

The State, the Market and the Institutional Estate: Revisiting Contemporary Authority Relations in Higher Education

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Introduction

Over the past two decades, in nearly every arena of postsecondary education, traditional lines of authority, historical understandings of appropriate oversight and norms of political accountability have been rapidly changing (Burke, 2005; Hines, 2000). Essential understandings of such key elements in the postsecondary context as institutional autonomy, shared governance and organizational control are rapidly being transformed by challenges from a variety of stakeholders (Wellman, 2006; Marginson, 2006). A considerable body of emerging scholarship suggests that the balance of authority relations in higher education has changed dramatically over the past three decades, in line with shifts taking place in the larger national and international political economy of higher education (Heller, 2004; Pusser, 2003). These changes are increasingly apparent in the contested relationship between public postsecondary institutions and such key sources of authority and legitimacy as legislatures, governing boards and state agencies (Dunn, 2003; Longenecker, 2006). Contemporary literature on postsecondary organization and governance is replete with references to the rapid pace of change, increasing stakeholder demands and the pressures brought to bear by shifting political, financial and institutional relationships (Engell & Dangerfield, 2005). What emerges is an essential research question: "How should we understand contemporary authority relations in higher education?"

Over the past decade considerable research in higher education has been devoted to documenting the changes taking place in the political economy of postsecondary organizations (Breneman *et al.*, 2006; Slaughter & Rhoades, 2004). However, to date, relatively little scholarship has been devoted to revisiting the prevalent models of postsecondary authority relations, or to revising our understandings of those relations in light of contemporary cases of contest over postsecondary governance. This research addresses that gap in the literature through an analysis of a case of protracted contest over postsecondary authority relations, the institutional and political negotiations over the restructuring of Virginia's public postsecondary system over the period 1996–2006. The case of Virginia's restructuring is considered through the lens of one of the most influential models of authority relations in

higher education, Burton Clark's "triangle of coordination" (1983). Clark's triangle is used to extend our contemporary understanding of postsecondary authority through the analysis of its central elements: the State,¹ the market and postsecondary institutional leadership. The study of Virginia's restructuring suggests that contemporary research and policy literature on the rise of market influences in higher education has distanced the market from the State in ways that were not reflected in this case. Furthermore the evidence of the institutional estate as a proactive agent for change extends prevalent models of interest articulation and suggests that a more nuanced model may lead to better understanding of contemporary authority relations in the future.

Understanding Authority Relations in Higher Education

The roots of research on authority and governance in higher education can be traced to Adam Smith's reflections on competition and faculty salaries, Max Weber's work on professional expertise in rational-technical bureaucracies and Thorstein Veblen's critique of the role of commerce in university affairs (Ortmann, 1997; Weber, 1947; Veblen, 1918). After World War II the study of authority in universities and other prominent social institutions became the domain of scholars of organizations, primarily those based in the sociology of organizations (Blau & Scott, 1962; Pfeffer & Salancik, 1978; Simon, 1947). The adoption of organizational theory for understanding postsecondary authority and governance has had a profound impact on research in higher education as it has turned attention to such central analytical constructs as culture (Meyer & Rowan, 1977), stratification (Astin & Oseguera, 2004), isomorphism (DiMaggio & Powell, 1983), complexity (Clark, 1993), *habitus* (McDonough, 1997) and the role of professionals (Rhoades, 1998).

A number of scholars have more recently suggested organizational theory can be usefully employed in conjunction with models of colleges and universities as political institutions and sites of political contest (Cook, 1998; Moe, 1990; Pusser, 2003), a framework that turns attention to State theory, political economic frameworks, power and legitimacy (Hardy, 1990; Ordorika, 2003; Rhoades, 1992).

Three Forces in Tension: Clark's Triangle of Coordination

Perhaps the most notable early effort to bridge the divide between sociological and political-theoretical approaches to authority relations is the research developed by Burton Clark. In his pioneering work, *The Higher Education System: Academic*

Organization in Cross-National Perspective (1983), the State, market behaviors and "academic oligarchs" (where these are understood as powerful coordinating boards such as the British Universities Grants Committee, or powerful faculty members with influence over national postsecondary governing bodies) served as the anchors of a model of postsecondary governance systems. Clark's work has served as one of the most influential models for understanding authority relations in higher education in the United States and internationally (Burke, 2005; Enders, 2004; Jongbloed, 2003). Clark's original formulation was concisely stated,

We begin on the simple ground by constructing three ideal types—state system, market system and professional system—which, in combination, offer two- and three-dimensional spaces for comparing national systems. Greater complexity is then introduced by specifying some pathways along which each major type of integration moves. Since the machinery of the state becomes the central tool, even in shaping the markets of higher education, the analysis then highlights the fusion of state and market, and turns to the main interest groups that in various countries have strong hands on that machinery (1983, p. 136).

Later in the work, Clark elaborates upon the state/market fusion. He reframes the continuum in terms developed by Lindblom (1977), instead of,

The two ends of the continuum may be seen as state administration and market in pure form, with the result, "Higher Education systems vary widely between dependence on authority and dependence on exchange: the more loosely joined the system the greater the dependence on exchange" (1983, p. 138).

Clark categorized a number of national higher education systems along the continuum of State and market, with Sweden most closely linked to State control and the United States the most highly market influenced, where at the limit a market system is essentially "synonymous with nongovernmental, nonregulated," (p. 138). Furthermore, Clark suggested that movement along the continuum from State to market would occur over time as contextual shifts generated less formal control systems and authority relations. He then moved his conceptual model from continuum to triangle by adding a third dimension to the model, the possibility that under conditions of weak State or market influence, an "academic oligarchy" comprised of some combination of national education ministries and powerful academics would exercise significant authority (See figure 1).

The United States, while possessing influential faculty in elite institutions, has never developed a classic academic oligarchy. Clark presented the United States as the national system most open to market forces, in which competition serves as a primary form of control. Lacking a bureaucratic State apparatus as a control mechanism, the United States is also the nation where the "professionalization of administration has been uniquely strong at the institutional level" (p. 149). Clark noted the importance in the United States system of what he termed, "localized bureaucracy" (p. 128), the institutional administration and the growing influence and formalization of that bureaucracy in the United States:

The drift of authority for a quarter-century has been steadily upward, toward a growing web of multi-campus administrations, coordinating boards of higher education, state legislative committees and executive offices, regional associations, and a large number of agencies of the national government (1983, p. 130).

¹ Throughout this document the capitalized form of State is used to distinguish the concept of the State from the individual states under discussion, such as Virginia.

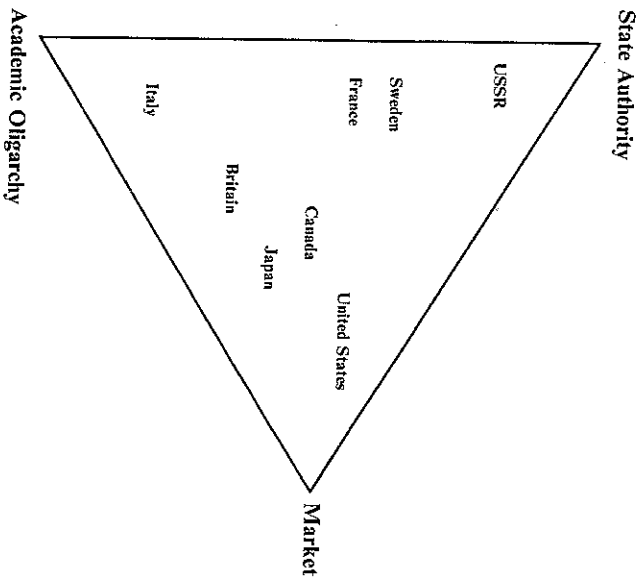


Fig. 1 The triangle of coordination (From Clark, 1983, p.143)

For the purposes of analyzing authority relations, it is useful in the United States case to conceptualize an "academic estate" rather than an academic oligarchy. In the academic estate power is vested in institutional leaders, faculty governance structures and internal governing boards (Pusser, 2004). Although the relative lack of authority possessed by faculty or ministries in the United States has been echoed by much of the subsequent research on higher education governance (Baldwin & Chronister, 2001; Pusser & Turner, 2004), a key distinction needs to be made between faculty governance and institutional authority. Contemporary research has argued that the institutional estate is a powerful actor in governance contests, with considerable authority, legitimacy and interests. While the institutional estate has historically been conceptualized as an "interest articulator" (Baldridge, 1971; Mortimer & McConnell, 1978) it has been more recently conceptualized as a significant representative of the university in authority contests and as an interest in its own right (Marginson & Considine, 2000; Ordorika, 2003; Pusser, 2004).

