

**THE NATURE OF LEGISLATED POLICY : A COMPARATIVE  
ANALYSIS OF SELECTED EDUCATIONAL LEGISLATION**

by

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## ABSTRACT

This study, an interprovincial comparative study, examined selected Canadian provincial educational legislation as metapolicy, that is, as policy which guides the educational policymaking process.

The conceptual-analytical framework was suggested by concepts proposed by Kerr and by a re-formulation of legislated policy into the tasks and sub-tasks undertaken by provincial systems.

The analyses, which dealt with format, content, type and purpose, as well as the relationships among these, led to the following conclusions: (1) although one may infer a Canada-wide concept of what constitutes a provincial educational system, no such inference may be made concerning the operations of, and services offered in individual educational institutions; (2) all provinces tend to use resource policies as the means of educational control; (3) three interlocking policy frameworks emerge-- legal, procedural and operational--suggesting permissive, restrictive and invitational metapolicy characteristics; (4) most interprovincial differences occur in the area of services and operations--the area from which most controversial issues of a Canada-wide nature arise; and (5) non-specificity of purposes allows legislation to retain flexibility.

Finally, specific modifications to the conceptual framework may enhance its utility as an analytic tool, namely, allowance for policies to qualify as educational on more than one count, consideration of policy flexibility, more precise classification within the resource policy category and a different analytical sequence in the use of the concepts.

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## Chapter One

### OVERVIEW

Educational legislation has been analysed from a number of perspectives; each perspective, in turn, has led to a somewhat distinctive strand of inquiry.

Viewed as the technical and legal framework which causes the educational system to operate, legislation has been analysed (for example, Remmlein and Ware, 1959; Klein, 1970) largely in terms of its operationality, legality and vulnerability in the courts. Such studies have tended to be quite prescriptive in their outcomes.

Viewed as a statement of roles, rights, powers and responsibilities, legislation has often been studied along with case law (Bargen, 1961; Enns, 1963; McCurdy, 1968), the purpose being to clarify the legal status of various constituents in an educational system.

Viewed as the result of a political process, legislation has been analysed (Stringham, 1974) as the product of that political process. The purpose of such studies has been to determine how the process influences the product.

What appears to be lacking is a view of legislation as educational metapolicy, that is, policy on policymaking.

In this view, educational legislation is examined to determine the manner in which it sets the form, the scope and the limits of policymaking throughout an educational system.

Such is the object of the inquiry reported here.

## PURPOSES

The study seeks answers to the following questions:

- (i) From provincial educational legislation, can a typically Canadian stance be inferred which might be designated Canadian educational policy?
- (ii) What generalizations can be made about the content, type and purpose of legislated educational policy across Canada? What interprovincial differences emerge?
- (iii) What are the implications of these generalizations and differences for the generation of non-legislated educational policy?
- (iv) Kerr (1976a) provides an analysis of the concept of policy. Can some of the concepts through which this analysis is developed be used to identify and clarify the nature of legislated educational policy in Canada?

As the form of the questions suggests, the study is descriptive: it seeks to describe the manner in which legislation guides educational policymaking.

The study is also exploratory: it explores the use of a number of specific concepts--educational policy, the nesting of policies, policy type and policy purpose (to be detailed later)--in explicating the role of legislation as meta-policy.

The study purports to contribute to knowledge about policymaking in that it displays the characteristics of "what is" from a particular perspective, and examines the significance of these characteristics for educational policymaking.

## PROCEDURES

The study proceeds through three broad phases, each having particular objectives, methods and outcomes. Specifically, these phases of inquiry are:

### Phase One : Preliminary Analyses and Findings

#### (a) Format

Objectives: to investigate the sources of provincial educational legislation; to examine the format of the legislative consolidations and to select legislative content for further study;

Methods: collection and display of legislative information (titles, contents and format features of the legislative consolidations);

Outcome: a selection of legislated educational policy for interprovincial comparisons.

(b) Content Classification #1

Objective: to develop an elementary content classification model using one legislative consolidation as a baseline;

Method: determination of a general content pattern which is broad enough to subsume the content of legislation from all ten provinces;

Outcome: an elementary classification model which is applicable to all the selected legislated policy.

(c) Content Classification #2

Objective: to refine the classification model and to classify the content of all ten provincial consolidations;

Method: assignment of legislated policy, section by section, on the basis of the classification model, and the generation of further classifications;

Outcome: content classification of all ten legislative selections.

(d) Policy Type

Objective: to classify the content of legislated educational policy according to category of policy type;

Method: assignment of content categories to categories of policy type--as curricular, methodological, resource, distributional;

Outcome: policy type classification of selected legislated policy.

(e) Policy Purpose: to classify the content of legislated educational policy according to the concept of policy purpose;

Method: assignment of content categories to descriptions of policy purpose--unachievable, repeatedly achievable--based on category of policy type;

Outcome: policy purpose classification of selected educational policy.

### Phase Two : Second Order Analysis

Objective: to draw interrelationships from the preliminary analytical stages;

Method: analysis of phase one findings;

Outcome: characteristics of legislated educational policy.

### Phase Three : Conclusions and Implications

Objective: to draw conclusions from the second order analysis and to develop these into implications;

Method: extrapolation from the findings of phase one and phase two;

Outcome: (i) conclusions concerning the nature of legislated policy; (ii) conclusions regarding the conceptual framework; (iii) implications for policymaking; (iv) implications for understanding policy; (v) implications for further research.

## SIGNIFICANCE

The impetus for the study was provided by a number of speculations and anticipations. Most of these are reflected in the purposes specified earlier. In terms of its potential contribution to the field of education, however, it is anticipated that the study will prove significant in a number of ways:

1. School law has been a relatively popular area of study in the United States, much less so in Canada. The studies that do exist tend to tackle the legal implications of educational roles and practices. The educational policy content of legislation is rarely touched upon. It is anticipated that the study will fill a gap in a sparsely documented area.
2. Of no less importance is the educator's need to understand the policy implications of educational legislation in order to comprehend the structure and intent of the system in which he or she operates. Should it be found that legislation does not provide appropriate guidance on the development of educational policy at non-legal levels, or that the policy implications of legislation are unclear, then a likely outcome of this study within the limits of its scope, will be to point out weaknesses in the format, content and style of current legislation.
3. Despite the development of provincial legislations from similar sources in law, the provinces have developed independent structures to reflect the pattern of provincial education. One indication of these structures is provincial legislation. Thus, the study should shed light on some major concerns underlying the provincial organization of education, as these are elicited from the content.

4. The comparative aspect of this study seeks to determine commonalities and differences in educational policy across provincial boundaries. Further, it poses the question--do Canadian policy characteristics emerge?
5. Some concepts used in this study derive from an analytical framework described by its originator as part of an "...introduction to the philosophical analysis of educational policy and policymaking (Kerr, 1976 (a) : vii). At the time of this study, the framework had not been applied to legislation. A significant feature of this study is that it assesses the utility of these concepts as an aid to analyzing existing policy formulations.
6. It is assumed that legislation is not static; that given ten provinces, each with its own legislative format, statutes will be at various stages of amendment, updating or possible revision. Alberta and Ontario, for example, have relatively new legislation; Saskatchewan has a newly completed revision; there is a possibility that a need may be felt in British Columbia for an examination of its educational legislation in the near future. Analyses, such as those undertaken in this study, will be of value to those engaged in such revision in that they clarify the nature of legislated policy. More importantly, from the educator's point of view, they place legislated policy within the broader context of the educational policymaking process.

## ORGANIZATION

Above, the focus, the purposes, the procedures and the significance of the study are briefly displayed. Each is developed in more detail throughout the report.

The task of Chapter Two is the detailing of the conceptual perspective which the study adopts. In order to carry out this task, a number of concepts which form the conceptual basis for the framework of the study are clarified. Following this, related literature is introduced in two ways, one which discusses readings relevant to the area of study and one which expands upon the antecedents of the data base, namely, provincial educational legislation.

Chapter Three has as its function the creation of the morphology of the study, in that it brings together the various components--conceptual, analytical, methodological--necessary for the phases described in Chapter One, to proceed. The analytical framework is presented, along with guidelines which direct the methodology of the study. Kerr's (1976a) analysis of policy is described, in order to explain the relationship of certain concepts employed in the analysis to the present study. Emerging from this is the methodology which is used to carry out the various analyses.

Preliminary analyses and findings are reported in Chapter Four. This phase moves through five stages which examine selected educational legislation according to format, content (in two stages), type and purpose.

Second order analyses are contained in Chapter Five in the form of comparisons, generalizations and speculations.

Chapter Six contains conclusions and implications.

## Chapter Two

### BACKGROUND

To set the origins and background of the study in a more precise perspective it seems necessary at this point to do four things: first, to clarify certain key terms which provide the conceptual foundation for the analytical framework; second, to examine the research and literature which relates to the study; third, to expand upon the antecedents of the data base; fourth, to elaborate on the purposes of the study.

### CONCEPTS AND DEFINITIONS

A number of terms, many of which have legal, scientific and everyday meaning, are employed in very specific ways throughout this inquiry. The purpose of this section is to clarify these terms and in so doing construct the conceptual vocabulary employed throughout.

#### Principle

Dworkin (1977 : 22) states:

I call a 'policy' that kind of standard that sets out a goal to be reached, generally an improvement in some economic, political or social feature of the community. ... . I call a 'principle' a standard that is to be observed...because it is a requirement of justice or fairness or some other dimension of morality.

Thus, a distinction is drawn between policy and principle, the former being descriptive of goals, the latter of rights. Legally, arguments of policy justify a political decision by showing that the decision advances some collective goals, while arguments of principle justify such a decision by showing that it respects some right (Dworkin, 1977 : 82). In the legal sense, therefore, either a principle or a policy may be used as justification for a decision.

Kerr (1976a : 11) approaches the distinction between a principle and a policy by speaking of "...what...would seem to be policies that contain a particular type of 'open imperative,' i.e., a principle." The example used to distinguish the two terms is that of a superintendent who declares that his district has adopted a policy of equalizing the distribution of the district's educational resources among the students. Kerr argues that because what is to be done is specified only in a very general way, that what counts as an educational resource has not been determined, then the district cannot be said to have a policy. Rather:

In such a case, i.e., when the decision regarding what is to be done is yet to be made, it would seem more correct to say that the district has adopted a principle for which a policy might be decided.

The distinctions drawn by both Kerr and Dworkin appear to hinge on the specification of conditions. Dworkin (1977 : 26) notes that a principle does not set conditions; it provides a reason for a particular argument. Kerr's example, cited above, suggests that the evolution of a principle into policy form requires selection from a number of actions which individuals may choose to perform in a given situation and that the selection itself should support the 'reason,' that is, the principle.

In the same vein, in a study which was written as a prelude to revising current educational legislation in Saskatchewan (Gathercole, 1975), some criteria which, it was felt, should underlie school legislation were delineated. These included local autonomy, adaptability of programme, and equality of educational opportunity (Gathercole, 1975 :26-31), and were, in keeping with the case described by Kerr, referred to as principles, in that they embodied broad fundamental attitudes to education, with no indication as to how they might be effected.

It may also be argued that, in Kerr's example, what is stated is a policy, behind which lies the principle of equity. However, in using the framework which this study adopts, Kerr's definition of policy as "a category of action" will be adhered to and therefore 'policies' are taken to be statements which specify, more exactly than principles, intent, direction and action. A further distinction to be kept in mind is that one might appeal to a principle to justify a policy.

Thus a principle is seen to be of a higher, more generalized order than a policy and can be thought of as a fundamental belief about, or stance towards, a particular constituency. It is, in other words, a value orientation.

### Policy

In its broadest sense, policy might be thought of as some set of guidelines, or a framework which is used as a reference point for taking action in a particular sphere. Some inconsistencies, however, occur in the manner in which policy and principle are authoritatively defined. In legal terms, for

example, Black (1968 : 1317) defines policy as, "The general principles by which a government is guided in its management of public affairs, or the legislature in its measures."

The notion of intent, as applied to the policy of a statute, where the statute is prohibitive, refers to discouraging conduct which would not contribute to the welfare or prosperity of the state. The legal notion of policy, therefore, refers to the probability that what is effected in law will enhance social well-being. Thus, there is a protective factor in legislated policy in that it purposefully seeks to maintain the social good.

This legal definition points to overlaps in definitions of policy and principle; however, one might repeat, and in so doing aid in definition, that policies may be justified by appealing to principles.

To assist in refining the term 'policy,' Stringham (1974 : 14-17) lists a large number of definitions of public policy and draws upon these to formulate the following definition: "...a major guideline for future discretionary action. It is generalized, philosophically based and implies an intention and pattern for taking action."

Without defining policy per se, Mann (1975 : 11), lists several characteristics of policy problems: (1) they are public in nature, (2) they are very consequential, (3) they are complex, (4) they are dominated by uncertainty, and (5) they reflect and are affected by disagreement about the goals to be pursued. This suggests that, at the very least, public policy (and hence public educational policy), is concerned with beliefs, attitudes and balance among

relationships and resources. Kerr (1976a : 38-39) describes policy as 'a category of action.' Further, four policy conditions are specified:

Condition 1. Some authorizing agent (Aa) obligates itself to direct some implementing agent (Ai) to act in accord with some specified conditional imperative (I).

Condition 2. The conditional imperative (I) must be of the form, do something which counts as some specified X-ing whenever, without exception, specified conditions C occur.

Condition 3. The authorizing agent (Aa) undertakes the obligation (condition I) for the purpose of effecting some specified state of affairs (S) and to do so without violating any restrictive rules (R) by which (Aa) would claim to abide.

Condition 4. The authorizing agent's obligation can be revised and yet not be violated both if the authorizing agent announces his revision of the conditional imperative from I to I' to those persons who can bring about conditions C and C' and if the authorizing agent gives consideration due the views of the relevant public as defined by the political and moral contexts of the initial policy decision and its revision.

These conditions serve to distinguish policy from related concepts. If Kerr's four conditions are met for any particular statement, therefore, what we are dealing with is a policy, rather than a principle, a plan, a programme or any other of a number of concepts which might, without some means of differentiation, be mistaken for a policy.

When the adjective 'educational' is applied to policy, it is assumed that the policy will be effected in a certain area, namely education, rather than, say, in the area of conservation which we might term an ecological or resource management policy. The 'labelling' of policies in this manner achieves two results. First, it assigns a status--a degree of importance--to a particular policy. Second, although one cannot know the extent to which the policy

may be effective, or if there will be unintended effects in other areas, it indicates immediately where the major effort of the policy is directed and where most of its results will be felt.

In order to arrive at a theoretical description of educational policies, Kerr (1976a : 78-79) sought: "...those categories of policies that are logically necessary to the systematic conduct of education, viz., curricular, methodological, resource and distributional policies." Each of these policy types being necessary to the minimal systematic conduct of education, each is a sub-category of the policy category we term 'educational.' Kerr's analysis will be returned to in greater detail in Chapter Three. For now, it is sufficient to indicate that besides these various sub-categories of educational policy types which for the most part specify the content and direction of a policy, there are also differences in the manner and level of policy formulation. Thus, in this study, the concern is with educational policy that has been legislated at the provincial level.

Both the conditions (which determine whether or not something may be counted as a policy) and the categories of educational policy (which are logically necessary for the minimal systematic conduct of education) are appropriate to the metapolicy view of legislated educational policy for two reasons: (1) legislated policy forms the parameters of both educational conduct and educational policy-making, and (2) within the categories are contained the minimal tasks which any educational system must carry out in order to be

effective. Thus, Kerr's framework takes account of both the purposes of, and the restrictions upon, an educational system.

### Mega-Metapolicy

In his glossary of basic concepts, Dror (1971 : 3) describes mega-meta-policy as 'megapolicy and metapolicy.' Megapolicy, in turn, is seen as:

Master policy, a policy providing guides for a set of discrete policies. Megapolicies deal with overall goals, assumptions on futures, risk evaluation, degrees of innovation, etc.

Put another way by Stringham (1974 : 11), megapolicies "...involve determination of the postures, assumptions and main guidelines to be followed by discrete or specific policies."

Because megapolicy is concerned with, among other things, goals and assumptions it would appear, for the purpose of analysis, to be linked most closely with the substance of policies.

Dror (1971 : 3) describes metapolicy as:

Policy on policymaking, that is, policy dealing with the characteristics of the policymaking system.

The metapolicymaking stage is divided (Dror, 1968 : 164) into seven phases:

(1) processing values, (2) processing reality, (3) processing problems, (4) surveying, processing and developing resources, (5) designing, evaluating and redesigning the policymaking system, (6) allocating problems, values and resources, and (7) determining policymaking strategy. The purpose of these phases is to "...design and manage the policymaking system as a whole and to establish overall principles and rules for policymaking."

It would appear, therefore, that metapolicy is more closely allied with the process of policy formulation.

Paying attention to content, and hence to the substance of legislation might, in the context of this study, be thought of as the area of megapolicy. On the other hand, investigation of the types of policy decisions that need to be made in order to conduct education systematically, is clearly in the area of metapolicy. That is, it speaks to the manner in which policy is contrived. As further evidence for this argument, the following might be considered:

To cover the complex of theory and information dealing with policymaking as a process (as distinct from that relevant to specific policies), I will use the term policy-making knowledge. In essence, policymaking knowledge deals with the problem of how to make policy about making policies. That is, policymaking knowledge deals with metapolicy (Dror, 1968 : 8).

