

Towards a Genealogy of Academic Freedom in Canadian Universities

by

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Abstracting¹

In this dissertation, I take a genealogical approach (Foucault, 1977/1995, 1988-1990, 1971/1984a) to the study of the intellectually “free” subject through the analysis of selected academic freedom statement-events. Assuming academic freedom to be an institutionalized discourse-practice operating in the field of contemporary post-secondary education in Canada, I conduct a specific kind of cross-disciplinary, historico-theoretical research that pays particular attention to the productive nature and effects of power-knowledge. The intent is to disrupt academic freedom as commonsensical “good” and universal “right,” instead focussing on how it is that the academic subject emerges as free/unfree to think--and therefore free/unfree to be--through particular, effective, and effecting regimes of truth and strategies of objectification and subjectification. The study suggests how it is that academic freedom operates as a set of systemically agonistic practices and an autodestructive social programme (Foucault, 1977/1995; Gordon, 1980) that might only realize a different economy of discourse through the contingent nature of the very social power that produces it.

¹ I use gerunds in the headings throughout this document as a way of conspicuously acknowledging the operation of text linguistically as discourse and materially as discourse-practice (cf. Fairclough, 1992).

Prefacing

This dissertation is an original work by Kenneth Donald Gariepy. A version of the introductory chapter and the section of Chapter 2 entitled “The Limits of Traditional History and the Possibilities of Genealogy” have been published and are used here with the permission of Sense Publishers (Rotterdam). See K.D. Gariepy (2012) “Towards a Genealogy of Academic Freedom in Canadian Universities” in B.L. Spencer, K.D. Gariepy, K. Dehli, and J. Ryan (Eds.), *Canadian Education: Governing Practices & Producing Subjects*.

The one duty we owe to history is to rewrite it.

Oscar Wilde, *The Artist as Critic*

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Introducing²

That professors and students must have the freedom to pursue what interests them intellectually no matter the degree to which critics from in- or outside the academy might consider such enthusiasms to be esoteric, impractical, irrelevant, unprofitable, or controversial is arguably the dominant, commonsensical core of the discourse supporting institutionalized academic freedom in Canadian universities. Whether one adheres to (a) “old-fashioned” ideas about the purposes of higher education being to facilitate, through liberal arts programmes, broadly-based understandings about the natural and social worlds with the aim of producing graduates who are prepared to participate in society as well-rounded, socially responsible citizens, or (b) “new-fashioned” ideas about higher education’s duty to (re)produce, through professional, practice- and skills-based programmes, workers and consumers who are prepared to fully participate in a capitalistic, globalized, and highly competitive economy, intellectual freedom is the conceptual basis upon which participants of public higher education can justify their arguments about what it means to “educate,” to “get an education,” and to “be educated” in academically “free” institutions.

² A version of this chapter has been published and is used here with permission. See Gariepy, 2012. Towards a Genealogy of Academic Freedom in Canadian Universities. In B.L. Spencer, K.D. Gariepy, K. Dehli, and J. Ryan (Eds.), *Canadian Education: Governing Practices & Producing Subjects*. Rotterdam: Sense Publishers.

As an underlying, abstract principle and ideal, intellectual freedom is locally articulated in complex arrangements of multiple and inter-related institutional policy documents invoking academic freedom. These include mission and corporate values statements, academic calendars, academic integrity and intellectual honesty standards, statements of rights and responsibilities, speech, behaviour, and civility codes, collective agreements, conflict of interest and commitment policies, inclusion and diversity statements, course syllabi, interpretations of university governance legislation, discrimination and harassment policies, research ethics policies, discipline procedures, and library collection management policies. In relation to such technologies, individuals construct understandings about what academic freedom is, what is expected of them and others in relation to it as a concept and practice, and its interconnectedness to the myriad of activities that make up the complex social worlds of their institutions. These notions, like all elements of public higher education, are inherently *political*; thus, they are disputed and frequently in conflict. Consider, for example, that

Indigenous Peoples and other critics contest Western researchers' claims to the inalienable right to research and publish because these are the venues that have led to the systemic infringement of Indigenous Peoples' intellectual property rights. Unwarranted research encroachment into Indigenous Peoples' intellectual spaces is overtly predacious whether subsumed under the rubric of

scholarship or by any other title (Maddocks, 1992; Lewis & Bird Rose, 1985; Wax, 1991; Deloria, 1980). Indigenous Peoples, who have long been the “objects” of Western research, see the defense of concepts such as uncontested researching and publishing rights as a questionable policy used by Western academics because it positions them in power over marginal groups. (Indigenous Peoples’ Health Research Centre, 2004, pp. 25-26)

If one requires any more troubling or compelling evidence of the political relevance and urgency of academic freedom issues in the Canadian academy than this, s/he need only look to (in)famous cases such as Dr. Nancy Olivieri’s (see chap. 4) or reflect on the passions that emerge in professional, day-to-day conversations about problems such as censorship, plagiarism, and job security to appreciate how consequential, enduring, and material academic freedom matters are and that the freedom to think operates inseparably in relation to the institutional practice of academic freedom.

The purpose of this research, however, is not to speculate about why academic freedom is commonly understood as a necessary condition for intellectual freedom (or vice versa) or to present its history in Canada through a retelling of important stories and a causal analysis of events (cf. Horn, 1999) or through a quasi-psychologization of social actors (cf. Francis, 1986). Nor is it my intention to argue explicitly for or against academic freedom, as an educational policy construct, in relation to issues

deemed inseparable from it, such as tenure and promotion and university governance. It is not that such arguments and their methodological and epistemological assumptions are not valid or helpful; on the contrary, I would like to be clear that I do not dismiss the very modest body of formal research about academic freedom in Canada as in any way lacking except in relation to the possibilities of the rather radical approach to the formal study of the topic that I conduct here. In other words, I leave these other pursuits to scholars better qualified or motivated to address questions of what, why, and how while I explore different questions.

Rather than take the approach of extant Canadian research, which situates academic freedom chiefly as an object of historical inquiry, and resisting the temptation to take it up in the other usual ways (e.g., as a legal, labour, and administrative issue or as a purely philosophical matter), I fix my gaze upon the academic subject and its social construction. Specifically, I ask how it is that the subject is constituted as free/unfree to think, as an effect of both the objectifying and subjectifying political technologies of power at play in the discourse-practices of institutionalized “academic freedom” (cf. Foucault, 1977/1995) and in relation to ethical practices of the self (cf. Foucault, 1984/1986, 1984/1994). I try to suggest that new and alternative understandings about the following are all possible by interrogating them from within the “closed architecture” (Foucault, 1977/1995, p. 31) of the university using an archaeo-

genealogical approach:³

1. the ways in which the academic subject understands itself as free/unfree to think and therefore free/unfree to be;
2. the conditions of possibility for the practice of “free” thinking; and
3. the limits of intellectual “freedom.”

To these ends, the broad purpose of my work is not to simply elaborate relations of institutional domination nor to offer causal explanations about why academicians might struggle to think freely in their specific institutions; rather, following Veyne (1993), the purpose is to “make a diagnosis of present possibilities and to draw up a strategic map” of academic freedom “with the secret hope of influencing the choice of combats” (p. 6) within its discursive field. In other words, this study aims to alter the conditions of possibility in the field such that interstices might be identified where material social action might be possible. Examples of such action include alternative practices of intellectual freedom and the realization of a different institutional and personal ethics in relation to

³ Insofar as it employs Foucauldian methodologies as the basis for the analysis of sociological phenomena, the approach I take in this study can be considered one of strong holism. As such, I accept that it might be critiqued in terms of what analytical philosophers sometimes call the “irrecoverable skepticism” of ontologizing interpretation (Ginev, 2013). Nevertheless, I advance the utility of Foucault’s historical ontology as a way of problematizing social practices as always already dangerous. I welcome competing interpretations as complementary contributions to the scholarship of academic freedom and as practices of intellectual diversity.

academic freedom.

Proceeding with this specific objective, I am mindful that what is possible for me to do here, as is the case for all scholarship, is, to a great degree, reliant on the work of others (especially, in this dissertation, Foucault). By this admission, I hope that what follows, as a kind of radical constructionism, does more than merely give credit where credit is due: I hope that it is also not “falsely conscious of its own character” (Hammersley, 2007, p. 298). I mean this specifically in the sense that although I hope it contributes substantively to scholarly conversations about intellectual and academic freedom, I also heed Foucault (1980), who confesses

I am well aware that I have never written anything but fictions. I do not mean to say, however, that truth is therefore absent. It seems to me that the possibility exists for fiction to function in truth. One “fictions” history on the basis of a political reality that makes it true, one “fictions” a politics not yet in existence on the basis of a historical truth. (p. 193)

In my fictionings of truth and truthing of fictions, then, I concede the urgent need for scholarly humility. This is no more beautifully described than by Watson (2010), who writes

Humility has to do with knowing one’s place in relation to the larger world, having a sense of the common ground one shares with the

rest of humanity (another term, like humility, derived from the same Latin root, humus), and a reckoning of the ways in which one's own people and worldviews may have seized ground from others. If our common humanity is anywhere to be found, in other words, if it is possible to interpret across this abyss, it will be possible through an acknowledgement of the essential humility required for the task. (p. 4)

It is in this spirit that I have tried to work.

Purposing

The broadest aim of this research study is to completely re-think the present practice of free thinking in the Canadian academy. To wit, in relation to the three domains of genealogy (Foucault, 1984b), my purposes are threefold. I have aimed to understand (a) how it is that academic freedom exists and operates as a regime of truth and power-knowledge; (b) how it is that the subject emerges in relation to, and as an effect of, discourse-practices of institutionalized academic freedom; and (c) how it is that the subject emerges as a moral agent in relation to, and as an effect of, discourse-practices of academic freedom. With these purposes, the potential effects of my work are new understandings about (a) the discursive practices through which the subject is complicit in the limits and limiting of the freedom to think; (b) the interstices where subjects might resist that which has the effect of limiting the freedom to think and, therefore, the freedom to be; and (c) the possibilities for broader

social-material action, such as different institutional practices of academic freedom and alternative ethical practices of intellectual freedom.

Proceeding

In the first part of this study, I begin by surveying and detailing formal research about academic freedom. Next, I introduce the theoretical concepts that I employ in my critique of this work, which has three purposes: (a) to point out some of the ways in which it constructs particular truths about itself, (b) to situate my research questions about the academic subject and power methodologically in relation to existing scholarship and Foucault's (1990) idea of a *history of the present*, and (c) to suggest ways in which a genealogical approach to the study of academic freedom in Canadian universities addresses the research questions by interrogating particular technologies and practices of academic freedom and their effects. In the second part, which consists of four chapters, I undertake an analysis of three discursive events of recent Canadian academic freedom history that employs the Foucauldian (1969/1972b) concepts of rarity, exteriority, and accumulation. The events are (a) the Olivieri affair, (b) the controversy over a York University conference called *Israel Palestine: Mapping Models of Statehood and Paths to Peace*, and (c) the case of Professor George Nader of Trent University. Here, I examine various textual documents related to the events in order to articulate some of the ways in which academic freedom operates as an agonistic system of practices and knowledges that effects

the freedom to think through the simultaneous production of the position of unfreedom. In the final chapter, drawing on an essay by Gordon (1980) and Foucault's (1977/1995) *Discipline and Punish*, I explain how the problematic effects of the practice of academic freedom can be used to describe it as an unsuccessful social *programme* that perpetuates itself through a failed "genius" and particular effects of power-knowledge. Mindful of the ultimately hopeful purposes of critical scholarship, I close with some thoughts about the possibilities for social action within the programme, as a matter of understanding the contingent and unstable nature of relations of power-knowledge (Hofmeyr, 2006).

Chapter 1 -- Reviewing and Critiquing

As Cameron (1996) observes, the academic freedom literature is an “enormous repository of evidence and opinion” (p. 1). For example, the two selective bibliographies that deeply inform this review, Horn’s (2002) *Academic Freedom, Academic Tenure, University Autonomy, and University Governance in Canada: a Bibliography*, and Aby and Kuhn’s (2000) *Academic Freedom: a Guide to the Literature* contain approximately 565 and 500 citations respectively. Despite their breadth, however, even these extensive resources exclude dissertations and theses, and, by virtue of their age, also omit recently published electronic materials to be found in journal and case law databases, newspaper, newsletter and magazine indexes, blogs, discussion boards, listservs, etc. University documents, public and private archives, and grey literature⁴ are additional examples of exclusions.

The vastness of the literature is deepened yet by its multi-disciplinarity, which, as Aby & Kuhn (2000) point out, is a result of the diversity of current academic freedom-related issues. Writings extend well beyond the bounds of higher education policy studies into areas such as

⁴ Reitz (2010) defines grey literature as

documentary material in print and electronic formats, such as reports, preprints, internal documents (memoranda, newsletters, market surveys, etc.), theses and dissertations, conference proceedings, technical specifications and standards, trade literature, etc., not readily available through regular market channels because it was never commercially published/listed or was not widely distributed.

history, sociology, philosophy, ethics, theology, and religious studies as well as into employment, labour, and civil law, labour and management studies, Canadian studies, and library and information studies. Naturally, both the size of the literature and the variety of its forms multiply the number of possible search tools and the number of potentially useful works that could be included in a comprehensive review. For these reasons and others described below, I established specific parameters to help ensure the review's utility as a context for the research.

Purpose and Form of the Review

Complicating concerns and considerations about the size, scope, and multi-disciplinarity of the literature is the need to take sides in what Maxwell (2006) calls the

division within the educational research community as a whole over the proper form and goal of literature reviews that are part of dissertations and dissertation proposals (Krathwohl & Smith, 2005, pp. 197-198). This division is between faculty who expect a thorough review of the research literature in the area of the dissertation (the traditional view), and those who want a selective review of the literature that relates directly to what the student plans to do, showing these works' implications for the proposed study. (p. 29)

Following Krathwohl and Smith (2005), Locke, Spirduso, and Silverman

(1999) and others, and in opposition to traditionalists, specifically Boote and Beile (2005, 2006), Maxwell argues that literature reviews for dissertations, being part of specific research projects, ought to concentrate on the literature that is most relevant to a student's work. He describes relevant works as "those that have important implications for the design, conduct, or interpretation of the study, not simply those that deal with the topic, or in the defined field or substantive area, of the research" (p. 28). With its emphasis on reviewing research related to method, methodology, and analysis in addition to topic, Maxwell's approach is wide-ranging and multi-disciplinary, making it a suitable basis for me to have proceeded with and structured this review. Moreover, relevance thus conceived provides a sensible solution, supported by education scholarship, to the practical problem of reviewing a massive literature that ranges from the "deeply philosophical" to the "polemical" (Cameron, 1996, p. 1).

Selection and Organization of Research

Understanding the multi-disciplinary nature of the literature and mindful of Maxwell's (2006) conception of relevance from the outset, I searched the best reference sources (e.g., subject bibliographies, library catalogues, and electronic journal indexes) in all the disciplines noted above, paying particular attention to those in higher education, educational policy studies, history, political science, and sociology to find potentially suitable works for review. To store, organize, and manipulate the tremendous volume of citations and other material I gathered, I

constructed a database using the RefWorks bibliographic management website. Next, I organized the references into specific categories using the Library of Congress Subject Headings (e.g., Academic freedom -- Canada -- History -- 20th century -- Research, Academic freedom -- Moral and ethical aspects, and Academic freedom -- United States -- 19th century -- Case studies).

Heeding Boote and Beile's (2005) advice, which draws on Cooper's (1985) work, that a literature review conducted before a research project ought to be evaluated in terms of "how well the author ... justified criteria for inclusion and exclusion from review" (p. 7), I developed the following in order to make decisions about the potential relevance of specific works.

Formal research criterion. To have been considered relevant, works selected for review must fall generally within Leedy and Ormrod's (2005) eight-part definition of formal research (p. 2). In particular, I paid attention to their assertion that formal research "requires the collection and interpretation of data in an attempt to resolve the problem that initiated the research" (p. 3), with one exception: historical research is particularly relevant to this study, and I have therefore included it in the review, even though traditional historians almost never situate the object (i.e., academic freedom) as a problem of history itself. In addition to histories, examples of acceptable forms of research included case studies, surveys, statistical analyses, and philosophical and theological work. Unacceptable works include

- moralism, aptly and searingly described by Scott (1995) as “analysis that has lost its bearings ... [that] individualizes social problems, blaming those who would point them out for having caused them in the first place” (p. 47);
- polemics (e.g., Anderson, 1992; Kimball, 1998; Kors & Silvergate, 1998; Roche, 1994);
- personal reflections, opinions, observations, and anecdota (e.g., Ayers, 2010; Boyko, 2004; Emberley, 1996);
- essays, lectures, speeches, and addresses, unless they present formal research findings (e.g., Giroux, 2010);
- guidelines and recommendations for practice (e.g., Chait & Ford, 1982; Westhues, 1998), unless they are borne of formal research;
- advocacy; and
- popular press publications (e.g., newspaper, newsletter, and magazine articles, editorials, and blog posts).

Topical relevance criterion. To have been considered topically relevant, works selected for review must be relevant to my research questions. Such works include those about

- the history of academic and intellectual freedom in Canada and socio-politically similar jurisdictions;
- the conceptualization of academic and intellectual freedom among groups of social actors in higher education occupying

specific subject positions (e.g., professors, students, administrators, and librarians);

- the philosophy, theory, and ethics of academic and intellectual freedom in higher education; and
- the practice of the freedoms of speech, expression, and reading within higher education.

Methodological Relevance Criterion. To have been considered relevant, works selected for review that did not meet the criteria for formal research and/or topicality must be relevant to the “design, conduct, or interpretation of [a] study” (Maxwell, 2006, p. 28) of academic freedom that employs the use of documents (i.e., relevant method) and/or Foucauldian analysis (i.e., relevant methodology). Regarding methodology, relevant works included those considering institutional discourses, practices, and other phenomena, especially in relation to key Foucauldian concepts such as power-knowledge, discipline, governmentality, and subjectivity within higher education.

Acquisition of Research

After organizing the references into what amounted to a respectably-sized body of relevant work, I began the process of gathering the research itself. Most is available through the University of Alberta Libraries system, so it was necessary to acquire only a few items through the interlibrary loan service; however, I also collected abstracts of

unpublished dissertations and scholarly reviews of research published monographically, which I employed in several instances, especially where the research itself is not readily available or is available only at a cost.

Categorization of Research and Determination of Quality

Next, I divided the research, now organized by subject headings, into broad sub-categories based on method(s). This sub-arrangement seemed more appropriate to the writing of a review that would urge a place and space for genealogical research than an arrangement by topics and sub-topics, which would scatter research methods throughout the text of the review, argumentatively and organizationally weakening it. Then, I assessed the size of each category. What emerged is that the bulk of formal research about academic freedom is traditional history and that there is little work explicitly employing survey, statistical, and interview methods let alone philosophical, theological, and other theoretical methods of inquiry. For research in some of these small categories, I decided not to apply a further filter based on quality for the simple reason that exclusions could give a false impression. For example, I might have found Harris's (1978) literature review about perceptions of academic freedom to be lacking in quality in some ways, but, being the only work in the category of literature review research, omitting it could suggest to general readers that such research does not exist, or to savvy readers that I am not aware of it. Conversely, the volume of historical and case study research did justify decisions about quality; therefore, I used Jordanova's

(2006) work as a three-part guideline for *reliability*.

Evaluating sources. First, Jordanova suggests that the sources used to produce historiographical work ought to be evaluated in terms of criteria such as the procedures used to select them, the degree to which authors consider, employ, and credit the work of others, and whether the final product is original or derivative (pp. 95-96).

Evaluating conceptual frameworks. Second, Jordanova argues that the conceptual frameworks used to produce historiographical research should be evaluated in terms of questions such as the degree to which they are congruous with the sources selected, and whether the explanations and justifications used to support them are sufficient (p. 97).

Evaluating writing. Third, Jordanova maintains that historiography ought to be evaluated in terms of the quality of its writing. Some guidelines for such judgements include the extent to which a given piece successfully employs rhetorical and non-rhetorical devices (e.g., large-scale narration and re-enactment), the degree of liveliness, the ability to “evoke vivid images in readers’ minds, which is usually achieved through a combination of description and anecdote” (p. 98), and the capacity to persuade.

Tasks of the Research Review

As a final preface to the review itself, I would like to say that for reasons I hope are now clear, I situate this effort as a *research review*

rather than a *literature review*. Also, I would like to point out that in addition to agreeing in principle with Maxwell's (2006) definition of relevant works, I have proceeded by adopting Krathwohl and Smith's (2005) approach to the tasks of reviews, which Maxwell paraphrases as (a) "survey a select group of studies that provide a foundation for the proposed project," (b) "discuss these studies in detail sufficient to provide an understanding of their relevance," (c) "describe how they contribute to the study," and (d) "indicate how the study moves beyond them" (p. 29). What follows, then, is a two-part essay based on these four tasks. In the first part, I survey and detail the relevant research; in the second part, I critique and "move beyond" existing Canadian research by discussing the limits of traditional history and the possibilities of Nietzschean-Foucauldian genealogy (see also Gariepy, 2012).

Surveying and Detailing the Research

Historical Research about Academic Freedom

Without question, most formal research about academic freedom uses documents as data and most of it is conducted using some type of historical method. For this reason and because it provides readers with a broad background in the history of the topic in different jurisdictions, I open the review with research employing the methods of traditional historiography.

Canada. Its ubiquity in institutional policy notwithstanding,

academic freedom in Canadian public higher education is rarely taken up by scholars as an object of inquiry in any discipline, let alone higher education policy studies. Existing formal research is, again, chiefly historiographical, but even it, as Gavreau (2000) observes, is rare:

Apart from some occasional specialized interest from historians of higher education or from those exploring the difficulties faced by radicals and socialists in universities prior to World War II, academic freedom has elicited only cursory attention from the Canadian historical community. (p. 1724)

More precisely, it is only since the late 1970s, possibly in response to Harris's (1976) ambitious *History of Higher Education in Canada, 1663-1960*, which not only omits matters of academic freedom but also those of tenure and university governance (p. xvi), that the history of academic freedom has garnered even a modicum of sustained, scholarly attention.

I begin with the only broad historical survey of the topic: Horn's (1999) canonical *Academic Freedom in Canada: a History*. Using documents from archives in non-religious universities in English-speaking Canada and of the Canadian Association of University Teachers (CAUT), Horn relates the "convoluted history" (p. 350) of academic freedom from the late 19th century to the mid-1960s. He defines the focus of his research as "the freedom of teachers and researchers to do their work" (p. 4), with tenure as a necessary condition, but contrasts it to a definition that

would consider questions of university autonomy and governance.

Chronologically recounting significant events and cases, including those of historians Frank Underhill of the University of Toronto and Harry Crowe of United College, Horn makes at least two major historical claims.