In discussing market relations in higher education, Clark drew upon Lindholm's (1977) tripartite model of consumer, labor and institutional markets. Clark presciently noted the rise of students as consumers, with their enrollment and consumption patterns shaping institutional array, curricula, majors and departments (Winston, 1999). Clark also noted the importance of portable financial aid and student

choice in fueling the higher education competitive arena with money. "In education, student payments to institutions are the clearest example: when we hear the word *tuition* we are in the presence of a consumer market" (1983, p. 162).

Postsecondary labor markets are understood in Clark's formulation as key to the pursuit of revenue from funded research, as colleges and universities compete for researchers capable of excelling in grant competitions. A similar competition exists for talented faculty to teach at the undergraduate level and for student affairs professionals to shape the quality of student life on campus, all of which contribute to institutional prestige and rankings (Marginson, 1997).

Institutional markets are portrayed as sites of competition between institutions, for prestige, reputation and resources, as mediated by State action and market forces that provide inducements or sanctions for particular types of institutional behavior. The primary State mechanism for shaping institutional markets is the allocation of resources, traditionally the role of the provider State, and the imposition of regulatory constraints, the traditional role of the regulatory State (Carroy & Levin, 1985). At the same time, institutional markets are shaped by institutional actors as they endeavor to shape their own missions, garner external resources and position themselves within prestige hierarchies.

A review of research and scholarship on each of the three components that shape our fundamental understanding of authority relations offers the foundation for better understanding Clark's model and its relevance for the analysis of a case of contest over authority relations in contemporary higher education.

The State

The study of the State is the study of politics. As Carroy (1984) put it, "To understand politics in today's world economic system, then, is to understand the national State, and to understand the national State in the context of that system is to understand a society's fundamental dynamic" (p. 3). While the State is a fluid construct, in theoretical models the State generally encompasses political institutions, the formal and informal rules and laws that guide society, the judicial system and formal aspects of local and federal power including law enforcement and the military (Carroy, 1984). Skocpol defined the State this way:

A state is any set of relatively differentiated organizations that claims sovereignty and coercive control over a territory and its population, defending and perhaps extending that claim in competition with other states. The core organizations that make up a state include the administrative, judicial and policing organizations that collect and disperse revenues, enforce the constitutive rules of the state and society, and maintain some modicum of domestic order, especially to protect the state's own claims and activities (1992, p. 43).

Through its institutions and processes the State has historically been a site of contest for shaping collective activity and protecting individual rights in support of the public good. As Feigenbaum, Henig and Hamnett put it, "states represent the institutionalized capacity of societies to deal with their collective problems" (1999, p. 2).

Schumpeter (1942) offered an important clarification to the model of the State as a site of contest over collective action by adding the concept of the State as an actor with power and interests of its own. Gramsci refined the concept of the State as a site of hegemonic conflict, where tension and contest shape the nature of State institutions (Gramsci, 1971). The work of Gramsci and Schumpeter has influenced a considerable body of work that argues that not only is the State a site of contest, so too are the institutions of the State, including the postsecondary education system (Ordonika, 2003). Skocpol summed these perspectives up this way: "On the one hand, states may be viewed as organizations through which collectivities may pursue distinctive goals, realizing them more or less effectively given the available state resources in relation to social settings. On the other hand, states may be viewed more macroscopically as configurations of organization and action that influence the meanings and methods of politics for all groups and classes in society" (1985, p. 28).

Theoretical modeling of the State in relation to education over the past three decades has been directed primarily to elementary-secondary education and neo-Marxist in orientation, drawing on classic theories of the capitalist State and education (Bowles & Gintis, 1976; Giroux, 1983). Social theorists working beyond higher education address a number of aspects of the State that could usefully be applied to the study of a wide variety of institutions, including colleges and universities. Foremost, the State is a more comprehensive and nuanced construct than the more commonly invoked concept of government, one that seeks to understand governmental action and institutional behavior on many dimensions and through multiple lenses. As Alfred Stepan noted,

The State must be considered as more than the "government." It is the continuous administrative, legal, bureaucratic and coercive systems that attempt not only to structure relationships between civil society and public authority in a polity but also to structure many crucial relationships within civil society as well (Skocpol, 1985, p. 7).

Furthermore, the State as an analytical lens moves beyond pluralist understandings of interest group competition as it incorporates cultural, historical and social norms as key instruments of political, economic and civic transformation. Finally, the State has long been a site of intellectual and theoretical contest, one that offers a rich comparative narrative extending back some four centuries and that has often focused on the role of education in society (Mansbridge, 1998).

The State and Research on Higher Education

In a comprehensive review published in *Higher Education: Handbook of Theory and Research* in 1992, Gary Rhoades examined leading higher education journals and classic works to determine the extent and the nature of attention to the State in higher education research. He found relatively little work on the State, with two notable exceptions, Barrow's *Universities and the Capitalist State* (1990) and Slaughter's *The Higher Learning and High Technology*

(1990). Rhoades pointed to the limited conceptualization in higher education research of the relationship between the State and higher education, one that had placed the State at some distance from higher education and higher education institutions: "Whether in everyday usage or in scholarship, the state is always someone and/or something else. The state is distinct from, and in contraposition to, the academy" (1992, p. 85).

Fifteen years later the State is rapidly becoming more prominent in postsecondary research, particularly in the international and comparative arena. Increased attention to globalization (Currie, 1998; Levin, 2001), neoliberal restructuring (Rhoades & Torres, 2006; Slaughter & Rhoades, 2004) and the rise of entrepreneurial universities (Marginson & Considine, 2000; Breneman *et al.*, 2006) have raised awareness of the role of the State.

In a relatively new body of literature on the State, colleges and universities are seen as key sites of contest over the role of education in achieving essential State purposes (Hardy, 1990; Slaughter & Rhoades, 2004). As institutions of the State, it has also been argued that postsecondary institutions are fundamentally political institutions, sites for the allocation of public costs and benefits, mediated by political action at the individual state and federal level (Ordonika, 2003; Pusser, 2004). As political institutions, colleges and universities generate significant public and private costs, and benefits (Savage, 1999; Marginson, 2006), they implement policies and programs with great symbolic and instrumental political salience (Hannah, 1996; Weiler, 1983) and are themselves instruments in broader socio-political contests over social reform and other forms of activism (Bowen & Bok, 1998; Rhoades & Rhodes, 2003). The role of the State in promoting economic development and workforce training has been central to both the analysis of the emerging economic role of community colleges and the study of contemporary community college workforce training (Dougherty & Bakita, 2000; Dowd, 2003; Levin, 2001).

The Neoliberal State

Perhaps no other perspective on the role of the State has achieved the prominence in contemporary research and scholarship accorded to neoliberalism. In *A Brief History of Neoliberalism* (2005), David Harvey described its elements this way:

Neoliberalism is in the first instance a theory of political-economic practices that proposes that human well being can best be advanced by liberating entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices (2005, p. 2).

Only recently has research and scholarship on higher education in the United States turned attention to the neoliberal State. Perhaps because its impact was not fully clear, there is virtually no mention of neoliberalism in Rhoades's 1992

review of the treatment of the State in higher education. Early research on globalization turned attention to the potential effect on education of a number of pillars of neoliberalism, including the withdrawal of resources from the State, a retrenchment from public sector projects, the rise of privatization initiatives and the deskilling of professional work (Castells, 1996). In the 1990s a literature on globalization and education began to address models of the neoliberal State (Carnoy et al., 1993) and attention soon focused on neoliberalism and higher education (Levin, 2001; Marginson, 1997).