Further, Kerr (1976a : 44-45) describes the general (objective) description of education used as a starting point for the analysis of policy, together with the categories of policies necessary to undertake such education as a "meta-view of educational policy."

Finally, one needs to consider that the level of significance achieved by any study which analyses extant policy and proceeds to synthesize the findings of such analysis into generalizations which have applicability to policymaking, is determined to a large degree by the extent to which it might contribute to better policymaking. Of this, Kerr (1976a : 64) says:

...if the point of an analysis of educational policy is not to help us make sense of, to criticize, and to develop actual educational policy, then what is the point?

Thus, this study takes a metapolicy perspective of legislated educational policy and its contribution is to that area of knowledge which has to do with policymaking.

### Legislation

An Act, legally defined, is, according to Black (1968 : 42-43):

"A written law, formally ordained or passed by the legislative power of a state..., a statute." Legislation itself is: "The Act of giving or enacting laws" (Black, 1933 : 1088) and the term 'statute' is used to designate the written law as enacted by the legislature.

Black also points out (1968 : 43) that 'bill' and 'law' are often used incorrectly as synonymous with 'act.' A bill is only the draft of an act presented to a legislature, but not enacted. Acts do not include ordinances or regulations made by local authorities or even statutes having local application.

Akzin (1936 : 9) notes that "The literal meaning of legislation is 'law-bringing,' 'law making.' It is thus intimately connected with the concept of law." Following from this, a law in the formal sense is any rule enacted in accordance with the legislative procedure in force (Akzin, 1936 : 17).

Gifis (1975 : 116) terms a law "...the legislative pronouncement of the rules which should guide one's actions in society."

Woodrow (1974 : 50), indicates that legislative actions are those which give rise to statements of policy and provide for their execution by the

administration, while administrative acts are those concerned with rule formation by which policy statements (presumably legislation) may be carried out. Thus, administrative acts should not exceed the limits allowed by legislation.

Legislation, according to Woodrow's reasoning is synonymous with policy; principles, whether explicit or not, are prior to legislative enactment and while legislation is the formal pronouncement of policy, principles must often be inferred from legislation.

The relationship between the terms 'policy' and 'legislation' and the definition of legislation as that policy which has been legislated is crucial in the context of this study. Therefore, the argument that legislation is a kind of policy will be developed in detail here, as it relates to Kerr's framework.

It will be remembered that Kerr casts policy as one category of action which is planned and undertaken with particular purposes in mind. Further, whatever type of policy is under discussion (that is, whatever particular characteristic defines its status in the social order) there are four conditions which must be subsumed for something to be termed 'policy.' These conditions were noted above.

Public policies and probably most non-public policies, are developed "...within a generally accepted set of laws, customs, or traditions..." (Kerr, 1976a : 20), that is, at whatever level a policy decision is arrived at, consideration must be given to the limits placed on policy alternatives by policies already existing at higher levels. If such consideration is not given, then the latter policy may well be violated. For the purposes of this study, that

policy enunciated by provincial legislation is being taken as the outermost educational policy for a province, that is, legislated educational policy is considered to be that which defines the boundaries within which all other educational policies for that province, at whatever level, are made.

This claim raises some questions, the most significant of which is: To what extent can legislation be regarded as policy? It is intended at this point to view each of Kerr's four policy conditions in turn in order to discover to what extent each is fulfilled by legislation.

Condition 1. Some authorizing agent (Aa) obligates itself to direct some implementing agent (Ai) to act in accord with a specified conditional imperative (1).

The major elements of this condition consist of (1) "Some authorizing agent," (2) "some implementing agent," and (3) "a specified conditional imperative."

As far as legislation is concerned, there is clearly an authorizing agent, namely, the provincial cabinet, which, through adoption of legislation by the provincial legislature authorizes the appropriate member of the Executive Council, (The Minister of Education) to have charge of the Act or Acts relating to education. While the Minister in this very broad sense is an implementing agent, that is, he is authorized to carry out the Act, he is also within the terms of legislation an authorizing agent--that is, he is empowered by the Act to authorize other constituents of the educational system to implement certain terms of the Act. In this regard, it should be noted that sections of legislation often refer to "functionaries" (implementing agents)

rather than "functions" (tasks), for example, 'Pupils,' 'Trustees,' 'Electors,' 'School Inspectors,' and so on. Such agents are directed by the Act(s) to perform in a certain way when particular conditions occur, that is, 'in accord with a specified conditional imperative.'

Condition 2. The conditional imperative (1) must be of the form, do something which counts as some specified X-ing whenever, without exception, specified conditions C occur.

The form of the conditional imperative requires the implementing agent to act repeatedly in the same manner, given similar conditions. The action itself--'the specified X-ing'--may not be a specifically detailed activity, it may be a polymorphous activity, yet the directive should be clear enough that we are left in no doubt as to what may or may not count as X-ing.

An example of the 'dual-agency' type of policy which typifies policies in the public sector (Kerr, 1976b : 358) is used to demonstrate the separation between authorization and implementation. In this case, it is noted that the legislature does not arrest speeding drivers, though it authorizes law enforcement officers to do so. Conversely, the latter cannot authorize themselves to arrest speeding drivers but, once authorized, they are obligated to arrest drivers who are observed to exceed the speed limit.

The policy in this example happens to be a state law, but clearly, non-law examples of policies with two separate individuals acting as authorizing and implementing agents could be found. They could even be found in the realm of extra- or illegal policies... . The point that is important to note is that when the authorizing and implementing agents are not the same individual, then it does not make sense to talk of the agent's intention, as if the agent were a single individual.

Whether policy is being used in the 'everyday' or 'legal' sense of the term, therefore, the authorizing agent and the implementing agent are, in the case of public policies, distinct individuals. The authorizing agent "...perceives as likely that conditions beta will occur more than once or a restricted number of times" (Kerr, 1976b: 362).

The above example is also important in the context of this study because it makes the assumption that a law is a policy. That is, a policy may or may not happen to be a law, but a law, whatever else it may be is, according to Kerr, a policy.

Condition 3. The authorizing agent (Aa) undertakes the obligation (condition 1) for the purpose of effecting some specified state of affairs (S) and to do so without violating any restrictive rules (R) by which (Aa) would claim to abide.

This condition is perhaps the most difficult to apply to legislation because it embodies the notions of assumptions and inference, particularly concerning the clause "...for the purpose of effecting some specified state of affairs (S)... ." It has already been noted that legislation for the most part does not specify purpose. If, for example, we take the speeding law mentioned in the discussion of condition 2, we might infer that no driver shall exceed the speed limit for the purpose of ensuring the safety of himself and others. Likewise, one might infer that an educational policy which specifies an appeal procedure for students who have been suspended, is for the purpose of ensuring a fair hearing.

This latter example introduces the second important notion in this condition, namely, "...any restrictive rules (R) by which (Aa) would claim to

abide." That is, if educational legislation specified a means by which a principal or a school board might suspend a pupil, but specified no means by which a student could appeal such a move, then an R-purpose of, say, 'acting justly' could not be claimed to exist. As it is, the policy which allows for student suspension, the S-purpose of which might be the protection of other students and the maintenance of an atmosphere conducive to learning, is tempered by the R-purpose of acting justly--"a restrictive rule by which (Aa) would claim to abide."

It may be argued that the 'S-purpose' of a policy is self-evident; that in the example of the speeding law for instance one can immediately think of a number of 'good' reasons why such a law should exist, ranging from pedestrian safety, through highway maintenance to fuel economy, but one might also ask, in studying the whole set of laws related to driving, whether the S-purposes are evident, or whether the content and scope of this whole policy set is appropriate and adequate for the context in which driving takes place today.

Additionally, a compromise between a variety of purposes may emerge; purposes which serve a desirable principle and the reality of practical governance.

In the case of education, as has been pointed out earlier, the 'reasons' may be even less clear. The S-purpose (the intended state of affairs of the legislation) must often be inferred by reference to that whole set of legislated policies which have to do with the operation of an educational system. The difficulty, more specifically therefore, may have to do with the wording and

presentation of statutes, rather than with their content. While on occasion such statements as 'all schools are to be free,' or 'it is the right of every child between the ages of A and B to attend school' might appear, these statements of principle are comparatively few and where they do not appear must be inferred from the legislation which follows, that is, the legislation is justified by appeal to such principles as free education and the educational rights of children.

The purpose of such legislation becomes the achievement more and more exactly, as is possible, of a state of affairs in which every child between certain ages receives a free education on a systematic, uninterrupted basis.

A situation exists, therefore, in which purpose must often be inferred. Further, whatever the ideal state of affairs may be at which the policy is directed, there is a further distinction to be made in its achievability. Education as an activity aims at a state of affairs, such as pupil mastery of knowledge, which is never achieved: that is, the ideal state of affairs assumes a complete mastery of knowledge. Likewise, particular policies may institute a sequence of learning activities for certain grade levels; a sequence which may be achieved time after time with succeeding grades. On the other hand, a teacher may formulate a policy to deal with an idiosyncratic event--a teaching strategy for a child with a hearing disability, for example--and having achieved the policy's purpose, dispense with its use.

In addition, Kerr's policy conditions may not be explicit for any given piece of legislation. The notions of 'authorizing agent,' 'implementing agent'

and 'conditional imperative' are reasonably clear, that is, as far as legislation is concerned, there is, where a specific task or incumbent is referred to in most cases, clearly an authority which directs, or allows, a role incumbent to act in a specified way, given certain conditions. While what counts as X-ing is not, indeed cannot, in all instances be specified, the legislation usually describes boundaries which define, at least in part, what might appropriately be considered as 'X-ing' (although, of course, such descriptions may be found inadequate and are subject to testing through the mechanisms provided by law).

While specified states of affairs (S-purposes) may not be explicit, it should be clear that legislation having to do with a certain educational topic, taken as a whole, is geared to achieving certain states of affairs and preventing others from occurring. At the same time, the more obvious R-purposes indicated by appeal procedures, penalties, what is considered an offence, qualifications and so on, reveal that there are certain terms or qualifications on the achievement of S-purposes. Thus it appears that at least the first three of Kerr's policy conditions are met by legislation.

Condition 4. The authorizing agent's obligation can be revised and yet not be violated both if the authorizing agent announces his revision of the conditional imperative from 1 to 1' to those persons who can bring about conditions C and C' and if the authorizing agent gives consideration due the views of the relevant public as defined by the political and moral contexts of the initial policy division and its revision.

Legislation justifiably meets condition four, by virtue of the manner in which the legislative system (the political and moral context) works. The

creation of legislation is a continuous process of amendment and repeal and because traditional mechanisms exist for informing implementing agents and relevant publics of such revisions, they cannot normally be considered as policy violations.

This is not to suggest that the 'relevant public' will always agree with the revision, or feel that their opinions have been sufficiently considered. But the saving clause here is "...as defined by the political and moral contexts of the initial policy decision and its revision." The 'context'-- the democratic parliamentary system--ensures a number of safeguards in both the adoption and violation of policy; safeguards which are perhaps more rigorously preserved, and certainly more public, than for organizational or non-public policies.

### Legislated Policy

The term 'legislated policy' is used in this study to connote that educational policy which has been legislated and carries the force of law. That is, within that particular set of policies which we term educational, there exists a sub-set, the source of which is legislative enactment.

### Summary

In summary, the following operational definitions are adopted:

Principle. A fundamental value orientation which may justify a policy.

Policy. 'One category of action which is planned and undertaken with particular purposes in mind' (Kerr, 1976a : 5).

Educational policy. Policy which has an educational purpose.

Metapolicy. Policy on policymaking, that is, policy dealing with the characteristics of the policymaking system (Dror, 1971 : 3).

Legislation. A set of enacted laws.

Legislated policy. That (educational) policy, the source of which is enacted legislation.

### RELATED LITERATURE AND RESEARCH

A recent study of a Public Schools Act (Downey and Wright, 1977) analyzed educational legislation in British Columbia from the point of view of tasks or functions which such legislation needs to perform. Two of the major findings were (a) because the present legislation uses functionaries (constituents of the educational system) as its starting points, rather than functions, the Public Schools Act of British Columbia tends to be a description of lines of authority, rather than a pattern of necessary educational tasks; (b) because the Act is largely devoid of 'philosophical' statements, it is necessary to make guesses about beliefs and principles which underlie the Act.

Although some assumptions were inferred from the Act, they were at best subjective interpretations and actual testing of these inferences as manifestations of educational principle was beyond the scope of this study. In addition, because of the evolutionary nature of provincial legislation, through amendment and repeal the assumptions and principles held at the time a section was added or modified, may no longer be representative of provincial

educational direction.

Woodrow (1974) identifies two parallel sets of steps, the political and the administrative, which distinguish the policy function from the administrative. Each has similar structure, but variable content, the former dealing largely with policy and the latter with strategy. Further, (Woodrow, 1974 : 56):

This implies, of course, that administrators are not expected to question the motivation for policies, but to obediently seek the best means to give 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...provisions in education for making policy and policy directives clear are inadequate.

Woodrow's attempts to distinguish between the legislative and administrative branches of government, appear to be distinctions between ends and means--between the generation of policy and the machinery for carrying it out. He infers that the educational administrator, while having access to the legislative enactments of education, is often unclear about the policy implications which underlie legislation. Likewise, in commenting on a review of Canadian educational policies undertaken by the Organization for Economic Co-operation and Development, Byrne (1977 : 2) notes that Canadian educators on the whole are more concerned with means than with ends; more likely to be involved with the 'machinery' of educational systems than with long-term objectives, goals and policies.

With reference to policy statements, Rich (1974 : 22) points out that such statements do not offer reasons but that it is not improper for those expected to fulfill a policy, to ask for reasons; the implication being that successful policy implementation depends not only on a grasp of the meaning and ramifications of a policy, but also on a determination of what types of actions are most likely to fulfill a policy.

When Stringham (1974) analyzed the record of events and processes employed in writing the new School Act in Alberta, he did so in terms of the creation of a product that has policy implications. While most commentators on policy studies see the study of the formal output of a policy-making system, that is, the making of 'prospective' policy, as that which contributes to new knowledge, Stringham (1974 : 17) rationalizes the study of policy retrospectively. Retrospective policy in this case is defined as "...that which has arisen through tacit acceptance of practice and is implicit, latent and unwritten, residing only in the collective perceptions of its formulators and implementors."

Further points raised by Stringham are, that although legislation is seen as manifestation of emerging policy (Stringham, 1974 : 186), "...written policy that reflects reality and guides operations is more of a need than an actuality" (Stringham, 1974 : 53), and that "Governments and their agencies act as if policies were explicit, but in reality most policies seem to reside in the collective memories of senior personnel" (Stringham, 1974 : 18). It is suggested that if 'hidden' assumptions and principles can be drawn together and explicated into directional guidelines (legislated policy) then contradictory or purposeless actions may be avoided.

While Garber and Edwards (1962 : 10) in discussing American education, point out that a state commonly expresses its educational policy through legislation enacted by the state, which determines the ends to be achieved and the means to be employed, both Stringham (1974) and Woodrow (1974) agree that provincial educational policy in Canada is in need of clarification. Enns (1963 : 5) argues that the implications for education of statutes are "fairly well understood" by educational administrators. Massialas (1969 : 13-14), on the other hand, claims that educational policies are the direct result of political decisions made outside the educational system.

This latter point is an interesting one, for it introduces political concerns as a dimension of educational policy which may be recognized and accounted for, but does not deter from the fact that such policy is educational.

Kirp and Yudof (1974 : xxxv) commenting on the relationship between educational policy and the law, point out that in dealing with social policy the ends of policy must be considered; that these are never only equity and justice, but also effectiveness in the light of the specific objective of the policy.

Similar thoughts are echoed by Hartzler and Allan (1969 : 5) who indicate that anyone studying the law in any way must not simply learn the rules of law, but must acquire an understanding of the social functions of these rules. In evaluating these functions, attention is drawn to the problems behind the rules.

In a study to determine the law and to trace the development of legislative policy relative to public school curriculum in Indiana, Jordan's (1961 : 7) major assumption was that an examination of the statutes would reveal legislated policy.

An analysis of the statutes dealing with the curriculum was conducted to determine their (1) applicability, (2) manner of fulfillment, (3) powers granted, and (4) duties imposed. From the analysis a number of statements were developed which outlined the general policies "...which seemed to be the wishes of the General Assembly..." (Jordan, 1961 : 135) [emphasis added] and a number of statements which summarized the trends observed historically in legislated policy. The policy trends thus observed were compared with the recommendations of selected authorities. Four recommendations emerged as a result of the study: (1) codification of school laws for ease of location, (2) substantive revision of statutes to remove obsolete material, (3) concern for breadth of future legislation, with delegation of specifics to the State Board of Education, and (4) examination of proposed legislation to ensure that it is not a response to a temporary need which could be better met with a rule or regulation.

Another study (Milstein and Jennings, 1973 : 11), asked the general question--How does the legislature treat educational policy issues? While it looked at the role of formal government structures in educational policy as perceived by certain constituents within the system, it was again based on a particular case in the United States.

The treatment of policy issues is a theme elaborated upon by Mann (1975 : 55-88) who looks at what he calls "companions in the policy process"--calculation, or knowing what needs to be achieved, and control, or getting it done. The calculating component, by means of which demands are recognized, goals are identified, alternatives weighed, probabilities estimated, and so on, is a major aspect of decision making in the policy area. In addition, there is the control component which, once the decision has been calculated, implements, enforces, or enacts the decision.