The first is that academic freedom in Canada developed from three influences: (a) the Humboldtian notion of *Lehrfreiheit*, adopted by American research universities in the late 19th century but tempered by the expectation that professors “assume a neutral position with respect to the subjects they taught” (p. 7) and complicated by the codification of free speech in the U.S. Constitution (cf. Hofstadter & Metzger, 1955); (b) the model of self-government practiced in British universities such as Oxford and Cambridge, where professors “claimed a wide measure of freedom of expression” (p. 9); and (c) the need to establish formal organizations representing the interests of professors working for “boards of trustees made up primarily of businessmen, professionals, and their appointed presidents” (p. 10). Second, Horn claims that academic freedom in Canada was not a significant issue for professors, administrators or the CAUT until the Crowe affair of 1958, after which an improvement in the employment circumstances of professors, resulting from a labour shortage, caused the “scope of academic freedom and academic free speech [to expand] significantly ... to include even criticism of the university and the way it was governed” (p. 350).

Horn (2000) makes the further claim in later research, again using

archival documents (e.g., correspondence) and secondary literature, that Leftists and other “radicals” have never been welcomed as teachers by public universities in Canada, which have instead been both concerned with (re)producing a middle class of professionals and governed by economically and socially élite and conservative, male-dominated boards of trustees. At the same time, he detects that professors holding right-wing attitudes have largely escaped controversy (p. 443). The result has been an acquiescent professoriate and institutions that have only “come gradually to tolerate” (p. 440) teachers who might exercise their academic freedom by questioning the sociopolitical status quo.

Batchelor (1998) also provides a survey of academic freedom in Canada, in this case through a traditional legal-historical approach that considers court cases between 1861 and 1996 in which faculty members were denied tenure at Canadian universities. His findings indicate that Canadian courts have generally supported the decisions of university committees denying tenure, and that faculty members are increasingly mobilizing themselves into labour unions that codify tenure and academic freedom in collective agreements. He adds that because “collective agreements have the force of law and may not be unilaterally changed by either the faculty or administration” (p. 79), professors who are denied tenure are probably better off arguing their cases in labour arbitration rather than in the heretofore unfavourably disposed courts.

In addition to Batchelor’s and Horn’s (1999) surveys, there is a

small body of research examining shorter, more specific periods in the history of academic freedom in Canada. Written in the 1980s, it begins with another contribution by Horn (1980): his consideration of the League for Social Reconstruction (LSR), wherein he makes the general claim that academic freedom in the early 20th century

was subject to significant, if unwritten limitations. These were imposed by university authorities, as well as by professors themselves. As a consequence, the great majority of academics did not seek to make any kind of contribution to political life, a situation which persisted until well after World War II. Nevertheless, a certain broadening of the limits of freedom did take place in the inter-war years. (pp. 425-426)

Abbott (1984), also writing about the LSR, academic freedom, and social criticism in the 1930s, draws a different conclusion, maintaining that the protection of professors' freedom of speech owes more to the efforts of defenders of civil liberty than it does to academic freedom advocates. In subsequent work, Abbott (1985) focusses on the history and policies of the CAUT, finding that the Association's founding in 1951 was professors' collective response to their dwindling socio-economic status.

Taking a completely different approach to a specific period, Savage (1990) historicizes public policy that was in effect between the end of World War II and the late 1980s and related to the immigration, visitation,

and deportation of professors. Using CAUT documents as well as those of the federal government and parliament, interviews, and secondary sources of the press, Savage recounts specific cases, placing particular emphasis on those spurred by anti-Communism and arguing that the movement “became a way of excluding radicals, socialists and other critics, however democratic their views and however far they were removed from the Communist Party” (p. 502). He finds that the practice of anti-Communism was inconsistent, however, operating as it did within an atmosphere of “ambiguity and division” (p. 503) regarding McCarthyism and the Cold War, which was “married to a generally decentralized system where Ottawa was reluctant to override the decisions of its field officers” (p. 503).

Like the history of academic freedom in Canada generally, its history in specific provinces has also received little interest from researchers. The only readily identifiable and obtainable example is Winchester’s (1984) analysis of the Alberta Conservative Government’s proposed centralization of postsecondary education legislation through the *Adult Education Act*. Specifically at issue in this research is the question of whether increased provincial government involvement in higher education institutions’ affairs, for the purpose of making them more efficient and accountable to the “public interest,” constitutes a reduction in institutional autonomy and whether this in turn threatens academic freedom. Recounting and reflecting on events in the mid-1970s that led to the

defeat of the proposed *Act*, which was largely due to the cogent counter-arguments put forward by the universities of Alberta and Calgary, and analyzing the assumptions on either side of the contest, Winchester concludes that although the *Act* potentially threatened universities' autonomy, institutions in Alberta and the other provinces continue to be independent as a result of accountability measures.

Besides historical surveys and histories of specific periods and a province, there is a handful of formal historical research studies that focus on academic freedom in specific Canadian universities. First, using documents from the University of Toronto Archives and interviews, Kuhlberg (2002) constructs a history of academic freedom during the 1920s and 1930s in the Forestry Faculty that is centrally concerned with the case of Professor Willis N. Millar, who was fired by President Sir Robert Falconer at the urging of Dean Clifton D. Howe. As Kuhlberg explains, in a letter to Falconer,

Howe stated that the nub of the problem was the fact that "Professor Millar discusses the policy of the School in a super-critical manner before his classes, and in like manner the policies of the Province and the Dominion." Howe also contended that Millar's "lack of tact and violence of his criticism antagonizes his employers and others." Finally, the dean alleged that Millar's public discussion of policies contained so many falsities "as to disclose a type of mind unfitted to carry on the work of a professorship in a university." (p.

367)

Second, investigating an historical policy sphere that is similar to the one in Alberta that Winchester (1984) writes about, Lexier (2002) examines academic freedom at the Regina campus of the University of Saskatchewan during the late 1960s, when changes to the *University Act* designed to give the Provincial Government more control over the University's budget were perceived by faculty members to be a threat to academic freedom. Using primary sources of the Government and Legislative Assembly as well as secondary sources such as newspaper articles, Lexier explains how tensions were ultimately reduced even though the number of government representatives on the board of governors increased: in the end, the degree of proposed direct government control over the University's budget was reduced.

Third, focussing specifically on a university library and understanding the censorship of library collections to be an issue of academic freedom,⁵ Gleberzon (1984) explains the events and arguments surrounding a group of University of Toronto students' demand that Holocaust denial literature in the University Library be reclassified from non-fiction to fiction. Ultimately invoking both the relationship between

⁵ This conceptualization contrasts with the Canadian Library Association's (2010) assertion that "the fundamental right ... to have access to all expressions of knowledge, creativity and intellectual activity" is essential to the matter of *intellectual freedom*" (emphasis added).

academic freedom and ethics and taking the side of the students, Gleberzon asks questions about the relationships between academic freedom and personal and social responsibility, arguing that “academic freedom must be firmly affixed to the principles of truth and justice, or else it is doctrine hollow at the core” (p. 68).

United States. Given Horn’s (1999) claim, above, that academic freedom in Canada developed, at least in part, as a result of its practice in the United States, it is important to review relevant American research. By way of introduction to this work, Sutton (1950) laments, “Although the literature treating the topic of academic freedom is profuse, very little of it is intended to be historical, for most is either expository or hortatory in nature” (p. 18). The mid-century corpus Sutton refers to has certainly grown, but the general indifference with which historians continue to view the subject would undoubtedly disappoint him. Nevertheless, despite its scarcity, the research produced after 1950 is of sufficient quantity to necessitate sub-division into the categories used in the previous section: general historical surveys (i.e., research covering several decades or centuries), histories of short, specific periods, and histories of specific sub-regions.⁶

Historical surveys. Although Ludlum (1950) wrote a short historical

⁶ For a review of research about the history of academic freedom in the United States produced before 1950, see Sutton (1950), pp. 18-22.

survey of academic freedom and tenure in the United States, it is Hofstadter and Metzger's (1955) work that is the best known and the most widely cited. Drawing mainly on institutional, regional, and other histories, biographical sources, and the periodical literature, they make the following major historical claims.

- In the period before the Civil War, the foundation for the development of academic freedom was laid in religious liberty that was evident in and before the Enlightenment and civil liberty that was borne of England. "In fact," the authors argue, "academic freedom first appeared in the guise of religious liberty for professors" (p. 263).
- The doctrinal moralism and clerical authority dominating the college system were challenged in the Darwinian era by a reforming "coalition" of science and education that also resulted in the "hastening of academic freedom" (p. 346).
- After 1850, through a "three-fold process of dependence, selection, and modification" (p. 369), higher education in the United States took on the secularized German university's inter-related conceptions of research and academic freedom, the latter characterized by *Lehrfreiheit* and *Lernfreiheit*.
- By 1915, as evidenced in the AAUP's Report of the Committee on Academic Freedom and Tenure, academic freedom in the

United States was understood as a necessary condition for the existence of the university and was “tied ... to three requirements--the needs for academic research, adequate instruction, and the development of experts for public service” (p. 408).

Although a “classic” of the historical literature, Hofstadter and Metzger’s treatise has been criticized (along with the rest of the general literature) by Lucas (1967) for its bias, which he attributes to its emphasis on the re-telling of specific incidents and cases. Avoiding case-related documents, Lucas sets out to more objectively and dispassionately survey the ways in which academic freedom is conceived of in the 20th century. He selects mainly journal articles about academic freedom as data, stipulating that to be eligible for analysis, they must thoroughly articulate a specific position that is reflective of a “larger pattern of thought” (p. 18) on the topic. He supplements these with what he calls “quoted materials” (p. 18); that is, articles from popular magazines (e.g., *Newsweek* and *Atlantic Monthly*), maintaining that they are an excellent source regarding opposition to academic freedom. As such, Lucas’s major historical findings condense important issues and debates arising in the literature and the popular press after the establishment of the AAUP in 1915. He makes the following claims.

- Between the end of World War I and the Depression, two arguments concerning the status of professors appear. One

situates them in a legal context, as employees; the other situates them in a moral context, as agents with a unique moral freedom that differentiates them from other employees.

- Between the New Deal and the beginning of the McCarthy era, a literature [grows] up reflecting concern for the role of disinterested institutions of higher learning and their place in a society seeking a new equilibrium. First, the problem [is] to safeguard the universities from the fate that had befallen their European counterparts. This, in turn, [leads] to searching analysis on how far such institutions ought to be dis-involved from any partisanship whatsoever. ... Within educational institutions as well, it [is] noted, there [are] stubborn if subtle forces inimical to free thought, free teaching, and untrammelled learning. Within this situation, advocates of full academic freedom ... wrestle with the perennially perplexing problem of scholarly loyalties. ... A correlative, almost parallel, concern [is] how the professor ought to behave in the classroom. (p. 234-235)
- Between 1950 and the mid-1960s, discussions concern the tension between academic freedom and the degree to which political dissenters ought to receive social protection as well as the question of the relationship between academic freedom and the freedom to learn, as it is raised by student activism.

If Lucas takes a strictly traditional, historical survey approach to investigate the ways in which academic freedom has been talked about, then Sutton (1950) uses the same approach to investigate how academic freedom has been thought about in the United States. His comprehensive work in the history of ideas, as I have already mentioned, is an attempt to identify the Western European and American antecedents of the concept of academic freedom that stretch over the 400-year period between 1500 and 1914. His findings provide a broad historical overview divided into the following five phases.

1. **The defence of heresy.** In the first phase, an heretical position was not generally considered to be harmful (p. 296).
2. **The duality of truth.** In the second phase, the response to 17th century science was the bifurcation of truth into those of the spiritual realm and those of the earthly realm. Here, it was maintained that “it is not only safe to allow scientists to pursue new facts, but even wise to do so, for they will but discover new meanings in the old truths of religion” (p. 297).
3. **The naturalness of rights and law.** In the third phase, as argued by Milton, Locke, and others since, a justification for inquiry emerged predicated on the idea that humans have a natural, God-given right to think freely and that they are not accountable to other humans for practicing it.

4. **The eternal quest for truth.** In the fourth phase, by the 18th century, scholars such as Gundling of Halle “proclaim truth as something ever to be sought and, by implication, not now known to any degree of completeness” (pp. 298-299).
5. **The utility of examining truth.** In the last phase, Jefferson and Cooper’s ideas foreshadow Mill’s “classic formulation” (p. 299) of intellectual freedom, which emphasizes the usefulness of errors in confirming present truths and the possibility that new opposing ideas may be partly true (p. 299). “How else then will truth be ensued than through the free collision of such ideas?” (p. 299), it was argued.

Last in the category of general histories are two historical surveys touching on academic freedom as a communal matter. First, paying close attention to the “classic doctrine” (Siegel, 2010, p. 1095) of academic freedom’s historical development in the United States, including the AAUP’s *Declaration of Principles on Academic Freedom and Tenure* of 1915 as well as cases heard by the Association’s Committee A, Finkin and Post (2009) take a legal-historical approach to argue against a defense of academic freedom as an individual right and in favour of the view that it is a collective right of the profession. Specifically, the authors postulate that by adhering to the former, the professoriate “would undermine public support and destroy the socially constructed and legally enforced conditions necessary to produce knowledge” (Tanenhaus, 2010, p. 478) in

the academy. By contrast, in the second study, Schrecker (2010) is “more skeptical regarding the potential for [collective] faculty activism to solve issues” (Di Leo, 2010, p. 286) currently threatening academic freedom. Her work begins with a survey of academic freedom since the 19th century to set up a discussion of the problems that result from the heavy influence on publicly and privately funded colleges and universities of both business-style management practices and the post-9/11 political and economic situation. For example, she argues that, being preoccupied with the effects of retrenchment on their employment opportunities and job security, professors are generally unconcerned about academic freedom right now.

Histories of short, specific periods. Assuming a chronological approach, research about shorter, specific periods in American history begins with Anderson’s (1980) study of the development of the meaning of academic freedom between 1860 and 1920, in which he concludes that “professors should be permitted to teach, conduct research and publish the results of that research without interference from university administrators and trustees, or from political, economic and ecclesiastical authorities” (Abstract). Following is Nelson’s (1984) investigation of the connection between academic freedom and tenure, where she situates the lack of historical evidence in the extant literature explaining why academic tenure is widely understood to be a necessary condition for academic freedom as her research problem. Concentrating on the period

between 1914 and 1918, when the AAUP was established and produced the *Declaration of Principles of Academic Freedom* and three related reports, she concludes that

the academic freedom documents which codified judicialized tenure were not concerned with the defense of academic freedom in toto. Nor was an argument established that permanent tenure constituted an adequate or sufficient defense of academic freedom. Therefore objections can be raised to an appeal to the historic argument for the inviolable linkage of academic freedom and tenure. (p. 158)

By contrast, Nicholas's (1970) study of dissenting college and university teachers takes a completely different historic look at academic freedom during the period of World War I and in the process draws attention to the history of the AAUP for different reasons than Nelson's research. Studying war dissenters specifically and asserting that in terms of method, "collections of personal papers, scrapbooks, files on faculty members and official university papers record the loyalty controversies most authoritatively" (pp. iv-v), Nicholas first situates postsecondary schools, like churches and newspapers, as important instruments in the control of wartime public opinion. Regarding the AAUP, he charges that it "simply allowed its pronouncements on academic freedom to fall by the wayside" (p. 238) when a special committee's revisions to the 1915 *Principles* established criteria for the legitimate dismissal of professors. He

goes on to say that the Association acted so even as “non-conformist college teachers ... found themselves without teaching posts or the training for another livelihood” (p. 239).

McCarthyism. According to Fisher (1986), “one of the most significant periods in American higher education as it related to academic freedom was the era of McCarthyism” (Abstract). It is perhaps not surprising, then, that most historical research focuses on the years between the late 1940s and the mid-1950s, which popularly bear the name of the infamous Senator Joseph McCarthy. However, given that efforts to squelch Communism in the United States were underway for several years before and after McCarthy’s rise and fall (Schrecker, 2003) and that not everyone associated with the regime was a McCarthyite (Diamond, 1992), I agree with suggestions that the period might be more appropriately understood as the *anti-Communist movement*. Nevertheless, because the terms *McCarthyism* and *McCarthy era* are employed by researchers, I use them here.

Holmes (1990) summarizes the literature of this period, describing it in terms of three phases:

The first generation of historical scholarship, spanning the 1950s, drew mainly on public documents and included works by Lawrence Chamberlain, Vern Countryman, and Robert Iversen [1, 2, 5]. These studies still provide useful insight into the anti-Communist

campaigns in New York State and in the State of Washington. The second generation of literature included a study of the loyalty oath controversy in California by David Gardner, a study of the dilemmas faced by intellectuals during the McCarthy era by Mary Sperling McAuliffe, and a reexamination of events at the University of Washington by Jane Sanders [3, 7, 8]. These works drew on public sources, the archives of educational institutions and the American Civil Liberties Union, and on selected interviews. The newest generation of research includes Ellen Schrecker's comprehensive history of events across the country, *No Ivory Tower*, Lewis's study, and my study of the thirty-five-year confrontation between a single faculty member, Alex Novikoff, and America's anti-Communists. (p. 226)

Regarding the "newest generation of research," i.e., the third phase, Schrecker's (1986) work remains the most widely known and cited. She uses primary textual sources (e.g., transcripts of hearings and manuscript collections), approximately 140 interviews and oral histories of survivors and witnesses as well as secondary sources to support her position that the academy was both complicit in, and to blame for, the identification, accusation, and punishment of "Red" professors. Specifically, she aims to "confront us with the possibility that had academics [especially the AAUP] defended their turf the brunt of McCarthyism on the campuses might have been avoided" (Murphy, 1987, p. 518). She accomplishes this by

organizing her quasi-legal yet highly personalized study about “naming names” as a comparative piece, situating various cases in relation to the infamous one at the University of Washington where three professors were dismissed.

Holmes (1990) does not distinguish among the methods employed in the latest research, so, for the purposes of this review, I consider the other works he mentions to be sociological and case study research respectively and I describe them in the corresponding sections below. However, I would like to draw attention to three more general historiographical works that are missing from his list. First, there is Robinson’s (1974) account of the influence of McCarthyism through the Amercanization of universities in occupied Germany and Japan, which focusses on specific anti-Communist faculty (including Sidney Hook and Arthur Schlesinger) and anti-McCarthyite purges of Leftist professors. Second is Schwegler’s (1982) study of Barnard College, Yale, Princeton, the AAUP, and the American Council on Education’s protests, on academic freedom grounds, to the section of the *National Defense Education Act* of 1958 that required beneficiaries to sign a loyalty oath. In this regard, Schwegler concludes that “higher education showed mixed results in dealing with a requirement which attempted to circumscribe the freedom of thought of those in higher education” (p. 138). Third, there is Nemeth’s (2007) Master of Arts thesis in history, which is the most recent example of historical research. Using both primary documents, (e.g.,

correspondence) and secondary literature by and about prominent academic freedom proponents and opponents, Nemeth

show[s] how Sidney Hook and Arthur Schlesinger Jr.'s dispute over academic freedom was representative of larger quarrels among liberals over McCarthyism. Conversely, [he] demonstrate[s] that conservatives such as William Buckley Jr. and Russell Kirk overcame serious differences on academic freedom to present a united front against liberalism, in and outside of the academy.

(Abstract)

The 1960s and 1970s. As this review demonstrates in its totality, that is, across the various historical and other methods used to study academic freedom presented here, there is a relatively small degree of scholarly interest in the history of the topic in any jurisdiction, including the United States, beyond the 1950s. One notable exception is a recent research paper by Mata (2010) that is centred mainly on various scholarly/professional organizations in anthropology, sociology, economics, political science, and history, their relations with the AAUP, and their respective attempts during the 1960s and 1970s to develop (voluntary and unenforceable) codes of professional ethics and to establish committees to address political discrimination. These efforts are presented by Mata as direct responses to the extramural involvement of social scientists in major socio-political events, particularly the civil rights movement, Project Camelot, and the Vietnam War. Mata relies mainly on

the archival documents and publications of the various organizations, which include the American Anthropological Association, the American Political Science Association, and the American Historical Association, as well as existing histories and secondary sources such as newspaper articles, to develop his argument. He maintains first that “ethical and employment guidelines all perform[ed] the same transformations of the violations of academic freedom [as] originating not in the institutional [sic] but in the individuals,” and second that “controversies about academic freedom [in the 1960s and 1970s] expressed and reinforced a breakdown of solidarity” (p. 99) among faculty.⁷

Histories about specific states. As is the case with individual provinces of Canada, historians have also given very little attention to the history of academic freedom in particular states of the United States. Beauregard’s (1988) *History of Academic Freedom in Ohio: Case Studies in Higher Education, 1808-1976* is the only identifiable and obtainable example. Using 120 cases of academic freedom violations as the foundation for his observations and conclusions, Beauregard’s “most shocking” (Koster, 1989, p. 55) finding is that the AAUP was not involved in World War I era academic freedom cases in Ohio, which he claims is the result of the 1918 revisions also studied by Nelson (1984), noted above.

⁷ For overviews of the cases of academic freedom violation heard by the AAUP in the 1960s and 1970s see the “Statistical Research about Academic Freedom” section of this chapter.

Other jurisdictions. Given that some of the first universities were established in Italy (Salerno, 9th century), France (Paris, ca. 1150), and Germany (Heidelberg, 1386), it is natural that the small body of English language, formal, historical research about academic freedom in jurisdictions other than the United States and Canada, although it is sometimes comparative, is mainly focussed on these countries of Western Europe and their institutions.⁸ While formal research about academic freedom in the United Kingdom and its first universities, Oxford and Cambridge, is surprisingly lacking,⁹ one comparative study also concerns the topic in South Africa.

Considering researches chronologically in terms of the period(s) they examine, I begin with Thijssen's (1998) detailed study of the judicial procedures of academic censure at the University of Paris in the 13th and 14th centuries. Using unpublished records (especially the *Collectio Errorum in Anglia et Parisius Condempnatorum*) that are directly related to the four well-known cases of Bishop Tempier, William of Ockham, Nicholas

⁸ For a description of the contributions from the Near East and North Africa to the history of the university, see Le Goff (1993), pp. 9-20. See Price (1992), pp. 76-92, for a detailed summary of the Arab influence on the reinterpretation of Aristotle and Plato, which helped lay the basis for education (i.e., trivium and quadrivium) in the Carolingian Empire. For a critique of the view of the Orientalist tradition in Europe as solely one of Western colonialism and domination, see Clarke (1997), who describes successive waves of ideas, such as Nietzsche's challenge of Christianity with Near East and Indian ideas.

⁹ The dearth of research may partly be explained by Pritchard's (1998) comment that "Academe's sense of security [in Britain] was so [implicitly] deep-rooted that, until recently, there was little effort to articulate what is meant by academic freedom or indeed what the essential mission of the university is" (p. 102).

of Autrecourt, and John of Mirecourt as well as records of lesser-known cases and the secondary literature, Thijssen concludes that the Medieval idea of academic freedom centred on institutions' autonomous ability to conduct internal affairs, especially the determination of heresy. As Baldwin (1999) puts it in his review of Thijssen's work, "academic freedom was not that of learning and teaching in the modern sense, but of the university's right to manage its own affairs within the bounds set by heresy" (p. 564). However, Thijssen also points out that by the 14th century, "the Paris masters were claiming the authority of the *magisterium* not only to govern their own affairs but even to decide matters outside the university" (Baldwin, 1999, p. 564).

