacted a statute requiring a specific person to do something, it would be classed by the judiciary as a law.

In this study, the term order will be used as it may be to describe the instrument establishing regulations: the Lieutenant Governor - in - Council may issue an order (Order-in-Council) for making whatever regulations as may be necessary or permissable.

The statute may also grant authority -- or delegate authority -- to direct, declare or authorize. The instruments used for these effects would not have either the status or force of regulations.

Regulations, in form and substance, are of the same nature as statutes. The term may refer to the whole instrument or to a particular provision of it. As indicated earlier, a regulation within the meaning of the Regulations Act has the force of law and no other interpretation of the term is intended in this study. Provincially, regulations are made usually, but not necessarily, by the Lieutenant Governor - in - Council. These are statutes which authorize a Minister to make regulations; and only in the
most exceptional circumstances is the power to make regulations conferred upon an officer below the rank of Minister. Where such further delegation is made to public authorities such as the Central Mortgage and Housing Corporation or some public commission (the National Energy Board), it is done with the provision that regulations so made shall be done with the approval of the Governor - in - Council or until approved by a Minister with adequate authority.

From the above, it may be concluded that generally a Minister lacks the direct power to make laws. He may, however, produce a large number of rules. Rules are considered here to be of a procedural nature. That is, they refer to the steps needed to accomplish a particular task, the policy of which has already been determined by a higher authority.

Given a corporation of persons, the rules they may produce may be called by-laws. A school board may make rules concerning its own conduct and, to some extent, may make rules governing the conduct of others. These rules are the board's by-laws and, depending upon the nature of delegated authority, these by-laws may have the force of law.

Most laymen are easily confused when attempting to read statutes by what appears to be legal jargon most liberally sprinkled throughout. The frequent usage of 'whereas', 'notwithstanding', and 'as are not inconsistent with...' cause one to lose his grasp on the
essentials of the statute. E. A. Driedger, a former Deputy Minister of Justice and Deputy Attorney General of Canada, wrote a small volume on legislative form which deals with some of these problems of wording. Much of the following assertions are based upon his professional judgment and technical experience.

When conferring authority to make regulations, certain phrases are used. Some have significance; others are little more than flourishes of the draftsman. A statute may state that:

The Lieutenant Governor - in - Council may make regulations for carrying-out the purposes and provisions of this Act.\textsuperscript{25}

Such a clause is quite straightforward and requires little special study. Driedger notes that it may be doubtful whether this particular kind of clause authorizes anything beyond strictly administrative regulations. Therefore, any regulation derived from this authority which altered the substantive rights of persons affected by the general statute would most likely be deemed ultra vires. In addition to the above clause, the following phrases are sometimes used and in all probability, have the same general effect administratively:

- for carrying the purposes and provisions of the Act into effect.
- providing for the effective carrying out of the provisions of this Act.
- to give effect to the provisions of the Act.
- for better execution of this Act.\textsuperscript{26}

\textsuperscript{25} E. A. Driedger, Legislative Forms and Precedents (Ottawa, The Queen's Printer, 1963), p. 40.

\textsuperscript{26} Ibid., p. 41.
Included in such clauses are terms or phrases which tend to obscure the meaning of the clause. For example, authority may confer the capacity to make regulations which "are not inconsistent with the Act." According to Driedger, these words are unnecessary because it is not permissible to make regulations contrary to or inconsistent with the Act itself. He further states that:

The Interpretation Act makes it unnecessary to provide that regulations may be made from time to time or that regulations may be revoked and others made in their stead. 27

Words such as the authority is to make "such regulations as are necessary" for carrying out the Act appear to be without value. It may be argued that such phrasing anticipates discretionary powers; but there is considerable difference between saying a regulation seems necessary and regulations which the Lieutenant Governor - in - Council deems necessary. The latter phrase authorizes discretion, the former does not. Thus, power may be given to the Lieutenant Governor - in - Council "to make such regulations as he deems necessary or advisable for carrying out the purposes of this Act." On this point, Driedger says that:

In such cases the regulation making authority is the sole judge of necessity and the courts would not question [its] decision, even if they thought otherwise, except possible if bad faith were established. There is, therefore, a vast difference

27 Driedger, Legislative Forms and Precedents, p. 40.
between the two following examples in the extent of power conferred.

...make such regulations as may be necessary for carrying out the provisions of this Act.
...make regulations as he deems necessary for carrying out the provisions of this Act.28

Objectives of Delegation

The preceding discussion of delegated authority refers primarily to the form of the authority; it expresses no detail of purpose, subject matter or other delimiting characteristics. Where delegated authority remains general or unspecific, it usually means that the Act of Parliament itself is considered clear in intent and regulations made by the Lieutenant Governor - in - Council are expected to be of administrative concern only. However, where a specific purpose is identified, then the administration (the Executive - in - Council) is expected to have a somewhat free hand to establish main principles as well as operating details; and when the earlier distinction of discretionary power is combined with this latter point, even greater delegation of authority results. Thus:

The Lieutenant Governor - in - Council may make such regulations as he deems necessary

for a specific purpose, results in the entire law being left to a body subordinate to the Legislature. To comment on the force of such regulations, Driedger quotes the Chief Justice of Canada (1943) who said:

28 Driedger, Legislative Forms and Precedents, p. 40.
I cannot agree that it is competent to any court to canvas the considerations which have, or may have, led him [the Lieutenant Governor - in - Council] to deem such regulations necessary or advisable for the transcendent objects set forth....The words are too plain for dispute; the measures authorized are such as the Governor General - in - Council (not the courts) deem necessary or advisable.29

Clearly, given such force of law and freedom to make it, only the Legislature in such a case could contradict the regulation making body and only by enacting another statute.

Objectives of specific purpose is one motivation for delegated authority, subject matter is another. And again, wide ranges of authority result from this kind of delegation. The legislative statute may authorize regulation making authority respecting some particular subject such as air transport, broadcasting activities or licensing procedures.

Some objectives of regulating authority are less obvious to the casual reader of statutes. For example, authority is sometimes conferred to make specific regulations. Thus one might make regulations "for the purpose of restricting or prohibiting." In this case, almost any regulation for which it can be shown to have as its purpose, restricting or prohibiting, would be valid. But if the Act confers authority to make regulations "restricting or prohibiting", then the power given is meant

29 Driedger, Legislative Forms and Precedents, p.41.
to restrict directly by application of the regulation. In other words, in the second phrase, ancillary regulations for the purpose of restricting may be invalid because they do not of themselves restrict. The seemingly inoccuous terms such as 'respecting' are actually quite important when powers of delegation are encountered. A Minister may be empowered to make regulations respecting some subject in which case he may sub-delegate some part of his authority respecting that regulation. Driedger cites the subject of tariffs or tolls. If the Minister were required to make regulations prescribing tariffs, then only the Minister could prescribe and that authority he could not delegate to another. But if the Minister were only required to make regulations respecting tariffs, he could delegate the author- ity of prescription elsewhere.

The Public Schools Act (1972) contains good examples of rather standard omnibus clauses. Sections (17) and (18) are omnibus clauses. Where an enumeration follows the omnibus provision, it is usual to provide that the enumeration is not to be construed as constrictive. In short, the omnibus provision determines the scope of delegated authority and any enumerated authorities should not be construed as being the only authorities and certainly not as limitations placed upon the omnibus authority clause. Thus, Section (18) of the Public Schools Act (1972) opens with the words:

30 Driedger, Legislative Forms and Precedents, p. 43.
Without limiting the generality of section (17), the Lieutenant Governor - in - Council may, by regulation

(1) prescribe the conditions under which a Board may be required or authorized by the Minister to establish or close an elementary or secondary school

(2) regulate the conduct of public schools

Consequently, the opening lines deny limiting previous sections and similarly, the subsequent enumerations are not intended to restrict. These omnibus clauses are referred to generally as enabling legislation.

Legislative and Administrative

There would be little question whether actions of officials were essentially legislative or administrative in nature were it not for the fact that government departments issue a host of directives, guidelines, circulars and announcements. The principle of reductio ad absurdum is as relevant to the analysis of government operations as it is to the work of philosophers: excepting stipulated definitions, what are the proper lines of demarcation between the "macro" level of parliamentary legislation and the "micro" level of daily routines by civil servants which in turn affect the daily lives of the public? Since everything committed by the government or its agents stems from some legislative statute, how does

one distinguish the legislative from the administrative? The question is not merely gamesmanship or one of semantic convenience: legislative acts at the very least potentially affect the basic rights of citizens; those of a purely administrative nature are not nearly so universal or binding. Further, it does not seem sufficient to rely upon statutory clauses which expressly state that where a Minister may make various rules and orders, that such rules and orders are not regulations as defined in this study. If a dispute comes before a tribunal or a court of law, the essential criteria determining to what degree a party was bound by a directive may well rest upon whether or not the directive was legislative in nature or purely adminis­trative.

The 1969 Special Committee on Statutory Instruments examined these issues briefly. Part of its procedure was the circulation to various ministries a questionnaire. Pertinent to this area were the following queries:

1. With reference to the different types of sub­ordinate legislation which come under the administration of your Department...
   (d) Does your Department issue other rules, orders, instructions not included within the terms of the Regulations Act -- which affect the public? If so, about how many, including amendments, were issued during 1968?
   (e) Does your Department issue other rules, orders, or instructions, not included within the terms of the Regulations Act -- which affect only your own Department?
10. Does your Department or Agency issue documents in the nature of policy statements or position papers which are used by your Department or Agency to implement policies under legislation administered by it? If so please specify. If so, what steps are taken to bring such documents to the attention of interested or affected persons?32

Each of the ministeries replied that they had indeed issued a substantial number of documents under each of the conditions mentioned in the questions. Apparently, the main reason for excluding the documents from being classed as regulations as defined by the Regulations Act was simply that they were not called regulations by the Departments. When such rules are effected, bureaucracy, taken to mean government by officials, becomes the power and the civil service becomes the master of the people. It is presumed, therefore, that a distinction between acts that are legislative or administrative in nature is worth seeking.