The implication of the distinction suggested by Mann for this study is that it provides one way in which the processes which lead to policy decisions may be classified. Legislation, for example, (along with bureaucratization, job codification, performance standards, incentive rates and programme guidelines), is seen as a control mechanism (Mann, 1975 : 55). In other words, where agreement and co-operation fail to ensure policy implementation, control may be achieved through the exercise of power. One way of exercising power and ensuring implementation where there is disagreement on goals and purposes, is legislation. It is important to emphasize that Mann sees both calculation and control as essential components of the policy process; the distinction is drawn for the purpose of understanding the process.

Klein (1970 : 349-355) examined school codes with respect to frequency of revision, organization of content and type of material included. Areas of concern to educators were found to be mainly in terms of format, except for an apparent desire for the inclusion of constitutional provisions, attorney-general opinions and court decisions within the code.

The latter study points out the difficulty of equating studies concerned with educational legislation in the United States with those focusing on Canada. Each of the states has a school code, but the term is used to describe different types of publication. Codes may include constitutional provisions, statutes, court decisions, attorney-general opinions and so on (Klein (1970 : 349), or only the statutes. Canadian provincial legislative consolidations, on the other hand, are compilations of the relevant statutes and amendments and only in rare cases make reference to either court decisions or constitutional provisions. Court cases, while perhaps becoming more numerous in Canada, are still relatively few in comparison with the United States. In addition, while the Federal Government does retain some ultimate rights to intervention in education where constitutional rights appear to be infringed (Government of Canada, 1978 : 1), the province is the paramount authority in all educational matters.

#### PROVINCIAL EDUCATIONAL LEGISLATION : ANTECEDENTS

A history of Canadian education as a social institution is not the intent of this section. However, some mention needs to be made of legislative antecedents in order to provide the background for a discussion of provincial educational legislation.

According to Phillips (1957 : 124) publicly controlled education was established during the first half of the nineteenth century through the necessity to

receive recognition of state responsibility, to have the state recognize community initiative, to establish a representative local authority, to overcome extremes of dependence or independence and encourage community responsibility and to establish an acceptable central authority.

Initially, government support of education only followed local initiatives (Phillips, 1957 : 112), a step required in order to encourage local self-government and commitment of resources and overcome popular apathy, where such existed.

Growth in public education was paralleled by development of Canada as a nation, starting with the Union of Canada, Nova Scotia and New Brunswick in 1867 and culminating in the entry of Newfoundland into confederation in 1949. Consequently, as Proudfoot (1974 : 4) points out, the process of educational governance as embodied in the division of responsibility for education in Canada at the senior levels of government is unique, the administrative structures having largely evolved from the British North America Act, particularly section 93, which reads:

In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:

1. Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
2. All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec.

3. Where in any Province a system of Separate or Dissident Schools exists by law at the Union or is thereafter established by the Legislature of the Province an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
4. In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council or any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this section.

(Department of Justice, Canada, 1976 : 28-29)

Because Confederation was a protracted process, the British North America Acts as the bases of provincial authority, evolved through addition and amendment. Although Section 93 became the source of autonomy in education for most of the provinces, therefore, four provinces had replacements involving this section, ranging from alterations for Manitoba, Alberta and Saskatchewan, to a substitute section for Newfoundland.

These alterations are considered significant to the study in that they represent the constitutional bases of each of the provincial legislations. As such, they are reproduced here:

(i) Manitoba. Altered for Manitoba by section 22 of the Manitoba Act, [33 Vict., c.31]. Confirmed by the British North America Act, 1871.

22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:-

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union:

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege, of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

(3) Same as paragraph 4, [British North America Act].

Significant Differences: (a) Inclusion of the words '...or practice', in paragraph (1).  
 (b) Omission of paragraph (2) and first part of paragraph (3).  
 (c) Alteration of second part of paragraph (3).

(ii) Alberta. Altered for Alberta by Section 17 of The Alberta Act, (4-5 Edw. VII, c. 3):

17. Section 93 of The British North America Act, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93 of the following paragraph:-

- (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.
- (2) In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.
- (3) Where the expression "by Law" is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30, and where the expression "at the Union" is employed in the said paragraph (3), it shall be held to mean the date at which this Act comes into force.

(iii) Saskatchewan. Altered for Saskatchewan by section 17 of The Saskatchewan Act, (4-5 Edw. VII, c.42):

[Similar in all respects to that for Alberta.]

(iv) Newfoundland. Altered by Term 17 of the Terms of Union of Newfoundland with Canada, confirmed by the British North America Act, 1949 (12-13 Geo. VI, c. 22 [U.K.] .)

17. In lieu of section ninety-three of the British North America Act, 1867, the following term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make Laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland, provided for education,

- (a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and
- (b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

(Department of Justice, Canada, 1976 : 28-29)

The above illustrate the means by which those provinces entering confederation after 1867 sought to accommodate educational practices, already established in their particular jurisdictions.

The powers and strengths of the provinces in educational matters are thus firmly established. In general, provincial departments or ministries of education are usually responsible, according to Munroe (1974 : 6), for the following:

- (1) the training, or the supervision of training, of teachers;
- (2) the certification of teachers;
- (3) the supervision or inspection of schools;
- (4) the course of study and the approval of text books;
- (5) the provision of financial and pedagogical support through grants and services;
- (6) the prescription of rules and regulations for the guidance of trustees and teachers.

Greenfield et al (1969 : X) ascribe three major tasks to local school systems, having to do with, (i) curriculum development, implementation and evaluation, (ii) personnel, and (iii) procurement and management of financial resources.

These, and other educational functions, are accounted for in provincial educational legislation. Such legislation usually appears as a consolidation of a number of statutes having to do with education in a particular province and is issued as a convenience and as a primary reference source for educators.

As well as duties, rights, powers and obligations imposed by the Acts themselves, the legislations are expanded by regulations which derive from the Acts, usually through the authority of the Lieutenant Governor in Council, or the Minister of Education. The making of these regulations is, according to Gilbert et al (1976: 2) authorized by a specific Act, or by the Regulation Act of a province (for example, in the case of Ontario) and the regulations are concerned with the subject matter covered more generally by an Act. Their intention is to deal with the details of the implementation of legislated policy. Overall policy guidelines, therefore, are assumed to be present in the Acts themselves while details are found in regulations emanating from these Acts.

Educational legislation documents the framework of provincial education systems. It was pointed out at the beginning of this study that this framework may be viewed as purely legal or political. Additionally, legislation might be viewed as metapolicy, that is, as the decision-making framework of

an educational system. As Byrne (1968 : 10) points out, three foci of decision-making exist: the province, the district and the school.

Traditionally in Canadian education the Department has made the major decisions about the interna of education--the instructional programme. The district and divisional boards have concerned themselves with the externa--the buildings and the staff.

Consequently, most major decisions which directly affect instruction have, according to Byrne, traditionally been made outside the school. Local systems have tended to appear as branch-plant organizations, dominated in major respects by departments or ministries.

Figure 1 serves to illustrate, very simply, the legal framework of one provincial education system, Alberta. Some caution, however, is in order in applying this schema to all provinces. For example, two separate Acts (a "department" Act and a "school" Act) may not be involved, although the topics covered by both are accounted for in each of the legislations. Regional offices, or their equivalent, may not exist in other provinces and some provinces have standing advisory councils, boards or commissions appointed by either the Lieutenant Governor in Council or the Minister, which in effect introduce other levels of governance into the provincial system.

Some mention should perhaps be made at this point of those Canadian educational systems which are not provincial, even though these fall outside the scope of this study. While no national office of education exists, funding is channeled by the Federal Government into education, most notably through the departments of the Secretary of State, and Employment and

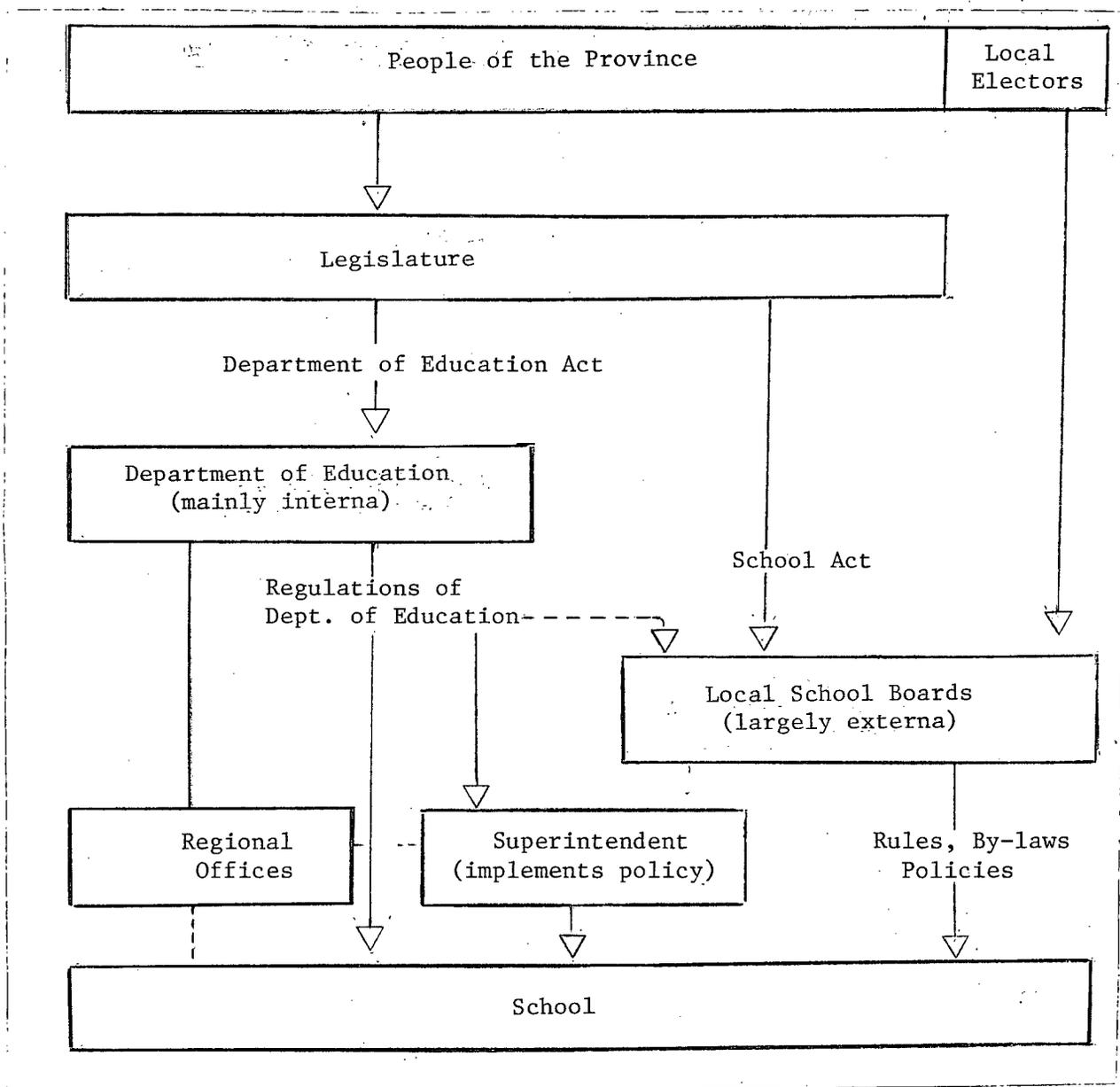


Figure 1: Provincial Educational Legal System : Alberta  
(adapted from Byrne (1968 : 9-21))

Immigration. The Federal Government is also involved more directly with the education of armed services dependents, through the Departments of National Defence and Veterans' Affairs, and with the education of treaty Indians, although this latter may often be carried out by the provinces, through special agreements.

The educational governance of both the Northwest Territories and the Yukon is authorized by ordinance. Gifis (1975 : 145) defines an ordinance as: "...a local law that applies to persons and things subject to the local jurisdiction... . Ordinances are enacted to regulate...matters typically and traditionally of local concern."

Black (1968 : 1248) however, equates an ordinance with a law or statute and indicates that the term is used to designate the enactments of the legislative body of a municipal corporation only in its "...more limited sense."

The consolidations of ordinances governing education in the "Territories" are similar in format to those of the provincial legislations and are subject to amendment and repeal in the same manner.

In the Northwest Territories, the Commissioner, as the Executive Member, administers the legislation on behalf of the Federal Government and the Director of Education manages the system (An Ordinance Respecting Education in the Northwest Territories, 1976: 118).

Likewise, in the Yukon, the Commissioner has overall authority under the applicable ordinance (Revised Ordinances of the Yukon Territory, 1978 : 1431).

## PURPOSE RESTATED

It will be recalled that Kerr (1976a : 38) describes policy as "a category of action which is planned and undertaken with specific purposes in mind" and further specifies four conditions which must obtain for something to be termed 'policy.' Naturally, if one is concerned with the policy content of legislation, some means must be found of determining whether or not legislative statements qualify as statements of policy. Subjection of the concept of legislation to Kerr's four policy conditions, detailed earlier, allowed this to be done.

The objective of the study, as initially stated in Chapter One, is to analyse educational legislation from a metapolicy perspective. Purposes were presented in the form of four questions.

The first two of these questions require identification of the characteristics of legislated educational policy. The third question requires examination of the manner in which legislated policy influences the development of non-legislated policy. The fourth question requires that the conceptual framework itself be analysed for its utility in this particular context.

The overall purpose of the study may be stated as: to determine the nature and extent of the metapolicy role fulfilled by legislated educational policy. This purpose is achieved through analyses of the format, scope, type and purpose of selected educational legislated policy across Canada. Conceptual and methodological guidelines which direct these analyses, are discussed in Chapter Three.

## Chapter Three

### CONCEPTUAL AND METHODOLOGICAL GUIDELINES

The purpose of this chapter is three fold: to describe Kerr's (1976a) analysis of policy in more detail, in order to demonstrate the manner in which it serves as the source of the conceptual and analytical framework for the study; to relate the concepts derived from Kerr's analysis to the data base which is the focus of the study; and to present the methodology by which the analyses are carried out.

### AN ANALYTICAL FRAMEWORK

It is proposed to begin the description of Kerr's analytical framework with the posing of four questions. (1) What counts as a policy? (2) Are there different levels of policy? (3) Is it possible to identify different types of policies? (4) To what extent might policies be differentiated by their purposes?

Question one, which deals with the definition of a policy and those conditions which differentiate policy from other, often closely related, concepts, was dealt with at some length in Chapter Two. For the purposes of this study, therefore, educational legislation has been established as a particular kind of policy (that which has been legislated).

Question two asks: are there different levels of policy? Kerr (1976a : 58-62) approaches the question through the concept of "nesting" of policies in which a policy counts as more 'inner' or more 'outer' (more or less encompassing).

An outer policy might indicate an overall goal of education such as the development of skills, attitudes and understandings, in which the innermost educational policies would then consist of the curricular, methodological, resource and distribution policies of teaching. Policy B (the outermost policy) is said to supercede Policy A (the innermost policy) by virtue of the fact that it limits or expands the allowable policy A's. Policy A is therefore said to be nested in policy B, the authority of agent B being of a higher order than that of A. The notion of outermost policies superceding innermost policies is explained (Kerr, 1976a : 59-60), as follows:

...educational policies that do not carry the force of law are superceded by those that do and those that do carry the force of law are "most superceded" by the highest level of law. This line of reasoning brings us to the conclusion that the outermost educational policy in a nesting would be that of the highest governmental level. In the present political order of the world, the outermost educational policies would be those of federal or national governments.

In Canada, for all practical purposes, provincial policies are outermost educational policies.

Having identified an innermost policy as a teaching level policy and an outermost policy as a federal government educational policy, or its equivalent, Kerr (1976a : 60) introduces the caution that such policies might not exist in every instance. Such policies would only exist in every case if

education were to be conducted in the most systematic way possible. In addition, other levels exist at which these policies might be found. If a government, or a teacher, does not have a policy in a particular area, it is reasonable to suggest that a principal, a school board, or a department of education might have such a policy. Focusing on the logically innermost and outermost policies, Kerr argues, is not to claim that such policies always do or should exist, but merely to provide convenience for analysis.

Question three asks: Is it possible to identify different types of policies? It will be recalled from the brief overview of Kerr's (1976a) approach to policy analysis, above, that a view of educational policy requires one to:

...identify the categories of 'decisions' that must be made (consciously or not) no matter what one's view of education, if any education whatsoever is to be undertaken.

These 'categories of policies' are those subsumed by the enterprise of education.

...the connection between policies and those decisions that are necessary to the conduct of education is this: if education is to be conducted systematically, then one needs to devise policies that guide or indicate how to make these essential educational decisions (Kerr, 1976a : 46).

Such 'policy about making policies' is described by Dror (1968 : 8) by the term 'metapolicy.' Metapolicymaking involves designing the policy-making system, including its structure and process patterns (Dror, 1968 : 172) and results in policy dealing with the characteristics of the policymaking system (Dror, 1971 : 3). The identification of those categories of decisions that are

necessary for the conduct of education, therefore, falls under the rubric of metapolicy.

To recapitulate, Kerr (1976a : 47) states that:

...in order to be engaged in education one must be trying to develop at least some belief, attitude, skill, disposition, value understanding or taste. Correlatively, if one is not trying to develop at least one of these, then one is not educating under any view.

Thus, in identifying the categories of decision that any education whatsoever presupposes, and working from the general description of education above as a basis, one category would necessarily be concerned with the selection of particular beliefs, attitudes, skills, dispositions, value understandings or tastes. Such policy, that is, policy which guides the selection of content or curriculum, constitutes the first category of decision and is termed 'curricular policy.'

