THE EROSION OF UNIVERSITY AUTONOMY IN MANITOBA

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Examining legislative change between 1997 and 2013, and analyzing the governance of Manitoba's post-secondary system using military concepts of strategy, operations, and tactics, this article argues that there has been a trend since 2006 of a general loss of university autonomy in the province. The article finds that changes in public policy in Manitoba's post-secondary system, and how that policy is implemented, have led to a progressive movement towards greater government intrusion in what heretofore have been internal matters at the province's universities.

Introduction

"This is the most serious attack on post-secondary education of which we are aware in Canada. And . . . if this is allowed to happen in Ontario, it will become government policy in other provinces," wrote Jim Turk of the Canadian Association of University Teachers in 2012, responding to Ontario's proposals to establish three-year degrees, mandate credit transfer, and require online course offerings (CAUT, 2012, p.1). The implications are that university autonomy—the key concept in post-secondary education (Jones, 1998)—is being eroded in Canada. If true, this represents a significant development for Canadian post-secondary education, yet a rigorous analysis of the loss of autonomy in Canadian universities is rare and it is difficult to assess whether autonomy is actually threatened or if such warnings are rhetorical tools of interests seeking support for their particular causes.

Assessing these warnings nation-wide is difficult given that post-secondary systems, governance models, and policy direction differ from province to province. While broad trends in

university governance across Canada are observable (Shanahan & Jones, 2007), case study allows for an assessment of allegations of threats to autonomy, albeit for a single system and during a specific timeframe. Accordingly, this article seeks to establish a principled examination of the erosion of autonomy by looking at the situation in Manitoba.

Manitoba presents a unique opportunity to study changes in university autonomy because of its model of post-secondary system governance. Manitoba's Council on Post-Secondary Education (COPSE) is the only system-wide intermediary agency with executive powers in Canada (Shanahan & Jones, 2007). As an intermediary agency, COPSE is designed to sit between government and universities in part to buffer Manitoba's five universities[*] from shorter term political priorities of government, thus helping to protect university autonomy (Sibley, 1982; Southern & Dennison, 1985; Mallea, 2002). This approach has been in place in Manitoba since 1967 when the province established its first intermediary agency, the Universities Grants Commission (Saunders, 2006), which governed the province's universities until replaced by COPSE in 1997.

Thus, theoretically and legislatively at least, Manitoba's governance system is intended to provide structural protection for university autonomy, and accordingly, universities in Manitoba should be better protected than provinces where such structures do not exist. Any evidence of increased intrusion into university affairs in a province with such protections might prove Turk's warning: if university autonomy is eroding in Manitoba, it may be happening elsewhere.

An examination of major legislative changes in Manitoba between 1997 and 2013, and an analysis of the impact of how such changes are implemented in practice using a military lens,

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[*] Manitoba's five universities are: the University of Manitoba, the University of Winnipeg, Brandon University, le Université de Saint-Boniface, and the University College of the North. COPSE also concerns itself with community colleges, which are not considered in this article.

specifically concepts of strategy, operations, and tactics, resulted in evidence of growing government intrusion in areas traditionally accepted as being the sole responsibility of universities; concerns of the loss of autonomy across Canada may be well founded. Following a brief review of intermediary agencies and their role in Manitoba, a description of the method and approach used in this article is presented, after which findings are outlined and discussed, and conclusions drawn.

Intermediary Agencies and University Autonomy

An intermediary agency is an institutional body with executive powers formally placed between government and universities (Sibley, 1982). Such agencies have a varied history in Canada, however, and, throughout the 1960s and into the 1970s, all provinces except for Newfoundland established and for a time operated such agencies to manage their university systems in response to increasing enrolment (Pilkington, 1983; Hurtubise & Rowat, 1970). In addition to the management of system expansion, intermediary agencies plan for and coordinate post-secondary systems, regulate institutional aspirations (Gaber, 2003), maintain the balance between university autonomy and public accountability, provide advice to government, and exercise executive powers (Cameron, 1987). Intermediary agencies also play an important role in ensuring university autonomy (Southern & Dennison, 1985). The importance of university autonomy cannot be overstated given that both governments and universities pursue the public good, and in particular pursue objectives relating to economic and labour force development (Southern 1987; Skolnik, 2003). Given shared objectives and ever-increasing funding provided to universities, governments may be tempted to intervene in university affairs.

Far from being an absolute concept, Duff & Berhdahl (1966) cautioned that university autonomy ". . . must not be stretched so far as to rule out the government's need to ensure a policy of coordination among universities . . . [and] provincial governments charged with pursuing the public interest and asked to supply increasing proportions of university income, will legitimately want to be consulted on the development of higher education in their jurisdictions" (Duff & Berhahl, 1966, p. 72). This line of thinking continues to be current and was expressed in relation to Manitoba's post-secondary system thusly: "Institutional autonomy does not mean a university . . . is an off-shore island. The society which provides most of the money has something to say about what goes on at our . . . universities . . ." (University Education Review Commission, 1993, p. 8).

The value of university autonomy, however, is not diluted by the need for the state to oversee the university system. University autonomy is grounded in the fundamental role of the university in society.