The Committee on Statutory Instruments cites an extensive comment of S.A. de Smith and, because of the limited literature on these issues of delegated legislation, it is worth reproducing here. Professor de Smith treats the issue of legislative versus administrative acts by saying that:

In the first place, every measure duly enacted by Parliament is regarded as legislation. Thus, it a parcel of land is compulsorily acquired by means of a Private Act of Parliament or a Provisional Order Confirmation Act, the acquisition is deemed to be a legislative act; though if the acquisition is deemed

32 Third Report of the Special Committee on Statutory Instruments, M. MacGuigan, Chairman, (Ottawa, The Queen's Printer, 1969); p. 22.
to be a legislative act; though if the acquisition is effected by means of a compulsory purchase order made under enabling legislation, it will usually be classified as an administrative act. Secondly, departmental instruments or announcements which, although general in application, neither confer legally enforceable rights nor impose legally enforceable obligations are commonly referred to as examples of 'administrative' action. In this sense the decision to allow certain classes of aliens to be heard before a metropolitan magistrate on a question of deportation was administrative. Similarly, Circular No 9/58 whereby the Minister of Housing and Local Government invited local authorities to supply objectors and appellants concerned in inquiries into compulsory purchase and clearance orders and planning appeals with fuller particulars of the cases they had to meet, and also announced the Ministers own intention to make several important concessions in the light of recommendations made by the Franks Committee on Administrative Tribunals and Enquiries, was not a legislative instrument because it was not made pursuant to express statutory authority and failure to comply with its provisions did not afford a legal remedy to any member of the public; legal remedies became available only when the terms of the circular were translated into statutes and statutory instruments. The position would have been no different if the Ministry or the Minister had purported to issue mandatory instructions to local authorities in such a circular. Just as the Crown is without authority to alter the general law of the land by prerogative, so are its servants and other public authorities without inherent authority to impose legal duties or liabilities or to confer legal enforceable rights, privileges or immunities on the subject. Hence, the extrastatutory concessions to taxpayers that the Inland Revenue authorities announce from time to time cannot be relied upon in any court of law, although they have been styled administrative quasi-legislation. It must not be assumed, however, that departmental communications issued in the form of circulars, notes for guidance or letters to local and regional authorities or press notices, are necessarily destitute of legal effect. If they are issued in pursuance of statutory powers which authorise the Minister to confer rights, directly or indirectly, on members of the public, and if the Minister does purport to confer such rights (as where a Minister who is empowered to impose restrictions upon his own powers or the powers of local authorities in certain
transactions with members of the public, imposes restrictions in a circular letter or other document, the relevant provisions will be recognized and enforced by the courts; and to that extent these informal instruments may be characterized as having legislative effect.  

Answering one of the Committee's questions, the federal Department of Health and Welfare advised:

It is impossible to distinguish in some instances between an instruction issued in the day-to-day administration of the work and instruction that could be regarded as supplementing legislation. It is more difficult still in retrospect to distinguish between instructions which may affect the public and those which do not affect the public but which affect only the Department.  

In another instance, the Legal Adviser to the Department of Manpower and Immigration acknowledged the fact that the Department explains policy issues which affect the rights of citizens and that such "explanations" are not made public. 

The Department of Transport, Marine Regulations Branch, responded to one of the Committee's questions saying:

Yes. We have issued a 'Concentrates Code' for the guidance of port wardens in determining what is 'approved practice' under Section 624 (4) and a document entitled 'Ships Centralized Automated Control Systems Recommendations' for the guidance of steamship inspectors in determining what systems are likely to be approved by the Board of Steamship Inspection. We expect that eventually, after we

33 Third Report of the Special Committee on Statutory Instruments; pp 22-3.
34 Ibid., p.24.
gain further experience, these will be converted into regulations. Our practice is to consult with the industry before these documents are put into final form and to make copies freely available thereafter.\textsuperscript{36}

The Committee concludes that if the latter documents referred to by the Department of Transport could be converted readily into regulations, and that if there is statutory authority for such regulations, then such "directives" are of a legislative nature.

Finally, the Department of Veteran Affairs, Veteran Welfare Branch, replied that:

In a few cases Ministerial Orders are issued, normally to define the boundaries of items of discretion in legislation. In such cases, persons applying for benefits are counselled concerning this area in the same manner as if they were contained in the legislation.\textsuperscript{37}

The Committee concludes that in view of the foregoing kinds of evidence together with its axioms of constitutional justice, the term 'regulation' could well be redefined to mean:

In this Act
"regulation" means
(i) a rule, order, regulation, directive, by-law, proclamation, or any other document made in the exercise of legislative power conferred by or under an Act of Parliament;

(ii) a rule, order, regulation, directive, by-law, proclamation, or any other document made in the exercise of legislative power conferred by or under the prerogative of rights of the Crown and having the force of law;

\textsuperscript{36} Third Report of the Special Committee on Statutory Instruments, 1969; p.26.\
\textsuperscript{37} Loc.cit.
(iii) a rule, order, regulation, directive, by-law, proclamation, or any other document made in the exercise of legislative power coming within sub-paragraph (i) and (ii) and which has been sub-delegated;

(iv) a rule, order, regulation, directive, by-law, proclamation, or any other document for the contravention of which a penalty or fine or imprisonment is prescribed by or under an Act of Parliament;

but does not include a rule, order, regulation, directive, or by-law, or any other document of a legislative character of a corporation incorporated by or under an Act of Parliament, which is not a Crown corporation unless such a rule, order, regulation, by-law or document comes within sub-paragraph (iv). 38

In addition, the Committee makes ten recommendations. Because of the general importance of this topic for later analysis, it may be useful to cite these recommendations in the hope that they may give further indication of general concerns within the field of public administration studies. It is the view of the Committee that all enabling acts for regulation-making authorities should accord with the following principles:

(a) The precise limits of the law-making power which Parliament intends to confer should be defined in clear language.

(b) There should be no power to make regulations having a retrospective effect.

(c) Statutes should not exempt regulations from judicial review.

(d) Regulations made by independent bodies, which do not require governmental approval before they become effective, should be subject to disallowance by the Governor - in - Council or a Minister.

38 Third Report of the Special Committee on Statutory Instruments, 1969; p. 27.
(e) Only the Governor - in - Council should be given authority to make regulations having substantial policy implications.

(f) There should be no authority to impose by regulation anything in the nature of a tax.... Where the power to charge fees to be fixed by regulations is conferred, the purpose for which the fees are to be charged should be clearly expressed.

(g) There should be no authority to amend statutes by regulation.

(h) The penalty for breach of a prohibitory regulation should be fixed, or at least limited by the statute authorizing the regulation.

(i) The authority to make regulations should not be granted in subjective terms.

(j) Judicial or administrative tribunals with powers of decision on policy grounds should not be established by regulations.39

Perhaps more points on government administration have been developed in this chapter than are actually necessary. It may be useful, therefore, to summarize a few of the more important facts.

The legislative branch of government generates continuing principles of policy. It is the duty of the administrative branch, including the Executive, to formulate the rules by which the people's policy will be faithfully carried out. Earlier, it was noted both the difficulty and lack of significance that a case for a 'separation of powers' doctrine would have. Here, however, it is vital to ensure that the legislative functions are clearly distinguished from those of the administrative. A lack of distinction could easily result in a chaotic dictatorship of the civil service.

Legislative acts are those which give rise to statements of policy and provide for their execution by the administration. Administrative acts are those concerned with rule formation by which policy statements may be carried out. The former may affect basic citizen rights; the latter should have no such effects.

An order, such as an Order-in-Council, is classed as a statutory instrument, authorized by Parliament, for the purpose of making regulations which have the force of law. It follows, therefore, that regulations are not themselves statutory instruments. They are classed as delegated legislation. As subsequent analysis will show, this point is extremely important for any provincial education system, and in particular, for determining just what authority a school board has in generating or guiding educational policy.

Since regulations can be promulgated only through parliamentary authority, it follows that regulations are extensions of legislative policies and their intentions, therefore, are legislative, not administrative. Consequently, it seems reasonable not to regard statutory regulations as specific commands in all cases. In other words, it is not decisively clear from the literature that the ordinary semantic interpretation of 'regulation' applies. Thus, there is perhaps the question of intent in a regulation just as there is a question of intent in a statute. The result is
simply that regulations, while often quite specific, are open to interpretation. One might expect variations in the conduct of those to whom the regulations apply. Although it is anticipating a future chapter of the study, it is of significance to note that the judiciary cannot review the substantive content of legislation, and that consequently, disputes over regulations allow the prospective litigants no recourse to the courts of law. Their redress is sought through administrative tribunals. The formation of regulations is clearly an important and intricate part of the administrative process because of the degree to which that process is affected by the Executive.

The phenomenon of delegation requires careful study because of the power behind a legislative act. Since the prime criterion of what constitutes a legislative act appears to be whether the action taken was other than procedural and affected the legal rights of others, actions taken, even though presumed to be duly authorized yet excluded from being regulations, could be classed as legislative and so produce a host of undesirable consequences. Similarly, the problems of sub-delegation arise within the context of the administration of education. A school board is constituted by legislative statute, not the executive; but questions of board capacity on certain issues are settled by the Minister of Education, sometimes at his discretion, other times at the discretion of the Executive -
in - Council. Indirectly, this may be a case of sub-delegation in form if not express. That is, the Minister may empower a board to exercise its own discretion in a matter that is really a case of legislative policy.

In sum, therefore, this chapter has dealt with legislative instruments which authorize the Executive to administer, and with the executive instruments through which rules for public administration are processed; and finally, the chapter has dealt with some issues and problems respecting rule making processes by which an administrative structure may emerge. It seems appropriate at this point to return to the earlier attempts to define administration.
V - ADMINISTRATION: TOWARDS a DEFINITION

The nature of administration is not readily expressed in a single, even if complex, sentence; and since it is difficult to separate form and content, administrative acts taken apart from administrative purpose produces empty sets. Common approaches to the task of defining 'administration' include searches for reasonable components of the term and contextual studies. In the first instance, terms such as purpose, co-operation and action are used. The result is the assertion that:

...administration can be defined as the activities of groups co-operating to accomplish common goals.40

In the second instance, the definitional attempt seeks to utilize the term administration within some context such as formal organizations with the result that some organizational format is presented and the reader must adduce the import of the essential term. Both approaches in producing a product of such a general nature result in a definition for which the analytical value is exceedingly small. Unfortunately, anyone who has attempted to produce a useful definition knows how easy it is to develop critiques and how difficult it is to formulate better replacements.