Curricular policy might include the specification of particular skills to be taught, the development of dispositions for respect, neatness, and so on. In addition, the tying of grants to specified curriculum content also constitutes curricular policy (Kerr, 1976a : 48).

Having made a choice regarding content (curricular policy) the question arises of the guidance and regulation of the manner in which the selected content is developed. The choice of manner may depend on beliefs about the sequencing of content, the psychology of pupil behaviour and person knowledge of teaching methods. Policies in this category are referred to as methodological policies (Kerr, 1976a : 50).

If education was restricted to teaching, then curricular and methodological policies might suffice to indicate the kinds of decisions that are minimally necessary for the systematic conduct of education. Education, however, takes place in a context of institutional arrangements. Kerr (1976a : 57) notes:

...if one desires to conduct education systematically over time, then it is essential to have some regular allocation or dedication of some sorts of learning resources... . In order to ensure the allocation or dedication of resources to the conduct of education, one must make particular institutional arrangements.

Institutional arrangements themselves are not considered necessary to the systematic conduct of education; only as vehicles for establishing the regular allocation of resources. Such policies are referred to as resource-allocation policies, or simply resource policies.

In responding to the question--whose beliefs, attitudes, skills, dispositions, values, understandings or tastes are to be developed? (Kerr, 1976a : 52)--the fourth category, namely distributional policies, is generated. These policies govern the distribution of educational benefits and imply procedures by which persons are selected to undergo education.

To summarize briefly, four categories of policy decisions are necessary if one is to be engaged in education. These are:

- (i) Curricular Policy: guides the selection of content and curriculum.
- (ii) Methodological Policy: guides the manner in which the content is developed.

- (iii) Resource Policy: assigns particular resources to education.
- (iv) Distributional Policy: guides the selection of beneficiaries of the educational effort.

Question four asks: to what extent might policies be differentiated by their purposes? The underlying purpose of any policy, according to Kerr (1976a : 57) is to make systematic some enterprise. Therefore a concern with educational policies presupposes a concern with the systematic conduct of education.

However, purposes differ in the extent to which they may be achieved. Unachievable policy purposes describe perfect states of affairs to be imitated more and more exactly as is possible. A policy may have a once-achievable purpose and can no longer have that purpose once it is achieved; or, a policy may have a repeatedly achievable purpose, affecting some state of affairs again and again. These purposes all refer to some state of affairs and are called S-purposes.

In addition, Kerr identifies embedded purposes (1976a : 31) in which a string of policies is linked by purposes. An inner policy purpose may hinder the achievement of an outer policy purpose, if this linkage is not recognized. Thus, an agent, in acting in accord with an inner policy, may both serve and not serve the policy's purpose. An educational example of embedded purpose might exist in provincial policies of decentralization. The formation of exclusive decision-making units at the local level may well hinder a provincial policy, the intent of which is to decentralize decision-making in, say, curriculum, to the classroom level. Conversely, broader purposes might be

served, but not the immediate 'inner' policy purpose.

On the other hand, an authorizing agent may impose restrictive purposes to regulate the manner in which the S-purpose may be achieved. These are referred to as R-purposes. An S-purpose can logically stand alone as a policy's purpose; an R-purpose cannot (Kerr, 1976a : 61).

Kerr (1976a : 61-76) indicates that outermost curricular policies have typically unachievable purposes, that is, they would be couched in very general terms which express some 'ideal' state. Outermost methodological policies, in that they are "...limited to a state of affairs in which educational methodology reflects the methodology of the political system" (Kerr, 1976a : 62), are also likely to have unachievable policy purposes.

The purposes of resource policies at the outermost level, on the other hand, are repeatedly achievable. As Kerr (1976a : 63) notes:

...the purpose is to achieve a state of affairs, planning period after planning period, in which a particular portion of federal resources is dedicated to the systematic conduct of education and to commit particular types of educationally potent resources to the systematic conduct of education.

Outermost distributional policies, those which regulate who are to receive education, have, again, repeatedly achievable purposes, the purpose of such policy likely being the equalization of educational benefits or some 'ideal' description of social stratification (Kerr, 1976a : 64).

At the innermost (teaching) level, all four categories of policy type are repeatedly achievable.

To summarize briefly, in the Kerr framework policy statements are subjected to the following analysis:

1. CLASSIFICATION AS POLICY

Meeting the four conditions for something to count as policy (Chapter Two).

2. LOCATION IN NESTING

Focusing on 'extremes'--outermost, innermost.

3. CATEGORIZATION OF POLICY TYPE

Categorizing as curricular, methodological, resource or distributional.

4. CATEGORIZATION OF POLICY PURPOSE

Categorizing as states-of-affairs (S-purposes), or restrictive purposes (R-purposes).

(a) S-purpose (state of affairs)

Unachievable, once-achievable, repeatedly achievable, embedded.

(b) R-purposes

Restrictive purposes which regulate S-purpose achievement.

## CONCEPTUAL - ANALYTICAL CONSIDERATIONS

In the present study, the comparative-analytical treatment of educational legislation is carried out with the aid of a number of concepts developed by Kerr as part of the analytical framework described above. These concepts are: the nesting of policies (specifically, outermost policy); policy type (specifically, curricular, methodological, resource, distributional); and policy purpose (specifically, S-purpose--unachievable, repeatedly achievable).

### Nesting of Policies

It will be recalled that Kerr placed the outermost educational policies at the federal government level. Whether or not educational policies exist in this area does not preclude the possibility of discussing what these policies might be or ought to be, and allows one to respond more effectively to questions about the nature, scope and efficacy of future policies.

In the Canadian context, however, without ignoring the fact that the federal government does have policies related to educational matters and does provide educational resources, it seems appropriate in view of the background developed in Chapter Two, to regard provincial governments as legislators of outermost educational policies for their respective provinces. This being the case, current effective legislation for a province may be thought of as representing the outermost educational policy (Kerr's B-policies) in which other provincial educational policies (A-policies) are nested.

Taking such a perspective, the innermost policies would still be teaching policies, and provincial legislation as the outermost policy could claim to limit or expand the range of what is allowable or possible respecting a teaching policy or a policy at any other level. Some limitations on inner policies, therefore, should be apparent from an examination of outermost policy. In particular, analysis of content should allow some conclusions to be drawn about the possible range of inner policies determined by outermost policy.

### Policy Type

Classification of educational legislation according to policy type, allows further determination of characteristics of the policy-making system.

In order for the conduct of education to proceed, one may speculate that all four categories of policy type are represented in legislation and, further, that all legislated policy will fall into one of these categories.

The balance which exists between categories and the possibility of distinctions within categories, are two of the considerations which are addressed in the course of analysis.

### Policy Purpose

In Chapter Two of this study, reference was made to writers who indicated that the intent and purpose of educational policies is often unclear and, in most cases, must be inferred. The dilemma is evident in legislated policy for at least three reasons. First, legislation evolves through amendment and original purposes may be obscured. Second, legislation rarely

contains statements of principle or philosophy. (As indicated later, for example, very few legislative enactments in Canadian education contain a preamble which outlines intent, or to which one might refer if the purpose of a particular policy is unclear.)

Third, any one policy may have a number of purposes, and within that number, different types of purposes.

The question logically arises at this point of the extent to which legislated policy can be subjected to categorization of policy purpose for, if we do not know the S-purpose (the ideal state of affairs) to which such policy is committed, how can we comment on the manner in which its purpose is achievable?

For some guidance in this matter, Kerr (1976a : 57) may again be referred to, particularly the suggestion that enquiry into the nature of a policy's purpose is to request more than what is the purpose of the policy:

It is to ask what descriptively might be said about the purpose of the four respective categories of educational policies. And, ...identification of what type of purpose each category of educational policy might be expected to have. Still further, it shall be instructive to distinguish purposes by the location of the policies in the "nesting."

At the outermost level, curricular and methodological policies are likely to have unachievable policy purposes, while resource and distributional policies are likely to have repeatedly achievable policy purposes.

This suggests that where unachievable policy purposes are evident, the concern is with 'ideal' educational states which a policy seeks to emulate.

Where repeatedly achievable policy purposes are evident, the concern is with mechanisms which effect a state of affairs time after time, in other words, the maintenance of a particular situation.

## METHODOLOGICAL CONSIDERATIONS

The methodology is in two major parts. The first is in the form of preliminary analysis and findings. This takes place in five stages and is reported in Chapter Four. This is followed by second order analysis which is the task of Chapter Five.

The preliminary stages have a number of purposes, the initial one being to determine what constitutes provincial educational legislation and what form it takes.

Second is the identification of the policy content and concerns (the scope) of legislation. This takes place in two stages, the first of which is the development of a content classification model using one province's educational legislation as a baseline. For two reasons the Public Schools Act of British Columbia was selected for this purpose:

- (i) in its consolidated form, the British Columbia legislation is about average in size, relative to that of all ten provinces;
- (ii) it contains many of the part headings, which on preliminary examination, appear to be common to other legislations.

The next stage applies the elementary classification model to legislation from all ten provinces and refines it to the point where a table displaying the legislative content is developed for the selected legislation from each of the provinces.

Fourth, the policy content which has now been formulated in a particular way, is examined according to policy type. Finally, it is examined according to policy purpose.

Chapter Five draws interrelationships from the observations of Chapter Four and develops these in the form of comparisons, generalizations and speculations.

Chapter Six synthesizes the findings of the study in the form of conclusions and implications.

## Chapter Four

### PRELIMINARY ANALYSES AND FINDINGS

The purposes of these preliminary analyses are: (1) to describe the format of legislated educational policy across Canada and to make selections for further study; (2) to re-order the selected legislation from all ten provinces in a comparable form; (3) to examine the content of the selected legislation; (4) to examine the legislation for policy type; and (5) to examine the legislation for policy purpose.

In keeping with these purposes, the analyses proceed through five stages: (1) description of format; (2) development of an initial content classification model using one legislative case as a baseline; (3) content classification of all ten cases; (4) analysis by policy type; and (5) analysis by policy purpose.

The first stage responds to the question--what constitutes provincial educational legislation and what form does it take? The legislative consolidations of all ten provinces are documented and examined to determine the method of amendment and material included in each case. Following this, a selection of consolidations, or their parts, is made for continued study. This selection is examined, in turn, for its general arrangement and organization.

The second stage, which deals with content, takes the major subject headings of the relevant legislation for British Columbia and re-formulates these as four broad administrative tasks which appear to subsume the topics covered by this one provincial consolidation. The substance of these broad tasks is briefly summarized.

The third stage, also dealing with content, takes as its starting-point the product of the previous stage--the four broad administrative tasks--which forms the basis for classifying the content of the selected legislation from all ten provinces. In the process of this classification, sub-tasks are generated. The product of this stage is a display of the content of legislated educational policy across Canada, in the form of broad tasks and sub-tasks.

Having determined the substantive themes of legislated policy in the form of tasks and sub-tasks which an educational system undertakes, the next stage is to examine these tasks according to the concept of policy type.

Finally, the sub-tasks, along with the categories of policy type to which they are assigned, are examined according to the concept of policy purpose.

The stages outlined above are summarized in tabular form at the end of this chapter (Table 3), leading into a second-order analysis which is the purpose of Chapter Five.

## FORMAT

In order to select that legislated policy which is relevant to this study, it is necessary to limit the legislative field in two ways--first, by determining what constitutes legislated educational policy in the provincial context and, second, by establishing some criterion which will allow selection from within this policy set for comparative purposes.

For each Canadian province, there is an Act, the titles of which may vary, which embodies that legislation directed at public elementary and secondary education. In some provinces a separate Act exists which deals with the department or ministry of education.

Most departments of education produce an office consolidation of the statutes relating to education for that province. These are issued for reference purposes and provide the means by which educational personnel are made aware of the legislation under which they operate.

Because they are most likely to be used by educators, it is these office consolidations which form the data base for this study.

Format features of the office consolidations provided by departments of education are summarized in three tables which reside in the appendix. Characteristics which emerge from these tables are discussed below.

### Format Analysis #1 : Legislative Sources

The first format table is included in the appendix, merely to act as a bibliography of the materials which serve as the source of legislated policy

for this study. Indicated for each province is the title of the applicable publication and its original publication date (regardless of subsequent amendments). For convenience of the reader, the address from which it may be obtained is also included.

Findings. Those statutes relating to public school education in British Columbia, Ontario and Nova Scotia, are consolidated into single volumes. Those relating to Alberta are supplied in two volumes, each of which is a consolidation.

Saskatchewan is represented in this study by Bill 22, a major revision and consolidation of fifteen, formerly separate, Acts. This Bill and its amendments have yet to be enacted.

The relevant New Brunswick, Prince Edward Island and Newfoundland statutes are nowhere described as consolidations, that is, they are more properly thought of as reprints of the statutes, but in this study are referred to as consolidations for convenience.

In the cases of Manitoba and Quebec, the legislation is consolidated in a loose-leaf format and includes sets of Acts and their amendments relating to public schools, in the case of Manitoba, and Acts administered by the Department of Education, in the case of Quebec.

#### Format Analysis #2 : The Provincial Consolidations

The second format table in the appendix indicates, for each provincial consolidation, the method of updating the legislative contents of the volume or volumes, the material included and general comments on the presentation

of material.

Findings. Eight provinces have consolidations which require reprinting to include amendments. Two, Manitoba and Quebec, have compilations which are additive.

Six provinces include one consolidated Act, two include two consolidated Acts, one includes seven, and one, thirty-nine. A range exists, therefore, not only in size of the consolidations, but also in what material is included along with that pertaining to the public schools.

### Format Analysis #3 : Selected Contents

In viewing educational legislation as metapolicy, this study has adopted the concept of nesting, that is, the view that policymaking at any level of the educational system is made within the guidelines of increasingly higher levels of policy: the innermost policies being teaching policies and the outermost policies, in this case, being provincially legislated policy.

It is this concept which provides the criterion for selecting those parts of the legislative consolidations which are subjected to further study.

Personnel within a provincial education system operate professionally within the guidelines of that legislation which refers to the department of education and the public schools. A teacher, an administrator or a trustee, need not refer to legislated policy concerning private education or colleges, for example, in order to generate policies affecting the public schools. Other Acts which have jurisdiction or application are normally indicated in the body of such legislation.

What follows is a list of the selected legislation for each province, followed by a number in parenthesis. In the third format table in the appendix, the number is used as a reference, rather than the full title of the Act.

Province of British Columbia - Public Schools Act (1)

Province of Alberta - The Department of Education Act (1)  
The School Act (2)

Province of Saskatchewan - Bill 22 of 1978 (2)

Province of Manitoba - An Act Respecting the Department of Education (1)  
An Act Respecting Public Schools (2)

Province of Ontario - The Education Act (1)

Province of Quebec - Education Department Act (1)  
Education Act (2)

Province of New Brunswick - Schools Act (1)

Province of Prince Edward Island - School Act (1)

Province of Nova Scotia - The Education Act (1)

Province of Newfoundland - An Act Respecting the Department of Education  
Youth (1)  
An Act Respecting the Operation of Schools  
and Colleges in the Province (2)

Each of these legislative selections is examined for the general organization of its content, the numbering system used, the existence of a preamble and indexing arrangements.

Findings. Content is organized on the basis of parts, divisions and sections. Numbering systems use alternate numerical and alphabetical values. Only one legislative selection is preceded by a preamble. Indexing arrangements vary, both in their presence and complexity.

## Summary

- (i) There are two consolidative formats, bound volume and loose leaf. The former requires reprinting to include amendments. The latter allows the original publication to remain current.
- (ii) The consolidations vary considerably in size. In some cases this has to do with breadth of ministerial jurisdiction (for example, Quebec). However, there is also variation in size when legislation is selected to include only that which pertains to public elementary and secondary education.
- (iii) Only two publications, those for Quebec and New Brunswick, are produced concurrently in both official languages.
- (iv) The organization of content is standard, but the degree of content division appears to depend on size. Alberta (1), Quebec (1), Newfoundland (1), New Brunswick (1), contain only sections. In three of these cases, the particular consolidations deal with departments of education and contain relatively little legislation. In the case of New Brunswick, this does not hold true. Furthermore, the latter contains no section headings.
- (v) The common numbering system of the consolidations tends to follow the pattern--numerical, alphabetical, numerical--although some inconsistencies do occur, for example, with that of Ontario (10.(1)14.iii).

A modification of the decimal numbering system is used in some cases, in order to place amendments with like content,

without a complete revision of numbering. Examples are: New Brunswick (1)(8.1(3); Alberta (7.1(2)) The Department of Education Amendment Act, 1976.

- (vi) Preambles are not characteristic of provincial legislative consolidations. A preamble is a statement of aims or intent, couched in general terms. In an explanatory note to the proposed Constitutional Amendment Bill (1978 : 1), the purpose of a preamble is stated as follows:

While the provisions of the preamble and the statement of aims...are not legally binding in the sense of being enforceable in a court, they comprise a statement of intention...and would serve as a guide to the courts where the courts are interpreting a substantive section of the Bill and where the meaning of the section, in the particular circumstances, is not clear. They also provide evidence of the spirit that has led to the process of change.

In the case of the legislative consolidations under study here, a preamble is present only in certain Acts included in the Quebec compilation.

- (vii) Indexing arrangements vary in the degree to which cross-referencing of subject matter is possible. The materials provided by Nova Scotia and Newfoundland have no index. That for New Brunswick has a section index, although section titles are not reproduced in the text. Indexing may be by part and division and also alphabetically by discrete content area indicating section number, as in the case of Prince Edward Island.