McLaughlin (1977) also considers the intellectual freedom of scholars in Paris during the same period, but assumes a much broader position with the specific aim of

show[ing] as far as possible in their own terms, how university masters of the thirteenth and fourteenth centuries encountered the problems of intellectual freedom; to examine the various forms of freedom in teaching and inquiry which, whether consciously or not, they sought and enjoyed. (p. 305)

McCarthy (1981) succinctly and eloquently describes McLaughlin's numerous findings thusly:

Masters were not stimulated to theoretical analysis of freedom but

claimed freedom as a practical necessity for the intellectual functions of teaching and research with which they were preoccupied. This freedom had a distinctly corporate flavor, for the master was no hermit but sought freedom in and through participation in a scholarly dialogue devoted to the furtherance of disciplines in which the necessity for speculative freedom was counterbalanced by the requirement of using materials and methods established by common custom. Restrictions on inquiry could only be imposed by the common consent of the body of scholars itself, not so much in a juridical mode as by conservation of technique. (p. 473)

Next, Courtenay (1989) asks why Medievalists generally consider churchmen such as Hus, Luther, and Wyclif to be reformers rather than academic heretics. Using traditional historical methods, he investigates

post-thirteenth century patterns in the interaction of various forces (university theological masters, bishops and archbishops, and the papacy), judicial procedure, the types of issues that concerned authorities, [and] the presence of other factors or less visible agenda, such as the secular-mendicant controversy, age/generation concerns, or religious conservatism versus university radicalism. (pp. 170-171)

He makes the following claims.

- Before the 13th century, all cases of heresy concerned masters of theology, were chiefly instigated extramurally, and were heard by the episcopal or papal synod. Here, there was a “close association of person, offending opinions, propositions embodying those opinions, and the book or treatise in which those statements appeared” (p. 172).
- In the 13th century before 1285, a corporation of masters of theology concerned itself with cases of academic orthodoxy. All those accused were “masters of arts and/or students in theology” (p. 174) and the papacy was involved only “at the postcondemnation stage by appeal from one side or the other, or to give universality to a university cum episcopal condemnation” (p. 173).
- After 1283, “recourse to a separate commission of inquiry” such as those established by the mendicant orders “and the division of lists as to type of censure, became standard features in most subsequent academic inquisitions” (p. 175).
- During the first third of the 14th century, “charges of false teaching brought against theological masters became more frequent” (p. 177) and cases were heard by the papal curia, although “the theological magisterium was still in control, albeit outside a university context and now limited to senior

members of that group who for the most part had completed their regency” (pp. 176-177).

- After the death of Benedict XII in 1342, possibly in the interests of “administrative convenience” (p. 178), cases were once again heard in the universities.
- After 1365, “the number of recorded cases of erroneous teaching declined ... but the procedures remained in place and continued to be used in the fifteenth century” (p. 180); however, cases were heard outside only where “the topic of controversy had wider ecclesiastical or political meaning, as in the cases of mendicant privileges, apostolic poverty, dominium, papal authority, and major points of doctrine” (p. 180).

Following Courtenay’s work and covering a broad period to approximately the 19th century is Brown’s (1972) examination of seven primary historical texts related to German universities, *Lehrfreiheit*, and *Lernfreiheit*. She concludes that claims about the German “invention” of academic freedom and its transportation to the United States by American students (cf. Hofstadter & Metzger, 1955; Deering, 1985) should be rejected “since conditions varied from kingdom to kingdom--especially so before the unification” (p. 174).

Also studying a long historical period, Baloyi (1999), with the

ultimate purpose of advocating for academic freedom in South African universities, examines the ways it is taken up in Medieval France and Italy, Imperial Germany, and the South Africa and United States of the late 19th and 20th centuries. Concluding that academic freedom “implies the free but responsible search for knowledge and truth” and that it has been both “misunderstood and abused” (Abstract) historically, he also offers specific guidelines and recommendations for its potential realization in South Africa.

Last, Deering’s study (1985), as already noted and in contrast to Brown’s (1972) work, is an historical analysis of academic freedom and university autonomy in Germany and the United States between 1963 and 1985. It corroborates Hofstadter and Metzger’s (1955) finding that academic freedom was transmitted from Germany in the 19th century by students returning to the States from study and that it “was in conflict with the American tradition of the non-resident trustee and the old collegiate ideal of the preservation and transmittal of certain accepted truths” (Abstract). Deering also finds that American students who demonstrated against the Vietnam War were sometimes guilty of neither respecting nor preserving academic freedom, that tenure is no longer always understood as a necessary condition for academic freedom, and that corporate and state university funding shift control over research agendas, thereby threatening academic freedom.

Case Study Research about Academic Freedom

In addition to broad, traditional histories, there is some formal historical research about academic freedom employing case study and meta-case study (i.e., analysis of three or more academic freedom cases). These methods are used to various ends in this literature, which is predominantly American, and the variations suggest that researchers not only interpret the method differently but that they also understand it to be a flexible way of studying academic freedom interpretatively, from different angles.

Biographical case studies. From one perspective, case study is used to tell stories about the lives and experiences of specific professors in relation to academic freedom, giving it biographical ends. Of the few such existing works, three are concerned with Canadians.¹⁰ I have already discussed Kuhlberg's (2002) study of the case of Professor Millar of the Forestry Faculty at the University of Toronto and Francis's (1986) intellectual history of Frank Underhill, who came very close to being fired from the University of Toronto in the late 1930s after he publicly criticized

¹⁰ Biographical case study research about Americans includes dissertations such as Zimring's (1981) *Academic Freedom and the Cold War: the Dismissal of Barrows Dunham from Temple University: a Case Study* and Norton's (1995) *Academic Freedom and Faculty Careers: a Case Study of Four Nobel Laureate Exiles, 1930-1940*. Examples of other types of scholarly works abound: Gutfeld's (1970) study of Louis Levine's dismissal from the State University of Montana in 1919; Gruber's (1972) article in the *AAUP Bulletin* about psychologist James McKeen Cattell of Columbia University; Holmes's (1989) exhaustive book about the firing of Communist Alex Novikoff from the University of Vermont in 1953; Bloom's (1990) investigation into the case of Marxist sociologist Bernhard J. Stern, who was also fired from Columbia University in 1953; and Irvine's (1996) case study of pacifist and academic freedom advocate Bertrand Russell.

the British Empire. There is only one additional work: Fenichel and Mandel's (1987) detailed, semi-autobiographical account of the multi-year events, circumstances, and possible reasons surrounding the denial of a tenure-track position in the late 1970s to Mandel, a Canadian and Marxist, by the Department of Political Science at McGill University.

Organizational and institutional case studies. From a second viewpoint, historical case study and meta-case study are employed in research about situations and conditions in specific higher education institutions and the AAUP, likening it to organizational and institutional analysis. For example, it is through the lens of "organization" that Cain (2005) conducts his multi-decade study. Using a close reading of three specific cases in Michigan and numerous archival collections, he surveys the development of academic freedom between the inception of the AAUP in 1915 and its *1940 Statement of Principles on Academic Freedom and Tenure*. Specifically, he considers the individual, co-operative, and competitive activities of the Association and other groups (e.g., the American Association of Colleges, the American Federation of Teachers and the American Civil Liberties Union) that were working contemporaneously to define, codify, and protect academic freedom and tenure. Conceding that these organizations "were unable to accomplish all that some had hoped" (p. 519) and that the "enactment of ... protections were and are ... ultimately dependent on the individuals and institutions involved in specific local situations" (p. 520), he concludes that the

collective gains made during the period are, nonetheless, “far greater achievements than people or individual organizations would have accomplished on their own” (p. 520).

Another example is Marinucci’s (2001) study, which focusses on the years between 1918 and 1946 for the purpose of studying academic freedom in public universities and its relationship to shifting conceptions of Americanism (i.e., loyalty and patriotism). Organized around three cases at the universities of Tennessee, Ohio State, and Texas at Austin, it relies chiefly upon documents of the universities, the ACLU, and educational associations. In it, Marinucci argues that “academic freedom controversies illustrate the central role states played in cultivating loyalty among the citizenry” (p. 8) via publicly funded higher education.

Taking a meta-case study approach by surveying historical cases between 1930 and 1970 in which the administrations of specific institutions were censured by the AAUP for academic freedom- and tenure-related violations, Mosier (1986) finds that the histories of censure and the Association’s “professional aspirations” (p. 88) are parallel. Citing reasons such as an insufficient number of members, their dissatisfaction with the Association’s inability to guarantee freedom and tenure, their perceptions that censure is “labor oriented or plainly ineffective” (p. 89), and administrators’ frequent “candid disregard” and “contempt” (p. 89) for censure, Mosier concludes that censure “provided neither the method nor the means” (p. 90) to protect academic freedom and tenure during the

forty-year period he examined.

Perhaps the best example of broad institutional case study research about McCarthyism (and probably also the most controversial) is Diamond's (1992) investigation of co-operation between universities and government authorities during the period. Using FBI files acquired under the *Freedom of Information Act* that include his own heavily censored dossier and other archival materials, Diamond, a former Communist who had a job offer at Harvard withdrawn when he refused to name names, centres his research questions on the FBI's "continuing investigation of what it called "Communist Infiltration of Education" (p. 6) and poses them at the institutional level. Specifically, he asks, "How much autonomy really was still retained by major 'private' institutions in the United States?" (p. 4). Often severely limited during the 10-year project by the FBI's restrictions on the availability, form, and content of documents, Diamond concludes that in American universities, "dissenters were purged; centers of political dissent were destroyed; dissent itself became illegitimate because [it was] unpatriotic; and, very quickly, the very conception that there might be alternatives to current policy literally became unthinkable" (as quoted in Powers, 1992).

The organizational and institutional historical case study research literature is also replete with works that focus on a single American college or university or the institutions in a particular state. There are too many such studies to cover in this review; moreover, their relevance to my

research about academic freedom in Canada, topically and methodologically speaking, is *de minimis*. However, as examples of the use of documents in social research (cf. Prior, 2003), they are generally relevant in terms of method (Maxwell, 2006); therefore, I include five examples.

First, focussing on faculty and students and examining manuscript collections, university publications and documents, interviews, and secondary sources, Wiley (1973), in his intellectual history of the first 100 years of the University of Virginia, discusses Thomas Jefferson's conception of academic freedom and the ways in which succeeding university administrations perpetuated it. Second, recounting specific events at the University of Tennessee at Knoxville between the early 1920s and the 1950s, Klein (1997), examining newspaper articles and interviews, points to the attempted censorship of textbooks and instances in which faculty members were suspected of Communist sympathies and teaching "in some cases because the professor favored desegregation" (Abstract). Third, Holden (1999), drawing on institutional records, relates the history of academic freedom at the University of North Carolina specifically in relation to the Carolina Political Union, a student-organized and University-supported group that attracted controversial political speakers in the 1930s and 1940s. The universities of North Carolina are also the topic of the fourth study, in which Billingsley (1999) takes an approach to the subject of academic freedom that is different from

Holden's, focussing instead on the issue of race in relation to the *Act to Regulate Visiting Speakers* (1963). Billingsley finds that the *Act* was

employed in North Carolina for quite different political purposes than preventing the subversion of state campuses by communists, that anti-communist measures really served as an antidote to racial liberalism, whose bastion was seen to be the state's university campuses, particularly that at Chapel Hill. (Curran, 2001, p. 1)

Fifth and last, drawing upon archival materials, oral histories, and newspaper articles, Kille (2004) describes events that occurred between 1952 and 1957 at the University of Nevada during the presidency of Minard W. Stout. Kille describes how Stout, hired to manage the University like a business, imposed controversial policy changes such as the lowering of admission standards to increase enrollment, firing Professor Frank Richardson and punishing four other professors in the process.

Gay and lesbian studies. A third way in which case study is applied to the study of academic freedom in the United States (albeit in only one instance) is through the critical lens of gay and lesbian studies. Tierney (1993) organizes a case study of the pseudonymously named Normal State University consisting of a history of the sexual orientation clause in its anti-discrimination policy and "data from unstructured interviews and two surveys of attitudes pertaining to sexual orientation" (p. 144). The crux of his argument, which draws on the work of Foucault and

critics such as Giroux and McLaren, is that commonly held understandings of academic freedom are based on a “singular” and “conservative” (p. 44) conceptualization of truth that serves to marginalize gay, lesbian and bisexual issues and interests. As he puts it, “The cultural politics of Normal State actively works against anyone presuming that lesbian and gay studies is a viable object of knowledge, which in turn limits an individual’s academic freedom” (p. 157).

Theoretical Research about Academic Freedom

As Pincoffs (1972) declares, “whoever has been caught up in the tight tangles of academic freedom cases must be aware that his practical problems often result from theoretical problems” (p. vii). Having reviewed historical and case study research, I turn to analyses of academic freedom that take a philosophical, sociological or theological approach to the topic rather than a chiefly empirical one.

Philosophical research. Kant’s conceptualizations of personal and academic freedoms, as evidenced in primary texts such as *The Critique of Reason*, are the subject of Stelzmann’s (1968) research in the history of philosophy. Stelzmann argues that the specific problem of human (i.e., personal) freedom in Kant’s philosophy, which Kant himself recognizes, is its apparent incompatibility with the “categorical imperative” of causality. In other words, the central concern is how the human can be free if it is also limited by the immutable law of cause and effect. As Stelzmann explains,

Kant's response is to distinguish between *noumena* and *phenomena*, where the human, as noumenon, is free from the natural laws (e.g., the physical senses) that govern it as phenomenon. The author goes on to describe Kant's deep interest in academic freedom as philosopher, professor at the University of Königsberg, and subject of the King, explaining that Kant's ideas are already evident in an essay of 1794. In it, Kant suggests that

to build a society of thinking individuals, first, an intellectual elite must break out These avant-garde thinkers, professors and scholars by profession, will gradually "promulgate the spirit of a sensible appreciation of their own worth and the vocation of every human being to think for himself" (A 483). (Stelzmann, 1968, p. 195)

In the same essay, Kant presents "a rudimentary statement of principles for the academic teacher" (p. 195), in which he distinguishes between the need for professors to be at liberty to conduct and publish research and their lives as private citizens. Kant's ideas, Stelzmann maintains, helped to shape German university policy and he reiterates other scholars' contentions (e.g., Hofstadter & Metzger, 1955) that the American graduate school is a descendent of these institutions.

Altman (1993) argues that because campus hate speech codes are not viewpoint-neutral, a liberal position in favour of speech regulation in

postsecondary institutions cannot draw on potential psychological harm as an ethical justification for its views. Maintaining that the illocutionary force of hate speech acts inflicts “the wrong of treating a person as having inferior moral standing” (p. 309), he suggests that hate speech codes can accommodate liberal objections by (a) targeting speech acts that subordinate, rather than those that do not; (b) not being discarded, even if they could be enforced with bias by authorities; and (c) being sufficiently narrow to resist being taken up by antiliberal censors as precedent-setting.

Sociological research. In the companion study to Hoftstadter and Metzger’s (1955) wide-ranging history, MacIver (1955), in his examination of specific cases and events, discusses academic freedom in the United States after 1865, but assumes a position more sociological than historical, approaching the topic thematically (e.g., public opinion and academic freedom, academic government and academic freedom, and students and academic freedom) rather than chronologically. As Hook (1955) puts it, MacIver’s thesis is that “except in a few islands, academic freedom in the United States has virtually been destroyed” (p. BR6).

Nearly 20 years hence, sociologists Harrison and Weightman (1974) assume a structuralist position in their critique of Ben-David and Collins’s (1966) comparative study of academic freedom and student politics in the United States and England. Taking aim specifically at the authors’ “thesis ... that ‘the development towards some kind of expert system [to support academic freedom] is inevitable’” (p. 34) in England,

i.e., to replace the elitist system of higher education currently supporting it, Harrison and Weightman argue their case by refuting Ben-David and Collins's three key claims:

1. The English higher education institution is "autonomous"

(p. 36). Citing the work of three different scholars, Blondel, Watts, and Lukes, Harrison and Weightman counter-argue that, since the early-1960s, the autonomy of English institutions of higher learning has actually declined, especially with increased government control of the previously independent (and now defunct) University Grants Committee and the growing involvement of businesses in higher education.

2. The English higher education system is "lacking in

innovation and expansion" (p. 36) and "expansion is

inconsistent with the 'elitist' system" (p. 38). In rebuttal,

Harrison and Weightman cite the findings of the Robbins Committee's *Higher Education Report* of 1963 and "the prediction by Ross [1970] that 'if the demand is to be met, higher education will in round terms have to double *again* in the seventies'" (p. 37, emphasis in original). Regarding the second charge, that "expansion is inconsistent with the 'elitist' system" (p. 38), the authors counterpose that the rise of the "problem solving' philosophy of education" has resulted in "radically different institutions and courses" (p. 38) in the English system.

They consider these to be “‘innovations’, and along with expansion they question the applicability of the ‘elitist’ model to England,” where “the term ‘elitism’ ... refer[s] to the structural basis of academic freedom” (p. 38).

3. The English system produces “a ‘reactive’ rather than independently active role amongst students” (p. 36).

Against this claim, Harrison and Weightman assert that “in England, ... the literature on the subject makes it clear that it is the goals of education which are disputed” (p. 39).

Contemporaneously with Harrison and Weightman, Fisk (1975), drawing on Marxian ideas, suggests that academic freedom in the United States, which he conceptualizes as a right, is a problem because postsecondary institutions “serve the preservation of capitalism in its currently destructive form” (p. 5). He argues that academics belong to a class of functionaries that serves the ruling class, suggesting an antidote might be a situation where

functionaries of a ruling working class [i.e., working-class intellectuals] would derive their right to academic freedom from their definition of professional standards in a way that would further the interests of the working class. Functionaries would still have a derivative status, and that would be a source of antagonisms. But the choice of the major class on which the functionaries will be

dependent is not one they, and in particular their academic colleagues, are free to make. The choice will be made for them in the struggle between the major classes themselves. (p. 15)

Last, returning to the McCarthy era, I draw attention to the work of Lewis (1988), whose work Holmes (1990) beautifully summarizes in his review:

Lewis explains his work as a sociological analysis of factors that influenced the behavior of colleges and universities where faculty members were fired. His search of AAUP files produced a list of 126 individuals at fifty-eight institutions for whom sufficient information existed to carry out his analysis. He collected information on four topics: personal characteristics of the endangered faculty, profiles of the institutions involved, particulars of the individual cases, and handling of the cases by administrators at each college or university. His findings are reported in chapters dealing with precipitating events, institutional reactions, charges, committees of investigation, issues of institutional control, institutional concerns about public relations, and patterns of administrative behavior. (p. 227)

Theological research. As I have noted, Horn (1999) limits his broad historical study to non-religious postsecondary institutions of English-speaking Canada. Boyle's (1965) unpublished doctoral

dissertation in theology, *Higher Criticism and the Struggle for Academic Freedom in Canadian Methodism*, fills this gap to some degree, being specifically about the religious history of academic freedom in this country, albeit in relation to both a singular denomination of Protestantism and particular events. Boyle concentrates on three key incidents that occurred between 1890 and 1913 involving the Biblical scholarship of Reverends George Coulson Workman and George Jackson, both of Victoria College, Toronto. He sets these cases as the parameters of his study because the scholars' works constitute the basis of the challenge that higher criticism presented to academic freedom in the Methodist Church in Canada and because the crisis was essentially resolved by the Church's General Conference of 1910, even though civil litigation between Workman and Wesleyan Theological College, Montréal (where he was also chair) did not end until 1913.

Orsy (1968) also takes up the theme of the freedom to conduct theological research but focusses instead on Roman Catholic universities of the United States in the post-Vatican II era. He contends that

the aim of the theologian is not to restate the facts of revelation in traditional terms; his aim is to explore it deeper [sic] and find new insights into it. This is possible only if he feels free in his venture to push ahead in search of the truth even if it means the possibility of a mistake. In other words, there should be freedom to make mistakes in the pursuit of the truth. ... This is good for the whole

Church, in particular the episcopal college. Therefore, the bishops should give as much confidence and freedom to the theologian as is possible. Since the university is the primary place where this quest ... can be fulfilled, academic freedom at the universities should be jealously guarded by the bishops. A university does not compete with the episcopal office, it complements it. (p. 492)

Last, Hoye (1997) takes a much broader theological-historical perspective than either Boyle (1965) or Orsy (1968), revisiting the roots of academic freedom in the West and arguing against what he suggests is the commonly held assumption that it was borne of the Enlightenment. To these ends, he asks, "Where does academic freedom originate? ... To what extent is its transcendence [as a value] religious?" (p. 410). Hoye contends (and I think both Hofstadter & Metzger (1955) and Sutton (1950) agree) that the history of academic freedom owes more to Medieval Christianity than to "a sort of golden age of intellectual freedom" (p. 410) in the Age of Reason. First, Hoye cites three cases demonstrating that scholars active during the Enlightenment were sometimes punished for unorthodox thinking. These are (a) Christian Wolff's expulsion from Halle (ca. 1723), (b) Kant's confrontation with Frederick the Great over *On the Radical Evil in Human Nature*, and (c) Fichte's dismissal from Jena for his "alleged atheism" (p. 413). Then, Hoye cites specific Medieval Church and university texts of the 13th century that bear witness to academic freedom's beginnings. For instance, he submits that the first use of the

term “scholastic freedom” is in a document of Pope Honorius III dated 1220, where he responds to the University of Bologna’s request for help in resisting the requirement that students pledge allegiance to the City.¹¹

Statistical Research about Academic Freedom

There is also a small body of statistical research, again, all of it American, focussing on academic freedom and academic freedom-related matters that is relevant to this review. Statistical research is differentiated here from survey research because, although the latter also analyzes data statistically, it takes the results of questionnaires, polls, and interviews as its data set rather than cases of academic freedom violation investigated by the AAUP and reported in its publications.

First, Larabee (1957) observes both a lag in the adoption of AAUP academic freedom and tenure policies by higher education administrations and an increase in the number of investigations conducted by the Association during its first 40 years, to the astonishing rate of one per week by 1955. With this in mind and “realizing that patterns of thought are residua of biological inheritance, physical environment, and cultural endowment, and that scholars find that these three are related” (p. 25), she asks, “*What were common background factors of university and*

¹¹Cf. Sutton (1950, 1953), who makes the case that Campanella was likely the first to use the phrase *libertas philosophandi* (i.e., freedom to philosophize) “in *The Defense of Galileo* (1622): ‘*Si ergo libertas Philosophandi plus viget in Christianismo, quam in caeteris nationibus, ut probatum est; ...*’ ‘I have shown that the freedom of Philosophizing is more vigorous in Christian than in other nations’” (Sutton, 1953, p. 311).

college administrators who were found by the [AAUP] to have participated in the denial of academic freedom or tenure?" (p. 22, italics in original).