The State and Higher Education: A Dynamic Tension

Understanding the transformation of the role of the State in US higher education is complicated by the traditional allegiance of scholars, policy makers and institutional leaders to the conceptualization of the United States postsecondary arena as a system driven by the sum of the actions of each of 50 states (Parsons, 1997). However, it may be more analytically useful to understand postsecondary institutions in the US as shaped by a complex array of forms of State control, as manifest through various forms of formal and informal power, individual and interest group activity, and by state and federal action within the broader State network of authority. In the United States, as in many other nations, a number of higher education institutions were founded prior to the formation of their respective modern States (Ordorika and Pusser, 2007). As such, these institutions were instrumental in supporting the development and expansion of the State as well as its intellectual and social capital and political legitimacy. Postsecondary institutions continue to be key components of State development, despite the tendency in the research and policy communities to regard postsecondary institutions and political entities as distinct and in conflict.

Research on the State and higher education identifies three key areas of State authority over higher education. The first is the role of the State in providing subsidies to public and private institutions for education, research and service (Payne, 2003; Winston, 1999). The second is the ability of the State to regulate institutional activity in the service of broader State projects (Boyd, 2001; Calhoun, 2006; Rensburg, 1996). The third is the State's ability to promote access and opportunity through education to redress the inequalities inherent in State support for economic development (Pusser, 2004; Garcia, 1997).

The scholarship of postsecondary transformation in the United States over the past three decades suggests that these areas of State action are interrelated and that there have been major shifts in the role of the State in all three dimensions. The effect of these shifts is presented in contemporary scholarship on postsecondary privatization (Bok, 2003); the rise of earmarks and other forms of federal funding for research (Savage, 1999); the changing legal terrain shaping higher education revenue generation (Olivas, 2004; Baez & Slaughter, 2001); and the contests over access and affordability in higher education (Bowen et al., 2005). Despite the

plethora of articles documenting and describing the shifts taking place in contemporary higher education, few link those shifts to the changing nature of the State's relationship with higher education, or to the balance between State action, market forces and institutional autonomy.

One essential exception is the work of Sheila Slaughter and her collaborators on the rise of what Slaughter and Leslie (1997) termed, "academic capitalism". In *Academic Capitalism and the New Economy: Markets, State and Higher Education*, Slaughter and Rhoades construct a theory of academic capitalism. Drawing on Foucault's model of professional and intellectual regimes (1977), and Castells's (1996) new economic network theories, the authors document the emergence in 21st century higher education of an "academic capitalist knowledge/learning regime" (2004, p. 15). This regime is seen as a series of networks, supported by State resources, regulations and legitimacy that "link institutions as well as faculty, administrators, academic professionals and students to the new economy" (p. 15) through a web of markets and market-like behaviors situated at every level of the institution, and that extend through governing boards and professional networks far beyond the academy (Pusser et al., 2006). Under academic capitalism the State, the market and institutions are seen as fragmented, with various disciplines, areas of research and academic functions seen as either close to the market or at some distance. The theory of academic capitalism has become a reference point for research on authority relations in contemporary higher education.

The Market

The second key construct in Clark's triangle of coordination, market influence, has achieved remarkable prominence in contemporary global culture and in higher education research since the time of his writing. As Amartya Sen (1999, p. 111) notes,

The virtues of the market mechanism are now standardly assumed to be so pervasive that qualifications seem unimportant. Any pointer to the defects of the market mechanism appears to be, in the present mood, strangely old-fashioned and contrary to the contemporary culture (like playing an old 78 rpm record with music from the 1920s).

Over the past two decades there has been a vast increase in the number of works addressing higher education as a market (Clark, 1998; Geiger, 2004; Marginson, 2004; Massy, 2004). A number of factors drive the increased attention, including research on globalization and higher education (Levin, 2001; Currie, 1998), the shifting role of the State as a resource provider to colleges and universities (Ehrenberg, 2000; Heller, 2004; Slaughter & Rhoades, 2004), the conceptualization of students and parents as consumers of higher education (Peters, 2004) and the rise of publicly-traded, degree-granting for-profit universities (Breneman et al., 2006; Floyd, 2005; Pusser & Doane, 2001; Pusser & Wolcott, 2006; Tierney & Hentschke, 2007).

The dramatic increase in contemporary research, scholarship and commentary on markets and higher education has deep roots in social thought. Pedro Teixeira cites four

figures as "founding fathers" that have shaped contemporary views of contemporary education and markets. He credits Adam Smith and his analysis of such key issues as opportunity costs, the public social benefits of education and the role of competition in generating excellence. John Stuart Mill for turning attention to the public benefit of education in developing the citizenry, the economic value of education and the challenge of under-investment; Alfred Marshall for his work on the linkage between education and productivity and the need for government to address the capital constraints on individuals seeking to invest in personal education; and Milton Friedman for challenging the role of government in education as he argued for greater competition and new forms of funding directed at individuals rather than institutions (Teixeira, 2006).

Marginson (2006) argued that the work of F. A. Hayek has been instrumental in advancing market models for higher education through Hayek's development of neoliberal competitive approaches to State functions. He also suggested that Gary Becker's work on human capital moved Smith's invisible hand of rational, maximizing behavior from the traditional realms of economic analysis into nearly every sphere of public and private life.

These social theories, which generally addressed the role of the market and political action in shaping individual behavior, were brought more fully into research on public institutions by a group of scholars of economics and political science including Oliver Williamson (1975) Charles Lindblom (1977), Mancur Olson (1965), Douglas North (1991) and Barry Weingast (1984). What subsequently emerged was the conceptual modeling of an arena that has come to be broadly defined as the New Economics of Institutions. These analyses were applied directly to education in Chubb and Moe's influential *Politics, Markets and America's Schools* (1990) and a number of works on market competition and higher education (Masten, 1995; Wilson, 2004).

Nonprofit Markets

The interest in applying models of political-economic competition to the transformation of State institutions turned attention to the nature of nonprofit organizations, the dominant form of postsecondary control (Weisbrod, 1998). A number of economists and other social scientists have endeavored to build a theoretical model to account for the distinctive missions, character and processes of nonprofit organizations. Hansmann (1980) and James and Rose-Ackerman (1986) focused on the tax-exempt status of nonprofit organizations and the constraints and advantages of that status as nonprofits seek to achieve their goals. Weisbrod (1988) suggested that nonprofits emerged to produce those goods and services that are socially desirable in areas where neither government nor for-profit organizations can produce those goods effectively and where donative income was essential. He further argued that it is more useful to think of various organizational forms as emerging to meet specific social needs, or niches, rather than as existing in direct competition with all other organizational forms.

Salamon (1995) modeled the distinctions between the public sector, the private sector and the nonprofit sector, noting that the boundaries have been alternately blurred and sharpened over time under different conditions and policy environments. Following Samuelson (1954) he offered two key concepts for understanding nonprofit production. First, there are a number of collective (public) goods, such as clean air and national defense that are not excludable; that is, once produced they cannot be directed to some individuals and not others. As a result, a free-rider problem exists; an individual has no incentive to pay for the good if it can be obtained free through the efforts of others. Second, given the unequal distribution of information across a given society, many individuals may lack awareness of the personal or social utility of a particular good and under-invest in ways that are socially sub-optimal. Under those conditions, governments will often take over the production of the collective good and tax individuals accordingly.

Markets, Public Goods and Private Goods

A number of recent works on markets and higher education have focused on the role of colleges and universities in the production of public and private goods (Calloun, 2006; Marginson, 2006; Pusser, 2006). One of the earliest contests over public and private goods in higher education emerged during debate over the Higher Education Act of 1965 and the Education Amendments of 1972 (Gladieux & Wolman, 1976). At issue was whether State financial support for higher education would be directed to institutions or to individuals in the form of portable financial aid. The debate took place in a policy environment marked by the ascendance of human capital theories that conceptualized education as an investment (Friedman, 1962; Becker, 1976) and a shift away from earlier models of education as an individual right (Rich, 1979; Sunstein, 2004). The choice of Pell Grants and the federal student loan program rather than greater aid to institutions marked a significant shift in postsecondary authority relations. A number of scholars have argued that the portable financial aid that emerged from the Education Acts of 1972 created a more competitive postsecondary environment and a national market for student enrollments (Breneman & Finn, 1978; Winston *et al.*, 1998).