The most comprehensive indices are provided in those consolidations (Quebec and Manitoba) in which indexing is updated concurrently with the legislation.

### CONTENT CLASSIFICATION #1 : THE BRITISH COLUMBIA PUBLIC SCHOOLS ACT

The purpose of this stage in analysing the scope of provincially legislated educational policy is to create broad content categories, which account in a general way for the substantive themes which form their content.

In order to do this, the Public Schools Act of British Columbia is used as a baseline. The reasons for selecting the British Columbia legislative consolidation as a basis were presented in the description of the methodology, (page 54 above), and in no way assume a value judgment as to the appropriateness or otherwise of the selection and arrangement of topics in this particular assembly: the intent here being merely to gain a grasp of the content of one consolidation, as a means to a broader knowledge of each of the others.

Those parts of the British Columbia legislation relevant to this study are: General Administration, Elections and Appointments of Boards of School Trustees, School Health, Pupils, Teachers, School Accommodation and Tuition, School Property and Finance. Within these parts, content is divided by divisions, sections and sub-sections.

A perusal of the content within these parts indicates that the Public Schools Act of British Columbia moves from a consideration of ministerial jurisdiction, to the assignment of duties and responsibilities to local jurisdictions and, in turn, to local institutions (schools). The major lines of authority emerge quite clearly from the ministerial to the school level, through appointees to various roles at each level within the provincial system.

At issue here, however, is the policy content of the legislation and a perusal of the substance of each part suggests some broad administrative tasks of a provincial education system.

Findings. Broad tasks suggested by this content are: the administration of educational legislation, the administration of local educational jurisdictions, the administration of educational services and operations and the administration of grants and financing. In addition, there are certain legal mechanisms (interpretations of terms, provisions for appeals and sanctions, specific applications) which describe the boundaries of the legislation.

A brief synopsis of the content subsumed by each of these broad tasks in this one Act is given below.

(i) Administration of Educational Legislation. Included here is content pertaining to the jurisdiction of the department (ministry) of education and the appointment and assignment of its executive officers. Committees, boards or councils having province-wide jurisdiction are also included.

The task here is to assign responsibility for the administration of educational legislation within the province and to indicate the manner of

its execution.

(ii) Administration of Local Educational Jurisdictions. This task, which includes those duties specifically delegated to local school authorities, appears to be the largest task embodied in this particular legislation.

There is a distinct element of classification, qualification and definition involved, with particular reference to electors, residents, pupils and trustees. Another major element is that of conduct (of elections, board meetings, teachers, principals, for example). Included also are the bases of local financing--assessment, taxation, fees and reciprocal arrangements--that is, financing which originates at the local level, rather than from the province.

(iii) Administration of Educational Services and Operations. The broad terms of the first two tasks cover much of the substance of this task in the assignment of powers and duties to the ministerial and trustee level.

It is possible, however, to isolate sections of the Act which have direct implication for particular instructional practices at the operational (school) level. Religious instruction and exercises and provision for handicapped pupils, are examples.

(iv) Administration of Grants and Financing. The task here is to administer those financial resources which arise from other than local sources: to make arrangements for grants and supplementary financing and to designate the manner in which such financing is made available to local jurisdictions.

CONTENT CLASSIFICATION #2 :  
THE TEN PROVINCIAL LEGISLATIVE SELECTIONS

The purpose of this stage is to apply the four broad administrative tasks generated from the British Columbia Public Schools Act to the selected legislated policy from all ten provinces. This is done by assigning the legislated policy, section by section, to one of these tasks, and in the process creating sub-tasks which further classify each broad task.

The product of classifying the legislated policy on the basis of the broad administrative tasks, is a display of those sub-tasks of education enshrined in selected legislation across Canada.

The sub-tasks, and the provinces where they apply, are presented in the summarizing table.

Findings

- (i) Using the four broad administrative tasks as a starting point, a total of sixty-two sub-tasks is generated.

Of these sixty-two sub-tasks, four are characterized by their 'legal' substance, that is, they are legal mechanisms common to all ten provincial consolidations and, indeed, to all legislation. These sub-tasks are: interpreting and defining terms, provision for petitions and appeals, creating sanctions, defining the legal scope and application of the legislation.

Such legislated policies can lay valid claim to being educational in that they determine legislative jurisdiction, and deal with rights, recourse and restrictions. However, in the form of sub-tasks their educational content is obscured and for this reason, they are excluded from the sub-task classification.

- (ii) Of the fifty-eight educational sub-tasks identified, no one province accounts for all.
- (iii) The number of sub-tasks per province ranges from fifty-four (Manitoba) to thirty-six (New Brunswick), the average being 44.1.
- (iv) Twenty-one sub-tasks are common to all provinces.
- (v) The greatest degree of similarity across provinces occurs in the broad task--'Administration of Educational Legislation.'
- (vi) The greatest degree of differentiation across provinces occurs in the broad task--"Administration of Educational Services and Operations.'
- (vii) The largest content area in all legislative selections is that devoted to the broad task--"Administration of Local Educational Jurisdictions.'
- (viii) Provinces represented least in particular task areas are as follows:  
 Quebec is least represented in - "Defining the Roles of Teachers' and 'Administration of Provincial Grants and Financing.'  
 New Brunswick is least represented in - 'Designating Locale and Authority,' 'Defining the Role of Pupils' and 'Establishing the Basis of Local Finance.'

Prince Edward Island is least represented in - 'Administration of Educational Legislation,' and 'Administration of Educational Services and Operations,' and 'Administration of Provincial Grants and Financing.'

(ix) Within the broad task--'Administration of Local Educational Jurisdictions,' the cluster of sub-tasks showing the most commonality is that concerned with 'Establishing the Basis of Local Finance.'

(x) Interprovincially, the least represented sub-tasks are:

B.3(h) - establishing a stance towards strikes (Alberta, Manitoba);

C(n) - dealing with accidents (Manitoba, Ontario);

B.1.(i) - designating school visitors (Manitoba, Ontario, Quebec);

C.(d) - provision for language instruction (Alberta, Manitoba, Ontario);

D.(f) - specifying the language of administration (Manitoba, Ontario, Quebec);

C.(i) - provision for programmes undertaken off school premises (Alberta, Saskatchewan, Ontario);

C.(m) - provision for supplementary programmes (Manitoba, New Brunswick, Prince Edward Island);

D.(b) - establishing financing authorities (Alberta, Manitoba);

D.(d) - budgeting and reporting (Alberta, Ontario, New Brunswick);

Of these nine least reported sub-tasks, Manitoba is represented by seven, Ontario by six.

(xi) Out of seventeen sub-tasks in 'Administration of Educational Services and Operations,' the selected legislation for Manitoba has the largest number (sixteen) and that for Prince Edward Island has the least, (eight).

## POLICY TYPE

The purpose of this preliminary analytical stage is to classify the educational tasks which emerged from the two previous stages according to policy type--curricular, methodological, resource, distributional.

In order to carry out this purpose, the criteria outlined by Kerr (1976a) for determining category of policy type are applied to each of the tasks. Policies themselves are not being classified; only the identified tasks which represent sets of policies. Hence the classification which is generated indicates the category of policy type which most likely would be needed to fulfill those educational tasks.

### Findings

- (i) In order to classify the educational tasks according to policy type, the criteria must be very broadly applied. Although some doubt may exist in a number of cases as to the relative strengths of a task's representation in a particular category, the majority of cases can be classified beyond a reasonable doubt.
- (ii) Eighteen of the fifty-eight tasks fall within more than one category of policy type, and six of the eighteen belong in all four categories.
- (iii) Of the sub-tasks in the broad task--'Administration of Educational Legislation'--each may be classified in all four categories of policy type.

Of the sub-tasks in the broad task--'Administration of Local Educational Jurisdictions'--the majority is resource.

Of the sub-tasks in the broad task--'Administration of Educational Services and Operations'--the majority is methodological.

Of the sub-tasks in the broad task--'Administration of Provincial Grants and Financing'--the majority is resource.

Beginning with the largest number represented, the order of representation of policy type categories, overall, is: resource, methodological, curricular, distributional.

Table 1 shows the number of sub-tasks within each broad task area and the classification of these sub-tasks according to policy type. In the broad task 'Administration of Educational Legislation,' for example, all four sub-tasks are classified in all four categories of policy type.

It should be noted that although only fifty-eight sub-tasks are included in this analysis, many are classified in more than one category of policy type. This means that the total of all sub-tasks classified by category of policy type exceeds fifty-eight.

Table 1 shows that:

- (a) Administration of Educational Legislation. The sub-tasks are of the omnibus variety, that is, each falls into all four categories of policy type.
- (b) Administration of Local Educational Jurisdictions. Overall, the resource policy category prevails, however, there are some differences between task groupings.

TABLE 1

Number of Sub-Tasks Within Each Broad Task Classified According to Policy Type

Broad Task	Number of Sub-Tasks Within Each Broad Task	Category of Policy Type of Sub-Tasks			
		Curr.	Method.	Res.	Dist.
A. Administration of Educational Legislation	4	4	4	4	4
B. Administration of Local Educational Jurisdictions					
1. Designating Locale and Authority	10	2	3	9	2
2. Managing and Maintaining School Property and School Sites	1	-	-	1	-
3. Defining the Roles of Teachers	11	4	6	8	-
4. Defining the Roles of Pupils	6	-	1	1	4
5. Establishing the Basis of Local Finance	5	-	-	5	-
C. Administration of Educational Services and Operations	17	7	11	2	5
D. Administration of Provincial Grants and Financing	4	1	1	3	1
Totals	58	18	26	33	16

'Designating Locale and Authority' contains one omnibus policy and two which fall into more than one category of policy type. It is heavily resource directed.

'Defining the Roles of Teachers' displays a concentration of resource and methodological policy types, with fewer of the curricular type and no representation from the distributional. The curricular type is represented only in policies which fall into more than one category.

'Defining the Roles of Pupils' leans heavily towards the distributional policy type with no representation in the curricular.

'Establishing the Basis of Local Finance' is purely of the resource type.

(c) Administration of Educational Services and Operations. The methodological policy type prevails. Emphasis next falls on the curricular, followed by the distributional. The resource type is minimally represented.

(d) Administration of Provincial Grants and Financing. As might be expected, the resource policy type prevails, but there is representation also from the other three types.

## POLICY PURPOSE

Chapter Two indicated that the purposes of legislated policies are often unclear and may be indeterminable. The format section of this chapter revealed that only one of the selected legislative consolidations was preceded by a preamble which indicates aims, and a study of all ten provincial consolidations indicates that statements of purpose are rare.

According to Kerr's (1976a) analytical framework, however, it is possible to describe a policy's purpose, at the outermost level, according to the category of policy type to which it belongs. This description designates curricular and methodological policies at the outermost level as having unachievable policy purposes (purposes which can never actually be achieved, but can be emulated more and more closely), while outermost resource and distributional policies have repeatedly achievable purposes (purposes which can be achieved over and over again).

By assigning unachievable and repeatedly achievable policy purposes to each sub-task on the basis of the category of policy type to which each sub-task has already been assigned, a classification is developed which indicates what might descriptively be said about the purposes of policies most likely to fulfill each sub-task.

### Findings

Table 2 shows the number of sub-tasks within each broad task area and the classification of these sub-tasks according to category of policy purpose. In the broad task 'Administration of Educational Legislation,' for example, there are four sub-tasks and each of these sub-tasks is classified

TABLE 2

## Number of Sub-Tasks Within Each Broad Task Classified According to Policy Purpose

Broad Task	Number of Sub-Tasks Within Each Broad Task	Category of Policy Purpose	
		Unachievable	Repeatedly Achievable
A. Administration of Educational Legislation	4	4	4
B. Administration of Local Educational Jurisdictions			
1. Designating Locale and Authority	10	3	9
2. Managing and Maintaining School Property and School Sites	1	-	1
3. Defining the Roles of Teachers	11	6	8
4. Defining the Roles of Pupils	6	1	5
5. Establishing the Basis of Local Finance	5	-	5
C. Administration of Educational Services and Operations	17	14	6
D. Administration of Provincial Grants and Financing	4	1	4
Totals	58	29	42

as having both unachievable and repeatedly achievable policy purposes.

The total of sub-tasks assigned to all policy purpose categories exceeds the inclusion of different sub-tasks, because many of them are classified in more than one category of policy type (Table 1, page 72) and hence require classification in more than one category of policy purpose.

Table 2 shows:

- (a) On the basis of the sub-tasks and the categories of policy type to which they are assigned, twenty-nine unachievable policy purposes and forty-two repeatedly achievable policy purposes emerge.
- (b) Of the policy purposes displayed for the broad task--'Administration of Educational Legislation'--all have both unachievable and repeatedly achievable policy purposes.
- (c) For the broad task--'Administration of Local Educational Jurisdictions'--the majority is repeatedly achievable.
- (d) For the broad task--'Administration of Educational Services and Operations'--the majority is unachievable.
- (e) For the broad task--'Administration of Provincial Grants and Financing'--the majority is repeatedly achievable.
- (f) Within the broad task--'Administration of Local Educational Jurisdictions'-- the only significant representation of unachievable policy purposes occurs in the grouping 'Defining the Roles of Teachers.'

## SUMMARY OF PRELIMINARY ANALYSES AND FINDINGS

The preliminary analyses and findings contained in Chapter Four are summarized in Table 3 (pages 78-82).

Column 1 displays each broad task, followed by the sub-tasks which it subsumes. Column 2 indicates representation (X) or non-representation (-) of each sub-task in the selected legislation for each province. Column 3 indicates sub-tasks common to all provinces. Column 4 displays the policy type category assigned to each sub-task, indicating the category of policy type or types--curricular, methodological, resource, distributional--most likely required to carry out each of the sub-tasks. Column 5 shows the category of policy purpose--unachievable, repeatedly achievable--which is most probably representative of each category of policy type at the outermost level.

Displayed as totals are the numbers of sub-tasks represented in the selected legislation for each province and the numbers of sub-tasks classified in each category of policy type and policy purpose.

It should be noted that, although not shown on the table, the number of sub-tasks not common to each province may be calculated simply by extracting the number of sub-tasks common to each province (twenty-one) from the total number of sub-tasks indicated for each province. British Columbia, for example, displays twenty-three sub-tasks which are not common to all provinces.

TABLE 3  
Summary of Preliminary Analyses and Observations

Broad Tasks/Sub-Tasks	*P R O V I N C E										Sub-tasks common to all Provinces	Category of Policy Type				Category of Policy Purpose	
	*1	2	3	4	5	6	7	8	9	10		Curri- cular	Methodo- logical	Resource	Distri- butional	Unachievable	Repeatedly Achievable
	<b>A. Administration of Educational Legislation</b>																
a) creating a central authority with provincial jurisdiction;	X	X	X	X	X	X	X	X	X	X	C	X	X	X	X	X	X
b) defining the duties, powers and functions of the minister;	X	X	X	X	X	X	X	X	X	X	C	X	X	X	X	X	X
c) appointing and assigning officers and staff at the provincial level;	X	X	X	X	X	X	X	-	X	X		X	X	X	X	X	X
d) appointing and electing advisory boards, committees and councils at the provincial level.	X	X	X	X	X	X	X	X	X	X	C	X	X	X	X	X	X
<b>B. Administration of Local Educational Jurisdictions</b>																	
<b>1. Designating Locale and Authority:</b>																	
a) forming, altering, amalgamating and dissolving public school districts, divisions and boards;	X	X	X	X	X	X	X	X	X	-		-	-	X	-	-	X
b) forming, altering, amalgamating and dissolving separate school districts, divisions and boards;	-	X	X	-	X	X	-	-	-	X		-	-	X	-	-	X
c) qualifying trustees;	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
d) establishing the constitution, continuance and conduct of boards, and the conduct of trustees;	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
e) determining the powers, duties and functions of local boards;	X	X	X	X	X	X	X	X	X	X	C	X	X	X	X	X	X
f) conducting public meetings;	X	X	X	X	X	-	-	X	X	X		-	-	X	-	-	X

TABLE 3 - continued

Broad Tasks/Sub-Tasks	*P R O V I N C E										Sub-tasks common to all Provinces	Category of Policy Type				Category of Policy Purpose	
	*1	2	3	4	5	6	7	8	9	10		Curri- cular	Methodo- logical	Resource	Distri- butional	Unachievable	Repeatedly Achievable
g) appointing and assigning secretary-treasurers;	X	X	X	X	X	X	-	X	X	X		-	-	X	-	-	X
h) appointing and assigning superintendents, directors and supervisory staff at the local level;	X	X	X	X	X	X	-	X	X	X		X	X	X	-	X	X
i) designating school visitors;	-	-	-	X	X	X	-	-	-	-		-	X	-	-	X	-
j) making special arrangements for certain localities.	X	-	-	X	X	X	X	-	X	-		-	-	X	X	-	X
2. <u>Managing and Maintaining School Property and School Sites:</u>	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
3. <u>Defining the Roles of Teachers:</u>																	
a) contracting with teachers (appointing, dismissing, transferring and releasing) --and formulating collective agreements;	X	X	X	X	X	X	X	X	X	X	C	X	X	X	-	X	X
b) qualifying and certifying teachers;	X	X	X	X	X	X	X	X	X	X	C	X	X	-	-	X	-
c) specifying the nature of provincial and local teachers' associations;	X	-	X	X	X	-	-	-	-	-		X	X	X	-	X	X
d) retiring teachers;	X	-	X	X	X	-	X	X	-	-		-	-	X	-	-	X
e) determining duties;	X	X	X	X	X	-	X	X	X	X		X	X	-	-	X	-
f) delineating grounds for, and the process of, suspension;	X	X	X	X	-	X	X	X	X	X		-	-	X	-	-	X
g) paying teachers;	X	X	-	X	X	X	X	X	X	X		-	-	X	-	-	X
h) establishing a stance towards strikes;	-	X	-	X	-	-	-	-	-	-		-	-	X	-	-	X
i) establishing the grounds for leaves of absence;	X	X	X	X	X	-	-	X	-	X		-	-	X	-	-	X
j) assigning principals;	X	X	X	-	X	-	-	X	-	X		-	X	-	-	X	-