Her hypothesis, which I have divided and elaborated for the purposes of explication, is (a) that the group of university and college administrators who denied freedom or tenure does not vary significantly from the larger group of U.S. university and college administrators in terms of “population density and region of native state” (p. 27) or in terms of doctoral status; and (b) that the groups of administrators vary from the group of AAUP staff members (i.e., officers and councillors) in relation to these variables, with the “administrative groups being significantly stronger in low-density, southern, nondoctoral background” (p. 27). To test these suppositions, Larabee compares three randomly sampled groups (i.e., two of AAUP staff members and one of American higher education administrators generally) with a group of 58 “violators.” Violators were subjects of Committee A investigations between 1925 and 1950 and are publicly named in case reports published in the Association’s *Bulletin*. Larabee’s research supports her hypothesis.

Understanding that although the idea is contested by scholars such as Nelson (1984) and Deering (1985), academic tenure is often considered by scholars to be a necessary condition for academic freedom, and, therefore, that the firing of a tenured professor can be related to matters of academic freedom, I include next Lewis’s (1964) statistical study of the reasons why faculty members have been dismissed from

American institutions. Centrally concerned with the “contested dismissals reported in the *American Association of University Professors Bulletin* from 1916 (Volume 2) until 1962” (p. 151), Lewis’s research is ultimately driven by his interest in the degree to which the operations of the public university, including the selection and deselection of faculty, are determined by external social groups and their interests. He begins with two propositions: “P₁ The reasons for dismissal from institutions of higher learning have changed in the past fifty years” (p. 152), and “P₂ The source and amount of pressure leading to dismissals from institutions of higher learning have changed in the past fifty years” (p. 152). He gathers data regarding the first proposition by coding the texts of the *Bulletin* separately for the reasons of dismissal given by institutions and complainants, and then organizes the reasons into groups:

It was possible to classify the reasons given for dismissal into four categories. These are as follows: 1) Incompetence in carrying out academic responsibilities; 2) Problems in interpersonal relations or behavior (this would range from being quarrelsome to being sexually immoral); 3) Administrative necessity, *i.e.*, insufficient budget, overstaffing; 4) Ideological position of complainant on political, economic, moral, racial or religious matters. (pp. 153-154, italics in original)

What is most relevant is that Lewis’s research suggests that over time, there has been an appreciable increase in the number of faculty members

fired for reasons of “ideology.” Moreover, Lewis finds that

although these dismissals for ideological reasons were most common during the “McCarthy Era,” there have been no real signs that they are abating to the appreciably lower level of pre-World War II years. The data thus would support Proposition I. (p. 155)

Proposition II is refuted in this study. However, Lewis adds that

it is of special significance ... that the intensity of pressure from the central administration and regents or trustees has changed. In the most recent period a considerably larger percentage for both exerted “a great deal” of pressure to have the complainant removed from his position. This would indicate that the central administration and regents or trustees are taking on a more active role in policy decisions in a college or university that directly affect faculty.⁵ (p. 156)

In the third statistical analysis that is at least partly relevant to my purposes here, Lewis and Ryan (1971) pursue the finding noted immediately above in their subsequent study of 52 contested cases of dismissal reported in the *Bulletin* between 1963 and 1970. Regarding the limitations of both this and the previously reviewed study, the authors are candid, openly acknowledging that

an analysis which limits itself to these contested cases is biased in that it overlooks instances where there is no clear violation of

academic norms, and it does not take into account dismissals in which some type of mutual accord is reached. (p. 251)

They also admit to limitations of the data, specifically the potential bias of the AAUP itself; however, the authors were unable to secure additional information about cases from other sources. They also imply that any doubts about the studies' reliability and generalizability, especially concerning the relatively small numbers of cases they analyze, might be mitigated by their theoretical position: both researches draw on the structural functionalism of Merton, particularly his idea that "the nature of things can well be understood by the examination of extreme cases (Merton, 1957)" (p. 251). Regarding the coding and classification of data, in the study reported in 1971, the categories of reasons for dismissal are expanded to include "behavior," "university governance--insubordination," "bureaucratic conflict," and "uncooperativeness" (p. 253, Table 2). Lewis and Ryan's (1971) major finding concerning ideological position is that after 1966, it "often became linked to the question of university governance" (p. 254). In other words, they argue, "when radical ideology was combined with active defiance of the administration's claim to power, dismissals resulted" (p. 254).

Two years later, in the *Journal of Higher Education*, Lewis (1973) reiterates the findings of both studies. In light of his conclusion that pressures opposing academic freedom increasingly come from inside higher education institutions themselves, in this later article he also takes

up the proliferation of faculty unions, which he sees as being organized in response to such threats. At the end of the paper, he poses a bold ethical question about the relation between academic freedom, neutrality, and collective workplace representation. He asks whether an appeal to academic freedom is legitimate for unionized professors, given that unionization serves mainly material, i.e., political interests.

Of course, American professors continue to make a claim to academic freedom and they continue to unionize, if only in small numbers. Slaughter (1994) observes that of the 17 public and private institutions that dismissed 190 faculty members between 1980 and 1990 for reasons of “financial exigency,” only four had collective bargaining units. Although she does not cite Lewis’s (1964, 1973) or Lewis and Ryan’s (1971) research, Slaughter’s (1987, 1994) work is essentially a continuation of theirs, both conceptually and methodologically, focussing on cases of dismissal reported by the AAUP’s Committee A in the journal *Academe* during the 1970s and 1980s. In a comparative paper, Slaughter (1994) reports the findings of her two studies, noting that

overall, the [total of 47] academic freedom cases of the 1980s point to the ways in which threats to academic freedom shift as historical conditions change. The financial exigency and retrenchment cases of the 1970s were replaced by reorganization and reallocation, and a deepening threat to tenure. Challenges to political orthodoxy that characterized the 1970s became challenges to gender ideology in

the 1980s. Only the struggle on the part of faculty to gain professional autonomy remained fairly constant, although this struggle may have become more difficult. (p. 97)

Thus, regarding the “ideologies and beliefs” category of 1980s cases, Slaughter perceives the emergence of a new dimension: gender. She elaborates thusly:

Gender issues were not limited to equal representation in the academic labor force; they were also at the heart of the majority of cases in which faculty were fired for their ideologies, beliefs and practices. ... The gender of the speaker did not matter. The men who spoke for women’s right to choose, for women’s right to priestly office, for men’s freedom with regard to sexual preference were all punished, with sanctions ranging from abrogation of speaking contracts to dismissal. The ability of men and women to address gender issues in religious schools was sharply constrained, in clear violation of their secular claims to academic freedom.³⁷ (pp. 84-89)

Survey Research about Academic Freedom

I turn next to the employment of survey methods (i.e., interviews, polls, and questionnaires) to the study of higher education participants’ understandings about academic freedom and academic freedom-related policies. There are four sub-categories of such works: surveys of

professors, students, administrators, and institutional policy.

Surveys of professors. First among surveys exclusively of college and university faculty members is Lazarsfeld and Thielens's (1958) well-known work *The Academic Mind*, which is the result of a U.S. national survey about academic freedom and the psychological experience of "apprehension" during the McCarthy period, conducted through extensive interviews of 2,451 social science professors in 165 four-year colleges. Goodman (1959) describes the major conclusions, including that

as apprehension increased, so did the teachers' expressions of defiance and militancy. On the other hand, in professional behavior and relationships, extreme apprehension manifested itself in the avoidance of controversy, the elaboration of self-protective mechanisms, deterioration and strain in colleague and teacher-student relations, and the damage wrought on both academic freedom and education. (p. 189)

Lazarsfeld's student, Goldblatt (1967), builds on this study by investigating questions concerning the relationships among the quality¹² of college teachers' former graduate schools, their career patterns, their orientations towards academic freedom, and their levels of several types

¹²Goldblatt explains, "I have used Berelson's measure of the quality of graduate schools and Lazarsfeld's measure of the quality of undergraduate colleges. See Bernard Berelson, *Graduate Education in the United States*, New York: McGraw-Hill Book Company, Inc., 1960, pp. 109-116 and Paul Lazarsfeld, op. cit., pp. 411-413" (p. 133, footnote 2).

of apprehensiveness,¹³ also during the McCarthy era. He concludes that “high quality graduate schools more often than low quality ones encouraged a concern for civil liberties, a permissive attitude toward academic freedom, and a disposition to teach controversial courses” (p. 144).

A more recent analysis of survey data, conducted by Dey and Hurtado (1996), focuses on American faculty members’ attitudes toward the regulation of various types of speech on college campuses. Scrutinizing data from the 1992-93 Higher Education Research Institute’s (HERI) *Faculty Survey*, which employed a paper-and-pencil instrument mailed to “all operating institutions of higher education in the United States (N = 2, 582)” (Data Source Section, para. 1) and garnered a response rate of 60.2%, the researchers

seek to answer the following questions: What are the individual sources of support for such policies? What faculty characteristics--ideological and demographic--are most closely associated with

¹³Goldblatt focusses on apprehension in relation to: (a) possible dissonance between two orientations, the “profession- or colleague-orientation” and the “college-security orientation,” where the former is “more responsive to the expectations of professional colleagues” and the other to “those of college administrators and influential laymen” (p. 138), resulting in “cross pressures” to adopt one or the other orientation, especially in relation to academic freedom; (b) “varying opportunity for controversial teaching according to the quality of their graduate school” (p. 140); (c) “large opportunity for controversial teaching according to type of cross-pressural situation” (p. 141); (d) “different cross-pressural situations according to ... trust in the college administration” (p. 142); and “different cross-pressural situations according to educational philosophy” (p. 143).

support for such policies? What role does the campus climate play in determining support for prohibitions of speech-based harassment or bans on speakers with extreme views? (Introductory Section, para. 2)

Their findings, which depend upon regression analyses, are too numerous to provide in detail here, but the following three points broadly address the research questions.

1. Regarding general support for speech regulation policies, the authors report that 54% of respondents indicate some degree of support for the prohibition of racist and sexist speech on campuses. By contrast, 73% of respondents “*disagree* that campus administrators should have the prerogative to ban extreme speakers” (Individual-Level Analyses Section, para. 1, emphasis in original).
2. Concerning the relationship between individual faculty members’ political ideology and their support for speech regulation policies, Dey and Furtado (1996) find that “a conservative political view is strongly related to support for the right to ban extreme speakers ($r = .27$), while there is practically no relationship between political views and support for prohibiting racist/sexist speech ($r = .03$)” (Individual-Level Analyses Section, para. 4). However, “one of the most

surprising findings,” they write, is that “these data show that conservatives, not liberals, are more likely to support such prohibitions” (Discussion Section, para. 2).

3. Respecting the relationship between institutional climate and faculty members’ support for speech regulation policies, the authors assert that “the percentage of liberal faculty on a campus has a strong negative relationship with support for both types of campus speech restrictions ($\beta = -.45$ for racist/sexist speech, $\beta = -.81$ for the right to ban extreme speakers)” (Institutional-Level Analyses Section, para. 3). Not surprisingly, they also report positive relationships between the percentage of women in a given faculty and support for banning racist and sexist speech and the percentage of “faculty of color” and support for both types of speech regulation policies.

Last is Barger’s (2010) study, which situates the “lack of information on faculty satisfaction with academic freedom and its protection” (p. 9) as the main purpose. In it, Barger surveyed 331 faculty members in private American baccalaureate colleges and universities in an attempt to (a) determine “if [these] faculty members ... [are] knowledgeable about and satisfied with current policies and practices in relation to academic freedom” (p. 10), and (b) explore “the factors that [influence] faculty satisfaction with academic freedom” (p. 10). Here, the dependent variable is “the combination of faculty satisfaction with policies for academic

freedom and ... satisfaction with practices for academic freedom" (p. 102). Barger selected professors in private institutions for study because, being contract staff, Constitutional protections related to academic freedom "are not necessarily guaranteed" (p. 12) to them, as is the case in public institutions. She developed the survey questionnaire, which she distributed by regular mail and via the Internet, using the demographic questions asked in the HERI *Faculty Survey*, Fishbein & Ajzen's (1975) *attitude theory*, and Astin's (1985) *involvement theory*, organizing them into three "blocks" for use in Astin's (1991) "blocked form of stepwise regression": (a) faculty demographics and work attributes, (b) institutional characteristics, and (c) experiences with academic freedom. The response rate was 26.2% and over 60% of respondents work in institutions with less than 3,000 students. Approximately 98% self-identify as "White," and 53% of the total sample are male; roughly the same percentage are tenured. Nearly half are at the rank of assistant professor (47.3%) and "more than three out of five (61.6%) ... [indicate] that their principal activity [is] teaching" (pp. 97-98).

Barger finds that professors in non-religious institutions are more satisfied than those in religious ones and that professors working in schools where academic freedom violations over religion have occurred in the past—even if they perceive that their institutions exert little "religious control" over them—are less likely to be satisfied. Where administrations support academic freedom, professors are more likely to feel satisfied with

academic freedom policy and practice. Unfortunately, findings of potentially more significance, especially those concerning race, are compromised by the sample size and the response rate. Beyond the confines of the study itself, for example, Barger's claim that "being a faculty [member] of color" is a "predictor variable" (p. 115) of satisfaction is dubious.

Surveys of students. The second type of survey research exclusively concerns postsecondary students' opinions about academic freedom. Stember's (1953) is the only pre-existing review of such work, which is limited to the McCarthy era, and he discusses all three extant studies: Wilner and Fearing's (1949) and Lipset's (1953) surveys of UCLA and Berkeley students' respective "attitudinal determinants" (Stember, 1953, p. 44) about the California loyalty oath and whether Communists should be teachers, and the survey of Columbia University students conducted by Kathleen Burge and Ann Chapman in 1953, to which Stember was advisor.¹⁴ Regarding the California studies, Stember holds that "of chief interest is the finding at both UCLA and Berkeley of a majority of students opposed to the loyalty oath" (p. 44). The focus of the Columbia study, in which "565 questionnaires were obtained from 50 classes in 15 different schools and faculties" (p. 44), is students' attitudes

¹⁴Stember (1950) explains, "Actual questions asked and exact percentages may be found in the *Columbia Spectator*, Vol. XCVII, No. 112, May 11, 1953" (p. 45, footnote 5). The *Spectator*, published since 1877, is the Columbia University student newspaper.

about how the University ought to deal with professors who refuse to testify before a congressional investigational committee.¹⁵ Stember explains, “While ten per cent were undecided, a majority (51 per cent) felt that refusal to testify on grounds of self-incrimination should not lead to reconsideration of the teacher’s employment at Columbia” (p. 47).

Surveys of administrators. The third category of academic freedom survey research is comparative work about the leaders and managers of higher education institutions and other higher education participants. To begin, I would like to draw attention to Dressel and Faricy’s findings, specifically their assertion that “in spite of their efforts to place the operation of colleges and universities under greater control, legislators, trustees, and administrators will generally agree with the assertion that autonomy is essential to intellectual creativity” (as cited in Brown, 1984, p. 274). Both Ambrose’s (1989) and Grubiak’s (1996) work challenge this assertion.

Ambrose (1989), after identifying five areas of judicial protection in the academic freedom literature (i.e., institutional decision making, political and religious beliefs, teaching and classroom discussions, research and scholarship, and extramural conduct), surveyed faculty members,

¹⁵That is, colloquially, to “take the Fifth,” which means to invoke the Fifth Amendment of the United States Constitution as a defence against self-incrimination. The Amendment reads, in part, “No person ... shall be compelled in any criminal case to be a witness against himself” (U.S. Const. amend. V).

department chairs, and academic administrators in every four-year college in Georgia about their definitions of, and attitudes towards, academic freedom. Analyzing his data statistically, he concludes that “because faculty members and administrators may not agree on the meaning and usage of the term academic freedom, the potential for litigation increases on college and university campuses” (Abstract). He also suggests that agreement on meaning and usage could mitigate this negative possibility.

Grubiak (1996), also maintaining that “the problem is [that] academic freedom and ... tenure mean different things to different people” (p. 2), uses a self-administered, mailed questionnaire, Biddle’s (1979) *role theory*, and a factor analysis that considers gender and race to conduct an “experimental investigation” into the heterogeneity of opinions and beliefs about academic freedom, as held by full-time administrators, tenured or tenure-track faculty members, counsellors, and librarians in 27 public community colleges in Washington State. Although research such as this resists generalization, when considered alongside Ambrose’s (1989) findings about the increased potential for litigation due to disagreement between faculty, chairs, and administrators over the meaning of academic freedom, Grubiak’s conclusions about the degree to which administrators do not support academic freedom in the first place suggest that, contrary to Dressel and Faricy’s assertion, administrators might not “generally agree” on the importance of the professional autonomy that academic freedom affords professors for their “intellectual creativity.” As he bluntly

puts it,

Faculty members believe academic freedom and tenure are important principles while administrators do not believe they are. Faculty members believe they have rights that prevent administration from controlling curriculum, grades, and off-campus teaching and consultation activities while administrators do not believe faculty members have these rights. Faculty members believe they have rights that prevent administration from controlling teaching methods and grading policies while administrators do not believe faculty members have these rights. (Grubiak, 1996, Abstract)

Surveys of policy. There is one survey focussed specifically on the existence of speech regulation policies in American higher education institutions, as opposed to attitudes and opinions about such policies. In it, Korwar (1994), of the Freedom Forum First Amendment Center, surveyed every publicly funded college and university minimally awarding Bachelor's degrees in the United States in order to establish "how many public campuses in the nation [have] speech codes and what kinds of expression they [restrict]" (p. 21). Seventy-two per cent of selected institutions responded to the study by submitting a copy of their student handbook to the Center for analysis. Korwar examined these texts for (a) "student codes of conduct and school policies on discriminatory harassment" to the exclusion of "separate statements of equal opportunity,

affirmative action and non-discrimination stating university compliance with federal civil rights statutes”; (b) separate statements about sexual harassment; and (c) “rules relating specifically to residence halls” (pp. 21-22).

Korwar’s conclusions are presented in two tables of aggregate data. Table 1 shows, for example, that approximately 80% of participating institutions’ handbooks contain rules that restrict “disruption” and “sexual harassment,” but that only 6% include explicit restrictions on “libel and slander” and 8% on “fighting words” (see p. 32). Table 2 indicates the number of schools represented in the survey by state (see p. 33). In Chapter V, “Alternatives to Campus Speech Codes,” Korwar suggests that as a preventive measure, hate speakers, potential victims, and administrators should be “educated.”

Policy Research about Academic Freedom

The second of the two examples of Canadian policy research, the first being Winchester’s (1984) historical analysis, which I have already discussed, is a piece by Wilson (1996), who was CAUT president from 1991-1992. The purposes of Wilson’s work are to (a) defend and demonstrate the appropriateness of both the CAUT definition of academic freedom and various Association policies related to academic freedom and speech codes, and (b) encourage Canadian universities to develop codes that are consistent with CAUT policies. Maintaining that the second

purpose is possible where there is a distinction made between “legitimate” and “illegitimate” forms of social marginalization, Past President Wilson argues that

if I am excluded, as, for example, women have often been excluded from debates in the classroom simply for being women, that is for reasons that have nothing to do with the relevance and cogency of my arguments, then the exclusion is illegitimate, contrary to the rules of the academy whose aim is to engage in debate in order to further the common goal of discovering to the best that we can the truth about things, and, among those things, people. (p. 127)

Metzger (1969) leads the American policy research in his comparative historiography of the effects of *delocalization* on academic freedom. Beginning with the AAUP’s *General Report on Academic Freedom and Academic Tenure* of 1915, Metzger explains how and why academic freedom was understood in the early century to be a matter of local institutions that was not affected by outside actors and forces, especially state authority. He argues that it is with the militarization of higher education by the federal government, sustained after World War II, that delocalization begins. Its consequences, especially that by the late 1960s, “from two-thirds to three-quarters of all money expended on academic research comes from the federal giver” (p. 48), frame the essential argument that federal research grants, contracts, and centres “rob the university of autonomy ... by making it a bystander in the fostering

and reward of its members' talents ... [and] by making it a kind of subcontractor, dispensing someone else's cash to attain someone else's objectives" (p. 48). Drawing on Kerr's (1966) work about the *multiversity*, in which Kerr puts forward the idea of *imbalances*, Metzger articulates several specific effects of delocalization, including "the dominance of science over the humanities ... of research over teaching ... [and] of graduate interests over undergraduate concerns" (p. 49). These are manifest, he maintains, in threats to academic freedom such as the increasing number of contingent (i.e., not eligible for tenure) faculty members and the institutionalization of "secrecy and deceit" (p. 49), which is evidenced by increasing controls over scientific information and communication.

Focussing specifically on scientific communication, Schwab (1990), a reference librarian, examines relevant post-1950s public policy to consider the ways in which national security restraints have, and continue to, affect academic freedom in the United States. She asks, "Will national security actually be endangered by a lack of exchange and communication of scientific ideas, and how extensive is the leakage of national security information in academia?" (Abstract). First, she concludes that the tougher national security policies of the 1980s related to technology control are "attempts to compensate for past laxity instead of dealing with the problem in its present context" (p. 28) and that these policies also restrict the daily operations of American companies

conducting business in other countries. Second, she calls for increased co-operation between industry, universities, and the Federal Government to “improve industrial security and counterintelligence efforts so that the theft of technology does not render the controls on sales meaningless” (p. 28). Third, she recommends that export controls be revised and prioritized as a basis for future controls. Last, pointing to her chronology of instances of prepublication review, censorship, travel restrictions, and limits placed on “foreign students in certain laboratory situations on campus” (p. 31) as evidence of both the Reagan administration’s interest in national security and its disruption of scientific communication, she predicts “a loss of national security for the United States, because [it] will lose its critical technological lead over the Soviet Union” (p. 29). This, she asserts, is because the States’ lead is the result of open domestic and international scientific communication.

Adding to policy research that critiques American higher education’s relations with outside institutions and the consequences for academic and intellectual freedoms, Lippman and Judd (1986) argue bluntly that “increased corporate and government involvement in universities encourages intellectual repression” (p. 55). Drawing heavily on the work of Hoftstadter and Metzger (1955) in the first part of their paper, the authors recount the history of American universities from colonial times to the beginning of the 20th century as characterized by conservative, anti-intellectual institutions deliberately designed to further the aims and

interests of organized Christianity and industry. In the second part, they use the existing literature and statistics to support their warning that “higher education is now undergoing a repressive phase, even in comparison with many periods in the past” (p. 59), particularly the McCarthy era. They cite data such as the following to support their claims and fears.

In the last 30 years there has been a 500 percent increase in the number of legal challenges to university termination, tenure, and promotion decisions.³¹ ... Forty-two colleges presently are on the AAUP censure list, and during a typical school year more than a thousand complaints for violations of academic freedom may be lodged with the AAUP More than 300 Black studies programs were eliminated between 1971 and 1978 [Further,] the position of women within academia is not substantially better than it was a decade ago. (pp. 57-59)

Last, Pritchard’s (1998) comparative analysis of academic freedom and higher education in Britain and Germany pays particular attention to the ways in which the German system is increasingly (albeit slowly) influenced by the policies and practices of successive (neoliberal) administrations in Britain, beginning with that of Margaret Thatcher. In particular, Pritchard relates both the British and post-reunification German states’ growing interests in higher education reforms, as evidenced by particular government assertions and policy shifts. She also focusses on

the implications for the Humboldtian notions of *Lehrfreiheit* and *Lernfreiheit* as these are understood and practiced in both jurisdictions.