> The argument is that universities should be shielded from bureaucratic control and political interference because of what they do. The main activities of universities are teaching, research and public interest. The argument that those who perform these activities should be shielded from bureaucratic control rests on the fact that these activities can only be done by professional academics who have mastered a complex body of knowledge through extensive formal training and apprenticeship. The complexity of the work and the high degree of specialization means that their work can be neither directly supervised nor effectively regulated by conventional hierarchical controls; instead, control comes from professional norms and peer controls. Attempts to apply conventional hierarchical administrative techniques can be dysfunctional in that they tend to drive out competent professionals causing those who remain to become discouraged or to take collective action to vent their frustration.
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> The argument that those who perform the activities should be shielded from political interference rests on the fact that the activities of universities involve ideas and, to quote Sibley, ". . . the university, at its best, seeks to hold in balance two equally important forces, on which all progress depends: orthodoxy and dissent. It cannot succeed in this task except in the presence of

a reasonable, though far from absolute, autonomy." (Southern, 1987, pp. 43-44)

Southern's conceptualization of the importance of autonomy continues to be relevant.

Writing for the review of Ontario's post-secondary system in the 2000s, Fallis (2004) states that

> institutional autonomy is required for the mission of the university. Autonomy is required for free inquiry—the *raison d'etre* of the modern university. It is integral to all the responsibilities of the university. Free inquiry is the essence of the tradition of liberal education. The theory of knowledge inherent in the research mission of the university assumes free inquiry: knowledge is best advanced when it is subjected to tests based in free inquiry. Free inquiry encourages a diversity of opinions and allows the university to fulfill its responsibility for preparing future citizens. Free inquiry values knowledge for its own sake, escaping the distortions which can arise when there is concern with how the knowledge will be applied, or who paid for the inquiry, or what the government wants to hear. (p. 33)

Thus, while university autonomy is key to university activity, it is not absolute; governments

have a role in directing university systems.

In Manitoba, protection for university autonomy is legislated and can be found in

Section 3(2) of the 1997 Council on Post-Secondary Education Act, which states:

> 3(2) In carrying out its mandate, the council may not interfere with
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> (a) the basic right of a university or college to formulate academic policies and standards;
> (b) the independence of a university or college in fixing standards of admission and of graduation; or
> (c) the independence of a university or college in the appointment of staff.

These limitations reflect the traditional tenets of autonomy (Hurtubise & Rowat, 1970; Berdahl,

1985; Boone, 1991), and have formed part of the post-secondary legislative landscape in

Manitoba since the intermediary concept was introduced in 1967 (Smith, 2008).

In practice, the protection of university autonomy has been reflected upon by university

stakeholders in two reviews of COPSE (Mallea, 2002; PRA, 2009). The 2002 review noted that

universities ". . . were generally satisfied with Council's performance in carrying out its mandate,

and are of the opinion that the Council has respected the basic right of a college or university to

formulate its own academic policies and standards and to appoint its own staff" (p. 15). Further,

in the 2009 review, university stakeholders advised that COPSE has had general success in

maintaining autonomy in accordance with its legislative limitations:

> Many stakeholders believe [COPSE] has abided by these limitations and has
> not interfered in the areas specified. A few say that sometimes these
> boundaries are unclear, but that both COPSE and the institutions work
> together to reach agreement. Others have concerns, saying that while COPSE
> has not clearly impinged on these areas, its actions are sometimes not in the
> spirit of these limitations. For example, some of these stakeholders question
> [COPSE's] role of funding programs as bordering on interference with
> institutional rights. . . . (PRA, 2009, p. 6)

While it appears clear that up until 2009, at least, there was general satisfaction with the

role that COPSE played in protecting university autonomy, this last observation seems to

strengthen other observations suggesting that university autonomy in Manitoba is a negotiated

item, exhibiting a measure of fluidity that is situation-dependent (Levin & LeTourneau, 1991;

Smith, 2008). It is reasonable to conclude that there is no absolute agreed-to definition of

autonomy, adding to the challenge of assessing its relative strength in any one jurisdiction.

The intermediary agency model provides government with an organizational approach

to post-secondary governance, providing system oversight as well as protection for university

autonomy. In Manitoba, such functions are included in legislation, and indeed the intermediary

agency, COPSE, is structured so as to provide these functions (Mallea, 2002; Saunders, 2006).

Method and Approach

Method

This study uses qualitative methodology and case study method, focusing on the legislative framework and system for governing post-secondary education in Manitoba. The principle approach taken in the present study is document analysis, specifically examining and categorizing acts of the Legislative Assembly of Manitoba pertaining to post-secondary education in order to determine trends in university governance in the province. This analysis is limited to legislative change occurring in the 17 years from 1997 to 2013.

Legislative changes examined are identified in Appendix A and are categorized in two ways. Legislative changes are "institutional" changes if they reflect changes to individual colleges or universities (e.g. an internal structural change) or if they reflect a change in the structure of the post-secondary system (e.g. adding a university). A legislative change falls into the "system governance" category if it reflects a change that relates to how the system as a whole is managed. Institutional and system governance changes are examined over time to help identify trends in government's perspective regarding autonomy.

In addition to examining legislation, other documents were analyzed to understand the focus of implementation of the policy inherent in the legislation in question. In this latter effort, participant observation, drawing on the author's employment at COPSE from 1997 to 2012, was an important method used to help understand and interpret the direction taken by COPSE. In parsing the activities relating to implementation of the legislative direction, the article uses an approach that draws on concepts of strategy, operations, and tactics. This somewhat novel approach to organizing the data is explained further, below.