Perhaps each researcher's conceptual system differs enough one from another that no universal formulation emerges. In terms of the immediately preceding quote,

perhaps the real goal is not the definition of an administration constant but one specifically suited to the intent of the larger inquiry within which a particular definition best applies. But since the same term is usually used -- administration -- it would seem that there is some widely applicable connotation to the term if not a universal denotation. Denotively defined, administration is frequently classed as a set of acts or actions of either a conducting or co-operating fashion. Connotatively, the term seems to refer to position, particularly that of a super-ordinate. Thus, someone or some group behaves in a particular fashion for some objective or outcome. Again, however, this kind of discourse lacks point because the structural characteristics of the thing administered are not identified. It is perhaps necessary therefore, to speak both of form and content together with some kind of context.

Another approach to clarifying what is meant by administration is the study of behaviour. On the surface, at least, it is a reasonable approach. One might observe someone identified as an administrator and examine his tasks in order to taxonomize the operational characteristics of that administrator. With sufficient repetition of that kind of study, one may be able to extrapolate general characteristics of the administration function. At least the analysis may say something about what a certain class of staff in an organization do; it could not say what they
should do. It is perhaps this last point that gives rise to most problems when trying to produce a satisfying definition of administration: frequently, the search may presume some absolute meaning of the term and that the meaning simply awaits discovery. However, since it can be assumed that administration refers to material and human resources in some way, and that its objectives are relevant to outcomes for human benefit, finding such an absolute meaning would have little use unless there were already established a set of axioms concerning the grand purposes of human life. Consequently, the term can be dealt with best by relating it to human ends or objectives in which case administration is best treated as the 'means' side of the 'means-ends' equation.

In this study, the general organizational context being considered is the British Columbia educational system as constituted by the Public Schools Act (1972). Also, the education system is being considered as a public administration body that is no different in basic form from such entities as the Department of Transport.

The axiological domain -- the establishing of objectives -- is controlled and developed by the legislative branch of government. The legislature acts as society's representatives and formulates policy as much in accordance with the general public's wishes as it can. Insofar as the
the Administration is concerned, it is quite irrelevant why certain policies are advanced. It is sufficient to take policy as given and to understand it as the people's prospectus to be implemented.

Moreover, civil servants are presumed to be apolitical and serve 'at the pleasure of the Lieutenant Governor'; and they are expected to serve the government of the day, regardless of its ideology. This implies, of course, that administrators are not expected to question the motivation for policies but to obediently seek the best means of giving effect to them. Now while subordinates are not expected to question the origin of policies, it is necessary to understand their intent if they are to have any chance of being effected. Thus, the distinction should be drawn between why a policy exists and what a particular policy means. As subsequent analysis will demonstrate, provisions in education for making policy and policy directives clear are inadequate.

If the ends of the organization are given, it follows from the means-ends assumption above that some body and/or some process must constitute the means. Simon and others treat the rolling of a stone as an administrative task. But, they point out:

Administration in the more restricted sense is not basically concerned with the technological methods selected. It is concerned with such questions as how the method was chosen, how the two men moving
the stone were selected and induced to co-operate in carrying out such a task, how the task was divided between them, how each one learned what his particular job was in the total pattern, how he learned to perform it, how his efforts are co-ordinated with the efforts of the other.  

Following Simon's reasoning, the problem of means may be further reduced to issues not of general technology but of methodology. Public administrators face the same basic issues. Assuming that administration refers to policy and not to technology -- at least the emphasis is taken to be on the former, not the latter -- then teaching tasks per se are equivalent to the physical action of rolling the stone. That is, pedagogical tactics are technological; how the tactics were chosen was an administrative task. A principal may be in charge of the school programme. His selection of personnel and organizational strategies is technological; but his decisions that certain persons should be hired or that certain strategies should be employed are administrative decisions. The same line of reasoning may be applied upwards throughout the education hierarchy. The important distinction which seems to emerge is that acts which refer to the actual execution of the task is the technology of the task. The decisions of what should be done and by what manner should they be done seem more appropriately classed as administrative acts.

41 Herbert Simon et al, Canadian Public Administration, p. 2.
But, of course, this kind of distinction describes the types of operations of administrators; it says nothing about the objectives or ends of administration. Without a statement delimiting the ends of administration, the operations described may quite conceivably apply to any position in an organization. Engineers, physicians, or taxi drivers may be characterized by the criteria which Simon and others develop; and indeed all may be performing administrative tasks. The question remaining is how does one identify the distinction between the function of an engineer qua engineer and an engineer who is an administrator? It may be asserted that this is a trivial and simple question to answer: when 'A' deals with issues of tensile strength, vector analyses and whatever else, he may be classed as an engineer; but when 'A' deals with issues of selection, cooperation and division of labour, he may be classed as an administrator. How then, might one begin to separate administration from everything else?

An effective means of differentiating one discipline from another is to examine the kinds of questions each asks. Perhaps once the general forms of the questions can be identified, a criterion may emerge. There is probably no dispute that philosophy as a discipline would not exist were it not asking questions different from physics, zoology and others. Thus, if the philosopher's problems were empirical problems, the techniques of the physical sciences would serve him well enough, and the philosopher would be an empirical
scientist. It would appear then, that unlike scientific questions which are about understanding nature, philosophical questions may be regarded as questions about the conceptual structure through which nature is understood. Thus, whereas scientific questions are empirical, philosophical questions are conceptual. If a question is to be conceptual and therefore distinct from empirical, it must be of the form "what is x?" And since it is conceptual, it must deal with problems of meaning. Given this perception of philosophy, its role cannot be defined essentially as answer giving but as clarifying through conceptual analysis.

Like the nature of a philosophical question, that of a conceptual question is equally difficult to identify. Being asked a purely conceptual question like "What is the logical nature of the concept administration?" makes it quite readily identifiable as a conceptual question. But the question, "Should we continue corporal punishment in schools?" contains several questions: a) what is the nature of corporal punishment? b) what factual knowledge have we about the circumstances of the school and its inmates? c) what are the criteria for expressing a moral opinion? Most of the questions frequently asked in any discipline are similarly multidimensional. But just as frequently, we unthinkingly respond from our common store of wisdom rather than from a sound analytical approach. Thus, for each question mark, there may be several questions; and in a very literal sense,
the administrator who does not engage in conceptual analysis cannot know what he is talking about. In the above examples of conceptual questions it can be seen that the conceptual question takes priority because considerations of fact and morality cannot be relevantly applied at all until just what they are supposed to be applied to has been determined. This reasoning, then, leads the study full circle to the outset where the conceptual scheme of what it means to speak of politics and political activity began. A variety of facts concerning governmental operations have been described and it is to that earlier conceptual analysis of politics that the remainder of the study will be directed.

Recall some of the characteristics of the main government divisions, the legislative, judicial, and executive. Generally, the first enacts policy; the second adjudicates conflicts brought before it by clarifying statutes and rigorously applying their conditions; and the third branch mediates between the first division and the people by both creating laws under its delegated authority and making provision for the execution of statutory requirements. In addition, the executive usually lacks the expertise to manage, or even to administer very closely the details of public services under its authority. Nevertheless, it is charged with the administrative authority and responsibility for any delegation of that authority according to the doctrine of ministerial responsibility.
Consequently, it is reasonable to conclude that the Executive constitutes the head of all administrative functions, with the approval of the legislature. As noted earlier, it is much easier to define who is the administration than it is to define what is administration; but at least there now is a context which the conceptual analysis can be applied to.

This analysis so far has: a) given some important characterizing marks of administrative acts, and b) provided the context for a proposed definition of what administration is, and c) located the position of the administration within the governmental system. It may be possible now to more clearly express a view of administration which would serve this study adequately and, at the same time, provide some use within many other fields where administration takes place.
VI - POLITICS and ADMINISTRATION

The conception of a political system developed and used in Chapters I and II, together with some of the considerations given to the administrative process in the preceding chapter, suggest at least, that this study views administration basically as a political activity -- a distributive or allocating function. Therefore, the object of this chapter is to carry forward the conception of the political system and to show that its form and the form of administrative activities are essentially the same.

Commenting on the work of the Federal Management Analysis Division, the 1960 Royal Commission on Government Organization in Canada said:

...the emphasis has generally been on specific problems and remedies rather than on the broad problems of organization, structure and integrated systems planning.42

In view of the preceding discussion of Chapter V, it might be argued that the Division has been attentive more to issues in the domain of technical expertise that to issues of an administrative nature. That is, they have paid little attention to the rules which govern the choice of technical procedures. In Volume 5 of the same study, the Commissioners state:

It has long been recognized that Ministers need not be administrative experts. On the contrary, it is desirable

42 The 1960 Royal Commission Report, op.cit., v.5.
save in the stress of emergency that they do not become deeply involved in the administration process. As members of the Cabinet, their principal obligation is to reflect and give effect to the collective point of view -- drawing together the public interests, attitudes and aspirations that find expression in the political process, and, by reconciling these, providing the basis for a central unity of government in policy and action. As heads of departments, it is the task of Ministers to define the ends to be pursued, and to instil their own sense of purpose and urgency in the permanent officials. In the absence of such leadership, public servants may lapse -- by reason of their immunity from the political consequences of their actions -- into dilatory and complacent habits, insensitive or indifferent to public wants and restraint to change. 43

The Commissioners assert that the Ministers are heads of Departments and therefore must accept a leadership role both in effectively communicating the will of the legislature to the subordinate administrators and in matters pertaining to the choice of methods for giving effect to legislative policy: administrative directives. It is for this reason that some detailed consideration was given to instruments of delegated authority in the last (V) chapter. These directives fall into that hazy area of legislative power and administrative guidance. Of them, the Royal Commissioners say:

Directives include internal instructions, procedure manuals, references to and interpretations of statutes and regulations, distributed throughout an organization for the guidance of its staff. 44

The phrase 'for the guidance of its staff' should not be

44 Ibid., v.5.
passed by casually. Recall how in Chapter IV it was demonstrated how some staff members took such directives and applied them as guidelines and as though they were contained in the legislation. This was true of the branch of the Veterans Affairs Department. While it is the responsibility of the administration to govern how the legislature's policy is effected, the discussion of legislative authority and the delegation of powers clearly indicates that the kind of action taken by this branch could not be construed in any way other than legislative -- a violation of its authority and power. Its authority is statutorily defined and its power is the degree of discretion accorded it by the statute; but the Legislature certainly gives no freedom to act legislatively to a subordinate division of an administrative entity. If, indeed, the branch acted legislatively, then its actions affected the legal rights of citizens and it is a common convention that in such circumstances that action is either judicial or legislative, not administrative. Thus, it appears to follow that if only the legislature controls matters of legal rights, then the administration must engage in matters where no such topic arises. In fact, it is only in issues of giving force to extant policy that the administration may act. One practitioner in the field of administrative law sums the issue by saying:

One commonly accepted ground for distinguishing
administrative from quasi-judicial functions is their effects on rights. Power to affect rights is quasi-judicial; a lack of it is administrative or ministerial. In other words, a directive construed as to give force to policy is administrative. The operative phrase is 'to give force to policy'. There is no hint that such actions should in any way extend policy or assume a policy or an interpretation of a policy is in force and then act accordingly. If the Minister or his agent has not made his directive clear and unambiguous, the lesser authority must seek clarification. The issues of civil liberties are too important to be subjected to rules made in a manner as to preclude them from the scrutiny and approval of the public whom the subordinate agency serves.