TABLE 3 - continued

Broad Tasks/Sub-Tasks	*P R O V I N C E										Sub-tasks common to all Provinces	Category of Policy Type				Category of Policy Purpose	
	*1.	2	3	4	5	6	7	8	9	10		Curri- cular	Methodo- logical	Resource	Distri- butional	Unachievable	Repeatedly Achievable
k) providing for student-teaching.	X	X	-	X	X	-	X	X	X	X		-	X	X	-	X	X
4. <u>Defining the Roles of Pupils:</u>																	
a) requiring education and attendance;	X	X	X	X	X	X	X	X	X	X	C	-	-	-	X	-	X
b) delineating grounds for, and process of, suspension and expulsion;	X	X	X	X	X	X	X	X	X	X	C	-	-	-	X	-	X
c) making available tuition and accommodation;	X	X	X	X	X	X	X	X	X	X	C	-	-	-	X	-	X
d) entering into agreements for instruction or services;	X	X	X	X	X	X	-	X	X	X		-	-	X	-	-	X
e) specifying the duties, powers and conduct of pupils;	X	-	X	X	X	-	-	-	X	X		-	X	-	-	X	-
f) taking a census of pupils.	-	-	-	X	X	X	-	-	X	-		-	-	-	X	-	X
5. <u>Establishing the Basis of Local Finance:</u>																	
a) taxing (assessing, levying, requisitioning and collecting);	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
b) passing money by-laws and issuing debentures;	X	X	X	X	X	X	-	X	X	X		-	-	X	-	-	X
c) accounting and auditing;	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
d) budgeting, estimating and reporting;	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
e) borrowing and dealing with debts.	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
C <u>Administration of Educational Services and Operations</u>																	
a) educating persons beyond or below compulsory school age;	X	X	X	X	X	X	-	X	X	X		-	-	-	X	-	X

TABLE 3 - continued

Broad Tasks/Sub-Tasks	1										2	3	4				5	
	*P R O V I N C E										Sub-tasks common to all Provinces	Category of Policy Type				Category of Policy Purpose		
	*1	2	3	4	5	6	7	8	9	10		Curri- cular	Methodo- logical	Resource	Distri- butional	Unachievable	Repeatedly Achievable	
b) establishing and maintain- ing programmes (courses of study, texts, and in- structional resources);	X	X	X	X	X	X	X	X	X	X	C	X	X	X	X	X	X	
c) provision for religious instruction and exercises;	X	X	X	X	X	X	X	X	X	X	C	X	X	-	X	X	X	
d) provision for language instruction;	-	X	-	X	X	-	-	-	-	-		X	-	-	-	X	-	
e) specifying the language or languages of in- struction;	-	X	X	X	X	X	X	-	-	-		-	X	-	-	X	-	
f) specifying the language of administration;	-	-	-	X	X	X	-	-	-	-		-	X	-	-	X	-	
g) providing for patriotic exercises;	-	X	X	X	-	X	X	-	-	-		-	X	-	-	X	-	
h) provision for work ex- perience and vocational programmes;	X	X	X	X	X	-	-	X	X	-		X	X	-	-	X	-	
i) provision for programmes undertaken off school premises;	-	X	X	-	X	-	-	-	-	-		-	X	-	-	X	-	
j) providing schooling for exceptional children;	X	X	X	X	X	X	X	-	X	X		-	-	-	X	-	X	
k) providing instruction in certain (specified) subjects;	X	-	X	X	X	X	X	-	X	X		X	-	-	-	X	-	
l) providing for pre- and post-service teacher education and profes- sional development;	X	X	X	X	X	X	X	X	X	X	C	X	X	-	-	X	-	
m) provision for supplementary programmes;	-	-	-	X	-	-	X	X	-	-		X	-	-	-	X	-	
n) dealing with accidents;	-	-	-	X	X	-	-	-	-	-		-	X	-	-	X	-	
o) handling pupil records;	X	X	X	X	X	-	-	-	X	X		-	X	-	-	X	-	
p) organizing age and grade levels for instruction;	-	-	X	X	X	X	X	X	X	X		-	X	-	X	X	X	

TABLE 3 - continued

Broad Tasks/Sub-Tasks	*P R O V I N C E										Sub-tasks common to all Provinces	Category of Policy Type				Category of Policy Purpose	
	*1	2	3	4	5	6	7	8	9	10		Curri- cular	Methodo- logical	Resource	distributi- onal	Unachievable	Repeatedly Achievable
q) providing transportation.	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
D. <u>Administration of Provincial Grants and Financing</u>																	
a) receiving and handling finances from provincial sources--grants, funds, foundation programmes;	X	X	X	X	X	X	X	X	X	X	C	-	-	X	-	-	X
b) establishing financing authorities;	-	X	-	X	-	-	-	-	-	-		-	-	X	-	-	X
c) financing certain operations;	X	X	X	X	X	-	-	-	X	X		X	X	-	X	X	X
d) budgeting and reporting.	-	X	-	-	X	-	X	-	-	-		-	-	X	-	-	X
Totals	44	47	46	54	53	40	36	38	42	41	21	18	26	33	16	29	42

\*Key: 1 British Columbia  
 2 Alberta  
 3 Saskatchewan  
 4 Manitoba  
 5 Ontario  
 6 Quebec  
 7 New Brunswick  
 8 Prince Edward Island  
 9 Nova Scotia  
 10 Newfoundland

## Chapter Five

### SECOND ORDER ANALYSIS

Chapter Four ended with a table which summarized the preliminary analyses and observations. The purpose of this chapter is to display the interrelationships which emerge from the various stages of the previous chapter. These interrelationships are drawn in three forms--comparisons, generalizations and speculations.

Each of these forms is suggestive of relationships which exist between provincial educational legislation as educational metapolicy, and the generation of non-legislated policy. These relationships are further developed in the form of conclusions and implications--the task of Chapter Six.

#### INTERRELATIONSHIP : VOLUME/TASK REPRESENTATION

##### Comparison

The number of sections in a particular legislative consolidation cannot be considered a constant, due to substitution, addition and repeal: at best, it is a crude measure of volume. However, it may reasonably be asked - what relationship exists between the volume of legislation studied for each province (determined by the number of sections contained in each legislative selection) and the number of sub-tasks represented in the selected legislation for each province?

Table 4 displays the comparison between volume and sub-task representation. In column one, provinces are rank-ordered from highest to lowest according to volume of selected legislation. In column three, provinces are rank-ordered from highest to lowest according to the number of sub-tasks represented in the selected legislation for each province.

TABLE 4

Rank Order of Provinces on Two Measures: (a) Volume of Selected Legislation, (b) Representation of Sub-Tasks in Selected Legislation

<u>1</u>	<u>2</u>	<u>3</u>
<u>Volume of Selected Legislation</u>	<u>Rank (1=High)</u>	<u>Sub-Task Representation</u>
Quebec	1	Manitoba
Manitoba	2	Ontario
Saskatchewan	3	Alberta
Ontario	4	Saskatchewan
British Columbia	5	British Columbia
Alberta	6	Nova Scotia
Newfoundland	7	Newfoundland
Nova Scotia	8	Quebec
New Brunswick	9	Prince Edward Island
Prince Edward Island	10	New Brunswick

Table 4 shows:

- (a) The order of task representation for both British Columbia and Newfoundland matches that for volume.
- (b) Manitoba, Ontario, Alberta, Nova Scotia and Prince Edward Island rank higher in task representation than in volume.
- (c) Saskatchewan, New Brunswick and Quebec rank higher in volume than in task representation.

- (d) In each case, the difference in rankings is only slight (one or two places), except for two provinces: Alberta and Quebec. In the case of Alberta, rank for task representation exceeds rank for volume by three places. In the case of Quebec, rank for volume exceeds rank for task representation by seven places.
- (e) The province displaying the most marked discrepancy between volume and task representation is Quebec, which shows the highest legislative volume, yet displays the third lowest task representation.

### Generalization

Table 4 illustrates that, with the exception of Quebec, the ranking of legislative volume and task representation is nowhere more than three places different.

In the case of Quebec, the legislative selection for which displays the highest volume, one of the lowest task representations is recorded.

### Speculation

The fact that the Quebec legislative consolidation emerges as idiosyncratic in the relationship between volume and task representation may be suggestive of more subtle differences which were not revealed in this analysis. It may be, for example, that in those tasks and sub-tasks examined, the Quebec legislation is more definitive, more detailed and prescriptive. It may also be that much of this detail is in the nature of qualification of outermost policies which, in other provinces, form part of the substance of regulations under the legislation.

## INTERRELATIONSHIP : PROVINCE/TASK REPRESENTATION

### Comparison

Under four broad administrative tasks, a total of fifty-eight educational sub-tasks was generated, each of which represents sets of legislated policies which in turn are reflective of the topics covered, the concerns expressed and the substantive issues enshrined in, provincial legislation.

No one province accounts for all fifty-eight tasks; however, twenty-one of these tasks are common to all provinces.

The distribution of those sub-tasks which are not common to all provinces ranges from fifteen for New Brunswick to thirty-three for Manitoba (pages 77-82, above). By region, task representation is highest in a 'central' geographic area made up of one of the so-called 'western' provinces (Manitoba) together with Ontario. Next in task representation is a block of three western provinces (Alberta, Saskatchewan and British Columbia), followed by the maritime provinces (Nova Scotia, Newfoundland, Prince Edward Island and New Brunswick). The exception in this classification is Quebec, which falls between Newfoundland and Prince Edward Island in representation.

### Generalization

Because twenty-one sub-tasks are common to the legislative consolidations of all ten provinces, it is possible to develop a descriptive statement which generalizes the substantive themes of public school legislated policy across Canada. This statement would read as follows:

Legislated educational policy in all ten Canadian provinces creates a central authority in the form of a department or ministry of education and specifies the ministerial role. There is provision for groups with advisory functions at the provincial level.

At the local level, school trustees must meet certain qualifications; the constitution and continuance of school boards is established and the conduct of trustees specified. Particular powers, duties and functions inhere in local boards.

Teachers must enter into contractual arrangements with school jurisdictions and meet specifications for certification and qualification.

Education and attendance are required and provisions are made for tuition and accommodation. However, any pupil may be denied such accommodation for cause.

Means are specified for establishing and maintaining educational programmes and a stance is taken on religious affiliation, instruction or exercises.

Transportation is a necessary educational service for certain clients of the system.

Teachers must receive particular preparation and continued professional development is an expectation.

Monetary resources are monitored at two levels--local and provincial. Local funding is raised through taxation and must be accounted for by local boards. There are specific guidelines for receiving and handling funding from the provincial level.

Based on this generalized statement, it is possible to ascertain common properties of legislated policy across Canada. Of the twenty-one common tasks, six are of the omnibus type, four of the multiple type; eight are resource type tasks and three, distributional. Taking the policy type elements of each--fifteen are resource and the remaining thirty divide equally between curricular, methodological and distributional. Hence, the common tasks, interprovincially, emphasize the resource policy type, with lesser and equal representation in the curricular, methodological and distributional.

### Speculation

If the common sub-tasks allow such a generalized picture of the tasks of provincial educational systems, then any differences between provincial systems will be most evident among those tasks which are not common across Canada.

If these provincially differentiated tasks have more implications for a particular level or levels of provincial systems than others, then it is at this level or levels that distinctions between provinces will be most evident.

Given the generalized statement, it becomes apparent that the differences lie in the area of educational services and operations. This would seem to suggest that although there is indeed a Canada-wide concept of a provincial educational system, there is not a Canada-wide concept of services and operations that are to be provided in specific institutions.

## INTERRELATIONSHIP : POLICY TYPE/TASK CLASSIFICATION

### Comparison

As Table 3 illustrates (pages 78-82), each of the broad tasks presents a somewhat different pattern of classification according to policy type.

'Administration of Educational Legislation' displays sub-tasks which have been classified as falling into all four categories of policy type; in Chapter Four, the term 'omnibus policies' was used to describe these.

In 'Administration of Local Educational Jurisdictions,' one sub-task is classified as omnibus, seven are classified in more than one category, and twenty-five in one category.

In 'Administration of Educational Services and Operations,' one sub-task is classified as omnibus, four in more than one category, and twelve in one category.

In 'Administration of Provincial Grants and Financing,' one sub-task is classified as belonging to more than one category of policy type, and three in one category.

### Generalization

Eighteen of the fifty-eight sub-tasks fall into more than one category of policy type. Of these, some fall into all four categories (omnibus), some into two or three categories. The term 'multiple policy type' will be used for the latter.

### Speculation

If a sizeable number of sub-tasks falls into more than one category of policy type, then it is likely that the policies needed to fulfill those tasks will also have this characteristic. If this characteristic is a common one, then a framework for the analysis of policies themselves could usefully allow for statements of policy to qualify as educational on more than one count. The capacity of a policy to fall into one or more than one category of policy type may be reflected in the breadth of its jurisdiction--omnibus (very broad), multiple (broad), single (relatively narrow).

## INTERRELATIONSHIP : ADMINISTRATIVE TASK/POLICY TYPE/POLICY PURPOSE

Comparison

In Chapter Four, it is observed that representation of each policy type and consequently representation of both categories of policy purpose occurred in all four broad administrative tasks. However, differences occur in the frequencies of each policy type and policy purpose type within each broad task.

Administration of Educational Legislation is characterized by omnibus policies: Administration of Local Educational Jurisdictions and Administration of Provincial Grants and Financing emphasize resource type policies; Administration of Educational Services and Operations has a majority of methodological policies.

Although all the policies represented by the sub-tasks are treated as outermost policies, the sub-tasks appear to involve different institutional levels--the department of education, the local board, the school. The legislation appears to create different frameworks at each of these levels--at the department level, legal; at the school board level, procedural; at the school level, operational. Furthermore, these frameworks are cumulative from the department level down so that the more 'inner' institutional level in the provincial hierarchy, the broader (and hence potentially more capable of limitation or expansion) are the policy frameworks within which the institution functions: the more 'outer' the institution, the narrower (and hence potentially less capable of limitation or expansion) are the policy frameworks

within which it functions.

Thus, in this analysis, the concept of nesting applies in a specific manner, within a policy level, as well as between levels.

### Generalization

Given that each broad administrative task displays dominant features of policy type and policy purpose and that a special case of the concept of nesting apparently exists within legislated educational policy, it becomes possible to postulate a relationship between the three policy frameworks and the institutional levels with which they are associated. This relationship is depicted in Figure 2.

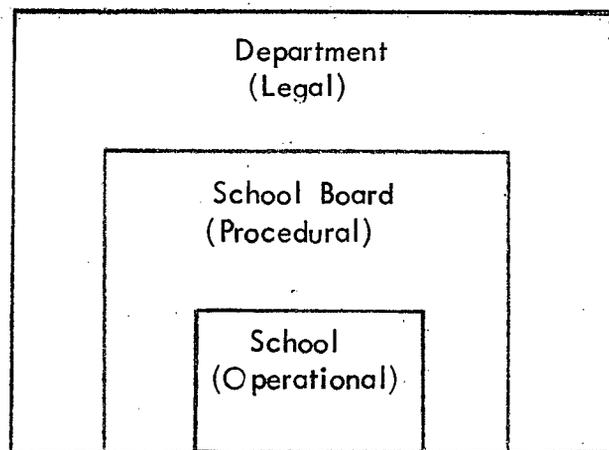


Figure 2. Nesting of Policy Frameworks

The relationship is more fully displayed in Table 5 (page 93).

Table 5 combines the notion of policy frameworks with that of the broad administrative tasks and illustrates those characteristics of each derived from the preliminary analyses (Table 3).

Column 1 serves as a reminder that the policy under examination here is treated as outermost policy. Column 2 indicates the three institutional levels towards which the legislated policy is most clearly directed. In column 3 are shown the broad administrative tasks most clearly associated with each level. Column 4 depicts the policy framework surrounding each broad task in its association with a particular institutional level, while columns 5 and 6 display the dominant categories of policy type and policy purpose which, as the preliminary analyses disclosed, were characteristic of each of the broad tasks.

The table shows, in section A, for example, that the outermost educational policy which directs most of its impact at the department level, can be classified under the performance of the broad administrative task--Administration of Educational Legislation. The policy subsumed by this task creates a legal framework which guides the operations of individuals at this level and will probably be dominated by omnibus policies with both unachievable and repeatedly achievable purposes.