Approach

Intermediary agencies such as COPSE help to reify the structure derived from legislation, and thus such agencies operate in a complex environment composed of government and institutional actors, among others. Strategy, operations, and tactics, concepts originating from armed conflict, help to clarify how complex systems coordinate and synchronize different levels of activity to accomplish shared objectives. In taking this approach, it is important to disconnect the three concepts from their military origins, and in particular from the command-and-control environment that typifies the military services. Such disconnection recognizes the use of the three concepts in organizing and categorizing data, and allows the three concepts to be applied to looser organizational couplings, such as those that typify governance in post-secondary systems. Strategy, operations, and tactics provide conceptual tools to help observers understand how COPSE interacts with other actors in the post-secondary system. Each of the concepts is described below in turn.

Strategy. In military action, strategy is a way of linking means to ends (DND, 2008) through focusing on interpretation of higher-level direction (e.g. government policy), the selection of objectives designed to achieve that higher-level direction, developing and employing resources and capabilities, and planning and sequencing activity so as to be able to achieve those objectives (DND, 2004). In short, strategy is about defining how a military engagement will accomplish intended outcomes.

Strategy from a non-military perspective refers to what organizations or individuals do (Mintzberg & Waters, 1985; Mintzberg, 1987a). Strategy arises from ". . . consistency in behaviour, whether intended or not" (Mintzberg, 1987a, p. 12) and thus can emerge through planned and deliberate choices, or through patterns of behaviour in response to circumstances, or

in combination, allowing observations to be made as to how strategy is reified in organizations (Mintzberg & Waters, 1985). This approach applies at all levels at which strategy is set—be that at the level of grand strategy, such as public policy, or on a lower plane (Liddell Hart, 1991). In addressing public administration, strategy relates to the role of a government *agent* relative to the government *itself*. "Policy defines the end state, while strategy outlines the plan. Strategy therefore links policy to specific activities" (DND, 2008, p. 1.4). The present analysis focuses on how government policies in Manitoba are translated into strategies in the post-secondary system and operationalized.

      Operations. The operational level of activity is a lower order of activity in relation to strategy. In military action, operations are those activities that link strategy and tactics, including establishing lower-level (i.e. operational) objectives,

> initiating actions and applying resources to bring about and sustain those events. These activities imply a broader dimension of time and space than do tactics: they ensure the logistic and administrative support of tactical forces and provide the means by which tactical successes are exploited to achieve strategic objectives. (DND, 2004, p. 1.5)

At the operational level, militaries design, organize, and conduct military action, scheduling and synchronizing tactical activity, and coordinating resources so as to better achieve strategic goals (DND, 2008).

      In Manitoba's post-secondary governance system, COPSE is the principle actor at this level. COPSE has responsibilities for coordinating activity that affects all of Manitoba's public post-secondary institutions, including, for example, program approval, and funding (Mallea, 2002; PRA, 2009). In theory, this operational activity enables tactical activity, while at the same time realizes established strategic objectives.

Tactics. Tactics exist at the level where armed combat actually occurs and "forces are deployed directly for battle and combat power is applied directly to defeat an enemy at a particular time and place" (DND, 2004, p. 1.5). Liddell Hart (1991) states that "the dispositions for and control of . . . direct action are termed 'tactics'" (p. 321). In a civilian context, tactics refer to the details of implementing decisions made in the strategic and operational levels of activity (Mintzberg, 1987a).

The Council on Post-Secondary Education Act provides direction as to the appropriate role for the agency, and the limitations set out in Section 3(2) of this legislation help to define the tactics in Manitoba's post-secondary system. Academic policies and standards, the admission and graduation of students, and the hiring of staff and related processes identify what is done tactically to implement operational and strategic direction in the post-secondary system in this province. In short, Section 3(2) outlines a set of activities that are at the coalface and properly belong within the jurisdiction of the institution itself.

The boundaries between strategy, operations, and tactics are difficult to define (DND, 2004), and these "categories, although convenient for discussion, can never be truly divided into separate compartments because each not only influences but merges with the other" (Liddell Hart, 1991, p. 321). Mintzberg (1987a) agrees, noting that a strategy can be developed about anything, thus those things that are "strategic" in one area of activity can be "tactical" in another. When disconnected from the command and control inherent in military organizations, strategy, operations, and tactics are useful concepts for analyzing organizational activity in that they help to parse activity occurring in complicated systems by situating the various actors, defining roles, and making it possible to identify where an actor may be acting inappropriately.

Such an analytical framework contributes to an understanding of whether or not COPSE and government as a whole have respected or violated the limitations laid out in Section 3(2) of the Council on Post-Secondary Education Act. In designing this approach, it is acknowledged that the limited definition of tactics in post-secondary education presented here, and tactical activity almost certainly goes beyond the three legislative limitations identified Section 3(2). However, by defining tactics in these narrow and specific terms, it is possible to more easily analyse government activity in relation to known and accepted areas of exclusive university jurisdiction, thereby helping to clearly identify intrusions in to university autonomy.

Findings

The paper first identifies and discusses significant legislative changes that took place in Manitoba's post-secondary system since COPSE was first established in 1997. Legislation is a key policy instrument of government and is in the purview of the Legislative Assembly and is heavily influenced by the ruling political party. Prior to embarking on an analysis of legislative change in Manitoba's post-secondary system, and noting that this paper is not a political analysis of Manitoba's post-secondary governance system, it is important to situate the post-secondary system, and in particular, COPSE, politically.