Most recently, research in higher education has addressed a new model of higher education and the public good based in theories of the public sphere. Researchers building on Habermas and other critical social theorists have conceptualized the contemporary university itself as a public good in its role as a public sphere (Calloun, 2006). Marginson noted,

Like the university today, Habermas's public sphere provides for a non-violent form of social integration based on discourse rather than power or money. Information and education enable the public to reach not just a common opinion but a considered one (Calloun, 1992: 6, 14, 29-30). The classical public sphere had a capacity for criticism independent of the state, sometimes directed to it, while contributing functionally to the state (Habermas, 1989: 41, 51). This describes contemporary state/university relations at their best (Marginson, 2006, p. 52).

Central to the model of the university as a public sphere is the realization of an enhanced form of university autonomy in which the university serves as a site for knowledge production, deliberation and contest beyond the control of the State, private interests or the institution itself (Ambrozias, 1998; Pussier, 2006).

The Limits of Markets for Higher Education

Scholars have long noted that there are significant limitations in applying market models to higher education, with some questioning whether competitive behaviors in the postsecondary arena are appropriately characterized as market competition. Gordon Winston noted a number of conditions that render market models for higher education problematic, including the fact that because of its mix of donative, tax and commercial revenue, a typical public college or university offers its "product" at a price far below the cost of production (1997), while Leslie and Johnson (1974) were more definitive: "the various market-related characteristics of higher education in no way approximate the sufficient conditions of the perfectly competitive market model" (p. 14). Massy (2004) found that while markets may contribute to institutional efficiency, market failures, lack of information and shifting institutional missions limit the impact of competitive effects. Dill and Soo (2004) argued that competition and self-regulation may be insufficient to ensure increased quality without some State role to ensure that information on institutional effectiveness is widely available. Bowen *et al.* (2005) suggested that, at best, market approaches to higher education will need to be supplemented by other forms of authority:

The higher education market, left to itself, cannot be expected to produce socially optimal results. Imperfect information, credit constraints and externalities ("spill-over benefits") are all relevant. Potential students may under-invest in their own education, and the interest of society as a whole in outcomes such as preparation for citizenship, the promotion of social mobility, and the advancement of learning may not be served adequately if market mechanisms alone have to be relied upon to determine the resources available to higher education and their allocation (p. 194).

The Institutional Estate

The third point on Clark's triangle of coordination corresponds to what he termed the "academic oligarchy." Contemporary research on the role of faculty in governance, and on postsecondary governance writ large in the United States goes considerably beyond Clark's formulation. Two primary strands of literature have emerged, one concerned with the role of faculty in postsecondary governance (Hamilton, 2004; Tierney, 2006), the other more broadly directed at the governance and leadership of colleges and universities (Birnbaum, 1988; Kerr & Gade, 1989; Tierney, 1999, 2004). A faculty role in the governance of postsecondary institutions has been a central tenet of academe for at least a century (Veysey, 1965). Hamilton described the prevalent understanding this way:

There is a wide consensus that the faculty peer collegium, exercising its peer-review responsibility, should have primary authority over core academic issues including standards for admitting students; curriculum; procedures of student instruction; standards for student competence and ethical conduct; maintenance of a suitable environment for learning; the standards of faculty competence and ethical conduct; and the application of those standards in faculty appointments, promotions, tenure and discipline (Hamilton, 2004, pp. 96-97).

Contemporary research on faculty governance generally finds that faculty influence over institutional governance in the United States has diminished as the number of part-time and non-tenured faculty in academe has increased (Baldwin & Chronister, 2001; Schuster & Finkelstein, 2006).

Contemporary research on the role of faculty has also begun to turn attention to the entwining of State, market and institutional estate in academic governance. Rhoades's *Managed Professionals* (1998) points to the changing conditions of faculty governance and collective bargaining in light of local, state and national political and economic challenges, while Baldwin and Chronister (2001) documented the shifting faculty array, the rise of part-time and contingent faculty in response to institutional resource constraints. In work on the decline of guilds, Elliott Krause (1996) linked a variety of shifts in professional authority writ large to changes in academic policies shaping faculty work in schools of medicine, law and education. He summed up the relationship this way:

To what extent do American professors, as a group, control their own relations to the market and the state? Not very much at all except for an elite group of professors, in a small number of elite universities, who can switch universities at will, even after tenure and in bad times, for the right offer, and who have formed close relations with the state (through success in the federal grant system) or with private industry (1996, p. 74).

Levin *et al.* (2006) have argued that community college faculty have become subordinate to the demands of neoliberal restructuring and have lost status as professionals and as contributors to institutional governance in the process. Tierney (2006) argued that the reorganization of academic structures and faculty work in coming decades will require new forms of faculty voice and participation in governance. He suggested that trust and attention to the public good are essential for a successful transition in postsecondary governance.

Administration and the Institutional Estate

While considerable attention has been turned to the role of faculty in governance, far less research has focused on the role of institutional administration in postsecondary authority relations. Hines noted that the number of "claimants to authority" (2000, p. 105) had grown over the previous two decades, shifting the stakeholders in governance contests. He also observed that what had been a largely internal process increasingly incorporated a wide variety of constituents within and beyond the campuses. He pointed both to an increasingly corporate form of institutional governance revolving around a more prominent and active role

for governing boards and trustees and to the rising influence of such external stakeholders as governors, legislators and other policy makers at the system and campus levels.

It is worth noting that in a detailed review of the literature, Hines found virtually no research addressing the role of administration in university governance, other than literature on presidents. That is, the prevalent governance literature of the past two decades has focused on faculty governance, the presidency, governing boards and external stakeholders, with scant attention to the role of institutions as actors in contests over authority relations.

University Autonomy

Another key concept underpinning the institutional estate is the concept of institutional autonomy. Autonomy has a considerable history in research and scholarly literature on the organization of higher education (Berdahl, 1971; Glenn, 1959; Neave & van Vught, 1991; Sabloff, 1997; Slaughter, 1998). Martin Trow (1996) offered a set of twin principles through which he suggested academic excellence is essential to preserving institutional autonomy:

These two principles are first, the maximization of the University's autonomy—its capacity to direct its own affairs; and second, the pursuit of pre-eminence—or how to become or remain the best university in the country in every possible department, service and activity (1996, p. 202).

Trow also suggested that the key to institutional autonomy is the resistance of partisan pressures within or upon the academy, and offered two principles, autonomy and excellence, as central to that resistance:

These two values or principles are mutually reinforcing. University autonomy allows the university to remain largely meritocratic in its academic appointments and promotions, and, within limits, in student admissions and non-academic staff appointments as well. And the vigorous pursuit of competitive excellence gives the University the world-wide reputation that is the major bulwark and support for its institutional autonomy (1996, p. 202).

Three significant political-economic movements have shaped the development of postsecondary autonomy in the United States. The first was the creation of the land grant colleges under the two Morrill Acts. Given that operational control of the new universities was negotiated through charter agreements with their respective states, the Morrill Acts also commenced the struggle for authority between public universities and legislatures that has shaped much of the subsequent research on institutional autonomy in the United States (Berdahl, 1971; Dee, 2006; Millet, 1984).

The second key factor shaping the contest over institutional autonomy has been the rise and evolution of what has variously been called "the Cold War University (Lowen, 1997), the "Federal Grant University" (Kerr, 2001), and the "academic capitalist knowledge/learning regime (Slaughter & Rhoades, 2004). The massive allocation of federal research funds post-World War II for national defense brought the development of university science and technology to unprecedented levels and

entangled research universities in webs of relationships with the State (Anderson, 2001; Powell & Owen-Smith, 1998; Slaughter & Leslie, 1997).

The third transformation shaping institutional autonomy in the United States grew out of the passage of HEA 1965 and the Education Amendments of 1972. Taken together, these congressional actions created a far more significant and comprehensive State role in postsecondary education (Gladieux & Wolanin, 1976). In addition to their effects on State subsidies to higher education, the Education Amendments of 1972 also authorized the creation of individual state postsecondary planning commissions, and shortly thereafter they had been established in nearly every state (Berdahl, 1990).