The reforms she considers are

- the expansion, differentiation, corporatization, and managerialization of institutions;
- the marketization and economic rationalization of programmes;
- the vocationalization and centralization of curricula (e.g., teacher education);
- the deprofessionalization of teaching; and
- the intensification of teaching evaluation.

Regarding the effects of such reforms on academic freedom, Pritchard concludes that

German universities are a valued part of society and the law of the land provides them with certain guaranteed safeguards as of right rather than as a result of the benevolence of their rulers. Nothing like the same degree of hostility exists between German universities and government as is now the case in the United Kingdom.

The fact that academic freedoms are implicit rather than explicit in the United Kingdom has now become a weakness rather

than a strength, and the disappearance of some of them has made British academics realise in retrospect how precious they were. (p. 123)

Literature Review Research about Academic Freedom

The final work I would like to detail in the first part of this research review is the only identifiable example of self-contained literature review research: Harris's (1978) dissertation, *A Review of Some Aspects of Academic Freedom in Colleges and Universities in the Perspective of the 1915 Declaration of the American Association of University Professors*. Broadly speaking, this study asks how and why conceptions of academic freedom in the United States have changed over time, especially in relation to socio-political shifts inside and outside American higher education, and what these changes might mean for the future of the concept. In sum, Harris identifies four social phenomena that have "contributed to the loss of the communal sense once common to American colleges and universities: (1) the emergence of the prestigious professor, (2) the populist movement, (3) unpopular faculty expressions and activities, and (4) threats to objectivity in the scientific method" (p. 86).

Chapter 2 -- Critiquing and “Moving Beyond” Extant Canadian Research

Having surveyed and detailed the relevant research, I next submit the following critique of the existing Canadian work. To be sure, a similar appraisal can be brought to bear on studies about academic and intellectual freedom in American higher education such as those discussed above. However, being that this research concerns Canadian universities specifically, it is both appropriate and necessary to concentrate on what Canadian researchers have to say about the topic and how my work contributes--in both a substantive and innovative way--to the ongoing (albeit aperiodic) scholarly dialogue about the freedom to think in this country's academy. In attending to these commitments, I continue to adapt Maxwell's (2006) advice about literature reviews for doctoral dissertation research to the specific context of my work. Thusly, I proceed with these purposes: (a) to critique extant Canadian research about academic freedom by articulating its epistemological limits, specifically in relation to the possibilities of Nietzschean-Foucauldian genealogy; and (b) to suggest how, in relation to the limits of existing studies, my research “moves beyond” extant Canadian work by posing specific research questions from the epistemological and methodological position of genealogy.

With these in mind, what follows is actually intended to be much more than a straightforward critique of the existing research. I not only

argue the place and space for my study in relation to existing scholarship, but simultaneously problematize academic freedom in Canada in relation to the three domains of genealogy (i.e., truth, power, and ethics).

Defining Terms

Acknowledging the expectation that dissertation research ought to define its terms, but, at the same time, conceding that any attempt at condensation for the purposes of clarification--no matter how necessary, well-informed, or well-intentioned--risks essentialism, I cautiously offer the following alphabetic glossary of methodological terms. As I discuss in the critique, the key elements of Foucault's methodology are actually inseparable from one another; it is for purely descriptive and educative purposes that I separate them here. For the same reasons, I quote mainly respected secondary resources.

Discourse-practice. By drawing on Wittgenstein's work, Queen's University philosophy professor C. G. Prado (1995) explains that Foucault's conception of discourse can be understood to concern two elements: the communicative and the non-communicative. Communicative discourse can be verbal or non-verbal "like gestures and even silence" (p. 123); non-communicative discourse is *practice*:

These practices include conventions determining who [i.e., which *subjects*, not which *individuals*] may speak and when and also in what contexts decisions and responses constitute the

establishment of something as true. ... These mechanisms, techniques, and procedures ... include considerably more than utterances, gestures, and strategic silences. In terms of scope, a discourse and its regime of truth are more like a Wittgensteinian form of life than a delineable language-game, a point that relates directly to how power constitutes an environment. (p. 123)

Power-knowledge (pouvoir-savoir). Foucault offers a radical conception of power that emphasizes its nexus with knowledge. Here, power and knowledge are *productive*; that is, power-knowledge simultaneously produces effects and is an effect of existing power-knowledge. As Foucault (1977/1995) explains,

we should admit ... that power produces knowledge (and not simply by encouraging it because it serves power or by applying it because it is useful); that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations. (p. 27)

Insofar as this conceptualization is post-structural, it differs from “structuralist views of power that focus on the hierarchical operation of institutional and positional power ... [rather, Foucault’s is] a social relational view of power” (Fawcett, 2008, Theoretical Underpinnings

Section, para. 4). In this sense, Foucault maintains that power-knowledge operates through local discursive practices, techniques and technologies:

According to Foucault, power operates from the “bottom up” in an ever-present, low profile manner in daily social relations or *micropractices*. He maintained that to understand how power is operating, micropractices or everyday social relations have to be viewed in their discursive contexts. This view makes it possible to pay attention to the historically specific relationships between combinations of power, language, and institutional practices in order to open up the knowledge bases that inform the taken-for-granted to critical scrutiny. Foucault tended to regard the operation of power within daily social practices as being manifested in a piecemeal and localized way. He maintained that it emanated from forms of disciplinary power exercised in disciplinary institutions such as the army, prisons, monasteries, [schools,] and hospitals. He held that such institutions produce microtechniques for objectifying and regulating those inside. (Fawcett, 2008, Theoretical Underpinnings Section, para. 4, emphasis in original)

Subjectivity. In one sense, in Foucauldian terms, objectifying and subjectifying micro-techniques and micro-practices, operating discursively through disciplinary power-knowledge relations and political technologies, construct the subject. In another sense, the subject is its own object, inasmuch as it is ethically concerned with its own constitution, especially

through techniques of *self-governance*. Dean (1994b) explains that

what is offered is a key problematisation of forms of political subjectification (Pasquino 1986). Such a problem concerns the relation between the self-governing subject of liberal-democratic rights and liberties, and the formulation of the subject through a particular complex of power-knowledge. When one takes into account Foucault's later work, his position would seem to be that these forms of individualisation mutually presuppose each other. (p. 165)

Hence, *it is the problematization of subjectivity, not of the subject*, that is fundamental to Foucault's project and to the genealogical method.

Genealogy. The analytical relations between the elements just described, especially discourse-practice and power-knowledge, are explained in Olssen's (2009) recent, matter-of-fact definition of genealogy, which also reinforces Foucault's emphasis on the socially material. Olssen's definition also serves to point out that the critical possibilities of genealogy are not merely abstract. He writes,

Genealogical analysis focuses on the specific nature of the relations between discursive and non-discursive practices, and on the material conditions of emergence of practices and of discursive systems of knowledge. Genealogical analysis is thus essentially a method for looking at the historical emergence in the search for

antecedents. While [Foucauldian] archaeology examines the structure of discourse, genealogy gives a greater weight to practices, power [relations], and institutions. (p. 26)

By way of other descriptions, in their discussion of genealogy and its analytics, noted Foucault scholars Dreyfus and Rabinow (1983) draw on two important primary texts, “Nietzsche, Genealogy, History” (Foucault, 1971/1984a) and “Nietzsche, Freud, Marx” (Foucault, 1967) to construct their definition. In it, they point specifically to Foucault’s interruption of the assumptions and practices of traditional history:

Genealogy opposes itself to traditional historical method; its aim is to “record the singularity of events outside of any monotonous finality” (*NGH* 139). For the genealogist there are no fixed essences, no underlying laws, no metaphysical finalities.

Genealogy seeks out discontinuities where others found progress and seriousness. ... As Foucault put it in an earlier essay entitled “Nietzsche, Freud, Marx,” written with a different end in mind, “Whereas the interpreter is obliged to go the depth of things, like an excavator, the moment of interpretation [genealogy] is like an overview, from higher and higher up, which allows the depth to be laid out in front of him in a more and more profound visibility; depth is resituated as an absolutely superficial secret” (*NFM* 187). (pp. 106-107)

It is the differences between traditional history and genealogy that are at the heart of the following critique.

The Limits of Traditional History and the Possibilities of Genealogy¹⁶

The *omnium-gatherum* of research described above simultaneously produces and maintains a diverse set of historical claims about academic freedom in Canada. These are especially

- how and why it developed as an amalgam of (chiefly) foreign policies and practices of the 19th century;
- how Leftists struggled for legitimacy in the 20th century against the social and academic establishments;
- how the professoriate has acquiesced to administrative pressures, resulting in its public silence on political matters;
- the extent to which the courts have sustained the tenure decisions of universities; and
- how changes to university governance legislation have sometimes been interpreted as overtly and locally threatening

¹⁶A version of this section has been published and is used here with permission. See Gariepy (2012), "Towards a Genealogy of Academic Freedom in Canadian Universities" in B.L. Spencer, K.D. Gariepy, K. Dehli, and J. Ryan (Eds.), *Canadian Education: Governing Practices & Producing Subjects*, Rotterdam: Sense Publishers (pp. 101-122).

institutional autonomy, and, through this, the academic freedom of scholars.

But whatever the specifics and relative strengths of their individual claims, no matter the “value” these are perceived to hold for factual, historical knowledge about academic freedom, despite the “gaps” they might be understood to create, ignore, or perpetuate in “the literature,” and regardless of their degree of “trustworthiness” as examples of formal, empirical research, the point I wish to make is that, whether taken singly or as an assemblage, these researches are underpinned by particular epistemological assumptions. These, I argue, constitute their *limits*. These limits have the effect of producing the specific phenomenological practices of historiography operating here (cf. Turetzky, 1989), the particular historiographical objects of these practices, and the specific truths about academic freedom that circulate in its discursive field. Such are the epistemological and methodological matters of explicit concern in “Nietzsche, Genealogy, History,” where Foucault (1971/1984a) elaborates the three *Platonic modalities* of history for the purpose of contrasting the practices and effects of traditional history to the possibilities of genealogy as “a use of history that severs its connection to memory, its metaphysical and anthropological model, and constructs a counter-memory--a transformation of history into a totally different form of time” (p. 93). Thus, with a view to contrasting the limits of the existing histories of academic freedom in Canada with the possibilities of a genealogical approach to the

same topic, in what immediately follows, I describe each of the Platonic modalities found in Section 7 of “Nietzsche, Genealogy, History” and then provide a specific example from the body of Canadian research above that demonstrates its operation.

Parodic modality. Foucault (1971/1984a) first points to the ways in which identity is constructed through history to illustrate the problem of history’s endless reliance on itself to conjure its truths, which it both structures in terms of major developments and perpetuates through their veneration. This *monumental history*, as Nietzsche calls it, is “directed against reality” (p. 93) in both parodic and farcical senses. The point is that what is possible in history depends upon what is already historical; that is, the possible identities that the subject can assume are delimited by the “masks” of already existing identities. History parodies reality, then, by artificially organizing possible identities into its own discrete and valid categories, thereby both restricting the means by, and the ends in which, the subject might emerge. This has the effect of curtailing the possibility of originality. Nietzschean-Foucauldian genealogy, by contrast, purposes to interrupt the parodic, monumental history of the subject by opening up historical opportunities for originality via “‘unrealization’ through excessive choice of identities” (p. 94), and by interrogating the conditions of (im)possibility for the emergence of particular identities, the relations of power operating in the discursive field in relation to these (im)possibilities, and their effects.

In the academic freedom research literature, the play of the parodic modality is particularly evident in Horn's (1999) work, where the identity of the "confused and anonymous" (Foucault, 1971/1984a, p. 93) Canadian academic subject in search of who it might be in relation to the practice of academic freedom is constructed through specific categorical identities of the historical a priori: (a) the German Humboldtian, (b) the 19th century American research university academic and citizen of Constitutional Law, and (c) the Oxbridgean. Here, it is more possible to devise the subject as an amalgam of particular, extra-national, scholastic identities than it is to realize it as having possibly emerged uniquely--perhaps entirely outside historically established identities--as something *else*.

Dissociative modality. The associative occupations of what Nietzsche calls *antiquarian history* (Foucault, 1971/1984a, p. 95) are the subject of the second modality. These are to discover the historical "roots" of the subject, to establish and perpetuate the historical continuity of these roots, and to consolidate the subject's various, continuous identities under specific "masks." The unification of the subject, then, is the product of the synthesizing power of history. Conversely, Foucault (1969/1972b) contends that the dissociative purposes of analysis are to interrupt both the venerable position that historical continuity holds as the "indispensable correlative of the founding function of the subject" (p. 12) and its totalizing effects. Genealogy means to accomplish these disruptions through its efforts to "make visible all of those discontinuities that cross us" (Foucault,

1971/1984a, p. 95), wherein it “reveal[s] the heterogeneous systems which, masked by the self, inhibit the formation of any form of identity” (p. 95), rendering possible only those identities already formulated in history. In this way, genealogy recognizes that within a *problématique*, “the unifying principle might not be the coexistence of its elements in the past but their relationship to a question being asked today” (Castel, 1994, p. 239). Ergo, genealogy is not the pursuit and unmasking of historical roots; rather, its dissociative modality “opposes history given as continuity or representative of a tradition” (Foucault, 1971/1984a, p. 93).

The most complete example of the operation of the associative functions of antiquarian history in the academic freedom research is again in Horn’s (1999) work, where the historical narrative relies on several species of totalities to construct itself at the same time as it esteems and perpetuates these totalities. For example, it invokes fixed historical periods, such as the Enlightenment, which also and already operate as ways of knowing both the periods themselves and their subjects. Even as it recognizes a “convoluted history” (p. 350), it regularly invokes periodicity in its search for “roots”:

Inherent in the modern concept of academic freedom is scepticism about revealed or received truth and about authority founded on it. It is rooted in the Enlightenment as well as in the realization, earned in the course of two centuries of religious wars in Europe, that exclusive claims to truth are murderously

disruptive not only of society but also of intellectual work. (pp. 4-5)

It also totalizes through at least two other devices: categorization, where disparate institutions in history, for example, are grouped into homogenous collectives such as “British universities” and “research universities,” and tradition, where such institutions and their respective contexts and subjects are rationalized and unified within the narrative. Sometimes, such totalization is even the paradoxical effect of deliberate contrast:

Well into the twentieth century, the cult of research did not have the following in British universities that it had in Germany or in U.S. research universities. However, a tradition of academic free speech and political involvement existed that must have struck German and even some American academics as unusual. (p. 8)

Antiquarian history’s search for roots and origins through tradition is also evident in Abbott’s (1984) work. Consider this excerpt, for example:

Academic freedom for educational purposes was deeply rooted in the intellectual and institutional life of society. Emerging under the aegis of the church and long associated with it, Canadian universities--both French and English--were heirs to the medieval concept of liberty of debate (Daniels, 1956-57, p. 270). ... While acknowledging the medieval Catholic tradition that held truth to be

a prerequisite for the exercise of freedom, Canadian universities also embraced the more contemporary belief that freedom was a condition for seeking truth (Daniels, 1956-57, p. 170). That belief had its origin in the individualism that was a product of the Protestant ethic and the growth of a market economy. (p. 107)

Here, antiquarian history functions for dual purposes. Wrapped in a metaphor of ancestry, religio-philosophic tradition smooths over the possibility of complex organizational relations such as institutional isomorphism (cf. Foucault, 1969/1972b; DiMaggio & Powell, 1983), for instance, between European and Canadian universities. It also purposes itself to the discovery of the geneses of the relationship between freedom and truth.

Sacrificial modality. The third Platonic modality that Foucault (1971/1984a) addresses in “Nietzsche, Genealogy, History” is the folly of the will to knowledge, wherein lurks the possibility that the destruction of humankind-- rather than its salvation--is in its sacrifice of itself to its own will to truth. Autodestruction is the potential effect of the violence and injustice anterior to the subject’s incessant pursuit of knowledge for itself about itself, where “no sacrifice is too great” (p. 96) in the interests of truth. Yet, historical knowledge’s scientization, its always-already interestedness, and its symmetry with power bare its dangerousness: Foucault (1984b) later arrestingly contends that the “point is not that everything is bad, but that everything is dangerous, which is not exactly

the same as bad” (p. 343). Too, the supremacy of human consciousness in the production of knowledge is usurped by the “historical sense” of genealogy, which “dissolves the unity of the subject” (Foucault, 1971/1984a, p. 96); for even as the New History recognizes the discontinuities, irregularities, and irruptions that ripple the surfaces of human experience, the history of thought resists “epistemological mutation” (Foucault, 1969/1972b, p. 11) in its effort to maintain a “privileged shelter for the sovereignty of the consciousness” (p. 12) in the pursuit of knowledge and truth. Consideration of the sacrificial modality conveys Foucault’s refusal of this totalizing history, which is concerned with understanding subjectivity through an interrogation of the unified subject (as object), in favour of a “history of the present,” in which subjectivity is multifarious and conceptualized in terms of the effects of complex, historically contingent processes of objectification and subjectification.

The conscious, rational, speaking subject occupies a central position in history research about academic freedom in Canada, and hence it also inhabits a principal position in relation to the production of knowledge about academic freedom, and to the knowledge itself. For instance, most work in the corpus reviewed above relies, to a great extent, on personated accounts of personal events. Here, in addition to the events themselves, statements, objects, and the subject are all spoken into history--and thus into truth--by the subject. And although the most

conspicuous examples are explicitly biographical, such as Kuhlberg's (2002) account of the case of Professor Millar, even work with broader aims both centres the subject and "sacrifice[s] ... the subject of knowledge" (Foucault, 1971/1984a, p. 95). In one extreme case, Savage's (1990) study of the role of the Immigration Department in relation to academic freedom between 1945 and 1990, both the subjects-objects of the research *and* the researcher himself are offered up in a kind of "experimentation on ourselves" (Foucault, 1971/1984a, p. 99) that operates as a "critique of injustices of the past by a truth held by men in the present" (p. 97):

Where I have been able to trace the individuals and secure their permission, I use their names. Otherwise I do not. I have used the files of the federal government where I have secured access, and I have interviewed some of the individuals concerned. I have also used the press and parliamentary accounts where cases became public. I should also note that in the latter part of this history I am a participant observer since I have been executive secretary of CAUT since 1973. (Savage, 1990, p. 499)

Problematizing and Questioning

Thus far, I have attempted to demonstrate that the broad aims of Foucault's genealogical project are to unmask and bracket the epistemological and methodological assumptions of traditional history.

This has not been for the purpose of discounting the contributions of academic freedom historians as flawed; rather, it has served to specify the limits of historiography such that I might situate my own genealogical analysis as offering different possibilities for understanding the constitution of the intellectually “free” subject in Canadian universities and for interrogating academic freedom, as a *prima facie* concern of the present, in relation to its historical conditions of possibility in discourse-practice. My perspective opposes taking academic freedom for granted, i.e., as only the result of past actions of rational subjects. For

what [Foucault] was analysing was not primarily behaviours, ideas or ideologies but problematizations, ways in which being is construed, of necessity and in certain places and times, to be thought, and the *practices* on the basis of which these problematizations are formed. His archaeologies of knowledge examined the forms that these problematizations took, while genealogy involved the analysis of the processes through which practices were formed and modified. (Starkey & Hatchuel, 2002, p. 650, emphasis in original)

In this section of the critique, my purpose is to situate academic freedom as a *problématique* by posing research questions in relation to the three domains of genealogy--power, truth, and ethics (Foucault, 1984b)--that “make a problem” of existing knowledge about academic freedom and its practice in Canadian academia. At this juncture, it is important to

foreshadow Chapter 3, where I describe my approach to be *recursive* (cf. Leech & Onwuegbuzie, 2008); that is, to be guided by the research questions posed here.

The subject and power-knowledge. An analysis of power and its effects is of central importance to this study, which aims at understanding both the social practices of academic freedom and the ways in which the subject of these practices emerges through recent history. However, none of the formal research I have reviewed employs an explicit theory of power in its historiography, nor does any of it theorize power specifically in relation to its historical subjects and objects. This is not to say that power is therefore entirely absent from these narratives, or that specific power relations, especially among the professoriate, university administrations, boards of trustees, and governments, are ignored in the rationalization of historic events and the actions of historical subjects. Rather, it is to say two different things: (a) that power assumes a particular but implicit form in these works, such that understandings about it are neither absent nor “neutral”; and (b) that these understandings have limits.

Blaming subjects. First, some generalizations about the ways in which power and its operation are understood in the existing research can be made by considering excerpts such as the following.

Almost all people fear or dislike the unhindered discussion of certain ideas or the implications of some lines of research. In

consequence, they may try to control or eliminate sources of intellectual or emotional discomfort or to end the “waste” of money implied ... by “idle curiosity”. They may seek to prevent manifestations of antireligious or antigovernment sentiment, of bias against business, and, more recently, of racism or sexism. Some presidents or governing boards will try to prevent the harm, real or imagined, that may befall a university if its professors express unpopular views or pursue troubling research. (Horn, 1999, p. 5)

Here, power is institutionalized and bureaucratic; therefore, it is exercised mainly as control “over,” especially in forms such as legal-rational authority (cf. Weber, 1978). It is also construed as the opposite of freedom and as something that is/is not possessed by the subject. Hence, the subject may hold power and freedom in amounts relative to other subjects; it may mete power and freedom out to, or withhold them from, other subjects; and it may use or abuse power and freedom, thereby enrolling all--itself, other subjects, and the practices of power, control, and freedom--within the purview of ethicality. Of course, there are several effects of these understandings. For instance, because power is seen to operate over, between, and among subjects or groups of subjects in more or less determinable amounts, its use can be judged in relation to ethical, normative, and political constructions such as democracy, rights, and responsibilities, in dichotomous terms: right/wrong, good/bad, fair/unfair, guilty/innocent, permitted/forbidden and free/unfree. In turn, analyses are

limited in that they mainly concern themselves with the degree to which subjects are at fault or to blame for the consequences of action or inaction. Sometimes, specific individuals are singled out:

The University Act enabled Murray to run the university with a firm hand, an acquiescent board supporting him. This offered the advantage of clear direction, but it excluded professors from taking part in decisions that affected them, and it made even constructive criticism difficult. (Horn, 1999, p. 60)

In other instances, blame is more widely distributed:

People who seek to restrict the range of discussion, to maintain existing power relationships, or to bend scholarly pursuits to nonscholarly ends have taken a dim view of academic freedom and especially of a broad definition of the concept. Politicians, religious leaders, business and professional people, newspaper owners and editors, university administrators, members of governing boards, parents, students, and all too often even professors themselves have at times found some exercise of academic freedom offensive, inconvenient, or excessively costly and have sought to curtail it. (Horn, 1999, p. 6)

In this study, I submit an alternative, equally appropriate, and potentially more helpful analysis of some of the recent history of academic freedom in Canada that privileges a Foucauldian conception of power, where it is

understood to operate through a field of discursive relations, practices, and technologies at a microphysical level, “cut[ting] across individuals” (Turetsky, 1989, p. 150) rather than acting “over” them. I refer here to what Foucault (1984b) calls an “historical ontology of ourselves in relation to a field of power through which we constitute ourselves as subjects acting on others” (p. 351) and in which we constitute ourselves as subjects acting on ourselves (Foucault, 1984/1986, 1984/1994). Such an approach benefits understandings of academic freedom by exploring very different questions from those that traditional histories and their conceptions of power have thus far attempted to address. To these ends, I have employed the following interrogations as guides to my research.