The Council on Post-Secondary Education Act creates COPSE as an 11-member body, with all members, including the chair and vice-chair, appointed by the provincial government (Mallea, 2002; PRA, 2009). There is, however, some ambiguity as to the actual relationship and influence that COPSE has on post-secondary policy, and the suspicion among the institutions that direction emerges from the ministry and not COPSE (PRA, 2009), or perhaps is politically driven (Mallea, 2002). Either way, concerns have been expressed that oversight and direction in

Manitoba's post-secondary system is considerably less arm's-length than the intermediary concept demands. One way to understand the origins of such concerns is to examine the leadership of COPSE.

Since its founding in 1997, five individuals have served as the chairperson to COPSE. The first chairperson was Richard Dawson, a former senior executive at Cargill, Ltd., a governing board member of the University of Minnesota, and an associate of then Premier Gary Filmon. Following the election of an NDP government in Manitoba, a prominent former college-level educator, Don Robertson took the chair, and was several years later replaced by Muriel Smith, who served as vice-chairperson under Robertson. Ms. Smith was a former deputy premier under a previous NDP administration and *grand dame* of the NDP in Manitoba. Replacing Ms. Smith was Dr. James Allum, who had teaching experience at the university level, and was a former president of Manitoba's NDP. During his term as chairperson, Dr. Allum also chaired the successful bid of the current premier, Greg Selinger, to win the leadership of the NDP, and Dr. Allum himself went on to win elected office in 2011. As of this writing, Dr. Allum is the Minister of Education and Adult Learning. Dr. Allum was succeeded by Dr. Curtis Nordman, a former dean at the University of Winnipeg, a former senior bureaucrat (including a period serving as the executive director of COPSE), and a one-time NDP candidate in a past provincial election. This account does not consider appointments of members at large to COPSE, but perhaps one worth noting is the appointment of Jerry Storie, another former dean, and a former MLA and Minister of Education in an NDP government in Manitoba.

While most chairpersons demonstrated relevant background for the post, politically, COPSE has always had close ties with the ruling party. This fact makes the following analysis all the more curious. While not the focus of this analysis, with such strong linkages to the ruling

party, one is left wondering why legislative action was deemed necessary when that action

appears to have circumscribed COPSE's powers in Manitoba's post-secondary system.

From this point forward, this article examines changes in the legislative framework

establishing the governance system in Manitoba's post-secondary system. Once completed, the

section will turn to an analysis of how COPSE works with institutions to implement the

governance system established through legislation using organizational categories of strategic,

operational and tactical activity to understand better how government policy is rolled out.

Significant Legislative Changes

In the 17 years between 1997 and 2013, excluding consequential amendments arising

from changes in other legislation, and minor amendments such as name changes, corrections, and

other such matters, a total of 16 substantive legislative changes to Manitoba's post-secondary

system have occurred, shown in Appendix A. At a rate of nearly one per year, one notes that the

form and nature of Manitoba's post-secondary system has not been static (Smith, 2011).

The analysis of legislation reveals two distinct timeframes. The first 8 of the 16

legislative changes, occurring between 1997 and 2005, appear to be primarily "institutional

changes." There are just two instances of "system governance" changes, the first being the

establishment of COPSE, and the second being an amendment to COPSE's act. These particular

changes establish and modify the post-secondary governance arrangement in Manitoba, but

maintain its coherence by ensuring that the actions are wholly encompassed within the mandate

of COPSE. The second grouping of legislative changes, encompassing the remaining eight

changes occurring from 2006 to 2013 relate primarily to "system governance" changes. Five of

these legislative changes relate to four changes to how the system is governed, generally moving

the governance system away from the intermediary concept. These five legislative changes are discussed briefly in turn, below.

The 2007 establishment of the Degree Granting Act provides the minister with the authority to regulate which institutions can offer degrees in Manitoba, and represents the first time since 1997 that legislative action ceded any post-secondary system governance authority to an entity—the minister—other than COPSE. While the power to approve degree-granting rests solely with the minister, the act allows the minister to "delegate to the Council on Post-Secondary Education the power to approve the use of the words 'university' and 'varsity' . . ." So, while power is given to the minister, some of it may be (and has been) delegated to COPSE, retaining the coherence, if not the structure, of the governance model in the case of the use of the terms "university" and "varsity." However, the model was abandoned relative to degree-granting authority, arguably the more important of the powers provided in the Degree Granting Act.

The second of the four changes was effected through two separate acts of the Legislature: the first, the creation of a new act, the 2010 Advanced Education Administration Act, and the second, an amendment to COPSE's legislation, that together allow both COPSE and the minister to collect personal information about students from universities and colleges. The reasons for the two different actions relate to privacy laws that require that those who collect information have legislative sanction—COPSE to collect from institutions for its purposes, and the minister to collect the data from institutions as well, but also to receive data from COPSE. The requirement for separate legislation is a technical requirement given that COPSE is a separate corporate entity from the department. This amendment preserves the coherence of the governance structure, but because the minister and COPSE are given nearly identical powers in each respective act, the structure and authority of the governance system becomes muddled.

A third legislative change is related to tuition fee policy. When established in 1997, it was envisioned that COPSE would manage tuition fee policy, and Section 12(e) of the COPSE legislation provided that COPSE could, "in consultation with the universities and colleges and with students, establish policies for tuition fees charged by universities and colleges." Since 1997, however, government policy direction with respect to tuition fee policy changed, and government froze tuition between 2000 and 2008, and then directly controlled tuition through various means thereafter (PRA, 2009).