From this discussion, it becomes apparent that there is something called the administration and something called administrative decisions. It is not yet clear whether there is something called administrative acts or whether this term is synonymous with administrative decisions. The administration is comprised of the Executive as head of Departments, and the Departments themselves. Administrative decisions are those which give force to legislative policy but which in themselves should not affect the legal rights of citizens. When technical bodies such as

45 Robert F. Reid, Administrative Law and Practice (Toronto, Butterworths, 1971); p. 146.
engineers, transport officials or teachers are instructed to achieve a particular objective, the conditions under which they are to apply their technical expertise and initiative are specified by rules promulgated by the administration. These rules deal with the kinds of issues mentioned earlier: how certain technical methods are selected, what criteria determine personnel selection, what division of labour is necessary, and similar topics. Now while there may be cases where the Departments may even specify greater details such as what particular technical strategy should be used, this is considered simply a matter of practical convenience or concern; its occurrence does not cause this kind of decision to be included in those decisions classed as administrative because it fails to meet the criterion of distributive or allocative mentioned at the beginning of this Chapter and conceptualized in Chapter II. It does point out, however, the authority of the Minister that can be exercised.

If the Minister of Education prescribed the use of a text even though teachers unanimously opposed its use, the Minister's authority would prevail. His prescription however, would not be an example of an administrative decision because it fails to meet the criterion of 'value' as set out in Chapter II. And, in any case, prescribing something is not the same as allocating something. The Minister's decision to prescribe something, however, would
constitute an administrative act because the act of prescription would ordinarily be preceded by decisions of selection among alternates and subsequently the decision to allocate, or impose, the value of what the prescription represents on others. Consequently, were the Minister to authorize a segment of his Department to make rulings respecting the usage of texts as they deemed desirable, then he would have made an administrative decision.

As seen earlier, politics referred to policy-making and political activity was taken to mean making decisions concerning the allocation of values. Thus, if a government were required to control inflation, the political question would refer to what kind of policy concerning inflation should be studied; and the political activity would be the decision-making process of what kind of economic strategy should be employed. Inflation would be the policy issue and price controls may be the political decision. The resultant decision is manifested through the administrative services of the government and this phase represents the operational stage of allocating values. The three basic political steps are: a) determining what values are at stake, i.e., the policy, b) what values should be allocated, and c) which agency shall be charged with the required power and authority to administer the policy.

Continuing with the notion of allocation, it is now possible to show the parallel between forms of
political and administrative activity. The administrator's essential task is to find suitable means for giving force to executive policy. In form, therefore, the administrative process parallels the political process; and it achieves this parallel because of the basic ingredient of allocation. Given some executive policy to implement, the administration must also engage in three basic steps: a) determine the precise conceptual nature of the policy, b) choose which strategy will result in giving force, and c) distribute the responsibilities for execution to those with the necessary technical expertise.

The first step represents a philosophical activity: a process of clarification. This is the level of politics where ideologies take shape. The essential values chosen for allocation result largely from the social perspectives generated at this level. The second step represents an evaluative stage where preferences for means are expressed. Any number of alternative strategies may be available. Each must be tested in principle at least for its efficacy of achieving the policy. The third step is the prescriptive stage wherein the essential distributive or allocative function of administration is carried out. It is at this point that political values are made operational and applied to the objects of the policy.

After giving effect to the foregoing points, it suits this study best to conceive of administration
as that process engendered by the delegated authority and power of those constituents of an organization who are charged with the responsibility of giving force to policy promulgated by a superior authority by means of which rules are made to govern the constituents subordinate to themselves concerning the conditions under which those subordinates may apply their technical knowledge for the ultimate purpose of giving force to policy decisions of the superior authority. As stated earlier, authority is defined as to its nature and scope within the statutes, and power is taken to mean the extent of discretion which the statute provides within the limits of authority specified. Administrative acts are considered ancillary to administrative decisions. Thus, the issuance of a directive may be classed as a technical act, but the decision which preceded its issuance constitutes the substantive essence of the administrative process. In sum, any act that can be described as authoritatively allocating strategies is an administrative act.
If large-scale organizations are to accomplish their purposes; if the extremely complex inter-relationships of an industrial era are not to break down, organizational life -- its anatomy and pathology -- needs to be considered. Those who participate in and operate the formal organizations through which so much of our society's activity is channelled must know what makes cooperation effective and what hampers it. Either through experience or through formal education, or both, they must study administration.

The Public Schools Act may be regarded as the constitution of the British Columbia education system. In this study, 'constitution' refers simply to the relationships among the principal classes of education personnel named in the Act. The preceding chapters argue that administration in education has as its foundation, the political system of provincial government, and that administrative acts are those decisions to authoritatively allocate values and strategies to implement those values. Therefore, a logical starting point for determining the anatomy of the public school system in British Columbia is, initially, to study the component relationships posited by the Legislature.

The Minister of Education

The earlier chapters of the study make it clear that the Minister of Education is the one who

is the head of his department. The principle of ministerial accountability implies that the Minister must bear responsibility for anything done within his department. For this reason, he also has complete authority over all matters in education. While it may be that the exercise of his authority is most often achieved through the Lieutenant-Governor in Council, subordinates failing to obtain ministerial approval on major issues may be subject to penalty by virtue of the fact that they will be contravening the statutory conditions of their duties. Each class of constituent has both mandatory duties and areas of discretion. Thus, as an example of a mandatory duty:

The Minister shall

(c) divide the Province into district superintendencies for the purposes of this Act;

(g) arrange, from time to time, in respect of the schools established under this Act, for the examination and investigation of

(i) the progress of the pupils in learning;
(ii) the order and discipline observed;
(iii) the system of instruction pursued;
(iv) the professional development of teachers;
(v) the mode of keeping the school records; and
(vi) the character and conditions of the buildings and premises;

and, with respect to these matters, offer such guidance and direction as he may consider proper; 47

In the case of discretionary authority,

The Minister may

(c) require the preparation and completion of such reports from persons under his supervision as he may consider necessary to implement the provisions of this Act;

(d) authorize, at the request of a Board of School Trustees, the use of a course of study, a text-

47 The Public Schools Act, R.S.B.C.1960, c.52. Sec. 7.
book, or a supplementary reader within a public school of a school district for a stated period of time. 48

In the same fashion, various other constituents have similar types of duties, each of which denotes a range of statutory authority and a range of discretion within that authority. Further, each constituent subordinate to the Minister has certain itemized responsibilities either to the Minister directly or to some other constituent who is in turn responsible to the Minister. Consequently, while the Minister's law-making power rests only in the body of the Lieutenant-Governor in Council, his administrative responsibility for the Department of Education is complete, or, all-embracing. The Minister's authority and power is so complete that, insofar as issues requiring decisions made are concerned, there is little point in trying to delimit his position further. All things are, in principle, possible through the Minister. Therefore, other considerations or criteria might have to be applied when trying to predict how a certain issue might be resolved that requires ministerial authority. There is, however, one point that might be worth a brief examination. It may help to further distinguish the position of the Minister from the Lieutenant-Governor in Council.

The use of the term regulations can easily cause confusion. Chapter IV discussed regulations in the

48 R.S.B.C. 1960, c. 319, 1972 c. 52. Section 8(d).
context of Orders - in - Council. Regulations as used there have the force of law. The provisions of the Act concerning the jurisdiction of the Department of Education state that the Minister:

..., subject to the regulations, may make such rules and orders as are considered necessary or advisable to effectively administer this Act or the Regulations.\(^{49}\)

This item may lead one to think of certain ministerial directives or rulings as having the force of law. Indeed, there may be circumstances under which a Minister may issue a rule or order and, for those who are components of the administration, the rule or order may not be ignored; but it must have administrative effect only and not affect the person's rights. The distinction is for a court of law to settle. What is important administratively, is the fact that such rules and orders made pursuant to Section 6(e) have a mandatory effect. Further, the phrasing "as are considered necessary or advisable" provide large degrees of ministerial discretion. His power is considerable.

Section 6 should be contrasted with Section 18(27). Here, the lack of a minister's right to make laws is made explicit. The Lieutenant - Governor may vest in the Minister such powers and authority as are considered necessary or advisable

(a) to effectively administer the Act and the regulations;

and

(b) to make such rules and orders for that purpose,

\(^{49}\) R.S.B.C. 1960, c.319; 1972, c. 52, Section 6(e).
and such rules and orders are not regulations within the meaning of the Regulations Act.\(^{50}\)

Clearly, it is not the intention of the Legislature that the Minister of Education be empowered to make legislative decisions, and certainly not to make laws.

There is an interesting point concerning the interpretation to be placed upon the word 'may'. In some cases, the term should be construed as conferring discretion.\(^{51}\) This is generally the case where it is used in omnibus clauses, or, enabling legislation. A good example of this is Section 17 of the Public Schools Act.

For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant-Governor in Council may make such regulations as are ancillary thereto and not inconsistent therewith and as are considered necessary or advisable; and every regulation made under this section and section 18 shall be deemed part of the Act and has the force of law.\(^{52}\)

In other circumstances, the usage of 'may' connotes obligation. The criterion to be applied is whether the object of power is to affect legal rights. Edgar treats the matter saying:

It is, however, a well-recognised canon of construction, as Lord Cairns said...that "where a power is deposited with a public officer for the purpose of being used for the benefit of persons who are specifically pointed out, and with regard

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\(^{50}\) R.S.B.C. 1960, c. 319; 1972, c. 52, Section 18(27).