### Speculation

The characteristics of legislated policy which have been uncovered to this point, seem to suggest that legislated policy:

- (i) having its major impact on departments or ministries, may be deemed to be largely 'permissive' in nature;
- (ii) having its major impact on the local level, may be deemed to be largely 'restrictive' in nature;

TABLE 5

Policy Framework, Policy Type and Policy Purpose Characteristics  
of the Four Broad Administrative Tasks

1		2		3		4			5			6			
Policy Level		Institutional Level of Impact		Broad Task		Policy Framework			Dominant Policy Type			Dominant Policy Purpose			
						Legal	Procedural	Operational	Omnibus	Curricular	Methodological	Resource	Distributional	Unachievable	Repeatedly Achievable
A.	Outermost	Department		Administration of Educational Legislation		X			X					X	X
B.	Outermost	School Board		Administration of Educational Jurisdictions		X	X				X				X
				Administration of Provincial Grants and Financing		X	X				X				X
C.	Outermost	School		Administration of Educational Services and Operations		X	X	X		X				X	

- (iii) having its major impact on the school level, may be deemed to be largely invitations to institutions to aim for unachievable educational policy purposes within somewhat prescribed operations.

These suggestions arise because those sub-tasks which appear to be the province of the department or ministry level are probably carried out chiefly through the medium of omnibus policies. Such policies tend to be very broad in their jurisdiction, touching on all aspects of education, and have a multiplicity of purposes, both unachievable and repeatedly achievable. This leads to the speculation that legislated policy touching departments or ministries may be thought of as largely permissive, in the sense that it appears to allow for considerable departmental discretion.

Likewise those sub-tasks which appear to be the province of the local level of education, are probably carried out chiefly through the medium of resource-type policies. Such policies tend to be concerned chiefly with formalities and procedures and to have repeatedly achievable purposes. This leads to the speculation that legislated policy touching school boards may be thought of as largely restrictive, in the sense that it appears to limit the actions of the local authority in some manner.

Finally, those sub-tasks which appear to be the province of the school level, are probably carried out chiefly through the medium of methodological-type policies. Such policies tend to be concerned chiefly with operational arrangements and to have unachievable purposes. This leads to the speculation that legislated policy touching schools may be thought of as largely invitational, in the sense that it invites institutions to aim for unachievable policy purposes, but within the operational confines described by legislation.



Because each of these frameworks is allied with a particular institutional level, it is possible to match each with certain roles within a provincial system and hence with certain non-legislative policy levels. Thus, personnel at the department level, the trustee level and the teaching level, appear to work within differently balanced sets of metapolicy guidelines.

### Speculation

Given the above emphases and seeming imbalances in policy type distribution and consequently in the distribution of categories of policy purposes, one might legitimately ask: first, would education be conducted in a more systematic manner if policy types and their attendant purposes were distributed more evenly among the three institutional levels? Secondly, if trustees, as representative of the local level of education, were not limited to a primarily resource-directed framework, would they be encouraged to make more non-resource type policies? Third, if teachers, as representative of the school level of education, were not limited to a primarily methodological framework, would they be encouraged to take appropriate action in other policy areas?

## Chapter Six

### SUMMARY, CONCLUSIONS AND IMPLICATIONS

This chapter begins with a summary which reviews the purpose, the conceptual framework, methodology and findings of the study. Second, it presents conclusions, some concerning legislated policy and some concerning the conceptual framework. Finally, it moves into implications for policy-making, for understanding policy, and for further research.

#### SUMMARY

A basic assumption of the study was that legislated educational policy may be viewed as metapolicy to the extent that it sets the form, the scope, and the limits of policy set at inner levels.

The purpose of the study (stated on page 42) was to determine the nature and extent of the metapolicy role fulfilled by legislated educational policy. In order to do this, the study undertook to identify the characteristics of legislated educational policy and to examine the manner in which legislated policy influences the development of non-legislated policy. It began with a number of questions:

- (i) From provincial educational legislation, can a typically Canadian stance be inferred which might be designated Canadian educational policy?
- (ii) What generalizations can be made about the content, type and purpose of legislated educational policy across Canada? What interprovincial differences emerge?
- (iii) What are the implications of these generalizations and differences for the generation of non-legislated policy?
- (iv) Kerr (1976a) provides an analysis of the concept of policy. Can some of the concepts through which this analysis is developed be used to identify and clarify the nature of legislated educational policy in Canada?

The study adopted a number of concepts--policy, educational policy, nesting of policies, policy type and policy purpose--from an analytical framework (Kerr, 1976a), and combined these with particular analytical considerations in order to carry out analyses of educational legislation.

The concepts were used to identify the metapolicy characteristics of extant legislated policy; characteristics of the policy itself, and characteristics of the manner in which it determines the development of non-legislated policy.

Fundamental to the methodology is that legislation may be viewed as policy, more particularly as legislated policy, a kind of policy which carries the force of law. As such, legislated policy supercedes other policy developed at inner levels and hence takes on the role of metapolicy in that it determines, to some extent, the characteristics of inner policy.

The first step was to establish a data-base and to discuss the format of the data base.

The second step was the reduction of the data in two ways: first, by selection which reduced the data base for further analysis and, second, by organization of legislated policy into tasks and sub-tasks of an educational system. The tasks and sub-tasks represented groups of actual policies, which, in turn, represent the concerns of educational legislation.

The third step involved application of the concepts 'policy type' and 'policy purpose' to the representative tasks.

The outcome of applying the specific concepts to the data base through the medium of analysis, was a display of the tasks which would appear to be envisaged by selected provincial educational legislation across Canada, together with the category of policy type which would appear to represent the policies necessary to carry out these tasks and the kind of policy purposes associated with each. From this display, a number of interrelationships were elicited and discussed. Each of the interrelationships portrays a facet of the manner in which educational legislation serves as educational metapolicy.

Preliminary analytical stages dealt with format, content, type and purpose.

An examination of the format of the legislation shows that legislated policy consolidated into a loose-leaf format probably has more utility as a reference for educators than other consolidative formats. Differences in the scope of content may be due to the scope of provincial ministerial jurisdiction, the range of topics covered in the legislation of a particular

province and the degree of detail with which each topic is treated. Statements of purpose or intent in the form of preambles, are not characteristic of legislated educational policy.

That part of the Public Schools Act of British Columbia which is relevant to the study, may be classified as four broad administrative tasks-- Administration of Educational Legislation, Administration of Local Educational Jurisdictions, Administration of Educational Services and Operations and Administration of Grants and Financing.

Classification of the content of all ten legislative selections yields sixty-two sub-tasks, fifty-eight of which are classified as educationally substantive and twenty-one of which are common to all provinces. Legislations tend to display most similarity in tasks which relate to the institutional structure of education, and their differences in the provision of specific educational services. All provinces devote much of their legislation to procedures for the delegation of authority and responsibility.

The dominant policy type across Canada appears to be resource, followed by methodological, curricular and distributional. Allowance must be made for policies which qualify as educational on more than one count.

The analyses indicate that repeatedly achievable policy purposes prevail.

The second stage of the analysis was concerned with interrelationships and showed that the Quebec legislation exhibits differences in the relationship between volume and task representation; that a limited number of common themes are found across Canada; that the broad tasks display different policy

type characteristics; that a particular case of nesting of policies may occur within one policy level and that expectations may be set for the type of policy developed at different institutional levels.

The next section deals with conclusions which emerge from these interrelationships.

## CONCLUSIONS

The findings of the study result in two sets of conclusions. The first part of this section records those conclusions which are concerned with the nature of legislated policy. The first three conclusions in this first set have to do with generalizations about similarities between provinces. The last five conclusions have more to do with generalizations about interprovincial differences.

The second part of this section deals with conclusions about the use of the conceptual framework.

### Conclusions : The Nature of Legislated Policy

1. The fact that twenty-one of the fifty-eight sub-tasks examined were found to be common to all the legislative selections, seems to indicate that generalizations about the scope of Canadian educational legislation should be limited to those areas having to do with provincial authority, delegation to local jurisdictions, teacher preparation and qualification, requirements for attendance, tuition and accommodation, maintenance of

programmes, religious stance, transportation, and fiscal resources.

(A statement incorporating each of these common policy concerns is included in Chapter Five.)

2. Because all provinces display more resource-type sub-tasks than any other, one may conclude that the method of controlling education provincially tends to be that of resource control. In support of this conclusion, it should be noted that the majority of tasks common to all provinces, as well as the majority of tasks not common to all provinces, is classified as 'resource type tasks.'
3. The metapolicy role of educational legislation has been presented in terms of three interlocking frameworks, each of which appears to impinge on different levels of the system in a different way.

A legal framework emerges, emanating from the ministry level. One may conclude that this framework is determinant of why something must be done, not in educational terms, but in terms of legal prescription in the form of provincial authority.

A procedural framework seems to be evident, impinging largely on the local (board) level. One may conclude that this framework is determinant of a set of procedures for how something shall be done.

That framework which embodies what is to be done seems to impinge largely on the school level, the level of operations, and for this reason has been termed as 'operational framework.' One may conclude that this framework is descriptive of what educational tasks are, or may be carried out in schools.

4. The Quebec legislation differs from the other selections examined, in that its relatively large size yields a relatively low task representation. This probably means that the Quebec legislation is paying less attention to scope (fewer tasks) and pays more attention to detail.
5. Because more differences than similarities were found in the concerns of educational legislation, as expressed through the content of selected legislated policy, it is clear that provinces have found it necessary to formulate outermost policy in areas not covered by other provinces at the outermost level (although other provinces may express these concerns through specifications in regulations or other policy devices at inner levels).
6. Provinces appear to display their different legislative concerns most clearly in the broad task, Administration of Educational Services and Operations and, to a lesser degree, in that portion of the broad task, Administration of Local Educational Jurisdictions, which has to do with defining the roles of teachers (that is, these clusters of sub-tasks contain few that are common to all provinces).

No precise pattern seems to emerge from these differences but one might speculate that each of the provincial legislations reflects the educational reality of that province; a reality which is shaped by its population base, by tradition, by provincial issues and problems, by societal expectations and system intents.

7. That broad set of tasks which relates to the operational level shows clear differences between provinces, and one may conclude that the

provinces have exercised and may continue to exercise their legislative differences in policy directed towards the administration of educational services and operations.

The capacity of legislated policy to limit or expand non-legislated policy in this one area, is indicated by the degree of provincial sub-task representation, thus, the capacity for limitation or expansion of that non-legislated policy which is concerned with the provision of educational services and operations is presently greatest for Manitoba and least for Prince Edward Island.

8. Although it was concluded that provincial differences are displayed most clearly in the area of educational services, the analyses also show that the majority of tasks which a province undertakes, according to the selected legislation, are resource-type tasks--meaning, in this context, that resource-type policies would most probably be required to implement these tasks.

One conclusion which may be drawn from this finding is that policy changes (both legislative and non-legislative) in the provision of services, may stem directly from changes in resource-allocation policies. This conclusion carries with it the possibility that resource-type policies may well shape the purposes of policies which belong to other categories of policy type.

### Conclusions : The Conceptual Framework

In the context of this study, the concepts were used as aids to identifying characteristics of extant policy. Therefore, a 'fit' between considerations for 'good' policy development and policy which was developed without such considerations necessarily being taken into account, cannot be anticipated. Indeed, the concepts proved difficult to apply. For this reason, some reflections on the use of the conceptual framework in the analysis of extant policy appear below.

Omnibus Policies. The term 'omnibus policies' was created to designate those policies which appeared to fall into all four categories of policy type (curricular, methodological, resource and distributional).

This study supports the conclusion that the recognition of such policies is necessary because they are likely to have certain characteristics. They are likely, for example, to be broader in scope and to have implications for a wide spectrum of educational concerns. They are likely to have a variety of states-of-affairs purposes, both unachievable and repeatedly achievable and, hence, be the source of a wide variety of restrictive policy purposes at other (inner) policy levels.

Finally, it follows from the above that a single policy with such characteristics is likely to be expressed in general terms.

Multiple Policies. The term 'multiple policies' was created to designate those policies which appear to fall into more than one category of policy type.

The characteristics ascribed to omnibus policies above, generally apply to multiple policies, although to a somewhat lesser extent. Again, recognition of such policies is felt to be necessary in order to take account of these characteristics.

Policy Breadth. Both omnibus and multiple policies are characterized by their breadth, that is, because they involve more than one, or all, categories of policy type, they are likely to have far-reaching implications for a range of educational matters. The range of such policies, however, does not necessarily make them more significant for education than those policies which belong to only one category of policy type. Because omnibus and multiple policies are likely to be more generalized, there is a concomitant likelihood of flexibility at inner levels. Because policies with single categorization are more likely to be specific and therefore prescriptive, there is a concomitant likelihood that they will allow less flexibility at inner levels.

Resource-Allocation Policies. It will be recalled that resource policies include those institutional arrangements which are necessary for the distribution of resources throughout an educational system.

Because educational legislation is, in one view, a description of the manner in which a province delegates responsibility for education, it is also a description of institutional arrangements, each of which brings some sorts of resources to bear on the inner objects of education, the instructional process.

Resource-type policies form the majority, but they include a variety of legislated policy. It would appear useful, therefore, for some distinctions

to be made within the resource policy type and to develop a taxonomy of resource-type policies to support these distinctions, in order to be more precise about the kinds of resources necessary for an educational system to operate within a democratic context.

- (i) Some distinctions concern fiscal resource policies, namely those policies which determine procedures for the receipt, handling and distribution of monetary resources. Taxation and foundation programmes are examples.
- (ii) Some distinctions concern personnel resource policies. Many of the policies which determine the terms under which educational and non-educational personnel are acquired by an educational authority might fall within this classification. Examples are: policies about suspension, leaves of absence, and those policies which develop a source of personnel, such as provisions for student-teaching.
- (iii) Some distinctions concern support resource policies. Public support may be considered a desirable and probably necessary resource for an educational system to operate. Given the democratic context of Canadian education and the nature of a system which allows public opinion to be taken account of at a number of levels, then the consideration of public support as a resource may be justified.

Examples of points at which public support has an impact on the system are the appointment or election of advisory boards and provision for public meetings.

- (iv) Some distinctions concern managerial resource policies. The school board is the prime example of an institutional arrangement for 'managing' education at the local level. In controlling the duties, functions and responsibilities of local boards, provincial legislation effectively sets in place a managerial capability which in varying degrees, delegates educational responsibility.

Policy Purposes. The purposes of policies appear to be the critical factors in the analysis of legislated policy. However, extant policies present the combined difficulties of possible ambiguity and perhaps irretrievable purposes.

The difficulty is not diminished in the generation of new policy, for new policy is guided to some extent by the purposes of outer policies. A more precise and reasoned use of the conceptual framework may therefore be achieved with a different conceptual sequence, namely, a concentration on purposes before an examination of the categories of policy type which justifiably meet those purposes.

## IMPLICATIONS

The purpose of this section is to present some implications which appear to follow from the findings and conclusions. Three kinds of implications are shown: implications for educational policymaking, for understanding policy, and for further research.

## Implications for Policymaking

In this study, educational legislation is viewed as metapolicy and is examined in order to identify characteristics which set the form, the limit and the scope of policymaking throughout an educational system. Each of the implications discussed below speaks in some manner to the role of legislation as educational metapolicy; hence, it has an implication for policymaking.

1. Because educational legislation does not make explicit the purposes which would justify its policies, any inner policy is developed, at least in part, on a trial and error basis with regard to purposes. That is, those who generate non-legislated policy 'test' the educational purposes of legislation in much the same manner as an action may test the legal intent of legislation.

Any educational activity which is not explicitly accounted for in legislated educational policy may be thought of as treating the system in this way. Thus, it may be surmized that the fewer the references to a particular area and the more general the terms of the policies in that area, the greater the opportunity for 'inner' control over policy purposes, through the creation of non-legislated policy.

2. Chapter Four, in dealing with scope of legislated policy, suggested certain differences between provinces. There were more differences than commonalities in the sub-tasks enshrined in each province's legislation, for example, and these differences were more apparent in certain areas--more particularly within the broad administrative task 'Administration of Educational Services and Operations.'

This suggests that the function which provides educational services to the clients of the system is the most clearly differentiated function between the provinces; the area, in fact, where each of the provinces has displayed its individual educational concerns and, by inference, intents.

Within this task are subsumed two broad functions--the identification of client groups and programmes of instruction. As far as the selected legislation is concerned, therefore, the analyses suggest that provinces differ most on questions which relate to who will be educated and the content and manner of that education. This indicates that discrete differences between provinces are more likely to be found in the kinds of clients considered for educational services and in the areas of actual programmes, rather than in the institutional structure which provides the educational context.

This may explain, in part, the nature of the educational issues which arise in the Canadian arena. The occasional demand for a 'national curriculum,' for example, becomes a complex problem in the light of the analyses in this study. Likewise, the issue of bilingualism is one which cannot be provided with a clear perspective through the medium of provincial legislation (only two provinces see the provision of language instruction, the specification of language of instruction, and the language of administration, as legislative concerns, and four provinces have no reference to these tasks).

The focus of such issues is the provision of educational services. By implication, any legislative response to such issues will also be in this area. Hence, it is in the broad administrative task--Administration of Educational Services and Operations--where change might be expected in the future as

provinces respond, legislatively, to societal requirements and demands upon the system.

3. The point has been made that as a result of the analyses in this study, one might expect legislative response (that is, change or expansion) in the areas of educational services and operations. The two general functions inherent in this area--identification of client groups and programmes of instruction--suggest that the distributional policy type, together with curricular and methodological policy types, will be required to fulfill this purpose.

However, Kerr (1976 : 62) indicates that:

The potentially most powerful yet most undeveloped category of educational policy...would appear to be outermost resource policies. ...the allocation of resources of any kind is most radically alterable.