The most recent tuition policy was enacted through amendments to COPSE's act in 2012, adding 29 subsections providing detailed direction regarding tuition and, for the first time, course-related fees (fees related to education other than tuition, such as technology fees, library fees, etc., but excluding services such as parking and residences, sometimes called "ancillary" fees). This had the effect of limiting COPSE's legislative powers with respect to fees. Whereas the original wording (still retained in the legislation) provided COPSE with a wide scope to set tuition fee policy, the 2012 amendments linked changes to tuition to inflation. Additionally, COPSE was given the authority to review, approve, or reject course-related fees. Finally, the amendment provided a process that would allow institutions to apply for an exception to the tuition fee policy for professional programs in defined circumstances, but mandated that the minister and the provincial cabinet, not COPSE, would make the final determination regarding any such exceptions. Thus, COPSE has lost power with respect to its ability to set tuition fee policy. However, the political reality has been since 2000 that tuition fees are set based on direction from government (Mallea, 2002; PRA, 2009), and COPSE has not exercised powers in relation to tuition since at least then.

The fourth legislative change, introduced in the spring of 2013, relates to international students in Manitoba. The International Education Act provides the minister with significant powers relating to the recruitment, enrolment and progress of international students through Manitoba's post-secondary institutions, and indeed after graduation through ministerial influence relating to alumni activities. This amendment sees all authority ceded to the minister, and there is no reference to COPSE in the legislation. The implications of this legislation in relation to the limitations placed on COPSE are examined in greater detail in a following section of this article.

Analysis of legislative changes taking place since 1997 reveals that since 2006 legislative change has focused much more on changes to the system of post-secondary governance in the province. Further, the pattern that has developed has been one where there has been, for various reasons, a progressive move away from COPSE as the locus of system governance, and toward the minister. Initially, legislative change around degree-granting approval and data collection powers were shared between the minister and COPSE. Similarly, in terms of tuition policy, COPSE's role has been significantly reduced, although it is important not to discount the fact that many believe that COPSE never had significant influence over tuition fee policy to begin with (Mallea, 2002; PRA, 2009). Finally, legislation around international students vests the minister with sole authority relating to this one aspect of the post-secondary system without any reference to COPSE. It must be acknowledged, however, that Manitoba has always dealt with international education separately from COPSE, tending to look at the field holistically, considering all levels of education, and not just post-secondary students; in this respect, the International Education Act is also a departure from past practice.

What is not clear from legislative activity is the intentionality of the movement away from the coherent governance structure provided by an intermediary agency. Initially, one notes

that ministerial delegation to COPSE was written into the Degree Granting Act, and the structure of the data legislation was required as a result of existing privacy laws. Greater intentionality can be seen in tuition fee legislation. However, the action with respect to keeping international education separate from the governance process has a measure of consistency given that COPSE had never been previously involved in this sphere of activity. Nevertheless, whether intended or not, government has taken more direct control of activities in the post-secondary system while at the same time shortening COPSE's leash.

These legislative actions represent a significant public policy change in terms of post-secondary governance. With policy direction so understood, the article now turns to how that policy is implemented, an important process that can lend clues to how university autonomy is changing in the province. The remainder of this section focuses on analyzing the role of COPSE and its role in the governance of the post-secondary system in relation to legislative change.

Strategic Activity

Legislation lays out broad policy parameters, and linking that policy to action—establishing strategy—is an important part of reifying that policy. The intent for COPSE to serve as a strategic actor in Manitoba's post-secondary system has been well understood since the first conceptualization of the agency. Noting the lack of system-wide strategic planning in Manitoba's post-secondary system, a 1993 royal commission on university education recommended that COPSE be established with "a broad and proactive mandate to mediate government policy with post-secondary institutions, coordinate system-wide planning . . ." (University Education Review Commission, 1993, p. 91). Later, during the legislative debate around the creation of COPSE in 1996, the planning function of COPSE was not in question, as suggested by then Opposition

critic Ms. Jean Friesen's explanation that "one of the principles of the bill is to join together colleges and universities for the purpose of looking at a post-secondary sector and for educational planning" (Manitoba Legislative Assembly, 1996b). The legislation that ultimately came into force in April 1997 reflected this understanding. COPSE was given a statutory mandate in Section 3(1):

> to plan and coordinate the development of a post-secondary education system in the province that promotes excellence in and accessibility to education, supports the coordination and integration of services and facilities, and promotes fiscal responsibility.

The legislation goes on to provide powers allowing COPSE to engage in planning around institutional mandates, budgeting, programming, and capital development, among other areas.

Established as a strategic actor in the post-secondary system, one would expect COPSE to engage in a process of identifying government intentions with respect to its plans for the post-secondary system and then translate those intentions into strategic objectives for the system. Evidence suggests that no such activity has ever occurred, and no strategy has been developed.

The first 10 to 12 years of COPSE's existence saw no strategic activity occur at all, an observation first noted in the 2002 review of COPSE, which stated that "the prevailing perception among stakeholders is that priorities are established by government and the institutions, not the Council" (Mallea, 2002). Lack of strategic planning in the system was emphasized again in the 2009 review of COPSE (PRA, 2009). This later criticism led to increased activity around system planning, and COPSE committed to develop a "vision and direction" for the system plan by March 2011 (COPSE, 2012, p. 3).