\(^{52}\) R.S.B.C. 1960, c. 319; 1972, c. 52; Section 17.
to whom a definition is supplied by the legislature of the conditions upon which they are entitled to call for its exercise, that power ought to be exercised and the court will require it to be exercised."\textsuperscript{53}

The preceding example of the Lieutenant - Governor shows much discretion. The following is an example where the Minister has no discretion.

The Minister may cause to be paid such amounts as prescribed by the Lieutenant - Governor in Council from funds voted by the Legislature for that purpose towards the salary of any person to whom has been issued a certificate of qualification for teaching or a letter of permission for teaching under this Act.....\textsuperscript{54}

Here, the Minister must pay or, authorize payment, the sums agreed upon. There is one final usage of 'may' worth noting.

Occasionally, 'may' implies a prohibition. Simply stated, it may mean that someone may do something in a specific manner and in no other way. For example:

If the Minister, after careful investigation has been made, considers that the programme of studies or the quality of instruction provided in the public schools in a school district is not satisfactory, he may recommend to the Lieutenant - Governor in Council that the amount of the grant of money payable under this Act in aid of the public schools in that school district be reduced.\textsuperscript{55}

While this may be easily viewed as a penalty clause, it may also require the Minister to do something and to do it in no other manner. Thus, he may not himself reduce

\textsuperscript{53} Edgar, \textit{op.cit.}, p. 285.
\textsuperscript{54} R.S.B.C. 1960, c. 319; 1972, c. 52, Section 20.
\textsuperscript{55} \textit{Ibid.}, Section 19.
a district's funds; but he must recommend that the Executive Council so regulate.

The Deputy Minister

The Deputy Minister is the top ranking civil servant in the Department and is appointed in accordance with the Civil Service Act. He may act upon the Minister's behalf if authorized to do so, and should be accorded every respect otherwise given to the Minister. All actions taken by the Deputy Minister are done with the presumed authority of the Minister. The Civil Service Act provides that:

A Deputy Minister shall be a Civil Servant under the provisions of this Act and shall hold office during pleasure.56

and that

It is the duty of the Deputy Minister of each department, and he has the authority, subject to the Minister, to oversee and direct the other employees in the department and to report as to their efficiency. He has the general supervision of the business of the department, and such other powers and duties as are assigned to him by the Lieutenant - Governor in Council or by Statute.57

In essence, the Deputy Minister assumes all immediate responsibilities for the general operations of the Department of Education. Since the Minister is rarely a specialist in the ministry he heads, the Deputy

56 R.S.B.C. 1960, c. 56, Section 10(2).
57 Loc. cit.; Section 12.
Minister is often chosen from the area the ministry he supervises. Consequently, those in the field of education will have much more contact with the Deputy Minister than they will with the Minister. This division helps to both separate and coordinate the political and administrative domains of the Department.

The Superintendency of Education

The Superintendency of Education is responsible to the Minister and Deputy Minister for the general supervision of the public school system. In the 1968 consolidation of the Public Schools Act, the Superintendent of Education was identified as having those authorities of the current sections (7) and (8) now specifically given to the Minister. Just what this means is unclear since no rationale for these kinds of statutory changes is given. This lack of data results from actions of the Lieutenant-Governor in Council and obscures possible statutory intentions. However, a comparative analysis between the statutes of 1968 and the present would show a trend of centralizing governmental authority and power. The elimination of the old Council of Public Instruction probably prompted most of the changes. The result, for the Provincial Superintendency is the Divisions of Instructional Services, Administration and Special Services. These may be regarded as administrative assistants to the Minister. However, when they act, they do so with the Minister's authority.
Divisional Superintendents irregularly issue circulars. These circulars may contain announcements, directives or rulings. Some note that they should be retained while others are purely information of the day and have no continuing effect. Responsibility for general field supervision of education rests with the District Superintendents.

The District Superintendent

Probably the most significant position in terms of authority and power in education in British Columbia is that of the District Superintendent. There are several indications within the Act that this position is expected to be one of control and educational leadership. That he is the agent of the Minister rather than simply a field extension of the Departmental Superintendent is indicated by the fact that only he, in addition to the Minister, is identified as being required to assist in making effective the provisions of this Act, in carrying out the regulations and in carrying out a system of education in conformity with those regulations. 58

The phrase "in carrying out a system of education" does indicate that the District Superintendent is expected to perform educational programme leadership functions. Except for the principal, no other "field" constituent is given this kind of authority. In addition, the District Super-

58 R.S.B.C. 1960, c. 319; 1972, c. 52, Section 9(a).
intendant is required to report in all matters to the Minister.

A casual reading of the Act might lead to the conclusion that the District Superintendent is at best an assistant to a school board. Unfortunately, the statute law of the Public Schools Act has received little attention from the courts and therefore it is not possible to cite cases on exactly how certain clauses of the Act might be interpreted. However, based upon various principles, an argument can be made to justify the assertion that the District Superintendent is the major educational leader in the system.

There is a rule of law in statutory interpretations that says:

If an affirmative statute which is introductive of a new law direct a thing to be done in a certain way, that thing shall not, even if there be no negative words, be done in any other way.  

The curious situation in the Public Schools Act is the lack of authority and power delegated to a Board of Trustees and the ensuing assistant-to-the-Board role of the District Superintendent. The Act says that the District Superintendent shall:

assist in making....
advise and assist each Board....
furnish trustees....
if authorized to do so by the Board....

59 Edgar, Craies on Statute Law, pp 264-5.
60 R.S.B.C. c. 319, 1972, c. 52 Section 9.
These opening phrases may appear to limit the authority of the District Superintendent; but recall how it is presumed that the Lieutenant-Governor shall act in accordance with ministerial directives or advise. In the case of a Board, it shall act in accordance with the District Superintendent's advise except in those matters over which it has exclusive and explicitly given jurisdiction. Further; for those clauses opening with the above words, there is no substantive counterpart for Boards of Trustees wherein there is not a cross-reference back to the authority of the District Superintendent. For example, the District Superintendent shall:

subject to the approval of the Board, assign teachers to their respective positions on the teaching staff of each school district.60

The counterpart to this clause for the Board of Trustees states that:

The Board of each school district shall...assign or authorize the assignment of those teachers in the school district under clause (e) of subsection (1) of Section 9, and enter into contracts with them, as provided in this Act.61

Such phrasing can hardly be said to give authority to a Board. Instead, it may be said that the Board must bear the fiscal responsibility but leave educational policy to other constituents. Thus, the only way to have a teacher assigned is through the District Superintendent.

60 R.S.B.C. 1960, c. 319; 1972, c. 52, Section 9(e).
61 Ibid., Section 128(1).
Similarly, where the Act requires that the District Superintendent advise and assist each Board having jurisdiction in his superintendency in exercising its powers and duties under this Act;\textsuperscript{62}

it may be concluded that the Board shall receive and show evidence of due consideration for the recommendations of the District Superintendent in all matters which the Board may consider. This clause alone would tend to support the assertion that the District Superintendent ranks first in the field because the mandatory nature of the clause ensures that no Board action should be taken without the direct involvement of the District Superintendent. The Act does not say simply that a Board may ask a District Superintendent for advice, but that the District Superintendent shall give advice and assistance.

In matters of educational import, the issues of school organization, instruction and special learning services as well as curricular policy, the District Superintendent is completely responsible. Of these matters, the Act states:

\begin{quote}
Each District Superintendent of Schools, in respect of his superintendency, shall exercise supervisory authority in all matters relating to school organization, instruction, counselling services, and discipline, and shall encourage the raising of the level of pupil achievement and the advancement of public education;\textsuperscript{63}
\end{quote}

\textsuperscript{62} R.S.B.C. 1960, c. 319; 1972, c. 52, 9(c).
\textsuperscript{63} Ibid., Section 9(h).
plan and supervise the activities of directors and supervisors of instruction, teacher consultants, and other teachers assigned to school district duties; 64

Clearly, the Act gives the District Superintendent full authority to direct the essential purposes of the public schools.

Sometimes, the District Superintendent is referred to as "the chief educational officer of the Board." 65 This is erroneous. The same source points out that the District Superintendent "does not have any power under law over the Board." 66 If this were true, then he could not be anything "of the Board". The duties to which the Trustees' Manual referred are not with reference to the Board but to the School District, for the preamble states:

Each District Superintendent of Schools, in respect of his superintendency, shall... 67

Further, the Trustees were of the view that the District Superintendent "does not direct the Board." 68 While this is quite true, the Board is lawfully unable to come to its conclusions on issues without the advise of the District Superintendent. Thus, the District Superintendent must be involved in all district matters whereas the Board is limited to what, educationally, are housekeeping duties.

64 R.S.B.C. 1960, c. 319; 1972, c. 52, Section 9(p).
66 Ibid., p. 24.
68 Ricker and Touzeau, op.cit. p. 23.
Finally, the Act provides that

Powers or duties assigned to any person by any
Board shall not abridge or impair the powers or
duties assigned to the person by or under this
Act.69

Thus, nothing done by the Board may contravene any previous
 provision of the Act. Hence, when Section 9(o) says:

Each District Superintendent of Schools...shall
 when necessary, and subject to the approval of
the Board of the school district concerned, determine
which school any pupil shall attend;70

it is necessary to read the Act as a whole and Section 158
states:

The Board of each school district shall
 authorize the District Superintendent to assign
pupils to various schools in the district....71

The conclusion once again is that authority for programme
matters is intended to rest with the District Superintendent,
subject to the Minister.

The Board of Trustees

It may be that Canada's proximity to the
United States of America has, to some extent, influenced
thinking upon the authority and power of local school boards.
In many States, school boards appear to have very high
degrees of autonomy in many matters. Since much of the

70  Ibid., Section 9(o).
71  Ibid., Section 158(b).
professional literature on school administration is of U.S. origin, it is not unreasonable that attitudes towards Boards of Trustees may be influenced by it. In matters of finance and management of physical facilities, Boards have much responsibility and their ensuing tasks are demanding and complicated. This study, however, focuses only upon the 'educational' domain: teaching and learning issues of interest to administrators of education. In this latter area, Boards of Trustees must rely upon the District Superintendent almost exclusively. It is not inaccurate to assert that in basic issues of educational policy, local school boards lack statutory authority.