Before 1972, literature on postsecondary autonomy in the United States was fundamentally oriented to the relationship between state colleges and state systems. James Perkins's 1965 chapter on autonomy in *Emerging Patterns in American Higher Education* makes virtually no mention of a coordinated federal role. Logan Wilson introduced the volume with the comment that "there is really no formalized, national system of education in the United States" (1965, p. 1). The Higher Education Acts may not have led, as was predicted in a 1968 edition of the *Public Interest*, to "nothing less than a reshaping of the American social order" (Gladieux & Wolanin, 1976, p. 39), but it is hard to otherwise overstate their impact on the institutional estate.

Academic freedom is another fundamental concern in the literature on autonomy, though it is an issue that has been directed more often at individuals than institutions (Hotstadter & Metzger, 1955; Rabban, 2001). This literature ranges from reconsiderations of the AAUP's 1915 Statement of Principals (Keller, 2004) through contemporary legal and political challenges to individual and institutional autonomy (Altbach, 2001; Keller, 2004; O'Neil, 2004). Like many of the other issues that are interdependent with postsecondary autonomy, scholarship on academic freedom generally encompasses the role of the State through the legal system and through political challenges to university decisions (Olivas, 2004).

A central aspect of the scholarship on institutional autonomy is research that addresses university accountability (Burke, 2005; Trow, 1976, 1996; Zumeta, 2001). In many ways accountability in this literature is a proxy for institutional control. Burke (2005) presents a series of models of accountability systems, each with "levers" of control that include bureaucratic, political, managerial, and market controls. Following Clark, he also develops an "accountability triangle" that suggests accountability programs emerge from tension between State priorities, market forces and academic concerns (2005). Zumeta (2001) argues that both private and public institutions are vulnerable to State demands for cost containment and accountability and suggests that State action should seek balance between market demands, State regulation and professional expertise.

Authority Relations in Contemporary Higher Education

As it turns attention to the tension between State authority, markets and the institutional estate, Clark's triangle of coordination can be usefully applied to two fundamental questions emerging from contemporary contests over postsecondary

authority relations. First, are the market, the State and the institutional estate apparent as key factors in the contemporary contest over authority relations in higher education? Second, if these forces are drivers of contemporary contests over authority relations, how do they manifest themselves, and what is the balance of legitimacy between these forces? In order to answer those questions we turn to a contemporary case of political contest over authority in higher education in light of research on the role of the State, the market and the institutional estate in post-secondary organization and governance.

Postsecondary Restructuring in Virginia

Over the past two decades in Virginia, the Commonwealth's² postsecondary institutions have pursued initiatives in negotiation with the legislature to increase institutional autonomy and influence over a variety of substantive and procedural policies (Breneman & Kneedler, 2006; Couturier, 2006; Leslie & Bendahl, 2006). The Virginia case has been widely heralded and analyzed for its relevance in understanding university autonomy and contemporary authority relations in higher education.

In the spring of 2005, the Virginia General Assembly culminated nearly a decade of political contest with the passage of *The Restructured Higher Education Financial and Administrative Operations Act of 2005* (Restructuring Act). One of the more closely watched restructuring initiatives in contemporary postsecondary education in the United States, the contest over the Restructuring Act raised significant issues of the power and legitimacy of the State, market forces, and postsecondary institutions in establishing a balance of authority over public higher education in Virginia. Despite the widespread perception in the postsecondary research and policy literature of the ascendancy of market authority in higher education, the bill signed into law in 2005 by Governor Mark Warner reaffirmed the strength of the State and the power of the public mission of higher education. At the same time, it demonstrated the importance of market revenue in emerging state planning for higher education and the legitimacy of a significant degree of institutional autonomy in university governance (Couturier, 2006; Breneman & Kneedler, 2006; Buer *et al.*, 2007).

The Case of the Commonwealth

The Commonwealth of Virginia was the tenth state to ratify the United States Constitution in 1788. The population of Virginia in 2005 consisted of just over 7.5 million people. The public higher education system included 15 four-year institu-

tions, 23 community colleges and one two-year junior college. These institutions enrolled a total of just over 357,000 students, with 197,000 in four-year institutions and 160,000 in two-year colleges, constituting the 11th largest postsecondary system in the United States. The array of institutions is varied, including both new and venerable colleges and universities, historically black colleges, and urban and rural institutions. Of Virginia's 39 institutions, 3 figured most prominently in the negotiations over the Restructuring Act, the University of Virginia (U.Va.), the College of William and Mary (William and Mary) and Virginia Polytechnic and State University (Virginia Tech). Each institution also looms large in the political economy of the state of Virginia and is a significant presence in national postsecondary affairs. The University of Virginia, with a 2006 enrollment of 20,000 students is a Carnegie classification RU/VH institution, and has consistently ranked among the top three public research universities in the United States over the past decade. Founded by Thomas Jefferson in 1819, it is one of the most prominent and successful public universities in the country. William and Mary, founded in 1693, enrolled 7,700 students in 2006 into what has long ranked as one of the most selective small public colleges in the country. Virginia Tech, with over 28,000 students in 2006, is a land grant institution with a Carnegie classification of RU/VH. In 2002–2003, the University of Virginia and Virginia Tech ranked in the top 100 universities in the United States in revenue received from federal sources.

As in many other political contests over the organization and governance of public postsecondary institutions in the United States during the past two decades, the Virginia case has its roots in the adoption of neoliberal State finance policies and the subsequent general reduction in direct state aid to postsecondary institutions. Breneman and Kneedler (2006) note that aid from the Commonwealth to public institutions declined from 17% of the state's general fund budget in 1985 to 10% in 2004. In 1990 the state of Virginia provided approximately \$170 million annually to the U.Va., while in 2004 that allocation had decreased to about \$105 million. A similar pattern of reductions in direct funding prevailed at postsecondary institutions throughout the state. Funding declines were accompanied by considerable volatility in tuition prices (Couturier, 2006). From 1990 through 2000 the Virginia legislature implemented a number of tuition rollbacks and tuition freezes so that in 2002–2003 tuition for U.Va. students was lower than in 1995–1996 (Valenzi, 2006). The volatility in tuition setting was also emblematic of a larger struggle between the state of Virginia and its institutions for control of tuition setting authority. As Couturier explained,

It is no secret that the main goal of the leaders of the U.Va., William & Mary, and Va. Tech in seeking greater autonomy was to assert the authority of institutions' boards of visitors to set their own tuition and fees, thereby gaining control over one of their most important revenue sources (2006, p. 2).

In 2005–2006, the public degree-granting institutions in Virginia together generated total revenues of approximately \$4.5 billion (Chronicle Almanac, 2006). Of that total, \$1.5 billion came from Virginia state funds, \$887 million was from tuition and R & D funds totaled \$850 million. At the University of Virginia, the

²The term Commonwealth has been used to describe the governance structure of Virginia since prior to its becoming a state in 1788. The terms state and Commonwealth are used interchangeably.

2006–2007 budget for the Academic Division (not including the Medical Center Operations) comprised approximately \$1.1 billion in revenue. Of those funds, the largest single source was tuition, (\$300 million), ahead of income from sponsored research (\$287 million) and Virginia general fund revenues (\$204 million). Tuition has particular appeal as a source of revenue, because compared to endowment income or state funds, tuition is far less likely to be designated for specific projects (Ehrenberg, 2000). Net tuition price is also seen as a measure of competitiveness in the market for student enrollments. Geiger (2004), noted,

Public universities participate to varying degrees in the national market dominated by student power and qualitative competition. In this respect they have become more like private institutions, maximizing tuition revenues through strategic use of financial aid and seeking gifts and endowment to bolster quality (2004, p. 241).

He concluded, "Those institutions with sufficient autonomy from state coordination are best able to adapt to the national market by enhancing their quality and competitiveness" (p. 241).