Earlier, in 2010, COPSE signaled to institutional leaders a desire to develop a high-level plan, but the impetus died when the COPSE chairperson resigned to make a successful bid for elected office in the following year's provincial election. A similar effort was initiated in

2011, but no process was established and the effort fizzled. Once again in 2013, COPSE set as one of its priorities to "lead the system" by "engaging with stakeholders to formulate a sustainability plan" (COPSE, 2013). To date, however, no process to formulate this plan has been articulated.

While COPSE was clearly created with the intent to operate at a strategic level, and given considerable powers to that end, and despite recent efforts it has not been successful at doing so and a system-level plan for post-secondary education in Manitoba has yet to materialize.

Operational Activity

While there has been little success at the strategic level, COPSE has had significant success at the operational level. This success is reflected in a number of areas, the most prominent being program approval, funding and budgeting processes, and tuition fee policy. Each of these three operational areas is discussed briefly in turn, below.

Programming. Section 14 of COPSE's enabling legislation gives the agency the responsibility to approve new and significantly modified programming in the post-secondary system. Between COPSE's establishment in 1997–1998 and 2011–2012, excluding minor changes such as program name changes, or expansions or revisions to existing programs, COPSE has approved 99 university-level programs. Program approval has the potential, in combination with strategic powers relating to institutional mandates (Section 11[d] of the COPSE legislation), to align strategic vision with operational activities at the program level. However, as seen above, no strategic vision has been established, meaning that program approval has occurred in a

vacuum. Nevertheless, program approval has proceeded in accordance with the policies and processes established by COPSE; program approval is an important operational activity.

Funding and budgeting. Using a process first established in 1997–1998, and in continual use ever since, COPSE leads annual budgeting for the system, consulting with universities and colleges regarding financial requirements in terms of new programming, human resource and operating costs, and capital requirements of the system. These data are analyzed, an Annual Funding Plan is prepared in accordance with Section 18(1) of COPSE's legislation and is then presented to the minister to contribute to the development of the province's annual budget (COPSE, 2012). Once a provincial budget is approved and system funding levels are established, COPSE manages disbursement processes, including cash-flow, financial accountability and overseeing related audit processes for institutions and indeed for COPSE itself (COPSE, 2012).

Tuition. Tuition has been a high profile policy area in Manitoba and elsewhere in Canada and beyond, and as discussed above COPSE has authority over such policy under its legislation. It should be noted that the authority to intervene in tuition fees cannot reasonably be seen as an intrusion into university autonomy—it has occurred in every province in Canada, every state in the United States, and indeed to a much higher extent in international jurisdictions. While certainly not always welcomed by universities, there appears to be general agreement that tuition fee policy is a legitimate area for government intervention.

As discussed above, in 2011, Manitoba took legislative action, amending the Council on Post-Secondary Education Act and establishing significant new powers regarding tuition and other fee levels set by institutions. While, in the main, tuition control is an appropriate operational task for government or its agencies to undertake, the level of detailed control

exercised in Manitoba as a result of the 2011 amendment signaled an increased willingness to intervene.

As seen, these amendments have implications for COPSE's role in the system, yet implications for institutional autonomy are not triggered by the tuition fee policy itself. Rather, it is Sections 25.3 and 25.4 which provide that course-related fees must be reviewed and approved by COPSE, and, if not approved, the fee in question must be reduced and institutions may be required to refund some or all of the increase to students. In practice, it is clear that to effect this policy would require that COPSE undertake a line-by-line assessment of each fee charged to students, defining fee structures at a very granular level and going much further into institutional operations than Manitoba has ever gone before in terms of controlling student costs.

From the perspective of the analysis presented here, such action demonstrates both the limitations of defining tactical activity using Section 3(2) of the Council on Post-Secondary Education Act, as well as the permeability of the concepts of operations and tactics in general. Nevertheless, while tuition policy is widely recognized as being within the right of a government to intervene, the granularity of the intervention may represent an unwarranted intrusion.

COPSE has been very active operationally, principally focusing on program approval, budgeting, and tuition fee regulation. Other operational activity has included system reporting, including annual reports, statistical reports and surveys, and a variety of analyses related to program delivery, tuition, and institutional issues (COPSE, n.d.a), the management of a co-operative education tax credit (COPSE, n.d.b), and managing consultations (COPSE, n.d.c). With the possible exception of the granularity of activity around course-related fees, operational activity undertaken by COPSE appears to be at the expected level. It is noted, however, that the operational successes of COPSE are not linked to any articulated strategic goals, and thus

operational work, while representing the successful completion of activity, appears to have no end apart from an end in itself.

Tactical Activity

COPSE's legislation provides the agency with no tactical tools, and while such tools could be impugned, as discussed above, Section 3(2) draws clear lines around certain spheres of activity. However, two events, the conclusion of a memorandum of understanding relating to credit transfer in 2011, and the 2013 introduction of the International Education Act, demonstrate a new willingness of government to step into areas previously only of concern to institutions.