Section 97 of the Act does state that the Board of each school district shall

determine local policy in conformity with this Act for the effective and efficient operation of the schools in the school district; 72

The operative phrase is "in conformity with this Act" and in view of the preceding analysis of the District Superintendent, it is doubtful that this clause could enable a Board to actually express or enforce any policy concerned with an educational function only that is not explicitly formulated under the authority of the Act. This is not to say that a Board is without political power. If there is a conflict of views on an educational matter between the Board and the District Superintendent, the Board might well

72 R.S.B.C. 1960, c. 319; 1972, c. 52, Section 97(b).
use leverage from those areas over which it has considerable authority such as teacher dismissal, building siting and maintenance. Of course, this type of pressuring can proceed two ways and the final allocation of values or strategies would probably be better reached through some rational regard for each party's responsibilities.

While trustees may note that a District Superintendent has no legal power over a Board, neither has the Board legal power over the District Superintendent. As a point in law, the issue is of little significance administratively; but for administration to proceed effectively, the point is quite important. Were the District Superintendent to have any such legal power, it would mean, according to the issues in Chapter IV, that he had been invested with delegated authority of a legislative nature. This, of course, is not the intent of the Legislature. Similarly, since the District Superintendent acts on behalf of the Minister and by the Minister's authority, it would be a strange relationship were the Board to have legal power over the District Superintendent. What emerges then, is a necessity for considerable co-operation upon the parts of both the Board and the District Superintendent. The authority of each to act is designed in such a way that each requires the co-operation of the other. Theirs is a complementary relationship. The purpose of this interlocking effect is twofold. The Board is kept completely informed of educational
activity within its district, and the Department of Education is kept in touch with local policy requests. It may well be that local issues for "control of our schools" do not arise in British Columbia quite to the extent they seem to in the United States because of this interweaving of authority for education management. Thus, in the June, 1973 edition of "Education B.C.", the publication of the B.C. School Trustees' Association, a "re-affirmation" of the principle of local control was listed fourth of five priorities for the coming year. The issues of local control are interesting and a brief examination of the area might help to determine further the Board's authority in education.

It is the intent of the B.C. School Trustees' Association

To maintain the Association's confirmed belief in lay control of education. To encourage public involvement in setting educational objectives and in developing leadership at the local level.  

It may be asked, therefore, what authority has a Board to encourage citizen involvement in its affairs? Constitutionally, Canada has a representative government. This excludes participation by means of referenda. Only in school budget matters may a referendum be created. At best, therefore, Boards can conduct plebiscites or their equivalent. These are only information producing strategies and their results in no way require Board or Departmental action. Hence, at

this time, a citizen may petition the Board, singly or collectively, in the same manner as he can petition his Member of Parliament. A Board does not have an obligation to respond. 74

From the materials of Chapters III and IV, it is clear that the Provincial Legislature has total control of education, and that the administration as well as the setting of objectives has been contained within the authority of the ministry. Local Boards are not mentioned with respect to education policy except for Section 97(b) mentioned earlier; and even this reference is, by Section 91, inferior authority to that of the District Superintendent and others mentioned in the Act.

It might be well to reiterate here an earlier comment that this analysis in no way means to compromise the willing co-operation that takes place between personnel named in the Act. The intent is to state as clearly as possible the statutory relations as they appear to be. In other words, were the education system suddenly to "work to rule," then the outcomes might be predicted as described herein.

Power was earlier defined as the range of discretion permitted in the delegation of authority. Thus, the Board has the authority to enact by-laws. Section 98 is interesting. It states:

The Board of a school district may make by-laws, not inconsistent with the provisions of this Act or regulations, relative to the organization of meetings of the Board and to any matter over which power or authority is by this Act expressly vested exclusively in the Board; and a copy of each by-law shall be filed with the Department.

Therefore, the Board may make by-laws or rules about its own style of meetings. This is not educationally significant. Also, it may make by-laws on any matter where it has exclusive authority and power expressly vested in it. In terms of education policy, there is no such instance identified in the Act. Section 122 provides that:

The Board of any school district may by by-laws prescribe either generally or specifically an appropriate type of clothing to be worn by pupils of any school or all schools within its jurisdiction.

It might be argued in ordinary courts that such a power affects the rights of individuals and since such power is generally reserved for the Legislature alone, this section could be, conceivably, held ultra vires. That point notwithstanding, it could be argued that such rulings could perhaps affect or influence learning outcomes and teaching attitudes, but the point is probably not too significant educationally. The Board does not have the authority or power to directly affect curricular development. Indirectly, a Board may be able to influence the ministry; but not by statutory provision. Local control of education is, at this time, statutorily impossible. To argue for such a principle would be like

75 R.S.B.C. 1960, c. 319; 1972, c. 52; Section 98(a).
76 Ibid., Section 122.
arguing for local control of provincial government.

The Department of Education has instituted the practice of encouraging locally developed courses for public schools. The Board is not mentioned at any stage for the development of these courses. In fact, the proper title of such courses is "Locally Developed Provincially Approved Courses." Again, this is not to say that Boards of Trustees are not without important roles, even in this area; but such roles are not statutorily provided and thus are beyond the scope of this study.

In 1972, the B.C. Parent-Teacher Federation conducted a public inquiry into the issue of public involvement in education. The study concluded that:

A large proportion of citizens -- many of whom are highly educated and aware of the role of the school in a modern community -- wanted to break down the barriers to our schools, to rid schools of their sense of holy ground, which the citizenry may enter only at special times and for designated, largely spectator purposes.78

Indeed there are barriers. Many viewed their Boards as unwilling to co-operate or to permit citizens the opportunity to influence education policy. The Trustees, however, simply lack authority to permit such involvement. Most are sincerely sympathetic to citizen requests, as evidenced by the B.C. School Trustees' Association resolution, but they are not able legally to be of direct assistance.

Legal responsibility for the curriculum rests with the Lieutenant-Governor in Council. This includes the authorizing of provincial courses of study and the prescribing of textbooks. The actual process of developing courses of study and selecting textbooks is undertaken by committees of selected teachers, supervisors, principals, and members of Faculties of Education working under the general supervision of the Provincial Department of Education. Results of this work are submitted to the Minister of Education and the Lieutenant-Governor in Council for authorization and transmission to the schools of the Province.79

Thus, while some case may be made to support the assertion that a Board is not without some authority and power in education programme issues, the case would be extremely weak in view of the preceding quote; and finally, there is no such area where the Board has exclusive authority. What authority it may appear to have is inferior to that of the District Superintendent by virtue of Section 91 and the fact that a Board has no legal authority over a District Superintendent. Therefore, a Board has no administrative authority over a District Superintendent, in which case, according to the definitions of administration in Chapters V and VI, a Board cannot impress its curricular values upon the Superintendency nor can it impose administrative strategies.

Teachers

Since the Act is almost silent on pedagogical issues -- programme planning and the like -- it may be assumed that, except for those references to the District Superintendent, such matters are generally delegated to

teachers via the Provincial and District Superintendencies. As always, the Minister is in charge. However, the Superintendents act with the Minister's authority and therefore the 1972 "Administrative Bulletin for Secondary Schools" can be relied upon for further interpretation of Section 152 of the Act which says:

Every teacher employed in a public school shall, subject to this Act and the regulations

  teach all pupils under his care diligently and faithfully all the branches of learning required to be taught by him in the school to which he is assigned, and maintain proper order and discipline among the pupils attending the school;

The Department of Education issues certificates to teach, and presumes that anyone granted a certificate will be able to reach the teaching objectives set out in the Administrative Bulletin. However, the public school teacher has virtually no statutory authority for any matter. At best, there are a number of clerical duties assigned under Section 152 of the Act, but none of these can be regarded as vesting any authority or power in a teacher. Teachers have a responsibility to maintain pupil order and discipline, as evidenced by the above quote; but there is no explicit authority given to execute disciplinary procedures. There are, however, implicit authorities for teachers and they are very extensive and enforceable. They will be discussed later, in Chapter VII.

80 R.S.B.C. 1960, c.319; 1972, c. 52, Section 152(b).
The principal teacher has, of course, numerous duties. There was a time when a principal was presumed to be an educational leader. This presumption probably resulted from the broader definitions of a principalship than now exist — statutorily. In the 1968 consolidation of the Public Schools Act, it was provided that:

The Board of a school district may appoint or authorize the appointment of teachers as principals, each of whom shall have charge of the organization, administration, and supervision of the public school or schools of which he is appointed principal; 81

In this case, what might be meant by organization, administration and supervision was left to local interpretation with the result that a principal could easily be regarded as a superior authority by teachers. The current Act, however, makes clear distinctions of what duties and authorities a principal shall have.

Subject to the provisions of the Act, the principal is responsible for administering and supervising the school, including placing and programming pupils in the school; the time tables of teachers; the programme of teaching and learning activities conducted by the school; the maintenance of school records; and the general conduct of pupils, both on school premises and during extra-curricular activities.... 82

Notice that the principal is "responsible for" compared with the earlier phrasing "shall have charge of." It would appear

81 R.S.B.C. 1960, c. 319; 1968, c.45 Section 129(a)(i).
82 R.S.B.C. 1960, c. 319; 1972, c.52, Regulations (93).
there has been a marked diminution of the principal's authority, even for business management items.

The principle of *ejusdem generis* may apply to further clarify the status of a principal's authority. Quoting Lord Bramwell, Edgar says:

> As a matter of ordinary construction...where several words are followed by general expressions, the expressions are not limited to the last but apply to all.\(^{82}\)

Thus, the meanings to be ascribed to the terms 'administering' and 'supervising' of Section 93 of the Regulations quoted above are contained in the subsequent enumeration (a) to (e). These are duties of a clerical nature and cannot be readily equated with ordinary definitions of administrative responsibility. However, explicit statutory authority is not the only source from which a principal may receive authority and power. Administrative authority and power may be delegated by the Minister or Deputy Minister. The next chapter examines some of the implicit, delegated circumstances of constituents of the education system.
Chapter VII demonstrates the general statutory authorities of the major constituents of the education system. What remains to be examined are the administrative authorities and powers as these terms are used in the conceptualizing chapters, I - VI. Where the last chapter began at the top of the hierarchy, it may be more suitable for reasons of continuity to begin this section with the classroom teacher.