In the 2007 US News and World Report rankings the University of Virginia was rated 24th among the nation's top colleges, the second ranked public university behind the University of California at Berkeley. The two private universities ranked most closely to U.Va. were Georgetown University (23rd) and the University of Southern California (27th). For 2006–2007, in-state undergraduate tuition and fees at U.Va. were set at just under \$7,800. At Georgetown undergraduate tuition and fees for 2006–2007 totaled just over \$34,100 and at the University of Southern California, approximately \$33,900. Tuition and fees at Virginia Tech were just under \$7,000 while at William and Mary tuition and fees totaled \$8,500. In the competition for students, the tuition charged by Virginia's public institutions has long been considered by many policy analysts to be well "below market" (Breneman & Kneedler, 2006).

The Origin of the Contest

The contemporary contest over authority relations in Virginia stemmed from a significant economic downturn that constrained state revenue for higher education in the early 1990s (Blake, 2006). By 1994 the Virginia legislature, working with recommendations from a legislative commission on the future of Virginia higher education, enacted a comprehensive appropriations bill that included requiring every institution to submit plans for achieving greater cost effectiveness, institutional efficiency and enrollment growth. As part of the debate over the appropriations bill, some consideration was given to a greater decentralization of authority over postsecondary policy and increased procedural autonomy for Virginia's postsecondary institutions (Gumpert & Pusser, 1999). While those provisions were not enacted by the legislature, they did set the stage for future institutional efforts to achieve greater autonomy (Leslie & Berdahl, 2006).

The economies of the state of Virginia and the United States improved significantly throughout the middle portion of the 1990s, yet the upturn did not result in

proportional increases in funding for Virginia's public postsecondary system. Nor did the uneven pattern of tuition increases negotiated with the Virginia legislature over that period restore combined revenues to prior levels. Breneman and Kneedler (2006) calculated that by 2002–2003 the combined revenue per student from Virginia appropriations and in-state tuition ranged from just under \$12,000 per student at Virginia Tech to just under \$15,000 at the U.Va. This compares to just over \$26,000 in combined per student state appropriations and tuition at UC Berkeley and just under \$27,000 at the University of Michigan (2006, p. 58, Table 5.1).

Just after the turn of the 21st century the Commonwealth again experienced an economic crisis, driven by a slowing economy and reluctance to raise taxes to support state institutions. In 2002, a Virginia legislature dominated by fiscal conservatives negotiated over social welfare and public functions with newly-elected Democratic governor Mark Warner. In that contest a number of state agencies were downsized or closed, services reduced, and state employees laid off. At the same time, the Commonwealth of Virginia was projecting postsecondary enrollment growth of some 60,000 students over the next decade. With the support of Governor Warner a statewide referendum was approved that generated nearly a billion dollars in funding for creating and renovating postsecondary classrooms, research laboratories and academic facilities throughout the Commonwealth (Blake, 2006).

Out of this welter of conflicting political currents, two strands of policy activity emerged. With a focus on issues of access, finance and economic development, the governor began working with the State Council of Higher Education for Virginia (SCHEV), college presidents, members of the legislature and national policy organizations to develop long-term plans for strengthening the state's postsecondary system (Blake, 2006; Couturier, 2006). The U.Va., William and Mary and Virginia Tech, began developing a plan to reshape their governance relationships with the state, placing particular emphasis on increasing institutional autonomy and garnering greater control over revenue streams and financial planning. Under their proposal, the three institutions would become "Commonwealth Chartered Institutions," with rights and responsibilities distinct from those governing the behavior of the other public colleges and universities in Virginia.

These two initiatives, set against the backdrop of rapid change in the higher education landscape across the nation, precipitated what would become nearly five years of negotiation between the state and institutional leaders over how best to redraw authority relations in order to increase institutional effectiveness and competitiveness.

The preliminary planning efforts of the trio of institutions became known as "the charter proposal." Initially, there were several factors that predicted success. In 1996, the University of Virginia had garnered legislative approval for deregulation of its academic medical center. Less than a decade later, the Darden School of Business at the University of Virginia received institutional and legislative approval for a restructuring designed to reduce its dependency on Virginia state funds in exchange for greater autonomy from the state and the university. Kirp (2003) noted that this was made possible in no small part by a legislative climate that favored entrepreneurial revenue generation by Virginia's state institutions. He cited a

Virginia Assembly document from 1996 that stated, "as higher education changes the way it conducts its business, the Commonwealth should consider changing its business relationship with higher education, [developing] a plan to grant selected institutions special independent status in state government [to free them from] stifling bureaucratic regulation" (Kirp, 2003, p. 134). In that spirit, as part of the original charter proposal, each of the three institutions sought to change its codified status from "state agency" to "political subdivision of the state," a status previously reserved for counties and towns (Buer et al., 2007).

In 2004 the charter proposal was introduced in the Virginia legislature as the Chartered Universities and Colleges Act of 2004 (Chartered Act). It proposed that the U.Va., William and Mary and Virginia Tech be granted greater autonomy over revenue generation and expenditures, and the status of political subdivisions in exchange for a reduction in future fiscal allocations from the state. The Chartered Act asserted the right of each of the institutions to control its own tuition. This was necessary because the question of who actually possesses tuition-setting authority in Virginia has long been contested. Buer, Byrnett and Cabaniss argued that,

While the Code of Virginia states that the governing boards for institutions of higher education have the authority to set their own tuition, the legislature and the governor retain the final authority over undergraduate, in-state tuition and fees and exercise such authority as necessary to keep it at manageable levels (2007, p. 3).

Similarly, Couturier noted, "Even though each public college's board of visitors technically has authority to set tuition, that authority has been overridden by legislators and governors alike in recent years" (2006, p. 2). Under the Chartered Act the institutions also sought legislative agreement that should state allocations continue to decline, the institutions would be empowered to increase tuition and increase the number of out-of-state students enrolled at significantly higher tuition rates (Couturier, 2006).

Contest and Resistance

For a variety of reasons, political opposition to the Chartered Act emerged early in the negotiations. The creation of distinctly different authority relations for three institutions from those that prevailed for the rest of Virginia's public institutions was a major legislative and institutional concern. Not only did that portion of the proposal seem inequitable to some legislators, but the remaining institutions felt it also fractured the political coalition of institutions that had traditionally negotiated with the General Assembly and the governor. Then Virginia Secretary of Education Belle Wheelan put it this way: "The reality is the Commonwealth probably needs them more than they need the Commonwealth. It will hurt if we lose some of their leverage" (Burdman, 2004, p. 16). Staff organizations expressed concerns that granting the three institutions greater autonomy might adversely affect the status of college and university staff as state employees, with implications for health care

and retirement benefits (Gibson & Andrews, 2004). The Faculty Senate of the University of Virginia raised concerns over whether University employees hired after restructuring would receive different compensation and benefits than those hired previously (U.Va. Faculty Senate, 2005).

Within the General Assembly the Chartered Act was not the highest priority of legislators. Rather, they were enmeshed in wider contests over taxation and funding for public works projects and transportation. Governor Mark Warner, a Democrat who had run as a supporter of public education, directed his political energies and capital into an effort to increase taxes to provide \$1.5 billion for K-12 education and nearly \$300 million for higher education.

In light of these factors, the Chartered Act deliberations were continued to the next legislative session and the General Assembly created a joint subcommittee to consider a wider range of options in consultation with Virginia's postsecondary council of presidents. The subcommittee played two essential roles: it produced a list of policy changes that would form the essence of the ultimate restructuring legislation and its deliberations demonstrated that to be successful the final legislation would need to cover all Virginia public postsecondary institutions (Blake, 2006; Buer et al., 2007). Governor Warner went on to pass his tax initiative and gained both greater fiscal support for higher education and a national reputation as a negotiator and coalition builder (Burdman, 2004; Couturier, 2006).