- How is it that the discourse of academic freedom functions specifically as power-knowledge?
- What sorts of institutional technologies and devices organize, regulate, and control the practices of academic freedom in universities?
- How do such simultaneously subjectifying and objectifying technologies of power inscribe themselves on the subject and what are their effects?
- How and through what “techniques of the self” (Foucault, 1984/1986) does the subject regulate itself, as both the subject and object of institutionalized practices of academic “freedom?”

Abstracting power from knowledge and truth. The second point I would like to make about the conceptualization of power “over” that is at work in the body of existing Canadian research is that it has the effect of abstracting power from the phenomena of knowledge and truth. For example, in Gleberzon’s (1984) work, there is unrealized potential for an interesting and enlightening analysis of the power relations at play in the situation concerning the classification and reclassification of Holocaust denial literature at the University of Toronto Library. It is already explicit in Gleberzon’s paper that the practice of classification is a pressing and political matter related to academic freedom in public universities, but an historical account of a specific event that focusses mainly on administrative questions about what can and should be done and that is couched in normative language unfortunately does little to help us understand the complex relations of power operating among arbitrary knowledge organization systems such as the Library of Congress Classification and the *Criminal Code*, specific historical knowledges about the Holocaust, and the practices of (re)classification, censorship, academic freedom, and the freedom to read.

Many specific questions about this particular field of power relations are possible. I have attempted to address the following ones, specifically.

- How are the operations of specific power-knowledges in this setting discursive, productive, and dangerous and what are their specific social, material effects?

- How does power-knowledge function here, as a present and historical *regime of truth* (Foucault, 1977/1995)?

The subject and truth. In addition to problematizing academic freedom in Canada in relation to Foucault's unorthodox understandings of the subject and power, my research disrupts extant historical analyses of the topic in terms of the domain of truth, which is concerned with an "historical ontology of ourselves through which we constitute ourselves as subjects of knowledge" (Foucault, 1984b, p. 351). Accordingly, it is directed specifically toward interrupting the

customary approach [of] defining and locating "the intellectual" ... [which] combines elements of sociology (e.g. occupation), politics (e.g. relation to the left and right of the political spectrum), intellectual history (e.g. the rise of periodical publication), and social psychology (e.g. the posture adopted toward issues of the day). (Dewar, 2009, p. 4)

Rather, I suspend the idea that the "intellectual subject" is the central architect of its own unified conglomeration; instead, I take it up as socio-historically constructed through processes of objectification and subjectification. Nevertheless, two essential points must be made vis-à-vis (a) Foucault's insistence that he "absolutely will not play the part of one who prescribes solutions" (as quoted in Olssen, 2006, p. 108) to socio-political problems, which Sawicki (1986) explains as being "based upon

the historical evidence that what looks like change for the better may have undesirable consequences” (p. 32); and (b) the charge that, by epistemologically and methodologically de-centring the subject, Foucault undermines the possibility of an agential individual capable of transformative social-material action (cf. Harstock, 1990; Spivak, 1988).

The first point is that genealogy, as a form of *immanent critique*, i.e., a continuous and reflective criticism of social practices and institutions, is the project of an agential “specific intellectual.” The second is that the effects of immanent critique hold every possibility for autonomy-oriented action:

The “specificity” of intellectual practice and this account of the activity of critique come together in the refusal to legislate a universal determination of “what is right” in favour of the perpetual problematisation of the present. It is not a question, for Foucault, of invoking a determination of who we are as a basis for critique but of locating what we are now as the basis for a reposing of the question “who are we?” The role of the intellectual is thus not to speak on behalf of others (the dispossessed, the downtrodden) but to create the space within which their struggles become visible such that these others can speak for themselves. (Owen, 1994, p. 210)

This does not mean that genealogy stands outside relations of power-

knowledge and truth because it problematizes them for the ultimate and altruistic purposes of the autonomous subject; on the contrary, genealogy is both productive *and* dangerous, in the sense that it is both and simultaneously an effect of specific power-knowledge relations and effects discursive relations of power-knowledge that construct subjects and operate as truths. Thus, the genealogical method and the genealogies it produces must themselves also and always be the objects of immanent critique.

By now, I hope it is apparent that genealogical questions posed in relation to the domains of the subject and power and the subject and truth are necessarily inter-related. Indeed, in Foucault's philosophy, it is neither desirable nor possible to isolate the discursive elements of the subject, power, knowledge, and truth--or their effects--from each other. From my comments above about the ways in which power "over" is conceptualized in the academic freedom research, I also hope it is evident that the conscious, speaking, rational subject is centred in this work in ways that both limit it and contrast its analytic assumptions to those of genealogical analysis. For example, the research constructs a continuous, parallel history of the subject to support its understandings about the continuous history of academic freedom. It relates these histories in rationalized and often somewhat psychologized accounts of individuals' experiences, rather than theorizing academic freedom as practice or subjectivity as effects of discursive relations in a field of power-knowledge. In this way,

the subject can only exist in history because it is either spoken “of” in the documentary accounts of others or because it speaks “of itself” in its own documentary accounts, such as in the experiences of wielding authority and/or submitting to it. As a result, extant academic freedom research is chiefly about the history of the subject *of* history, rather than about the historically contingent conditions of possibility that allow the subject to *descend* and *emerge*¹⁷ in its peculiar and particular present: a discursive field wherein academic freedom operates as a regime of truth that is both vaunted and vilified. In other words, outside these teleological histories, it is not currently possible to account for the ways in which the academically “free” subject is constituted. As an antidote, I have attempted to address questions such as the following for a genealogical approach to the academic subject in relation to the domain of truth.

- What are the rules of discursive formation (Foucault, 1969/1972b) that determine the conditions of possibility for the emergence, descent, operation, and limitation of the discourse of academic freedom?

¹⁷Tamboukou (1999), drawing on both Foucault’s primary texts and the work of commentators such as Deleuze, Dreyfus and Rabinow, Dean, and Veyne, provides cogent descriptions of the genealogical concepts of descent and emergence in her article, “Writing Genealogies: an Exploration of Foucault’s Strategies for Doing Research.” Regarding analysis of descent, she emphasizes that “the aim is to strip away the veils that cover people’s practices, by simply showing how they are, and where they came from, describing its complicated forms and exploring its countless historical transformations” (p. 209). Emergence, she explains, “must delineate the deployment of various processes and power relations in various systems of subjection within which things appeared as events on the stage of history” (p. 209).

- Through what sorts of technologies and devices is the subject of institutionalized academic freedom assembled?

The subject and ethics. Academic freedom can also be problematized within the aim of the third domain of genealogy, which is an “historical ontology in relation to ethics through which we constitute ourselves as moral agents” (Foucault, 1984b, p. 351). This domain has two sides. The first considers moral codes and the subject’s behaviours in relation to these codes. Here, the concerns of the genealogist are to trace the emergence and descent of these elements in history, as effects of discursive rules and practices and the relations of truth and power. The second side concerns “the kind of relationship you ought to have with yourself, rapport á soi, ... which determines how the individual is supposed to constitute [itself] as a moral subject of [its] own actions” (p. 352). Foucault outlines four aspects of this side of the genealogical project. These are (a) the parts of the subject and its behaviours that operate in relation to moral conduct, (b) the “way in which [the subject is] invited or incited to recognize [its] moral obligations,” (c) the processes of change by which the subject can “become ethical,” and (d) the “kind of being” the subject wishes to become when it behaves “in a moral way” (pp. 351-355).

The subject and moral codes. I have already implied some of the many and different ways in which the object referred to as “academic freedom” is potentially constructed discursively in Canadian universities, specifically as an effect of institutional technologies such as educational

policy documents that operate intertextually. Certain of these constructions are especially relevant when considering questions about the academically “free” subject in relation to the two sides of the genealogical domain of ethics. For example, academic freedom may be constructed as a corporate value, a human, civil, and employment right, a general matter of the practice of professional ethics, and a specific matter of the practices of research ethics and teaching. Thus, regarding the first side of the domain, the subject may be enrolled in specific discursive fields of academic freedom ethicality and morality, wherein particular and local relations of power-knowledge operate both as and through discursive relations that objectify and subjectify. The effect is that particular subject positions in relation to ethicality and morality are possible/impossible. Specific research questions about this side of the domain, then, are not oriented toward uncovering the reasons why academic freedom is/is not an object of ethics or why individuals behave as they do in relation to specific moral codes. Nor do they aspire to pass judgement on the degree to which subjects’ behaviours are/are not “ethical” or whether decisions about these behaviours, borne of legal-rational authority and other forms of power “over,” are fair or just. Rather, I ask how it is that academic freedom operates as a regime of ethical and moral truths, such that there are “ethical” and “unethical,” “moral” and “unmoral” subject positions in relation to its codes and practices.

The subject, self-governance, and freedom. Finally, as the focus of questions about “rapport á soi” (Foucault, 1984b, p. 352) in relation to moral codes and behavioural practices, my study also problematizes academic freedom as not only operating in a discursive space in which it is itself a specific, institutionalized practice of freedom, but also wherein freedom, as it is more generally theorized by Foucault, operates in at least two additional ways. These are (a) as the pre-condition, condition, and support for the exercise of power (Foucault, 2000, p. 542), and (b) as the practice of an aestheticized, immanent, and non-universal ethics of the rational subject that is both “shot through with the presence of the Other” (Gros, 2001/2005, p. 536) and centrally concerned with social-material action:

The objective of the practice of the self is to free the self, by making it coincide with a nature which has never had the opportunity to manifest itself in it. ... The fact that all of this art of life is focused on the question of the relationship to the self should not mislead us: the theme of the conversion to the self should not be interpreted as a desertion of the domain of activity, but rather as the pursuit of what makes it possible to maintain the relationship of self to self as the principle, as the rule of the relationship to things, events and the world. (Foucault, as quoted in Gros, 2001/2005, pp. 536-538)

Mine is an historico-theoretical investigation into the construction of the ethical subject in relation to its pursuits of the wills to knowledge and truth

in the Canadian university. As such, I have attempted to produce an exploratory, postmodern inquiry that, following Foucault, affords a prominent place for considerations of the constitution of the academically “free” subject, whereby it is free/unfree to practice thinking and be-ing as effects of specific historic and institutionalized discourse-practices, technologies, and relations of power-knowledge.

Chapter 3 -- Conceptualizing and Analyzing

In discussing what existing formal research says about academic freedom in Canada (and beyond) and how it constructs and limits what we know about academic freedom practice, I have also tried, by questioning the authority of its continuities, to situate academic freedom as an historically contingent social phenomenon. Ahead of interrogating its everyday-ness, common sense-ness, and universality as socio-material dangers, in this section, I explain why I have conducted a recursive inquiry, how I have conceptualized academic freedom and text for the purposes of taking this approach, and how I entered the discursive field.

Employing Recursivity, Genealogy, and Archaeology

In this study, I have adopted a recursive approach to the analysis of documents related to three academic freedom cases that refers specifically to the

nonlinearity of the qualitative research process, reflecting a nonstatic research design. ... [R]ecursivity indicates an emergent research process in which the design and procedures unfold as the study proceeds. [It] represents a dynamic process of inquiry, yet at the same time it reflects a process that is methodical, logical, and cumulative. ... The recursive nature of qualitative research creates a basis for results to emerge from the data. Therefore, new decisions can be made throughout a study. (Leech & Onwuegbuzie,

2008)

The flexibility inherent in a recursive approach is proper to the practical and analytical processes of genealogical research, being a kind of discourse analysis requiring “relentless erudition” (Foucault, 1971/1984a, p. 77). This has only been achievable by engaging in a broad, cross-disciplinary corpus of relevant documents that operate complicatedly, haphazardly, and intertextually and by opening myself up to, and learning to embrace, the vagarious nature of discourse.

I have also taken the position that genealogy and archaeology are symbiotic methodologies. In this regard, I concur with Kendall and Wickham (1999), who maintain that

despite his occasional efforts to distance himself from the terminology of *The Archaeology of Knowledge*, Foucault himself regarded the two methods as complementary, distinguished only by their differing emphases on “historical slice” (however extended that slice might be) or “historical process” (Foucault, 1978a, 1981b: 70-71; Kremar-Marietti 1985), that is, the way they approach discourse. ... [G]enealogy is not so much a method as a way of putting archaeology to work, a way of linking it to our present concerns. (p. 31)

Conceptualizing Academic Freedom as Discourse-practice

Appreciating that a researcher ought to be explicit about (not just

demonstrative of) his assumptions, and that, as Lucas (1967) observes, the concept of academic freedom is “so amorphous that a treatment of the topic lends itself to many different interpretations” (p. 15), it is important to say that I have studied academic freedom as a *discursive practice*, an approach that is hitherto untaken in formal research. Of course, in this regard, I have followed Foucault, who takes this stance in relation to the study of several contemporary social phenomena, especially madness (Foucault, 1961/2009), incarceration (Foucault, 1977/1995), and sex customs (Foucault, 1988-1990). He writes,

Instead of studying the sexual behaviour of men at a given period (by seeking its law in a social structure, in a collective unconscious, or in a certain moral attitude), instead of describing what men thought of sexuality (what religious interpretation they gave it, to what extent they approved or disapproved of it, what conflicts of opinion or morality it gave rise to), one would ask oneself whether, in this behaviour, as in these representations, a whole discursive practice is not at work; whether sexuality... is not a group of objects that can be talked about (or that it is forbidden to talk about), a field of possible enunciations ... a group of concepts ... a set of choices. (Foucault, as quoted in Smart, 2002, p. 55)

In terms of analytical position, this orientation has had the advantage of placing me where it has been possible to encounter the “moment of interpretation ... [which] is like an overview, from higher and higher up, ...

[that] allows the depth to be laid out in front in a more and more profound visibility” (Foucault, as quoted in Dreyfus & Rabinow, 1983, p. 107). On the other hand, from this “height,” I have also encountered discursive practices that were necessary to bracket in my position as researcher such that I could consider them for analysis. For example, I did not take the stance that academic freedom is a bona fide corporate value or a universal human right; rather, it is these (and other) discourses that I have taken as “objects” for analysis, inasmuch as I have understood them to be effects of power-knowledge and therefore to effect the social production of subjectivity and the practice of freedom.

The broadest analytical task of my research has been to contribute to the definition and articulation of the discursive field of academic freedom in Canadian universities, insofar as it can indeed be restricted. At the same time, I have been mindful that although I have identified specific discursive practices for genealogical study, located the field(s) and sub-field(s) in which such practices operate, and have considered and/or described what might be inter-, intra-, extra-, and non-discursive in this context, my work has erected arbitrary and artificial boundaries in the practical interests of analysis. Further, I fully acknowledge that these limits, however necessary, are themselves caught up in discourse itself.

Since it is the continuities of traditional histories of discourse (e.g., tradition, influence, the book, and the oeuvre) that I mean to interrupt, I have also been mindful that Foucault (1969/1972b) would not have us

merely replace these with different categories of totalization. Rather, it was his aim--and mine--to specify that which unites within the dispersion of the space of discourse for the purposes of delimiting the genealogical project; that is, to consider the *unities of discourse*:

Once these immediate forms of [historical] continuity are suspended, an entire field is set free. A vast field, but one that can be defined nonetheless: this field is made up of the totality of all effective statements (whether spoken or written), in their dispersion as events and in the occurrence that is proper to them. ... One is led therefore to the project of a *pure description of discursive events* as the horizon for the search for the unities that form within it. (pp. 26-27, emphasis in original)

I shall return to the ideas of statements and events that are also invoked in the above passage, but next I explain what has been my conceptual approach to text and documents.

Conceptualizing Text as Discourse-practice

Kinneavy maintains that “the basic signals of discourse are texts, texts that are spoken, listened to, written, or read” (as cited in Klein, 1990, p. 13). It follows that, as social science research that depends upon historical and other documents as evidentiary objects and that privileges analyses of discourse, Nietzschean-Foucauldian genealogy also assumes text to be both discursive and practical. Indeed, as Prior (2008) explains,

Foucault argued that what is written is inextricably locked into what is done. So, there is assumed to be an essential connection among documents (and their contents), practical action, and sites of action--all of which express aspects of a discursive formation.

It also follows that what I have done is not an analysis of the linguistic “meaning” of historical texts about academic freedom cases. As Foucault (1969/1972b) elaborates in *The Archaeology of Knowledge* and Prior (2003) clarifies, Foucauldian discourse analysis brackets textual and linguistic examinations of the document in favour of considerations of their discursive relations with the broader socio-material world. Hence, using relevant historical texts (e.g., CAUT case reports and popular press materials) as well as other related texts (e.g., existing academic and intellectual freedom research and other forms of scholarship) as “data,” my analysis concentrates on the ways in which discursive practices are manifest in both the texts themselves and in the practices and possibilities of “free” thinking that are their effects. As such, my analysis concerns itself with the ways in which documents operate both intertextually (cf. Foucault, 1972/1969; Fairclough, 1992) and productively--both in- and outside text itself--as power-knowledge, such that (a) specific subject positions in relation to intellectual and academic freedom discourse are possible and others are not, (b) practice is governed by discourses of institutionalized power related to “free” thought and thinking, and (c) the subject governs itself in relation to specific ethical discourses of “freedom.” The goal has

been to understand *how it is* that (i.e., not merely how) the subject is/is not “intellectually free,” as a matter of discursive practices and the work of the self on the self. That is, not as a matter of the modernist functions and purposes of totalizing history, psychology, and social psychology.

Entering through the Statement-event

An analysis of academic freedom has been my “way in” to the study of intellectual freedom in Canadian universities. In particular, I have taken my position in the analytical “crow’s-nest” to which Foucault refers by paying attention to the fact that the most common gateway to its study, across all methods and jurisdictions, has heretofore been cases of its “violation.” In existing work, violation is first conceptualized as historical event(s) to be examined singly or meta-analytically from the position of either the distant or recent past. Implicitly and only rarely explicitly (i.e., in Lewis & Ryan, 1971), it has also been considered from the Mertonian structural-functionalist position that the nature of the social world can be legitimately known through the analysis of “extreme cases.” Admittedly, I do not consider this approach to be necessarily in complete opposition to Foucault’s. His genealogy of incarceration (Foucault, 1977/1995), for example, with its detailed accounts of, and frequent references to, specific cases and incidents of corporal and capital punishment in France, as well as his earlier critique of total histories, with its emphases on “general histories” that privilege the analysis of disruptive, irruptive, and discontinuous events (Foucault, 1969/1972b), suggest at least superficial

affinity with Merton's approach. It might follow that my research about the ways in which the intellectually "free" subject is constituted would have been best served by taking up this seemingly cardinal precedent. However, the most appropriate portal proved not to be the legal-historical event of violation, although such events figure very prominently in my work insofar as they are *discursive events* (Foucault, 1969/1972b). Rather, it is the event of the *statement* that I have employed as ingress.

The reason, which I hope is clear from the critique in Chapter 2, is that the historiography of violation, whether traditional or Mertonian, while it is in some respects a necessary and useful way of contextualizing what academic freedom has been, is also an insufficient means of understanding what we are now, especially as subjects who continue to struggle to think, do, and be in the institution of the Canadian academy. This is despite a (more or less) clear understanding of our history. Alternatively, I ask what else can be learned about academic freedom's inability to live up to its assurances that everything is possible when a differently critical approach to its exploration is taken where what we are is not directly attributed to what we have been in history, but rather might be (at least) partly explained by considering how it is that what we are is the effect of historiographical practice, as effected through its statements.

By way of comparison, let me distinguish between other understandings and approaches to the statement, such as the grammatical and linguistic, by quoting Foucault's (1969/1972b) definition.

We will call *statement* the modality of existence proper to that group of signs [that constitute a *sentence* or *proposition*]: a modality that allows it to be something more than a series of traces, something more than a succession of marks on a substance, something more than a mere object made by a human being; a modality that allows it to be in relation with a domain of objects, to prescribe a definite position to any possible subject, to be situated among other verbal performances, and to be endowed with a repeatable materiality. (p. 107)

It is the statement's *modality*, then--it's "something else"--that differentiates it from sentences and propositions and renders it discursive. In addition to the definition of discourse that I have already provided, which emphasizes practice, Foucault maintains that "discourse is constituted by a group of sequences of signs, in so far as they are statements, that is, in so far as they can be assigned particular modalities of existence" (p. 107). In this way, statements, as discursive events, and their discursive formations become the objects of study:

This discursive formation really is the principle of dispersion and redistribution, not of sentences, not of propositions, but of statements ... [and] the term discourse can be defined as the group of statements that belong to a single system of formation; thus I shall be able to speak of clinical discourse, economic discourse, the discourse of natural history, psychiatric discourse. (pp. 107-108)

It is by taking this analytical approach that I have been able to speak of *academic freedom discourse*, to delimit its discursive field, and to determine its discursive formation. Regarding the question of which statement has been my *entrée*, the most obvious has proven the most appropriate: the Canadian Association of University Teachers' (CAUT) (2011) policy statement on academic freedom, which is reproduced in Appendix A. For it is much more than a group of sentences and propositions: it holds "something else" that operates discursively, such that it is "productive" power-knowledge circulating in relation to a material, socio-educational field of other possible statements as well as possible objects, concepts, practices, and subject positions.

Writing a "History of the Present"

Having assumed the CAUT's *Statement* as discursive ingress has also been worthwhile in that, being a "policy statement" that is widely known, "in force," contested, and repeated in this historical moment--that is, right now--it befits genealogy's insistence that the problématique under analysis be interrogated in terms of its *present*. As Castel (1994) puts it,

one essential characteristic of this historical problematization of any apparatus needs to be emphasized. The starting point of the analysis and the orientation that directs it are the *present situation*, the way in which the question is asked today. (Castel, 1994, emphasis in original)

Again, the genealogical approach I have undertaken is *not* traditional historiography, even though I have collected and analyzed the same “data set” as the traditional historian. As Foucault (1969/1972b) unceremoniously declares, “I cannot be satisfied until I have cut myself off from the ‘history of ideas’, until I have shown in what way archaeological analysis differs from the descriptions of ‘the history of ideas’” (p. 136). To return to an illustration I use at the very beginning of this dissertation, I have not looked to history, as related in textual documents, to speculate or explain, for example, why some First Nations in Canada are opposed to academic research being carried out on them in the name of academic freedom. Rather, I ask how it is that statements and other events and objects operate in a particular discursive formation, i.e., a field of power-knowledge, such that

- academic and intellectual freedom function as particular and dangerous truths and as effects of truths;
- particular possibilities exist for the articulation of specific truth statements and the playing of truth games; and
- particular subject positions are possible, and others are not.