The last chapter asserted that teachers lack statutory authority and power. Yet, anyone who has been a classroom student, teacher or observer, will probably wonder at the validity of such an assertion. For the learner, the 'real action' of the education system takes place in the classroom. Few students ever realize the immensity and complexity that lays behind the role of a teacher. At that level, education is the teacher. It is not unlike the journeys of the astronauts: the cameras focus upon a few persons; but behind those persons is a vast array of technology and administrators without whom the space mission would never occur. Thus, by what means can the administrative authority and power of a teacher be accounted? If it doesn't exist, then there is no problem. Any decision that authoritatively allocates strategies was said to be administrative. To execute that kind of decision requires some measure of authority and often includes some degree of discretion, or, power.
Each day, every teacher must choose some strategy by means of which the efforts of a group of students will be co-ordinated and directed towards some objective. That choice is the decision to allocate some strategy to be applied by the learners for reaching an objective. The act, therefore, is administrative. This, of course, does not mean that the teacher acts in a manner which contravenes some part of the act. Section 6 (a), (d), and (e) authorize the Minister to delegate to teachers via the Superintendency the required authority to make such decisions.

The delegation is of considerable scope.

Section 6 provides that:

The Minister, subject to the provisions of this Act,
(a) has charge of the administration of this Act;
(d) may designate a member of the Civil Service to act on his behalf; and
(e) subject to the regulations, may make such rules and orders as are considered necessary or advisable to effectively administer this Act or the regulations. 83

The consequent here is the production of such directives as the "Administrative Bulletin for Secondary Schools, 1972."

In this document, published and distributed by the authority of the Minister and Deputy Minister, the Act is given more specific effect. This document may be considered as an order of the Department of Education and therefore offers much value as an interpretive guide to the authority and power

83 R.S.B.C. 1960, c. 319; 1972, c.52, Section 6.
of teachers. It will be worthwhile to examine it briefly.

The Bulletin opens by stating its purpose. It says:

The purpose of the following is twofold:
1. to describe in a simple summary form those elements in a public education system which merit thought by all those concerned with its operation; and
2. to assist those responsible for developing specific operational statements for the organization and administration of public schools.84

At this point, it is clear that teachers ("those responsible for developing specific operational statements") are expected to perform at least some of the interpretive work concerned with applying the Department's philosophy to the school operations.

The Bulletin further asserts, when speaking of the student, that:

As an individual he will require intellectual self-realization, as well as physical, mental, and emotional growth and as a member of society he will need some training to make a living and be able to integrate with his cultural surroundings.

The public school should apply this general aim so that provision can and will be made not only to recognize individual differences but also to give real assistance in dealing with them....85

If "the public school should apply this general aim," then, without other evidence as to how the public school should proceed, then the school staff themselves must be presumed to be given the authority to function as pedagogical administrators. In short, teachers are indeed given recognition

85 Ibid., p. 1.
of their professional expertise and are expected to exercise it fully. There is, then, an administrative domain to teaching. Its characteristics are of the same form as previously identified as administrative. Only the content differs from that, say, of a Superintendent.

Nearly all decisions made by a teacher involve the choosing and applying of strategies in order to create learning situations. The Department of Education has established the objectives of education. That is the political activity of authoritatively allocating values. The values are to be acquired by the students and it is the responsibility of the teacher to look after the administrative tasks connected with those values. This means choosing the appropriate pedagogical strategy for the task.

The freedom for the pedagogical administration function is large. Any examination of a Departmental curriculum guide book will show in large letters that "this is a guide only." The Department shows no wish to interfere with the professional responsibilities of a teacher. While the authority of the Minister is large, he always acts with the advise of the professionals. The whole of governmental procedure described in Chapters III and IV generally apply in form to the operations of a Department. Admittedly, the Minister need not act on the advice of the profession in the same fashion as the Lieutenant-Governor; but there is no evidence that in matters of curriculum and programme planning that the Minister acts without such advice.
The last chapter also left the impression that teachers appointed principals lacked much statutory authority. As in the preceding discussion of the teacher, the principal has much authority and power delegated to him by the Minister. It is for reason of this route of delegation that a principal is responsible for programme and curriculum matters to the Superintendencies and not to the Board of Trustees. The "Administrative Bulletin" discusses the role of the principal. It says:

Mention has been made of the increased opportunities and responsibilities of the secondary school in providing for the education of its pupils. In this connection the role of the principal is of paramount importance. He will play a major part in developing and providing pupil programmes that will best suit the needs of the pupils and the community.

This will require a thorough knowledge of the community based upon a close liaison with business, industry and community agencies; a thorough understanding of the nature of the various programmes and their individual demands on staff and facilities; and accurate information regarding the present and potential enrolment of the school.

In addition to curriculum planning the principal will also be concerned with the effective administration of the curriculum in his school. This will involve consideration of such matters as the following: effectively utilizing all staff members; coordinating counselling and guidance services essential to the intelligent selection of programmes by the pupils; maintaining liaison with "feeder" schools; interpreting the philosophy and curriculum of the school for pupils, their parents and the community. 86

This document says the principal is of "paramount importance"; and such an expression seems to contradict the statutory provisions of Section 93 of the Regulations. Obviously, it

is an issue that can be accounted for by again realizing the discretionary power of the Minister and of the Deputy Minister who acts as the chief executive of the administration of the Department, with the authority of the Minister. It does mean, however, that the principal can be reduced to the clerical status provided by the Act by means of the same ministerial discretionary power. For the moment though (and there is no evidence of capricious behaviour on the Minister's part in these matters), the principal is clearly in charge of the local school programme. It is worth noting as well that it is the principal, and no other, who is expected to interpret the philosophy and curriculum of the school to parents and the community generally. Section 9(h) of the Act, quoted earlier, indicates that the principal is answerable to the District Superintendent in matters of school organization, instruction and similar educational issues.

It would appear that since the principal is clearly in charge of the local school programme and is accountable to the District Superintendent, and since the Board of Trustees lacks jurisdiction in curricular matters, that local autonomy, educationally, has been achieved. Unfortunately, the exclusion of the Board to such an extent may not be wholly desirable. For example, the Department suggests that the principal maintain a "close liaison with business, industry and the community agencies." The principal is not often able to establish this kind of liaison without
consuming time that could be well spent on the demands of the daily school operations. This is an area for Trustee involvement; and the reason for involvement would seem to suggest some sort of Trustee role in curriculum interpretation.

Perhaps one of the fundamental reasons Boards of Trustees lack jurisdiction in curricular issues is the fact that establishing and allocating values is primarily the domain of the legislative function. Thus, there is little chance that such responsibilities would be delegated to a corporation whose main task is to provide municipal services such as accommodation and tuition.

Education is a provincial, not community, responsibility. Therefore, it is reasonable that social homogeneity can be achieved best where the decision-making process on curriculum is centralized. The most important fact, though, is that the authoritative allocation of values is a legislative function and therefore must remain under the final authority of the Lieutenant-Governor. Consequently, the principal is delegated to have a major role in interpreting educational policy and is accountable to the District Superintendent who in turn is accountable to the Minister.

It is expected, of course, that any Board or other citizen group may make representations to the Minister concerning educational policy; but no group can expect to short-circuit the parliamentary procedures of a
democracy. Local control of curricular decisions could lead to procedures which may affect the rights of citizens without the citizens having recourse to review the decisions. The value of uniform educational standards would be lost, and great fragmentation of the system could result from extending legislative authority to a Board.

Evidence of just how significant the principal's role is in education comes from the Administrative Bulletin. It says:

As a matter of policy it is expected that the Provincial curriculum will receive interpretation at the school and classroom level. It is the responsibility of teachers and principals to interpret the Provincial statements of purposes of the public school and the outlines of materials to be taught....

Once again, it is the school and not the Board of Trustees who interpret. Since the Department has not clearly defined its philosophy of curriculum, the principal and his staff are charged with the responsibility of both authoritatively allocating values and strategies; but not without the approval of the Minister through the supervision of the District Superintendent. This constant governmental principle of accountability makes it mandatory for the profession to work with the government and also causes the government to act with the advise of the profession. The system provides for continuing communication of a self-adjusting nature.

Obviously, decision-making opportunities

concerning both values and strategies abound. Some might argue that these opportunities for professional freedom are only statutory or superficial and contend that provincial education uses strategies such as uniform evaluation to force adherence to curriculum guides. This is certainly not true today and the Bulletin says:

The evaluation programme must reflect the school's interpretation of the curriculum and the corresponding adjustments made.88

The phrase "must reflect the school's interpretation" counters most charges of a lack of professional freedom; and in the matter of course content, the same source speaks of the curriculum guides saying:

[They are] not intended to be blue-prints for teaching or to be followed rigidly under all conditions.89

There could be no stronger set of statements than the preceding quotes of the "Administrative Bulletin" authorizing local school personnel to be autonomous educational leaders while, at the same time, being cognizant of their accountability to the Minister and thereby, to the electorate. It can be concluded that there is no statutory basis for any teacher to assert that he lacks professional freedom in academic issues. The authority to assist in the allocation of values and to allocate strategies is clearly given; and

89 Loc.cit., p. 9.
the range of discretion is also large so that power, as defined herein, is extensive. The teacher's authority and power govern academic issues; for the principal, authority and power govern academic issues and the personnel of his school as well as the behaviour of the students.

Chapter VII asserted that in view of the statutory conditions, the District Superintendent clearly emerged as the educational leader of a district. The contents of this chapter should in no way reduce the force of that view. The authority and discretionary powers of the District Superintendent have already been analyzed. They are very considerable. In fact, since the teacher's authority is statutorily inferior to the District Superintendent's and since the latter must

exercise supervisory authority in all matters relating to school organization, instruction, counselling services and discipline....90

he therefore, is responsible to the Minister for what takes place in the schools. Consequently, the District Superintendent is the school's superior. In view of the fact, therefore, that he can negate or affirm any curricular action in the school, he must be regarded as the immediate governor of the teachers and pupils. His administrative authority and power is greater than that of a teacher. The Deputy Minister's delegation of curriculum interpretation to the school is for administrative expediency only and should not be construed as

90 R.S.B.C. 1960, c. 319; 1972, c. 52, Section 9(h).
by-passing the District Superintendent since the school is accountable to the District Superintendent. However, since the specific task of interpretation has been delegated to the school, the District Superintendent relies not so much upon his statutory authority as he does, in this instance, upon his power through discretion to supervise. His authority and power, therefore, govern the school's activity.