Early in the 2005 legislative session, companion bills HB 2866 and SB 1327 were introduced as the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Restructuring Act). The final bill amended 13 sections of the Code of Virginia and added 45 new sections (Blake, 2006). It enabled any public postsecondary institution in Virginia to apply for one of three levels of autonomy (Levels 1-3), based on financial resources and managerial capacity. Each of the proposed three levels of autonomy provided additional degrees of operational control to the institutions approved at that level. Level I autonomy was to be granted to all institutions that agreed to meet the state performance goals that were included in the legislative act. Level II autonomy offered greater control over human resources and other labor agreements. Level III autonomy—which required considerable financial resources (a Level III institution was required to have at least AA-bond rating or equivalent evidence of fiduciary strength)—offered the potential for considerably greater procedural autonomy in the areas of accounting, human resources, procurement and institutional financing agreements. However, achieving Level II autonomy would require the negotiation of a memorandum of understanding with appropriate state agencies and Level III autonomy would require the negotiation of a management agreement with the governor and appropriate state agencies (Blake, 2006).

However, unlike its predecessor, the Chartered Act, the Restructuring Act codified a new set of accountability requirements and performance measures including 12 specific performance goals that came to be known as "the state ask" (Couturier, 2006). Under the Restructuring Act the governing board of each of the state's public institutions was required to pass a resolution agreeing to meet the 12 mandated performance goals and was also required to prepare—in collaboration with the State Council of Higher Education for Virginia—a six-year strategic plan

outlining how the institution would meet performance goals for such issues as access for traditionally underserved populations, affordability, academic standards, retention and time to degree. The performance goals also covered institutional contributions to economic development, technology transfer and external research funding, support for K-12 student achievement and transition to postsecondary education and articulation with community colleges for student transfer to four-year institutions (Blake, 2006; SCHEV, 2005).

The Restructuring Act was passed by the Virginia legislature and signed into law by the governor in July of 2005. A number of observers have suggested that the conditions and performance requirements in the bill may have actually constrained institutional autonomy while at the same time the legislation increased the reporting requirements for the universities (Couturier, 2006). As one example, the management agreement and attachments submitted by the University of Virginia in November of 2005 as part of the University's application for Level III autonomy was over 200 pages long.

Perhaps most notably, despite the early efforts to become political subdivisions, under the Restructuring Act Virginia public postsecondary institutions remained state agencies, public institutions of the Commonwealth. Opinions vary somewhat on how much control over tuition-setting authority was gained by the colleges and universities. The Restructuring Act did reaffirm that control of tuition resided with the Boards of Visitors of the public colleges of the state. The Restructuring Act created subsection B of the Va. Code § 23-38.104, which states,

Subject to the express terms of the management agreement described in § 23-38.88, in managing its operations and finances, the Board of Visitors of a covered institution shall have sole authority to establish tuition, fee, room, board, and other charges consistent with sum sufficient appropriation authority for all nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization (Va. Code § 23-38.104; Couturier, 2006).

Breneman and Kneedler interpreted tuition authority under the Restructuring Act this way:

The Restructuring Act reiterates the prior authority of institutions to set their tuition charges and fees, and tuition charges and fees may be addressed in the management agreement. A management agreement, however, is not a true 'contract' enforceable in court; it is the implementing document for a legislatively authorized program. Because one legislature may not constitutionally bind future legislatures to continue a government program, the Restructuring Act does not provide either a long-term guarantee of complete tuition charge 'autonomy' or absolute protection against later tuition charge and fee caps or freezes. Only an amendment to the state constitution could do that (2006, p. 65).

Breneman and Kneedler concluded, "As a practical matter, therefore, when coupled with the statutorially reiterated authority of institutions to set their tuition charges and fees, the approach of the Restructuring Act provides institutions with much greater tuition charge authority and flexibility than they had previously" (2006, p. 65).

A similar, cautiously optimistic tone generally pervades assessments of the broader Restructuring Act. A number of observers see an effective, albeit protracted political contest that resulted in both additional autonomy and greater regu-

lation of Virginia's public postsecondary institutions. Leslie and Berdahl noted that, "Seeking more autonomy from the State, Virginia public universities found themselves achieving increased procedural autonomy on the condition of the state assertion of tighter substantive control," (2006, p. 24).

Although the initial charter proposal raised concerns over a potential "privatization" of the Virginia public colleges and universities the final legislation focused upon both greater institutional freedom and accountability (Burdman, 2004). At the same time, it recognized the public interest in Virginia's public institutions and the desire of those institutions to exercise more influence in meeting their public missions.

Conclusion: Authority Relations and the Virginia Restructuring Debate

Burton Clark's triangle of coordination has proven remarkably robust over nearly a quarter century. The influence of the State, market forces and the institutional estate remain key factors for evaluating authority relations in higher education. As such, they are also central to understanding the Virginia restructuring contest. At the same time, the contest over the Virginia Restructuring Act offers a useful window for revisiting Clark's triangle of coordination and for consideration of the role of the State, the market and the institutional estate in contemporary authority relations.

The Market in the Restructuring Contest

In the early stages of the restructuring contest the U.Va., William and Mary and Virginia Tech aligned themselves more closely with the market than the State. After years of declining direct support from the Commonwealth, Virginia institutions argued that in the absence of greater state financial support they should be relieved of some forms of state regulation and oversight in order to increase institutional competitiveness, efficiency and excellence. The discourse adopted by the institutions early in the effort to achieve greater autonomy pointed to an excess of state regulation and to the potential for greater institutional autonomy to generate more entrepreneurial behaviors. Alan Merten, president of George Mason University remarked, "We estimate that during a 12-month period we send 200 reports to somebody in Richmond" (Burdman, 2004, p. 9).

In a letter written by a university vice-president in support of the restructuring initiative, Virginia Tech President Charles Steger was quoted to this effect:

Universities operate in marketplaces like any other business or institution. The 21st-century marketplace is defined by responsiveness and flexibility. To compete and attract the brightest minds, colleges and universities need to foster entrepreneurial environments to create joint ventures, acquire goods and services, or build new laboratories. Our institutions need to be able to accomplish these key administrative tasks very quickly, just like

the most effective businesses. Chartered legislation would provide administrative and fiscal flexibility to state schools to compete in new business-like environments (Hincker, 2005).

A common early theme raised by the institutions was the need to ensure institutional control over the setting of tuition and fees. Tuition is a complex revenue source to conceptualize. It has been often invoked as a driver of market competition in higher education (Ehrenberg, 2000; Geiger, 2004; Winston, 1997). Paradoxically, control over tuition revenue in public universities has historically been a power delegated to such State institutions as legislatures and postsecondary coordinating councils. The effort by the Virginia institutions to gain control over tuition setting can be seen as further positioning the institutional estate closer to the market than to the State.

The Virginia institutions gained wide support in the legislature and from the Governor's Office for the argument that granting greater institutional autonomy would support economic development in the Commonwealth. The market was also invoked in discussions of the continuing importance of competition for entrepreneurial research, technology transfer and other "market-based" revenue sources (Warner, 2006).

However, despite the ascendancy of market-based rhetoric and calls for market-based policies in the broader political economy of higher education, arguments for greater market authority over college and university behaviors did not dominate in the case of Virginia restructuring.

The State in the Restructuring Contest

As the contest over restructuring evolved much of the discussion turned increasingly to linking the process of achieving greater autonomy to meeting specific State goals. Throughout the negotiations the institutions argued that additional institutional autonomy would facilitate meeting State postsecondary goals on a number of dimensions, including student access, retention and success, affordability and student diversity. Virginia's colleges and universities also argued that greater autonomy would enhance State efforts to develop human capital and distribute knowledge and training throughout the Commonwealth, particularly in traditionally under-served areas. University of Virginia President John Casteen put it this way:

I think it is important that this legislation ties our increased autonomy to the state's goals for higher education. This link brings responsibilities we all share. The goals include the University's commitment to access and affordability in higher education; a broad range of academic programs; high academic standards; uniform articulation agreements with community colleges; stimulation of economic development; increase in externally funded research; and partnerships with local K-12 schools in order to improve student achievement (Casteen, 2005, p. 2).