While the potential power of resource policies may be accepted as given, the manner of allocating educational funding (as one type of resource) would suggest that allocation is based on certain criteria. One criterion, for example, might suggest age grouping (kindergarten, secondary); another, particular types of programmes to meet special needs (vocational, early childhood); another, particular student groups (special education, remedial) which, in turn, require specific programmes.

In each of these cases, the distributional policy type would appear to be a prior consideration, to serve as a basis for the allocation of financial resources.

One might extrapolate from this that the distributional policy type may become even more powerful in the future as provincial educational

systems continue to expand educational services beyond what might be termed 'basic' elementary and secondary education. The identification of yet more clients who may be drawn into the system (based on age or special requirements), leading to special purpose resource allocation, either at the provincial or local level, followed by the creation of a curricular and methodological base from which to develop programmes, is one way in which a system may respond to declining enrolment, yet maintain the utility of its educational delivery potential and, in the process, increase the pool of policy purposes towards which the system is directed.

Should this process continue, the relationship between resource policies and other policy types might become less straightforward, that is, the pool of resources directed towards education might be expanded by diversion of resources from other areas--areas not formerly considered as the source of educational resources.

At the same time, should provincial educational systems become declining rather than expanding organizations, appropriate change might also be expected in the provision of educational services. In this case, however, such changes may not be apparent in the legislation itself, particularly where provision of services is at the discretion of inner levels (local boards). Actual provision of services would need verification at the local level.

The actual delivery of educational services within a province, therefore, may be said to be determined by:

- (i) the minimum services prescribed by legislation (that which must be offered);
- (ii) the minimum services allowed by legislation (that which may be offered);
- (iii) the extent to which local jurisdictions actually exercise permitted discretion in offering educational services;
- (iv) opportunities to expand the pool of resources devoted to education.

4. From the analysis of the topics covered by legislation, the legislative concerns of a provincial system may be inferred. These concerns are by no means exhaustive. They are supplemented, expanded and qualified by regulations under the Acts, by interpretive circulars, and by non-legislated policy at all levels which is developed within the guidelines of legislation.

In this study, the concerns of educational legislation were inferred in the form of tasks. Although the 'states-of-affairs' purposes of discrete policies are often indeterminable, some conclusions may be drawn about the objects of the four broad administrative tasks.

The object of those policies which contribute to the first broad administrative task (Administration of Educational Legislation), appears to be to control and monitor education on a provincial basis.

The object of those policies which contribute to the second broad administrative task (Administration of Local Educational Jurisdictions), appears to be to delegate authority and responsibility for education within a province.

The object of those policies which contribute to the third broad administrative task (Administration of Educational Services and Operations), appears to be to provide educational services to clients of the system.

The object of those policies which contribute to the fourth broad administrative task (Administration of Grants and Financing) appears to be to control the delivery of educational services through the provision of financial resources.

Each of these objects suggests a major function of legislated policy which is carried out by the sub-tasks (hence, policies) which each broad task subsumes. Each function is common to all ten provinces. Thus, for example, the controlling and monitoring function across Canada is carried out by those policies which create a central authority, define the ministerial role and provide for provincial advisory groups.

Uncovering the objects of legislation is not to identify purposes. The objects are relatively clear; the purposes of policies remain obscure. Alternatively, there are researchable ways of identifying purposes--ways which involve retracing the legislative history--however, the possibility exists of differences between historical and current purposes. Legislation, it seems, utilizes the non-specificity of its purposes as one means of retaining flexibility. Thus, legislated policy may serve a number of different educational climates.

Despite a certain practicality in creating a situation in which purposes must be inferred, it still seems necessary to point out that specific indicators--aims, intents, a clear sense of educational priorities, expectations for the provincial system, statements of principle (indeed, any of the forms which specific purposes may take)--are generally lacking in legislated educational policy.

The degree to which current purposes are inferred from legislated policy appears, therefore, to go beyond the policy itself to take account of the degree to which metapolicies are 'priorized' and the degree to which they are 'invoked,' both of which require empirical verification.

### Implications for Understanding Policy

The final implication in the first part of this section provides a link to this next set of implications which are concerned with ways in which the concept of policy may be more clearly understood.

In Chapter 2, metapolicy was discussed and defined for the purposes of the study. Very simply, metapolicy is "...policy on policymaking" (Dror, 1968 : 164), or it may be given very specific characteristics, such as those described by Dror (1968 : 164-176) and quoted as part of the background to this study (page 16).

No attempt has been made to use Dror's description of the metapolicy stage of policymaking as a model against which legislation could be compared. Instead, the study asked: if educational legislation is viewed as educational metapolicy, then what sorts of characteristics emerge? Specific concepts were used to do this--policy, educational policy, nesting of policies, policy type and policy purpose.

The following comments deal with the understanding of policy which results from the use of the framework.

1. This study suggests that certain characteristics, which clarify the nature of legislated policy, when viewed from the metapolicy perspective, are

revealed through the medium of the concepts used in the study when applied in a very general way to selected legislation across Canada. These characteristics include: status as a special case of policy and outermost policy for a province; dominance of resource-type policies and repeatedly achievable purposes; a limited stance which can be described as typically 'Canadian' educational policy; a possible tendency to control education through resource type policies; a special case of nesting within the outermost policy level; more differences than similarities in the sub-tasks represented legislatively by the provinces; a tendency for legislative differences to show most clearly in that task area which provides for educational services and operations, and a possibility that resource-type policies share a special kind of interdependence with policies of other types.

2. The concepts of nesting, policy type and policy purpose, arising as they do from a particular description of education, provide a particularly useful perspective of policy for the educator by keeping apparent certain factors which give more clarity to an understanding of educational policy:

- (i) policy is created within a set of guidelines formed, in part, by any outer policy;
- (ii) in order to meet educational needs in a systematic way, particular types of policy are necessary;
- (iii) it is necessary to acquire some sense of the manner in which purposes may be achieved in order to effectively evaluate policy.

3. However, the study falls short of identifying actual policy purposes-- partly because it deals with representative tasks rather than with policies themselves; partly because statements of purpose and intent are not

characteristic of the legislations and therefore no opportunity exists to compare stated purposes with the purposes which may be inferred from discrete policies. This suggests that the kinds of considerations called to attention by the concepts, are probably not among the considerations brought to bear in the creation of the legislation itself.

4. An exercise in the identification of metapolicy characteristics is incomplete without articulated policy purposes which provide a context of values, goals and expectations for the generation of inner policy. Were these purposes to be determined in some way (by consensus, for example) the concepts may yield more specific information about the nature of legislated policy.

5. A focus on the tasks of an educational system allows questions to be raised concerning the necessity of such tasks, their delegation, their purposes and their evaluation--questions which are difficult to formulate from a legal perspective.

#### IMPLICATIONS FOR FURTHER RESEARCH

The study reported here is a gross overview of the nature of legislated educational policy. Consequently, at various stages of the analyses, suggestions are evident for more specific investigations into discrete areas. A number of these are discussed below.

1. As the study suggests that legislated educational policy, while it exercises jurisdiction over 'inner' policy development, has at present only a

limited metapolicy role, one may usefully ask several questions concerning other sources of guidance for inner policy, for example:

What guidelines, other than legislated policy, are available for the generation of non-legislated policy within a provincial system?

What is the nature of this guidance?

2. The study speculated that because certain tasks appeared to be linked to particular institutional levels, and that these in turn were the focus of a kind of policy framework imposed by the legislation, then certain role positions in an educational system would probably be associated more with development of one policy type than with others. Therefore, one may legitimately ask a number of questions concerning roles, for example:

If legislation portrays the teacher as acting primarily in the methodological area, does this match the actual or perceived policy-decision involvement of teachers?

If legislation portrays the trustee as acting primarily in the resource allocation area, does this match the actual or perceived policy decision involvement of trustees?

3. The first part of the preliminary analysis focused briefly on some format characteristics of educational legislation, chiefly as a means of establishing the data base. However, some provincial legislative selections were discovered to be more usefully constructed than others for reference purposes. In addition, one implication of the content analysis was clearly that focusing on tasks of an educational system allows a different perspective to emerge--one which considers the purposes which justify the policies and the type of

policy required to fulfill the task. In keeping with these implications, one may ask questions which deal with the efficacy of legislated educational policy, among them:

How do educators actually perceive the educational efficiency of legislation?

Is there some consensus on how it might be improved to serve educational policy making?

What do educators see as policy priorities?

How are these priorities defined and do they vary at different system levels?

Are these priorities dependent on a restructuring of outer (legislated) policy?

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## APPENDICES

TABLE A.1

## Format Analysis #1 : Legislative Sources

Province	Name of Publication	Original Publication Date of Consolidation/Compilation	Source of Publication for this Study
British Columbia	Public Schools Act	Consolidated September 3, 1976	Ministry of Education Division of Communications Publication Services Branch Parliament Buildings Victoria, B.C.
Alberta	The Department of Education Act The School Act	October 30, 1973 November 4, 1976	Alberta Government Services, Public Affairs Division Statutes and Publications 11510 Kingsway Edmonton, Alberta
Saskatchewan	Bill Number 22 of 1978 (The Education Act of 1978)	1978	Department of Government Services, Central Services Branch Office of the Queen's Printer Regina, Sask.
Manitoba	Manitoba Statutes - Public Schools	each act dated separately	Queen's Printer, Statutory Publications 200 Vaughan Street Winnipeg, Manitoba.

TABLE A.1 - continued

Province	Name of Publication	Original Publication Date of Consolidation/Compilation	Source of Publication For this Study
Ontario	The Education Act, 1974	June, 1977	Ministry of Government Service Printing Services Branch Publications Centre, 3B7 Macdonald Block, Queen's Park Toronto, Ontario
Quebec	Compilation of the Statutes concerning the Education in Quebec	May, 1971 Acts dated separately	Division of Municipal Forms, Ltd. 324 East Main Street Farnham, Quebec
New Brunswick	Schools Act	July 31, 1977	Department of Education P.O. Box 6000 Fredericton, N.B.
Prince Edward Island	School Act	1975	The Queen's Printer, P.O. Box 2000 Charlottetown, P.E.I.
Nova Scotia	Education Office Bulletin No. 1	1975-76	Nova Scotia Government Bookstore 1597 Hollis Street Halifax, Nova Scotia
Newfoundland	The Department of Education and Youth Act The Schools Act	1970	Registrar, Teacher Certification and Records Department of Education P.O. Box 2017 St. John's, Newfoundland

TABLE A.2

## Format Analysis #2: The Provincial Consolidations

Province	Method of Amendment/ Updating	Material Included	General Comments
British Columbia	Reprint of consolidation necessary to include amendment Acts	Public Schools Act	Consolidation Section headings at left of each page
Alberta	Reprint of consolidation necessary to include amendment Acts	(Two volumes) The Department of Education Act The School Act	Consolidations Section headings at left of page
Saskatchewan	Reprint of consolidation necessary to include amendment Acts	<u>The Education Act - 1978</u>	Consolidation not in final form at time of writing
Manitoba	Loose-leaf compilation. Pages may be added or extracted as amendments are made available.	Manitoba Regulation 38/77 Respecting Bursaries, Scholar- ships and Loans (March 4, 1977)  Chap. E10--An Act Respecting the Department of Education  Chap. P250--An Act Respecting Public Schools  Chap. P260--The Public Schools Finance Board Act  Chap. S20--An Act Respecting School Attendance  Addendum to P250--An Act to Amend the Public Schools Act  Chap. T20--An Act to Provide Pensions and Disability Allow- ances for Teachers	

TABLE A.2 - continued

Province	Method of Amendment/ Updating	Material Included	General Comments
Ontario	Reprint of consolidation necessary to include amendments	The Education Act	Consolidation Section headings on right on facing page; left on reverse
Quebec	Loose-leaf compilation. Pages may be added or extracted as amendments are made available. Each copy registered for amendment purposes	Education Department Act Superior Council of Education Act Education Act General and Vocational Colleges Act An Act respecting collective negotiations in the education and hospital sectors Private Education Act School Boards Grants Act An Act to ensure for children the right to education and to institute a new schooling collective agreement plan An Act to enable municipalities to tax certain educational establishments sic University Investments Act Student Loans and Scholarships Act Teachers Scholarships Act Scholastic Merit Act An Act respecting the regrouping and management of school boards (part) An Act to promote school development on the Island of Montreal Teachers Pension Plan	Compilation French/English split page arrangement. French section headings on left, English on right.

TABLE A.2 - continued

Province	Method of Amendment/ Updating	Material Included	General Comments
		Charter of the Quebec Deposit and Investment Fund (part) Election Act (part) Government and Public Employees Retirement Plan An Act respecting the cinema (part) Hydro-Quebec Act (part) Forestry Schools and Research Act Veterinary School Act Labour Code Charter of the French Language Municipal Commission Act (part) Municipal and School Debt and Loan Act (part) An Act respecting collective bargaining in the sectors of education, social affairs and government agencies Municipal Tax Exemption Act Youth Protection Act Schooling Allowances Act Manpower, Vocational Training and Qualification Act (part) An Act respecting collective agreements between school boards and associations of teachers An Act respecting the Quebec Federation of Catholic School commissions An Act to incorporate La Corporation des Institutrices catholiques du Quebec An Act to incorporate the Provincial Association of Protestant Teachers of Quebec An Act respecting the Corporation of Psychologists of the Province of Quebec	

TABLE A.2 - continued

Province	Method of Amendment/ Updating	Material Included	General Comments
		An Act to incorporate the Corporation of Guidance Counsellors of Quebec An Act to incorporate the Provincial Association of Catholic Teachers of Quebec (part)	
New Brunswick	Reprint of consolidation necessary to include amendments	Schools Act	Consolidation English/French split page arrangement No section headings
Prince Edward Island	Reprint of consolidation necessary to include amendments	School Act	Section headings on right of facing page and left on reverse
Nova Scotia	Reprint necessary to include amendments	The Education Act	Consolidation Section headings on left of page
Newfoundland	Reprint necessary to include amendments	An Act Respecting the Department of Education and Youth An Act Respecting Schools and Colleges in the Province	Section headings on right of facing page, left on reverse

TABLE A.3

## Format Analysis #3 : Selected Contents

Province	General Organization of Content	Numbering System (Example)	Preamble	Indexing Arrangements
British Columbia (1)	Part, Division, Section	9.(1)(k)(iii)	--	Alphabetical index prefixes consolidation. Indicates section numbers. Part 1, Section 2, indicates division of Act by Parts and Divisions.
Alberta (1)	Section	11.(2)(a)	--	Alphabetical index follows consolidation. Indicates section numbers.
Alberta (2)	Part, Division, Section	164.(2)(a)(i)	--	Alphabetical index follows consolidation. Indicates section numbers.
Saskatchewan (1)	Part, Division, Section	7.(b)(iii)(A)	--	Bill
Manitoba (1)	Part, Section	6(1)(j)(iv)	--	Prefixing compilation: (a) Index by Chapter Number, Act, Page and Date (b) For each Act separately, alphabetically by topic, indicating section number.
Manitoba (2)	Part, Division, Section	80(1)(b)(x)		
Ontario (1)	Part, Division, Section	8.--(1)(c)(ii)		Alphabetical index indicating section numbers follows consolidation.

TABLE A.3 - continued

Province	General Organization of Content	Numbering System (Example)	Preamble	Indexing Arrangements
Quebec (1)	Section	15.	Preamble	Table of Contents by Section (Act), Year, Chapter, Title-- precedes compilation.
Quebec (2)	Part, Division, Section	202e.	--	Concordance Table, indicating bills and chapter numbers, precedes compilation. Acts administered by the Department of Education in order of presentation. Alphabetical table of Acts, follows compilation.
New Brunswick (1)	Section	60(2)	--	Chapter outline, indicating section number, precedes consolidation.
Prince Edward Island (1)	Part, Division, Section	47.(1)(a)	--	Following Act are two indices: (a) by Part, indicating section number (b) alphabetical, indicating section number
Nova Scotia (1)	Part, Division, Section	3(a)(iii)	--	Alphabetical index, indicating section number and page number, follows consolidation.
Nova Scotia (2)	Section	5(4)	--	No Index
Newfoundland (1)	Section	37.--(2)(a)	--	No index.
Newfoundland (2)	Part, Division, Section	81.(a)	--	No index.

## TABLE A.4

## Content Classification : Location of Content

Table 3, Summary of Preliminary Analyses and Findings (pp. 78-82), is derived from an extensive working file which assigns the legislation, section by section, to broad tasks and sub-tasks of a provincial educational system.

The following sample is displayed for the purpose of exemplifying the manner in which sections of the legislation are assigned to one sub-task. In keeping with examples used in the text (pp. 71, 74), the first sub-task subsumed by the first broad administrative task is shown.

TABLE A.4 - continued

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<u>Broad Task:</u>	A. Administration of Educational Legislation
<u>Sub-Task:</u>	A. (a) Creating a central authority with provincial jurisdiction;

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<u>Province/Legislative Source</u>	<u>Section/Sub-Section</u>
British Columbia (1)	4, 18(27)
Alberta (1)	3
Saskatchewan (1)	5, 7(a)(b)(ii), (iii), 8
Manitoba (1)	3
Ontario (1)	2(1)
Quebec (1)	11, 12
New Brunswick (1)	72 (e), (q)
Prince Edward Island (1)	61(p)
Nova Scotia (1)	3(a)(vi)(x)(xii)(g), 54A. (28)
Newfoundland (1)	4(1)(2), 7

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<u>Sub-Task:</u>	A.(b) Defining the duties, powers and functions of the Minister...(continued)
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