The District Superintendent has responsibilities to the Board of Trustees as indicated by the Act which states that the District Superintendent shall furnish trustees and teachers with such information as they may require respecting the operation of this Act;91

This does not mean that Trustees must obtain whatever educational information they request from the District Superintendent; it means that the Superintendent will advise the Board as to their statutory rights and limitations. These kinds of responsibilities -- finance issues notwithstanding -- are few and only serve to point out the need for mutual exchanges for effective overall operations of the Board.

The degree of accountability of the District Superintendent to the Deputy Minister is not stated in the Act. In fact, there is no such reference; but it is reasonable to infer that where the term Minister has been used in this study respecting the District Superintendent, the Deputy Minister could apply. The Deputy Minister is the top ranking civil servant

91 R.S.B.C. 1960, c. 319; 1972, c. 52, Section 9(d).
in charge of all administration functions in education. Chapters III and IV describe the extent of administrative control open to Ministers that all that can be reasonably said here is that the Minister's authority and power in the governance of public education covers all aspects of education and he is accountable only to the Lieutenant-Governor in Council and, consequently, the Legislature.

A general issue of administrative authority and power is the question of who should make policy in education. Professor Downey in his paper "Leadership in the Process of Educational Policy Development" notes that the Province

...delegates to local authorities the right to adapt provincial policies to local conditions (within certain limits) and to interpret provincial policies in such a way as to make them functional in the specific community.92

The evidence to support this assertion has been developed in this chapter. However, Downey goes on to say that

Frequently, administrators (particularly principals) view themselves simply as implementors of policies -- the thought being that policies are set either by the local Board or by the provincial Department of Education and that evaluation is primarily the task of the Superintendent.

But as I have already attempted to point out, important policies are established by the principal himself, by the principal and his staff, and by the individual teacher. 93

This conclusion is, with respect to statutory provisions,


93 Ibid., p. 4.
totally erroneous. The whole process of responsible democratic government collapses when Downey's kind of interpretation is made. He has presumed, on behalf of principals, a legislative authority. This is certainly not the intent of the statutes. A legislative act affects the rights of citizens; an administrative act should have no such effect. The judiciary is not empowered to make laws, only to interpret them and apply them. A school principal is expected to interpret policy, not make it. There appears to be no room for statutory argument on this point.

The principal can make administrative policy. This he does when making decisions on organizational format, personnel placement and strategies for learning environments. Downey argues that

In any case, the policy constitutes a plan, a declaration of intention, a decision as to what ought to be done.94

This study has assumed that policy means what ought to be done. The doing or implementation is an administrative task. Downey says that administrators view themselves simply as implementors of policies. There seems to be nothing simple about implementing policy. It will not be denied here that administrators do, inadvertently perhaps, create legislative types of policy in the course of their duties. The Veteran's Affairs Branch was such an example. But they have no statutory authority for so doing; and if citizen rights are to be

94 Downey, op.cit., p. 4.
protected from a 'dictatorship of the bureaucracy', then no administrator should have such authority.

Another general issue in education is raised by Greenfield et al in their publication. They assert that:

A major function of the school board is the setting of purposes and objectives for the school system under its control. As representatives of the community, board members have the responsibility to translate the community's wishes with regard to education into a statement of educational purposes giving direction to the school system.95

This claim obviously parallels Downey's interpretation of who has the authority to establish educational policy. It may seem reasonable to conclude that a body elected by a community should have the right to expect that body to act as they direct it. However, a Board of School Trustees is intended to act for a municipality, not a province. Policy in education is a provincial matter and thus the domain of the Legislature. A school board serves an administrative function, not a governing or legislative function. In essence, the function of a Board is to provide facilities. Whether it is desirable that it could be more than this is beyond the scope of this study. Because of the statutorily required interaction between the Board and the District Superintendent, it seems reasonable to conclude that they are expected to co-operate on many issues; but the hierarchy

of authority is clear: a Board is not intended to have the authority to make educational policy. The task is the domain of the Legislature.
SUMMARY and CONCLUSIONS

That which makes the provincial education system a system has been identified as the rules which govern each constituent together with the rule making authorities of each constituent. The essential bonding force of the system lies in the statutory conditions which constitute and govern the components.

Education is clearly a political activity. It is contained within a division of government, not just a product of government. It is controlled and developed largely by politicians. Its professional constituents are appointed by elected officials and all are civil servants to serve "at pleasure". The constituents are an integral part of the government, not just something hired for a task.

It is fair to say that the education system has a high degree of centralized authority. All lines of accounting lead to the Minister's office. The data of Chapters III and IV (Government and Government Administration) show clearly the complete authority the minister has over the system. The principle of ministerial accountability (Chapter III) requires the Minister to accept full responsibility for any educational matter. However, the process of delegation (Chapter IV) divests the Minister of responsibility for actual operation of the system's regular business. The bulk of professional responsibility lies in the hands of the Deputy Minister. He is the
chief operations officer of the Department and probably has the most demanding burden of any in the system.

The provincial superintendents may be regarded as the assistants to the Deputy Minister. They are not named in the Act specifically and presumably, therefore, they act under the Deputy Minister's authority. Directives are signed by the Superintendents but the content is usually prefaced with phrases such as "the Government has authorized" or, "a decision has been made." They do not themselves assume responsibility for rulings.

District Superintendents are accountable to the Minister, not the Board of Trustees. The Act leaves no doubt that in educational affairs within the district, a District Superintendent is expected to assume the major leadership role. This is an inference from the fact that only he has adequate statutory authority for educational leadership. The District Superintendent has supervisory authority over Principals. He does not have authority over the Principal's methods of programme organization and the like except insofar as a Principal may contravene Departmental policy.

The Principal's role as defined by statute is mainly clerical. Historically, Principals were considered "head teachers" or, just teachers with added clerical duties. Contemporary education is very complex; it caters to a very wide range of community and individual needs wherein school programme management demands much more than clerical direction.
These circumstances are recognized not in the statutes but in the ministerial directives (Chapters III and VIII) which delegate large authority and responsibility to the principal for the educational leadership of the local school.

Using Easton's conception of "authoritative allocation", it has been argued that every constituent in the provincial education system has an administrative aspect. Each person must, on occasion, make decisions to allocate strategies for execution. Each person has been given some authority to act in this manner. All act under the presumption that a policy, a general value to be allocated, exists to be implemented. The essential distinction is made that a legislative act prescribes values; administrative acts prescribe strategies to implement value prescriptions (policy).

The public School Board in British Columbia lacks direct statutory authority in curriculum, programme development, and general administration and supervision of the school. The Board is a municipal corporation in charge primarily of the fixed assets of the district and similar fiscal matters. It is not an educational agent of the Department. A Board may withhold funds and use various such means to influence local administration of education. It may even seek teacher or principal dismissal on some grounds or other; but it is really the Minister's discretionary power that determines the success or failure of such activity if the grounds for dismissal are in any way educational. The Board
may not direct the professional responsibilities of teachers or principals — and thus are in no position to negotiate documents called "learning and working condition contracts". Schools should bargain these issues with the District Superintendent, subject to ministerial approval, most likely, the Deputy Minister. All professional duties are established and guided by the Ministry (Chapters III, V, and VII); and there is no indication that the Department intended to sub-delegate its authority to a Board of Trustees. Indeed, from Chapter IV, it may be deduced that the Department could not delegate such authority — the action would be unconstitutional.

The study has developed some much needed data concerning constituent interrelations. These data may provide a good base for further projects. For example, the study has described the statutory relationships of educational personnel. A reasonable question now is whether the kinds of relationships posited are the most suitable for realizing educational objectives. Should Trustees be excluded from having some direct say in educational issues? Should the complex responsibilities of a Principal be recognized in the Act or left as a matter of ministerial discretion? Or, one could develop an ideal characterization of organizational relationships and evaluate the B.C. system according to that metric.

A rather interesting short study would be to compare the statutory relations developed here of the school board with the local school, with the actual relations
as may be observed. Indeed, the data of this study may be used as a metric by which to evaluate the actual. Thus, should it be felt necessary to examine the daily, operational behaviour of administrative constituents, there is available a set of data determining what administrative relationships have been provided. It may be possible, therefore, to identify organizational dysfunctions traceable to the improper assumption of responsibility on the part of some constituent, corporate or otherwise.

Another profitable investigation this study may assist is an inquiry into the means of access the public have to their educational system. Quite clearly, the statutory analysis and the analysis of Government (Chapters III and IV) make it abundantly clear that citizen committees should address themselves a) to the Principal, b) to the District Superintendent, and c) to the Minister. School Boards are not reluctant to listen to action groups: they are without power to act on most such issues brought before them.

It is hoped that Principals and Teachers who read this document will be confident of the very large degrees of professional autonomy the statutes give them. The 1969 Vancouver "Flexibility Study" (Brickson, Hills and Robinson) concluded that a general feeling among teachers and administrators was that they lacked freedom to innovate. The problems may not lie in statutes but in themselves. Many felt too closely controlled by their Boards of Trustees. This study shows that the school's autonomy, and its educational accountability is to the District
Superintendent and the Minister, not the Board. Board - school relationships may be significantly altered in time.

Hopefully, it can now be seen that politics and education are inseparable. The context of all public school education is provincial government policy. It is an area not open to direct public participation. The system of administrative accountability directly parallels the administrative framework of the government. Local autonomy results only from the power of the Cabinet, its discretionary power. Chapters III, IV and VI demonstrate the necessity of the hierarchy of relations which the study develops: ultimately, the Cabinet is responsible to the people and, therefore, cannot delegate anything more than administrative authority to subordinates. In a democratic system, it can be no other way.

Chapters III, IV and VI also show the means of law and law-like enactments through regulations and directives. A great many regulations are passed by provincial governments annually. Many times more directives are issued. Chapters IV and VI dealt with the complex interpretations of directives. It is through a directive, or, ministerial order, that a Principal has educational charge of a school; and it is the principle of ministerial accountability and the sovereignty of Parliament (Chapter III) that requires the Principal to account to the Deputy Minister and the Minister rather than to the Board of Trustees because the responsibility is to the public citizens and not to a municipal corporation.
The very simplest premise of this whole study (Introduction) was that if one has an understanding of the principles which unify his organization, if he understands how it works (or should work), then he may be in a better position to maintain the health of the organization. It is hoped that this study contributes to that end.
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