A State interest in the Restructuring Act was consistently promoted by Virginia's Governor Mark Warner. In a statement released to announce the governor's amendments to the legislation, the governor asserted the importance of continuing State

influence over Virginia higher education. Most of the governor's justifications for his support of the Restructuring Act stressed those elements of the bill that enhanced State goals and generated public goods, rather than market or institutional interests. He wrote,

This bill is the most sweeping change in our outstanding system of public higher education in decades. In the effort to provide colleges and universities with more predictability and flexibility, we have worked to ensure that Virginians see tangible benefits, like improved access, affordability and quality. And in return for additional autonomy from the state, the institutions must remain committed to enterprise-wide government reforms, especially helping the state leverage its purchasing power and manage information technology in the most cost-efficient way (Warner, 2005).

Throughout his amendments the governor stressed the importance of a variety of State goals and the continuing need for oversight of institutional efforts to meet those goals. He made specific mention of the continuing need for the institutions to contribute to the redress of inequality in the Commonwealth, to focus economic development efforts on "distressed areas" and to preserve the rights and options of institutional employees.

Another example of the State role in the restructuring contest emerged from the evolution of the coalition of colleges and universities seeking greater autonomy in this case. The initial effort of the three most prominent public universities in Virginia to negotiate directly with the legislature in order to become political subdivisions of the Commonwealth rather than state agencies was not successful. It was only after the three agreed to collaborate on a process of negotiated autonomy that incorporated all of the Commonwealth's public postsecondary institutions that agreement was reached. This suggests that despite the efforts of flagships to maximize their individual contributions to State goals, to maximize their individual excellence and rankings as they compete in prestige hierarchies, in the case of Virginia, all public institutions remain nested in a State postsecondary project that incorporates all of the Commonwealth's 39 public Institutions in collective action.

The Institutional Estate in the Restructuring Contest

Many aspects of the Restructuring Act, particularly in the arena of changes to procedure and policies, can be seen as meeting the goals of the institutional estate. Examples include those provisions enabling the institutions to capture the interest on tuition payments (a revenue stream that had previously gone to the Commonwealth), to garner greater authority over new employee compensation plans and to be exempted from a number of state regulations over technology planning.

The concept of increased autonomy leading to higher levels of institutional excellence was widely invoked during the contest, particularly in reference to research. This language from the six-year plan prepared by Virginia Tech under the

provisions of the Restructuring Act is representative of the discourse on institutional excellence:

To be successful in enhancing its state, national and international impact, the university will have a cluster of programs that are considered to be among the best in the world. Sustaining this level of excellence requires a high level of investment. Quality is as crucial as scale of activities. As such, one of Virginia Tech's goals is to be among the top research universities in the nation. These institutions possess a critical mass of resources and have research programs growing at an above average rate. Universities with large-scale research programs are able to quickly take advantage of emerging opportunities. They also have the ability to assume greater risk and achieve a greater potential for substantial return on investment (Virginia Tech, 2006, p. 1).

Nonetheless, at the heart of this contest there was a tension between greater authority for the institutional estate and State demands for oversight. While the three institutions that instigated the Restructuring Act are well positioned to garner Level III autonomy, it is clear that they did not gain the degrees of freedom from State control that they would have preferred. As William and Mary faculty member and higher education scholar David Leslie explained it, "What we didn't anticipate... was the rather hard bargain... that Governor Warner drove that said, 'Now wait a minute, you really are public institutions, and in order to get this kind of freedom, it's not just a matter of less money, it's a matter of, will you do what the state wants?'" (Couturier, 2006, p. 44).

The Singular Referent and Authority Relations

The analysis of the Virginia case also points to a complexity of interests that goes beyond the basic categories presented in Clark's triangle of coordination. Slaughter and Rhoades (2004) suggested that the metaphors used to describe higher education institutions generally conceptualize a single entity: "the referent, after all, is 'the' organization, with clearly defined boundaries. There is little, if any, consideration of subunits and groups within the organization, or of their multiple connections with various units and groups outside of the organization" (2004, pp. 8-9).

A fragmentation of the basic elements of Clark's triangle emerged early in the negotiations over Virginia restructuring. Within the postsecondary institutions there were divergent standpoints on the appropriate balance of oversight and autonomy. The U.Va. Faculty Senate sought assurances that the university would preserve its public purposes as it gained greater autonomy. By resisting elements of the original charter legislation, some members of the U.Va. staff were effective in helping to shape the conditions regulating staff benefits and retirement agreements under the Restructuring Act. Through arguing for long-term commitments to affordable tuition, students across the Commonwealth turned attention to the need to keep public institutions accessible to students with diverse levels of family income. In a similar manner, shifting alliances and coalitions within the Virginia

legislature shaped the negotiations and passage of the Restructuring Act. The lack of nuance within each single referent, State, market or institutional estate should guide future analyses of this case, as individual departments, research centers and professional schools within the institutional estate, political and interest group coalitions within the State and a variety of market competitors seek to shape the implementation of the Restructuring Act.

The Virginia case also points to the importance of the context in which the negotiations take place, as path dependence, discourse and context shape the terrain of contest. The efforts of the State in the Virginia case were conditioned and shaped by factors as unique as the complex history of inequality in the Commonwealth and the demands emanating from the newly emerging technology corridor of Northern Virginia.

Much of the literature emerging from this case has focused on whether the institutions "succeeded" or "failed" in their efforts to gain greater autonomy. That question will not be answered for some time, yet the codification of a dozen state performance requirements does raise the possibility of the Restructuring Act leading to greater State control over the institutional estate than existed prior to the negotiations. Schugurensky argues that the future holds less autonomy for public postsecondary institutions rather than more:

Thus I submit that a more comprehensive account of current changes in higher education can be found in the transition from an autonomous to a heteronomous university (Schugurensky, 1999). Etymologically, autonomy is the quality or state of being independent, free and self-directed, whereas heteronomy refers to subjection to external controls and impositions—that is, subordination to the law or domination of another. The heteronomous university results from a combination of two apparently contradictory dimensions: *laissez-faire* and interventionism. In the heteronomous model the university agenda is increasingly conditioned by market demands and state imperatives (2006, p. 306).

Revisiting the Triangle of Coordination

The case of Virginia restructuring calls for a more nuanced view of authority relations than is provided in the original triangle of coordination. Rather than thinking of the State and market on a continuum, as Clark conceptualized, the market and the institutional estate can more usefully be seen as nested within the State, neither controlled by nor fully controlling any other. It is essential, following Gramsci, to conceptualize the State, the market and the institutional estate in constant contest, in a hegemonic struggle without simple resolution. Consistent with models of contested State negotiations, in the Virginia restructuring contest the State was an actor as well as an instrument of contest. The State in this case acknowledged the legitimacy of institutional and market interests on many dimensions as it pursued its own goals. Figure 2 suggests the dynamic tension between the three forces, each entwined with the others in a fluid process of co-existence and negotiation.

Thea Skocpol argued some 20 years ago for "bringing the state back in" to the study of social change. The case of Virginia restructuring serves as a powerful

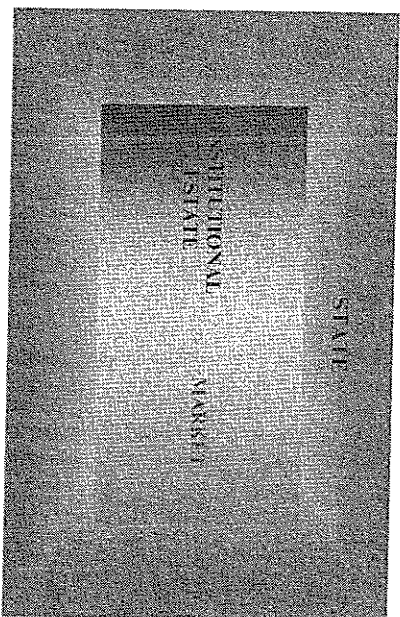


Fig. 2 Authority relations in the contested state

reminder that as we build on Clark's prevalent model of coordination in higher education we should be mindful to bring the State as both instrument and actor to the fore of new models of authority relations. In the case presented here the State, the market and the institutional estate are located together in an orbit of contest and negotiation. Yet contemporary postsecondary research and scholarship increasingly turn attention to the market and the role of elite institutions in order to understand the changing dynamics of higher education. Future researchers on postsecondary authority relations will benefit from Clark's foundational work and by moving beyond his conceptualization to incorporate the fluid dynamic of negotiations in the contemporary contested State.

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