The 2011 *Memorandum of Understanding Between Manitoba's Public Universities and Colleges for Improving Student Mobility*, drafted with significant input from the then Department of Advanced Education and Literacy, was signed in a public ceremony in the Manitoba Legislature that included the premier. The MOU, which seeks to improve credit transfer in Manitoba, includes language that recognizes the importance of the legislative limitations found in Section 3(2) of the COPSE act, going so far as to quote the legislation directly:

> . . . Manitoba's public universities and colleges commit to a system that . . . respects institutions' structures and processes of academic self-governance, consistent with *The Council on Post-Secondary Education Act,* including "the basic right of a university or college to formulate academic policies and standards," and "the independence of a university or college in fixing the standards of admission and of graduation . . . (AEL, 2011, p. 1)

Despite government being a major proponent of the MOU, the agreement nevertheless represents voluntary coordination within the public post-secondary system in Manitoba. Indeed, with the exception of serving as a conduit between the minister and institutions, COPSE is not involved in the operation of the MOU in any other meaningful way. This fact is odd given that COPSE has specific powers relating to credit transfer in Section 11(f) of its legislation, which

states "the council shall . . . facilitate the implementation of appropriate credit transfer arrangements between universities and colleges." In signing a MOU that excludes COPSE, government seems to ignore the existing legislative framework—as sparse as it may be—existing around credit transfer.

Less obvious is that the MOU was the result of months of discussion with government, discussion that occurred under threat of legislative action forcing institutions to accept credits from one another. Thus, despite the reminders found in the MOU with respect to autonomy, there was considerable pressure placed on universities to come to an agreement.

In May 2013, the Minister of Advanced Education and Literacy introduced new legislation, the International Education Act, designed to address issues around the use of education agents in Manitoba. This legislation is the first of its kind in Canada (Manitoba, 2013).

The approach taken in the new legislation, however, presents direct challenges to the limitations in the Council on Post-Secondary Education Act. Specifically, Section 17 of the International Education Act allows the minister to establish "codes of practice and conduct" to influence institutional activity as it relates to international education, including the hiring of staff and contracting with recruiting agencies. More perniciously, it allows the minister to intervene in the admissions and enrolment of students, academic supports provided to those students, dispute resolution procedures between students and the institution, and, for the first time in Manitoba, the establishment of alumni networks, in addition to "other matters not listed in the subsection."

Section 17 of the International Education Act gives the Government of Manitoba the ability to intervene in areas that heretofore have been within the sole authority of institutions. In the lexicon established in the present analysis, the new legislation allows government to become involved in the tactics of an institution. Appendix B identifies the specific sections of the

International Education Act, and maps them to the limitations identified in Section 3(2) of the

Council on Post-Secondary Education Act.

There is perhaps a fine legal distinction at play. In framing the International Education

Act as a ministerial rather than a COPSE responsibility, COPSE is in fact *not* interfering with

these things; rather, the minister is, presenting a prima facie case that COPSE's legislation is not

being violated. However, given that the intent of including the limitations in the COPSE act was

to help ensure appropriate institutional autonomy and protection from interference by the Crown,

the legislation most likely limits the government generally, and not just the corporate body that is

COPSE. Matters of legal interpretation aside, the text of the credit transfer MOU, which quotes

Section 3(2) of COPSE's legislation, suggests that government is well aware that the limitations

in the COPSE act apply generally. Accordingly, claims suggesting that the minister and the

government in general are not limited by Section 3(2) of COPSE's legislation would be

disingenuous at best.

Discussion and Conclusions

This article has sought to demonstrate that since 1997 there has been an erosion of

university autonomy in Manitoba, and this discussion has taken two distinct paths in pursuing

this agenda. First, taking the perspective that legislation is an important signal of system change

(Smith, 2011), the article has demonstrated that government legislative action has reflected a

policy whereby the locus of post-secondary governance has progressively shifted away from

COPSE and towards a more direct role by the minister responsible. This has been done either

through reducing COPSE's scope in a given area (e.g., tuition) or by giving direct authority to

the minister (e.g., international education). The Government of Manitoba is today less reliant on its intermediary agency in terms of governing universities than it was in 1997.

The second path that this article has taken has been to examine the role played by COPSE in the governance process in Manitoba. COPSE was initially conceptualized as a strategic and operational actor, interpreting government policy and aligning its operations—program approval, funding, determination of institutional mandates, etc.—with strategic direction for the post-secondary system. However, while its operational role has been fulfilled, COPSE has never fulfilled its strategic role, and its operations have been disconnected from any system-level strategic outlook.

Perhaps most important, COPSE has been unable to fulfill its role in protecting university autonomy and preventing intrusions into the tactical level defined by the limitations outlined in Section 3(2) of the Council on Post-Secondary Education Act. Indeed COPSE has been side-stepped by government through legislative change, allowing greater direct intrusion by government into those things that have traditionally—and legislatively—been the sole purview of the university. Manitoba's governance framework in 2013 allows for considerable ministerial involvement in an inter-institutional credit transfer agreement, amendments to the Council on Post-Secondary Education Act in relation to course-related fees, and the proposed International Education Act. These actions clearly places the minister in a position to undertake tactical activity related to staffing, academic policy, and admissions—the three areas specifically singled out as limitations in Section 3(2) of the COPSE legislation.

As discussed above, Mintzberg (1987a) noted that strategy can be either intended, such as through planning, or unintended, as assessed through planning and incremental choices. It is not clear whether or not the Government of Manitoba intended to shift the locus of authority for

post-secondary governance away from COPSE, but it is clear that this has been the trajectory of post-secondary policy since 2006.

These findings suggest three conclusions. The first is that between 1997 and 2013, there has been a growing level of government intrusion into university affairs, with the last half of this period seeing a more significant curtailment of university autonomy. Since 2006 there has been a clear move on the part of the Government of Manitoba to increase direct ministerial authority over universities while at the same time reducing COPSE's influence.