In my analysis, I have attempted to return statements and events to their *discursive specificity* (Foucault, 1969/1972b). The thrust of my efforts has been to “diagnose” (cf. Foucault, 1969/1972b; Kendall & Wickham, 1999) the freedom to think in the Canadian academy *as it presently*

practiced by writing what Foucault (1977/1995) calls a “history of the present” that takes discursive events in the field of academic freedom, and especially their deleterious effects (e.g., domination, job loss, expulsion, censorship) as matters of immediate and pressing concern in public higher education. These are the troubles that have motivated me. I ask how it is that these effects are possible; how it is that they emerge out of particular historical “conditions of possibility” in discourse. For I maintain that the present is *already* history, and, as such, that it “bears a burden, a weight that comes from the past, and the task of the present is to bring this burden up to date in order to understand its current ramifications” (Castel, 1994, p. 238).

Proceeding

Now that I have discussed the conceptual and analytical frameworks within which I have conducted my study, in this section, I elaborate, to the extent possible within the context of a recursive study, the practicalities of what follows. Here, I provide specifics about what most researchers call “research design” and “data collection.” In the case of my study, these refer to (a) the forms of documents I have used as evidentiary objects; (b) how I have accessed, collected, organized, and stored them; (c) how I engaged with them recursively; and (d) how I delimited the study.

Compensating for murkiness about the genealogical method.

Foucault leaves regrettable silences regarding the practicalities of conducting genealogical research. As Dean (1994a) puts it, Foucault

left us no extended methodological statement of this genealogy.

There are a series of essays, lectures, introductions, interviews, and other fragments, in which genealogical historiography is discussed but none of these settle on a fixed language and style of presentation. (p. 14)

Likewise, Tamboukou (1999) points to the lack of details about the specific texts that Foucault employs in his genealogical inquiries. “What remains unclear,” she observes, “is the fundamental nature of the documents under scrutiny” (p. 108). The minimum of specifics about Foucault’s methods are further frustrated by a qualitative social science research literature lacking in particulars about document-based research in general (cf. McCulloch, 2004), let alone Foucauldian methodologies, even though both are widely understood to fall into the category of qualitative social science work (e.g., Seale, Gobo, Gubrium, & Silverman, 2004; Bell, 2005; Lodico, 2006; O’Donoghue, 2006; Clough & Nutbrown, 2007; Given, 2009). These insufficiencies are compounded further still by researchers who claim to conduct genealogical research but who remain, by and large, reticent about their methods. Some are altogether silent (e.g., Casey, 2009); others use only the briefest, most general terms to describe how they go about their studies. Comstock (2008) exemplifies the

impreciseness I speak of in his genealogy of the Attention Deficit Hyperactivity Disorder subject, wherein he indicates only that he selects “texts ... drawn from policy, scientific discourse, teacher and student narratives, and other relevant historical representations” (p. 56) and a “selection [from thousands] of online chat room first-hand accounts” (p. 56). Di Muzio (2010) is even more vague about the method he employs in his genealogy of militant liberalism, where he reveals only that he “uses a genealogical method that seeks to integrate insights from a number of bodies of literature and primary and secondary sources” (p. 30).

On the bright side, a few snippets of method-related details are to be found in secondary sources of Foucault scholarship and a few examples of other recent research. All of these odds and ends hardly amount to a sketch of, let alone a “blueprint” (to use a modernist metaphor) for taking a genealogical approach to higher education policy research; nevertheless, they allowed me to proceed with something more than guesswork and to ground the design of my study in what relevant, method-related scholarship is to be found.

First, Tamboukou (1999) advances that Foucault employed diverse textual and non-textual “documents” in his work:

Although the majority of them rest on the shelves of the *Bibliothèque Nationale* and the *Bibliothèque du Saulchoir*, where, according to his biographers, Foucault, a real “archive-addict”,

spent a great deal of his life⁴, there is something more vivid than pure archive material that animates Foucault's writings. ...

Foucault's "documents" were also to be found in the asylums, within the political demonstrations occurring outside prisons, or in the baths of San Francisco. Artaud's theatrical plays, the literary work of Bataille, Blanchot's novels, a famous work of art such as *Las Meninas* or an object such as a pipe could turn out to be objects of his inquiries.⁵ (p. 208)

Adding to Tamboukou's observations is the work of a few genealogists who at least partly elaborate their methods and procedures. Price (1994), for example, in his genealogy of the chemical weapons (CW) taboo, explains that

the sources drawn upon ... focus on public treatments of chemical weapons issues as appear in speeches by political leaders, books, and popular media such as newspaper and journal articles. For primary sources, particular attention is given to the proceedings and memoranda of international fora where the question of CW has been addressed. These include the proceedings of the Hague, Washington, and Geneva Conferences, and other sources such as Congressional ratification debates and League of Nation and United Nations conferences. (p. 38)

He also explains that

archival material is utilized, though it will be seen that other sources such as newspapers are more relevant for the particular question at hand in portions of the study. Archival material is occasionally sourced via the secondary literature In each chapter the sources [are] drawn from a variety of countries as appropriate. (pp. 38-39)

Forell's (2008) project about basic writing in Texas, which she conducted using case study with "genealogical sensibilities," is another example of recent research that provides something more than a perplexing brevity about practical, procedural matters. She collected 94 texts in total, explaining that

in order to demonstrate how particular discourses work on and through texts, it was necessary to gather various types of documents including: publications, presentations, reports, meeting minutes, public forum transcripts, professional literature, web sites, administrative pronouncements, procedural guidelines, and policies. (p. 48)

Forell goes on to say that she gathered these documents by conducting "systematic searches" (p. 48) on electronic databases (e.g., newspaper archives, library catalogues, *Academic Search Complete*, and *Dissertation Abstracts International*), mining the bibliographies of journal articles, searching public archives, and downloading papers from Web sites.

Describing documents used in the study. All of this is to say that, in terms of method, what is evident in Foucault's genealogies, the secondary literature, and recent genealogical research is that textual documents, however loosely and broadly defined, constitute evidentiary objects. Therefore, this is the approach I have taken. One caveat: this is not to say that I have taken the approach of most social scientists, whom, as Prior (2003) points out, have viewed documents as "almost exclusively ... containers of content" (p. 3). At the risk of repetition, I say that I understand text to be discourse-practice and that documents operate intertextually and productively (Foucault, 1969/1972b; Fairclough, 1992). I argue that these orientations toward discourse and document research are congruous with Foucault's (1971/1984a) description of genealogy as

gray, meticulous, and patiently documentary. It operates on a field of entangled and confused parchments, on documents that have been scratched over and recopied many times. ... Genealogy, consequently, requires patience and a knowledge of details and it depends on a vast accumulation of source material. Its "cyclopean monuments" are constructed from "discreet and apparently insignificant truths and according to a rigorous method"; they cannot be the product of "large and well-meaning errors". In short, genealogy demands relentless erudition. (p. 76)

In the following chapters, I enumerate the specific "entangled and confused parchments" through which I have conducted my work. These

include

- institutional documents of universities and faculty associations, such as policies, press releases, collective agreements, newsletters, and reports;
- popular press texts, especially books, newspaper and magazine articles, editorials, and letters to the editor; and
- scholarly and professional texts such as journal articles, conference papers, and proceedings in disciplines such as education, sociology, history, Canadian studies, philosophy, law, political science, and library and information science.

Acquiring, organizing, and storing documents. This cross-disciplinary, historico-theoretical project led me through a diverse corpus of documents that transcended the boundaries of the academic disciplines. In practical terms, it required that I drew on my training and skills as a both a former public reference and cataloguing librarian and a library educator to discover, access, collect, organize, and store relevant materials for analysis. For example, it was necessary to conduct sophisticated, targeted electronic and manual searches on resources such as library and union catalogues, periodical, news and other indexes, and World Wide Web resources such as search engines. In the manner I describe in the research review above, I amassed and organized documents in a RefWorks database when documents were available for

direct downloading. When it was impractical or impossible to obtain specific documents digitally through the World Wide Web, proprietary databases (e.g., JSTOR and the Periodicals Online Archive), library catalogues (e.g., OCLC WorldCat), and digital libraries, I borrowed what I required from the University of Alberta Libraries and/or its interlibrary loan service.

Dispensing with “primary” and “secondary” sources. The types of documents I have used and list above are usually organized by historians and other researchers in the social sciences and humanities in one of two categories: primary and secondary sources. For historians, “direct evidence” is generally considered to be “detailed factual information from primary and secondary sources” (Marius & Page, 2010, p. 14) and there is a “collective moralism [that] surrounds [the] use of sources, with primary ones being regarded as somehow ‘better’ and reliance on secondary sources being deemed weak” (Jordanova, 2006, p. 39). The categories of “primary” and “secondary” function, then, as a generalized hierarchy of evidentiary reliability and trustworthiness that operates in relation to epistemological and methodological assumptions underpinning the historiographical search for roots and origins. These include objectivity, accuracy, usefulness, and corroboration. However, being that Nietzschean-Foucauldian genealogy (a) brackets such assumptions in its desire to interrupt the continuous, unfolding history of the subject as related in the search for its beginnings; (b) is conducted on “entangled and

confused parchments, on documents that have been scratched over and recopied many times” (Foucault, 1984a/1971, p. 76); and (c) presumes that text is discursive (i.e., not merely informative to varying degrees), it follows that both the hierarchical categories and the collective moralism that is an effect of the practice of categorization ought to be dispensed with. That is to say, I have taken the stance that in a genealogical approach, since all texts are themselves discursive, direct evidence of discourse might be manifest through any document and that specific documents ought not to be hierarchized or potentially discarded from analysis based on historiographical assumptions about their validity and trustworthiness.

Proceeding recursively. Having established what I mean by cross-disciplinary document research, provided details about how I went about collecting necessary documents, indicated how I entered the discursive field, and elaborated the key analytics of genealogical work, I hope that the appropriateness of having taken a recursive approach is apparent. Insofar as genealogical analysis is qualitative research, this meant that what I “did” was a matter of the “doing.” Perhaps the best way to describe what I have tried to accomplish is to consider the following quotation from *The Archaeology of Knowledge*, in which Foucault (1969/1972b) uses the metaphor of concentric circles to describe the purposes of his analysis of statement-events. He writes,

I am trying to show how a domain can be organized, without flaw, without contradiction, without internal arbitrariness, in which statements, their principle of grouping, the great historical unities that they may form, and the methods that make it possible to describe them are all brought into question. I am not proceeding by linear deduction, but rather by concentric circles, moving sometimes towards the outer and sometimes towards the inner ones; beginning with the problem of discontinuity in discourse and of the uniqueness of the statement (the central theme) (p. 114)

Harking back to Foucault's (1971/1984a) description of genealogy as requiring "relentless erudition" (p. 77) and regarding the mechanics of my work, I can also say that I read continuously, took extensive notes, and drafted chapters of my analysis as part and parcel of recursive analysis that operated like concentric circles.

Setting the limits of the study. Given the huge number of documents I could have used in my research and the endless possibilities of postmodern discourse analysis, it was necessary to delimit the study in the practical interests of producing a dissertation. I achieved this in relation to the conceptual and methodological limitations of genealogical inquiry itself.

As I have noted, genealogy is both dangerous and productive through its discursivity. On this point, I also agree with Roth (1981), who reminds that

Foucault ... says in *The Archaeology* that his own methods are another way of getting at the past, and may be even complemented by more conventional forms of historical inquiry. Thus, he is careful to point out that archaeological analysis is not an attempt to “guarantee the sovereign, sole, independence of discourse,” but that it must be deployed “in the dimension of a general history.” Similarly he does not exclude the possibility of writing a “history of the referent,” but only wants to carve out a space for the legitimate operation of his own methods of investigation and description.²⁶ (p. 40)

The point is not only that archaeologies and genealogies can complement each other and traditional researches of the referent; it is that complementing is required because, like total histories, general histories are necessary but always themselves *incomplete*. In this regard, I would like to be clear that I have not written a complete genealogy of the freedom to think in Canadian universities. Rather, I have analyzed the operation of statements in relation to three discursive events, namely (a) Dr. Nancy Olivieri’s breaking of a clinical trial-related non-disclosure clause, (b) the naming controversy surrounding the conference *Israel/Palestine: Mapping Models of Statehood and Paths to Peace*, and

(c) the denial of Professor George Nader's reappointment as principal of Peter Robinson College for the purpose of working *towards* a genealogy of academic freedom that contributes to understandings about how it is that subjects are/are not free to think and be what they are. Hence, I have chosen a tentative title to describe the study, its parameters, and its objectives.

Prefacing the analysis. Each of the following three chapters situates one of these instances of academic freedom controversy as a discursive event, and then considers it in relation to one of three archaeo-genealogical analytics, *rarity*, *exteriority*, and *accumulation* (cf. Foucault, 1969/1972b), which are also described. As such, I take the overall position that because the cases invoke the CAUT's (2011) policy statement on academic freedom, the policy statement is the *entrée* to a description of the operation of statement-events within the discursive field. While the chapters stand alone as essays about the discourse-practice of academic freedom in relation to particular statements about it, I re-consider them in the final chapter as contributing to the ways in which the discursive field might be understood more broadly, especially in relation to the possibilities of practicing intellectual freedom as a matter of ethics.

Chapter 4 -- Academic Freedom, Social Relations, and the Regime of Truth

“Legendary whistleblower” (Tsai, 2006, p. 74) Dr. Nancy F. Olivieri was the centre of the most famous academic freedom case in Canadian history, the most detailed investigation ever conducted and published by the CAUT, and “one of the most important events to occur in research ethics” (Viens & Savulescu, 2004, p. 1) in this country. Taking the case up as a discursive event, in this chapter, I describe how it is that academic freedom discourse accumulates in relation to three sub-analytics: *remanence*, *additivity* and *recurrence*. First, I summarize the events of the case that are pertinent to the analysis I bring to it. Then, I explain *accumulation* and the sub-analytics as a useful method of discursive analysis. Next, against the backdrop of the texts about the event I have analyzed, I argue that academic freedom accumulates its statements in ways that permit it to cross domains, effect subject positions, and construct a particular regime of truth about itself and its history.

Describing the Discursive Event¹⁸

At the time of the controversy, which began in the mid-1990s, Olivieri was head of the Hemoglobinopathy Research Program at the

¹⁸In this summary of events, I have relied on Viens and Savulescu’s (2004) detailed timeline, which draws upon three investigatory reports: the CAUT’s, written by Thompson, Baird, and Downie (2001), Naimark, Knoppers, and Lowy’s (1998), and the College of Physicians and Surgeons of Ontario Complaints Committee’s (2001).

Hospital for Sick Children (HSC) and a professor of medicine at the University of Toronto. In 1989, she and her colleagues began investigating the clinical effectiveness of deferiprone, an oral drug used to reduce the potentially fatal build-up of iron in the organs of thalassemia patients. The build-up is caused by the regular blood transfusions used to treat the disease and, to that point, had been most commonly managed with drugs such as deferoxamine, which is administered over many hours by injection. In 1993, Olivieri and co-investigator Dr. Gideon Koren entered into an agreement with the Medical Research Council of Canada and Apotex, Inc., a Canadian pharmaceutical manufacturer, to conduct three clinical trials of deferiprone. The contract for the second of these trials, which involved approximately 200 patients in Canada, the United States, and Italy, contained a clause prohibiting the disclosure of information about the trial for three years after its conclusion without explicit written consent from Apotex.

In 1995, Drs. Olivieri and Gary Brittenham, another co-investigator, discovered that the drug was not effective for some patients participating in the third trial. However, despite Olivieri's insistence that this finding be reported to the HSC Research Ethics Board (REB) in conjunction with her application for a separate protocol to continue investigating the varying effectiveness of deferiprone, Apotex refused to grant permission for the data, which it disagreed with, to be released. Nevertheless, Olivieri informed the REB and subsequently provided it and Apotex with revised

patient information and consent forms for the first and third trials. The Board required Olivieri to inform participants of the findings, but when she attempted to do so, Apotex cancelled the trials, terminated her consulting contract, and threatened her with legal action if she broke the non-disclosure clause. Even so, at the end of 1996, Olivieri publicly reported her findings at the conference of the American Society for Hematology.

In the long-term clinical trial, liver fibrosis emerged as a second possible effect of deferiprone usage among some participants. Olivieri moved swiftly to inform patients and the REB of this new risk and stopped prescribing the drug, later publishing this finding with her colleagues in *Blood* and the *New England Journal of Medicine*. During this time, Apotex maintained that the drug was safe and the conflict became even more complex: in April, 1998, Olivieri claimed that she had been constructively dismissed by the HSC after she wrote a letter to the administration complaining about her working conditions and warning that she could not continue in her position unless the situation changed. The administration considered her letter to be notice of her resignation.

The HSC board of trustees funded Naimark, Knoppers and Lowry's (1998) review of the matter, which came to be known as the *Naimark Report*.¹⁹ The authors determined that "HSC staff and executives did not

¹⁹Despite its sociohistorical significance, the *Report* is almost impossible to obtain. It is not held by any library, including Library and Archives Canada and the University of Toronto Libraries, as evidenced by its absence from *OCLC WorldCat*, the largest union catalogue in the world. I was only able to locate it by means of the Internet Archive's "Wayback Machine" using the URL supplied by Viens and Savulescu (2004, p. 7).

act improperly” (Viens & Savulescu, 2004, p. 5) in the case; however, as Schafer (2007) explains, although the report “singled out Olivieri for special criticism ... [it] was later shown by two independent inquiries to be based upon misinformation¹⁰” (p. 112). After the report was published, Olivieri faced many allegations, including that she had neglected to report her findings to the REB “in a timely way” (Downie, Thompson, Baird, & Dodds, 2005, p. 11). The College of Physicians and Surgeons of Ontario Complaints Committee (2001) subsequently investigated her conduct in relation to the allegations and exonerated her.

In January, 1999, Olivieri was fired from her job as head of the Hemoglobinopathy Program, but, at least partly owing to the intervention of her devotees, especially Drs. David Nathan and David Weatherall, she very soon reached an agreement in which she was reinstated and “her right to academic freedom affirmed” (Viens & Savulescu, 2004, p. 5). However, the agreement was brokered by University of Toronto President Robert Prichard under highly dubious circumstances, as pointed out in the bulletin of the American Association of University Professors:

In August, 1998, Olivieri published her findings in the *New England Journal of Medicine*, sparking further criticism of her administrators in the university, whose president, Robert Prichard, ... led a heavily publicized campaign to procure a multi-million-dollar gift from Apotex. In defending his stance against Olivieri, Prichard cited long-term fallout with funders that might jeopardize the hospital’s

research program and patient care. (“A Drug Company’s Effort,” p. 25)

Indeed, Prichard had lobbied Prime Minister Jean Cr tien against the federal government’s planned changes to drug patent legislation knowing that Apotex feared they would negatively affect its profits and therefore its ability to follow through on its donations to the University (Thompson, Baird, and Downie, 2001).

In the fall of 1998, Olivieri approached the CAUT for assistance and in the spring of 1999 it organized the independent Committee of Inquiry, headed by Dr. Jon Thompson of the University of New Brunswick (see Thompson, Baird, & Downie, 2001). The Committee’s weighty report was published in October, 2001. In essence, it found that “Olivieri did not act improperly and that the University of Toronto did not do enough to protect her academic freedom and help Olivieri after it had been alleged that she was constructively dismissed” (Viens & Savulescu, 2004, p. 5). The report makes one general and 30 stakeholder-specific recommendations, several of which explicitly or implicitly refer to academic freedom, especially as it relates to the disclosure of risks to participants in clinical trials and the freedom of clinical researchers to publish the results of their research independently of contractual non-disclosure clauses. Among these, for example, is the advice that “all universities and affiliated teaching hospitals should have in place policies and practices that are effective in protecting academic freedom, as well as principles of research and clinical ethics”

("Report Vindicates Dr. Nancy Olivieri," 2001).

Describing Accumulation

In order to contextualize what follows, I turn now to the specifics of accumulation as a form of enunciative analysis, where Foucault (1969/1972b) emphasizes intertextuality as a way of approaching the positivity of statements and discursive formation.

To begin, accumulation opposes the "interiorization ... of memory" that is effected through historiography and its "undiscriminating totalization of documents" (p. 122). In this sense, rather than "remembering" statements so that they may be returned to the certainty of their origins, the purpose of analyzing accumulation is to

follow them through their sleep, or rather to take up the related themes of sleep, oblivion, and lost origin, and to discover what mode of existence may characterize statements, independently of their enunciation, in the density of time in which they are preserved, in which they are reactivated, and used, in which they are also--but this was not their original destiny--forgotten, and possibly even destroyed. (p. 123)

Being effective, statements are both "caught up" in and "never cease to modify, to disturb, to over-throw, and sometimes to destroy" (p. 125) their accumulation. Their effectiveness can be described in relation to three sub-analytics: *remanence*, *additivity* and *recurrence*.

Remanence. First, the idea that statements are residual, i.e., that they effect *remanence*, opposes the practice of historical memorialization in the sense that instead of concerning itself with the search for the original enunciations and meanings of statements, it focusses on (a) the ways in which they are preserved materially, institutionally, and through “certain statutory modalities” (p. 123); (b) the techniques, technologies, practices, and relations operating in and through statements; and (c) the differences among the systems of relations, “schemata of use,” and “possibilities of transformation” that they hold upon verbal performance (p. 124).

Additivity. Second, the sub-analytic of *additivity* considers that statements have “their own way of merging together, annulling one another, excluding one another, complementing one another, [and] forming groups that are in varying degrees indissociable and endowed with unique properties” (p. 124). In this sense, additivity attends to the discursive relations among enunciations of statements that effect particular practices and the formation of discursive elements such as objects and concepts.

Recurrence. Third, *recurrence* takes into account the ways in which the statement “constitutes its own past, defines, in what precedes it, its own filiation, redefines what makes it possible or necessary, [and] excludes what cannot be compatible with it” (p. 124). Here, the productive nature of statements is understood to effect the uniqueness of their historical emergence within a discursive field as an effect of relations

between and among antecedent discourses and as effects of new and shifting relations.

In short, as is the case with *rarity* and *exteriority*, analyzing accumulation requires a cross-disciplinary, continuous, and recursive analysis of discursive formation that interrogates the specific, productive nature of academic freedom-related statements, objects, and other discursive elements and their social relations. It examines how it is that statement-events, operating intertextually both in and as particular types of power-knowledge, are transformed and institutionalized in the discursive field, being, as they are, high-stakes, local and extra-local, socio-educational and socio-political matters of concern and contest. My purpose in terms of accumulation in regard to the Olivieri case, then, is to describe how it is that statements circulating in the field produce a particular regime of truth about academic freedom such that it is possible for subjects to think and practice it in particular ways.

Proceeding

The choice of the Olivieri affair for an analysis of accumulation was, in a sense, predetermined by, and purposed towards, its fame, which, on one hand, is owing to its substance, and on the other to the ways in which it has been taken up internationally and in various academic disciplines over many years. These were pre-analysis indicators that, as a discursive event of the recent past, what happened at the HSC when Olivieri dared to

break a contractual non-disclosure clause came to be of such wide significance that it could only be a generative entrée to the study of the discursive formation of academic freedom. As such, this chapter is the product of the analysis of approximately 35 documents related to the case, which I chose from among the several hundred that have been published since it first gained public and international attention in 1998. These selections are cited in Appendix B. The documents are in multiple formats (e.g., reports, letters to the editor, scholarly journal articles, book reviews, newspaper and magazine articles) and are drawn from several academic disciplines (e.g., medicine, medical ethics, bioethics, the ethics of science, public policy and law) and the popular press. As such, they constitute a corpus of evidentiary objects that is a sound basis upon which to describe the accumulation of statements.