Second, one might argue that by acting outside the structure of COPSE, government has recognized that the intermediary agency concept is no longer able to realize government policy. However, one might as effectively argue that when government sidestepped COPSE, it may have been acknowledging that COPSE was capable of providing effective protection for university autonomy. A progression towards increased intrusion into "tactical activity" may not be enough to damn the governance model.

The final conclusion relates to observations of the erosion of university autonomy generally. It may be that broad actions, such as those highlighted by Turk quoted at the outset of this article, are poor indicators of the loss of autonomy. Given what constitutes tactical activity in post-secondary systems, or at the very least in Manitoba's system, intrusion may happen at a very detailed level and be the result of the accumulation of incremental changes over time; rather than high-level direction on high-profile issues, intrusions at the granular level—course-related fees, aspects of international education, details around alumni associations—reduces universities' ability to define their internal objectives and processes, eroding their autonomy.

These conclusions suggest areas for future research. First, only touched upon in this article, future research could explore the intersection between politics and post-secondary system

governance. While intermediary agencies are designed to "buffer" universities from shorter-term political priorities, one wonders what the effect is when the intermediary agency is populated with those very close to the governing political party. An interesting area for further work might be the governance of university systems within a politicized context, and in particular the structural and public policy choices governments make when they have significant extant potential to influence outcomes within existing structures.

Future research could also seek to compare the status of university autonomy in different provinces—a task made difficult because the governance structures and policy directions are so different in the different provinces (Shanahan & Jones, 2007). The present article speculates that, given that the governance system in Manitoba is in part designed to protect university autonomy, evidence of the erosion of autonomy in Manitoba may signal its wider loss across Canada given that other provinces do not have similar structural protections. Future research could explore such speculation through developing methodologies to compare the relative loss of university autonomy across jurisdictions.

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Appendix A:

System Governance Changes in Manitoba's Public Post-Secondary Legislative Framework, 1997–2013

Substantive Change to the Post-Secondary Legislative Framework	Type of Change	Purpose of Legislative Change
1. Council on Post-Secondary Education Act, 1997	System Governance	Establishes COPSE
2. Brandon University Act, 1998	Institutional	Provides BU with an act separate from the U of Winnipeg, replacing the Universities Establishment Act
3. Mennonite College Federation Act, 1998	Institutional	Creates the institution that became CMU. Note that this was public legislation that created a private institution
4. University of Winnipeg Act, 1998	Institutional	Provides UW with a separate act from BU, replacing the Universities Establishment Act
5. Council on Post-Secondary Education Amendment Act, 1998	System Governance	Inserts Section 27.1 into the Act, allowing COPSE to fund private religious colleges and establishing accountability mechanisms for that funding
6. Colleges Amendment Act, 2002	Institutional	This act was a consequential amendment of the Adult Learning Centres Act, but is included because it gave colleges authority to establish ALCs
7. University College of the North Act, 2004	Institutional	Establishes UCN from the former Keewatin Community College
8. CUSB Incorporation Amendment Act, 2005	Institutional	Puts government appointees on board of College Universitaire de Saint-Boniface, gives authority to affiliate with universities other than the U of M
9. Degree Granting Act, 2006	System Governance	Gives government authority to grant degrees and use of term "university" and "varsity."
10. Colleges Amendment Act, 2009	Institutional	Gives community colleges in Manitoba the authority to grant baccalaureate degrees with an applied focus
11. CUSB Incorporation Amendment Act, 2009	Institutional	Gives CUSB's college division the authority to grant baccalaureate degrees with an applied focus
12. Advanced Education Administration Act, 2010	System Governance	Gives government authority to collect significant data about students. Parallels COPSE Act provisions
13. The Council on Post-Secondary Education Act Amended, 2010	System Governance	Gives COPSE authority to collect significant data about students. Parallels the Advanced Education Administration Act provisions
14. Le Université de Saint-Boniface Act, 2011	Institutional	Establishes CUSB as a full university ("USB")
15. The Council on Post-Secondary Education Act Amended, 2012	System Governance	Gives COPSE the authority to review and approve course-related fees, and establishes a tuition fee policy, and a process to consider exceptions
16. The International Education Act, 2013 (bill)	System Governance	Gives government authority with respect to international students

Appendix B:

Section 3(2) of the COPSE Act Compared to Sections of the International Education Act

COPSE Act Section 3(2) In carrying out its mandate, the council may not interfere with	International Education Act Section 17(3) The code of practice and conduct may provide for any of the following matters:
(a) the basic right of a university or college to formulate academic policies and standards;	(d) the support services available to international students including, without limitation, accommodation services, orientation information, and academic support; (e) the procedures for dealing with complaints from international students and resolving disputes between international students and the designated education provider; (j) the establishment of alumni networks.
(b) the independence of a university or college in fixing standards of admission and of graduation; or	(a) assessment, admission and enrolment, including, without limitation, the use of international student advisors; See also Section 37: If an education provider's designation is cancelled, the education provider must not enroll international students or continue to have international students enrolled. Section 51(2): The minister may make regulations… (b) designating an international education mark and authorizing and governing the use of that mark.
(c) the independence of a university or college in the appointment of staff.	(b) recruitment, including, without limitation, the use of recruiters and the imposition of obligations (such as professional and ethical obligations) on them;