Describing Remanence

Preservation. An analysis of enunciative remanence can be organized according to three aspects of its positivity: *preservation*, *investment* and *existence*. Beginning with the first of these, by way of reiteration, Foucault (1969/1972b) argues that “to say that statements are residual (rémanent) ... means that they are preserved by virtue of a number of supports and material techniques ... in accordance with certain types of institutions ... and with certain statutory modalities” (p. 123). In terms of this positivity, I argue that academic freedom discourse effects particular practices of knowledge production, as produced through the

existing and still-growing literature of the Olivieri case, where, for example, accounts of facts “have multiplied and divided to the point where they would now overfill the shelves of a reasonably sized library” (Schafer, 2004, p. 9). Institutions in the field produce knowledge differently in relation to the case, effecting different types of artifacts, or *information packages* as they are called in library and information science phraseology. Examples of these, and the practices they are effects of, are presented in Table 1.

Table 1

Olivieri Case-related Institutional Preservation Techniques & Technologies

Institutions	Knowledge Production Practices ^a	Information Packages ^b
CAUT Faculty Associations	Commenting Corresponding Investigating Minuting Policy-making and Revising Reporting	Collective Agreements Minutes Open Letters Position Statements & Papers Reports
Universities Teaching Hospitals	Evaluating Historicizing Intellectualizing Peer Reviewing Presenting Publishing Researching Testing Theorizing	Codes of Conduct Conference Materials Discipline Procedures Mission & Values Statements Protocols Research (e.g., Articles) Standards (e.g., Care, Ethics)
Archives Libraries	Cataloguing Circulating Collecting Copying Digitizing Indexing & Abstracting Lending	Archival Fonds Catalogues Indexes & Abstracts Repositories
Popular Press	Biographizing Broadcasting Editorializing Fictionalizing Opining Recording Reporting Reviewing Summarizing	Editorials News Digests Newscasts & News Reports Novels Sound and Video Recordings
Government	Judging Legislating	Government Documents Case Law Legislation Transcripts of Proceedings

^a In order to emphasize the diversity of knowledge production practices, I have not repeated those that are common to more than one institution (e.g., policy development, publishing, and researching).

^b Information packages include physical and electronic materials.

In this context, preservation, and the power-knowledge it produces, have important effects. For example, consider the following excerpt, taken from a letter by Hoffbrand (2005) to the editor of *The Lancet* in which he discusses Shuchman's (2005) highly controversial, quasi-biographical book about Olivieri and the case, *The Drug Trial*. Hoffbrand writes,

Acceptance of the views of an independent international committee, which, as detailed in *The Drug Trial*, had been asked to review the data and had concluded that the drug was both effective and not a cause of liver fibrosis, should have avoided this unnecessary conflict

The rights of the clinical researcher to express soundly based concerns about a drug under trial must certainly be preserved. As Weatherall¹ states, long legally binding agreements under which a scientist involved in a trial can be prevented from publishing or presenting data need to be avoided. The rights of patients should also be recognised, however, so they should not be denied the use of a potential life-saving drug due to a faulty assessment of scientific data. As is apparent from *The Drug Trial*, the case of Olivieri versus Apotex is a poor example on which to base major changes in the arrangements between the drug industry and clinical scientists, even though such changes may be needed.

(p. 1433)

This scholarly exchange effects the practices of historicizing, biographizing, reviewing, critiquing, and publishing. As such, propositions about various aspects of the case, such as its factual history, the ethical issues it raises (e.g., freedom to publish and patient safety), and the innocence or guilt of particular institutions and subjects in relation to these issues, are also effected (and contested). I argue that, in this sense, preservation techniques are both the conditions of possibility for, and the power-ful effects of, case-related statements; that is, as power-knowledge, statements become the rational, ethical, and “objective” grounds upon which blame can be laid and upon which judgements about the appropriateness of developing public policy based on the case, as a precedent, can also be made.

In considering the theme of sleep and “what mode of existence may characterize statements, independently of their enunciation” (Foucault, 1969/1972b, p. 123), we can see that the words “academic freedom” need not be uttered in the mechanics of text in order for the statement to enter the field. Nowhere does Hoffbrand (2005) speak of it in his piece, but academic freedom is invoked through the intertextual practice (i.e., “material technique”) of quoting. For example, in repeating Weatherall’s statement that “legally binding agreements under which a scientist involved in a trial can be prevented from publishing or presenting data need to be avoided” (p. 1433), the statement enters as an effect of its discursive relations with the freedom to publish and freedom of speech.

These discourses circulate in the field as intertextual effects of other statements, such as the CAUT's (2011), where "academic freedom includes the right, without restriction by prescribed doctrine, to freedom to teach and discuss; [and the] freedom to carry out research and disseminate and publish the results thereof." Thus, academic freedom is not extra-discursive because it is not explicitly spoken or because subjects are constructed in texts such as Hoffbrand's to be scientists instead of academics. Its "mode of existence" is discursive relations, not grammar; thus, it does not "sleep," but, on the contrary, accumulates as power-knowledge such that, even in the absence of its name, it can still be talked about, practiced, critiqued, etc., and it can serve as the basis upon which judgements are made about the ethicality of particular scientific behaviours and institutionalized practices. The point is that (a) academic freedom is an effect of language yet does not rely upon the "sovereignty of the signifier" (Foucault, 1971/1972b, p. 229), and (b) preservation effects more than the dialogicality of enunciated statements about academic freedom: it effects its *discourse*.

Investment. The second positive aspect of remanence is the idea that statements are "invested ... in the social relations that they form, or, through those relations, modify" (Foucault, 1969/1972b, pp. 123-124). We can examine the following text to see how it is that academic freedom is invested.

Besides traditional ethics of patient care, Olivieri points out,

corporate-campus liaisons in medical research may prove dangerous to academic freedom. ... Despite the sour residue on her campus, Olivieri sees some positive impact from recent media coverage of her case, as research contracts and the role of corporations in medical education come under greater scrutiny by academics and the public. "In 1996, I was this lone voice saying I'm concerned about these kids." Now, she explains, "The dots are being connected, and a very disturbing pattern is emerging." ("A Drug Company's Effort to Silence," 1999, p. 25)

In this quotation, the claims are that (a) academic freedom is jeopardized when businesses and universities partner in medical research, and (b) awareness of academic freedom's jeopardy is the result of the reporting of the Olivieri case. These are related to subsequent claims that the case "led universities to offer researchers some protection against illegitimate drug company pressure," that "medical journals changed their publication rules," and "research hospitals changed their policies" (Schafer, 2007, p. 111) in response to the issues it raised. The degree to which such claims are themselves "true" is a question for a different type of analysis; what is important in terms of the sub-analytic of investment is that they accumulate as a *regime of truth* (Foucault, 1984c, p. 131) that effects particular social relations. For instance, whether the material relations between the business corporation and the corporation of the university have or have not changed (e.g., Is academic freedom still jeopardized

when pharmaceutical companies contract academics to conduct drug trials?), what we can see is that they have indeed been modified *in discourse* through the power-knowledge of historiography, as an effect of its totalizing practice. That is to say, the statement, enunciated through the modality of the speech act, accumulates intertextually through changed social relations in history, as an effect of the positivity of investment. Put differently, a regime of truth about the case having effected present academic freedom-related socio-institutional relations through policy adjustments *descends* (Foucault, 1984a) as an effect of the accumulation of statements in history.

We can also see that the statement is invested in various multilateral, hostile, material social relations “independently of [its] enunciation” (Foucault, 1969/1972b) that are additional effects of its relations with other discursive elements circulating in the field. For instance, take the following text, which was published in the popular press not long after the case was first reported to the public at large.

Olivieri’s study ended in disarray in 1996, initiating a bitter dispute that became public last August, involving charges of improper pressure by the Toronto-based drug firm Apotex Inc., alleged errors by Olivieri and accusations that Sick Kids’... failed to support the researcher in her acrimonious dealings with Apotex after she questioned the drug’s effectiveness and safety. In turn, that dispute focused attention on the larger issue of whether researchers may

be increasingly vulnerable to pharmaceutical company pressures as that industry invests more money in drug trials. (Nichols, 1998)

Here, the academic-researcher subject is pitted against three discursive objects: the institutions of pharmaceutical company, employer, and university (through its relations with the employer). Related texts effect additional (mostly bilateral) socio-institutional and interpersonal relations of conflict such as

- whistleblower versus “big pharma” (cf. O’Hara, 1998),
- good scientist versus bad scientist (cf. Hoffbrand, 2005),
- defamer versus defamee (cf. Olivieri, 2005), and
- hero versus villain (cf. Baylis, 2004; Tsai, 2006).

What is most significant about these relations is that they are only possible insofar as they are effects of, and effect, political struggles over academic freedom *whether or not it is spoken*. In this way, they are *productive investments*, which is to say that academic freedom discourse accumulates through the complex social relations that it “forms” and that, at the same time, produce it.

Existence. “Lastly,” Foucault (1969/1972b) writes, remanence “means that things do not have quite the same mode of existence, the same system of relations with their environment, the same schemata of use, the same possibilities of transformation once they have been said” (pp. 123-124). In the context of academic freedom, I contend that both the

institutional techniques and technologies through which it is preserved and the relations through which it is invested effect its particular mode of existence.

Producing knowledge. In considering the knowledge production practices effected by the Olivieri case that are presented in Table 1, we can see that they operate in relation to the *already said*. The practices of investigating, testing, digitizing, biographizing, commenting, and reviewing--to name only a few--are all effected through the transformation of existing enunciations of the statement. This point is amply illustrated by examining the last of two these, commenting and reviewing, which manifest a significant number of information packages in the literature of the case. For instance, a legal commentary states,

In this comment we briefly summarize the facts as found by the [CAUT] Committee of Inquiry and describe earlier attempts to deal with the complex issues raised in the dispute. We then set out and comment on the most significant recommendations made by the Committee of Inquiry in its Report. Finally, we refer to fiduciary law, which was not explicitly adverted to by the Committee of Inquiry. This body of law sharpens the focus considerably on the propriety of the behaviour of the various parties to the dispute, including Dr. Olivieri. (Litman & Sheremeta, 2002, para. 3)

We can see that here, the statement enters the field of legal discourse as

an effect of intertextuality, but I would draw attention especially to the particular, pre-existing enunciations of academic freedom within the field that are taken up throughout the commentary (e.g., the Committee's recommendations) because they constitute both the objects of knowledge production in this text, and, therefore, the conditions of possibility for the *production* of knowledge. Taking up academic freedom thusly, it becomes possible for the discourse of fiduciary law to challenge academic freedom as the supreme, ethical basis upon which clinical researchers are "free" to report risks to patient safety:

All parties and institutions who have an interest in clinical trials and in the well-being of human research subjects can benefit from the Committee Report. Understanding that the doctor-patient relationship is fiduciary in nature and that this has significant legal implications provides an even deeper insight into the issues raised by the Olivieri case. (para. 36)

Similarly, the technique of reviewing relies upon enunciations of the statement already circulating in the field to produce "new" knowledge about them. Consider, for example, assertions such as,

The Olivieri case is especially important, for it exemplifies potentially competing interests: the physician's duty to communicate health risks to human subjects in trials; the researcher's obligation to communicate his or her research findings

to the scientific community; the host university's, and hospital's, responsibility to protect academic freedom and scientific integrity; and the commercial sponsor's interest in a return on its investment, and the public interest in healthcare and scientific research ^{4,5, 6}

For all these reasons *The Olivieri Report* may represent the most comprehensive, thorough, and credible study to date of the complex tensions involved in commercially sponsored clinical research. (Di Norcia, 2003, pp. 125-126).

Here, the statement enters the fields of multiple scientific and non-scientific discourses as an effect of its enunciation through the technologies of the interdisciplinary academic journal (i.e., *Science and Engineering Ethics*) and the peer-reviewed book review. In taking up the *Report*--or, rather, what is already said about academic freedom within it--as the object of review, it becomes possible to produce knowledge about the report itself (e.g., that it is excellent). This has the simultaneous effect of reiterating the existing enunciations of the statement, thereby validating and solidifying them as knowledge in and about the field. It also transforms the *Report* into a kind of authoritative knowledge; thusly, it is possible for it to constitute more than factual, historical knowledge about the Olivieri case and academic freedom, and even more than "new" knowledge about how the case relates to the specific socio-political and socio-economic concerns of commercially sponsored clinical trials in publicly funded Canadian universities. For in these ways, and especially

as “the most comprehensive, thorough, and credible study” (Di Norcia, 2003, p. 126) of the matter, *The Olivieri Report* is also *power*. And, as such, it is the site of micro-political contest: on one hand, as authoritative, “objective” knowledge about the case, it effects the vindication and heroization of Olivieri; on the other, as dangerous knowledge, it elicits institutional attempts to silence it:

The hospital responded to the professors’ report with a brief statement that it had already implemented new policies to govern research. It added: “This dispute is closed and attempts to revive it are counterproductive.” (Shuchman, 2002, p. 487).

Effecting social relations. As I have argued, academic freedom discourse accumulates through (a) changed social relations in history, as effects of the totalizing discourse-practice of historiography operating within the Olivieri case, and (b) complex and complicated interpersonal and socio-institutional relations of animosity that are simultaneously its effects and that which produce it. Considering these relations further in the context of how power-knowledge is produced within the field, we can see that, as productive investments, they exist as (material) effects of political struggles over, for example, what constitutes the historical “facts” and “real issues” of the case, which subjects are to blame and which are not to blame in relation to particular historical events and matters of professional and ethical practice, and, perhaps most importantly, the positions from whence subjects might be free and/or unfree to engage in academic

freedom-related practices (e.g., patient safety, informed consent, the publishing of research findings, etc.). We can also see that these relations exist through techniques and technologies of preservation, which, as intertextual, knowledge-producing phenomena, rely upon pre-existing enunciations of the statement.

If, from yet “higher up” (Dreyfus & Rabinow, 1983, p. 107), we consider this description of how it is that the statement accumulates, what emerges is that its particular “mode of existence” (Foucault, 1969/1972b, p. 123) is *history*. That is to say, academic freedom is residual (i.e., *rémanent*) as an effect of the ways in which it is always already caught up in the totality of its historical practice and the social relations that are its effects.

Additivity

Continuing with the three sub-analytics, the second, *additivity*, permits another difficult question about discursive formation: given that statements “never proceed by a simple piling-up or juxtaposition of successive elements” (Foucault, 1969/1972b, p. 124), how does academic freedom accumulate its statements such that, for instance, it is possible for subjects to say, “People are talking about this case everywhere” (Nathan, as quoted in O’Hara, 1998)? Some insight can be gained by considering how it is that statements are dispersed and merged (cf. Foucault, 1969/1972b, p. 124) within and across fields, and their effects.

Dispersion. Considering again the techniques and technologies of preservation that operate intertextually in the field of the case, we can see that preservation is also the effect of the dispersion of academic freedom statements across various enunciative domains. But how is this dispersion effected? One way is through the practices of social science research and scholarship, whose primary purposes are related to the generation of new knowledge by “filling gaps” in current knowledge:

In virtually every subject area, our knowledge is incomplete and problems are waiting to be solved. We can address the holes in our knowledge and those unresolved problems by asking relevant questions and then seeking answers through systematic research.

(Leedy & Ormrod, 2005, p. 1)

Such practices circulate within the field of academic freedom as an effect of their relations with the disinterested searches for knowledge and truth, which are frequently articulated in both historiography (e.g., Horn, 1999) and policy as being among the ultimate aims of the university and therefore also the practical and ethical bases upon which academic freedom must be assured and protected. For example, the CAUT’s (2011) policy statement on academic freedom asserts that “post-secondary educational institutions serve the common good of society through searching for, and disseminating, knowledge and understanding” (§1). And the *Joint Statement on Rights and Freedoms of Students* (1967), co-developed by several organizations including the AAUP, declares that

“academic institutions exist for the transmission of knowledge, [and] the pursuit of truth [and that] the minimal standards of academic freedom of students ... are essential to any community of scholars” (Preamble).

In this context, apparent deficiencies and absences in extant knowledges and truths are taken up by academic subjects as objects of inquiry. Sometimes, these shortcomings are constructed as “silences.” For instance, Baylis (2004) both castigates bioethicists for their reticence during the Olivieri affair and situates his own work as an essential response to it. He writes,

All Canadian bioethicists need to reflect on the meaning and value of their work, to see more clearly how the ethics of bioethics is being undermined from within. In the case involving Dr. Olivieri, the Hospital for Sick Children, the University of Toronto, and Apotex, Inc, there were countless opportunities for bioethical heroism. And yet, no bioethics heroes emerged from the case. Much has been written about the hospital’s and the university’s failures in this case. But what about the deafening silence from the Canadian bioethics community? To date, nothing has been written about the silence. This article is intended as a partial remedy. (p. 44)

In fact, two silences are constructed here: the first is a matter of the (un)ethical practice of bioethics, and the second is a knowledge gap. The gap is constructed as a silence about the first silence, and is also an effect

of widely-held assumptions about the practice of scholarship as being the production of written texts. That “nothing has been written about the silence” is the evidentiary basis upon which such a gap exists in scholarly discourse and, thus, is also the conditions of its possibility. It also constitutes the conditions of possibility for the enunciation of the statement in the domain of bioethics; that is, silence effects both silence *and* its absence, that absence potentially being “filled” by a particular enunciation of the statement. It is through the simultaneous presence and absence of silence that statements may operate as “new” knowledge in the field. In this way, it becomes possible for the Olivieri case--and academic freedom--to be inserted into the field of bioethics, and vice versa. Hence, silence can be understood as a practice of knowledge production and preservation, insofar as it is also an effect of the additivity of dispersion.

Mergence. If, following Foucault, we take it that texts are effected through discourse, which means that they are not merely dialogic, that they are not representations of discourses that are somehow external to them, and that their productive power does not operate in some way apart from their technological effects as knowledge, then we admit that they are, in fact, discourse. That is to say, they are both the products of discourse-practice (e.g., scholarship, research, and academic freedom) and that which produce it. Put in more practical terms, what subjects speak about academic freedom in text is possible as an effect of its discourse, and it also effects the positions from whence academic freedom might be

spoken about and practiced. Of this field, the analysis of additivity has so far permitted questions about how it is that statements are dispersed across domains such as bioethics, but what of other effects?

Through texts such as Baylis's (2004), we can see that when the statement enters the field, it is always already caught up in its relations with other statements, and their effects. On one hand, for example, the Olivieri case is constructed as a "precedent setting research ethics controversy" that "challenge[s] [the] cherished fundamental ethical standards and principles" (p. 45) of bioethics, where ethicality is defined as "the physician/researcher's duty to disclose risks to research participants and the freedom of bioethicists to speak out against unethical practices" (p. 46). Here, it seems, the practice of bioethics and the bioethicist/hero subject are delimited from other ethicists and heroes, including subjects who defend academic freedom:

At the end of the day, it is certainly a good thing that researchers were front and centre in the ethical struggle for the protection of research integrity, academic freedom, informed consent and patient safety. But it is also surely deeply problematic that, for the most part, trained bioethicists were on the sidelines and not at their sides. In this case, bioethicists in Canada did not stand for, stand with, or even stand behind those who were taking a principled stand at great personal and professional risk. Rather, we stood aside. (p. 49)

In this text, the researcher subject position can be distinguished from that of the bioethicist as a matter of differing professional practices and institutionalized, expert training, even while “there are no agreed upon credentials that one must possess to be a bioethicist” (de Vries, 2002, p. 1). These differences also construct the academic discipline of bioethics, which is necessary in order for subjects and their behaviours (e.g., social action or “silence”) to be judged as either ethical or unethical in relation to the events of the case. Ergo, the silent subject can become the guilty (i.e., unethical) subject. What I am trying to describe is the formation of particular objects (Foucault, 1969/1972b)--subject positions, academic disciplines, behaviours--effected through text that are the conditions of possibility for the practice of various types of ethics in different domains.

On the other hand, even as boundaries between subject positions and around the discipline of bioethics are thusly delimited, they are also simultaneously and paradoxically dissolved. For instance, in the following excerpt, the safeguarding of informed consent and patient safety--which are practices commonly associated with bioethics--are attributed to non-bioethicist subjects.

In defending Dr. Olivieri, Drs Cahn, Dick, Durie, and Gallie placed the interests of others above their own interests. They took a stand in defence of the principles of research integrity, academic freedom, informed consent, and patient safety, and they did so in the face of tremendous pressure from within their workplace. (Baylis, 2004, p.

47)

Here, the limits of the discourse-practice of bioethics are interrupted as an effect of the categorization of specific medical researchers who are not (trained) bioethicists as “unsung heroes” (p. 47). I argue that academic freedom operates at these limits: when it enters the field, it becomes a condition of possibility for the practice of a *different kind* of bioethics—one that is outside the academic discipline of bioethics itself, and that therefore does not necessarily rely upon its expert training (whatever it might entail). In this sense, the practice of academic freedom merges with that of bioethics such that it is possible for non-bioethicists to practice bioethicality. The effect is that even as a lack of bioethicist heroes is bemoaned, there is no such lack, insofar as the practice of bioethical heroism is opened to “non-bioethicists” through the practices of “research integrity, academic freedom, informed consent, and patient safety” (p. 47). Thusly, academic freedom becomes a practice of bioethical heroism.

The mergence of academic freedom and bioethics statements is also evident where the specific “professional responsibilities” (p. 46) of bioethics so closely resemble those of academic freedom as to render both practices nearly synonymous. Take the following excerpt, for example.

Bioethicists have professional responsibilities that must never be compromised by the conditions of their employment. These

responsibilities include preventing unethical behaviour, where possible, confronting such behaviour if it does occur, and further ensuring that measures are introduced to preclude the recurrence of unethical behaviour. These obligations may require bioethicists to advocate on behalf of persons or for a particular position on a controversial issue and, if other means have failed, to draw public attention to the matter. The institutions for which bioethicists work or with which they have formal affiliation must support bioethicists when they engage in debate and speak out against unethical practices, so that the professional integrity of bioethicists is not compromised (correspondence with M Strofolino, A Aberman and P Singer, 26 November 1998). (pp. 46-47)

The freedom of clinical researchers (and others) in Canadian universities to practice bioethics in the manner described above is itself a matter of the practice of academic freedom and thus another way in which statements merge in the field of the Olivieri case. More specifically, it is the freedom to practice without institutional interference (i.e., professional autonomy) and the freedom to speak that are the loci of emergence. As the conditions of possibility for the ethical practice of bioethics, autonomy and freedom of speech permit subjects to “speak truth to power” (p. 45), which is constructed as the nascence of the bioethical project (de Vries, 2002, p. 2), the grounds upon which silences should be filled, and the bases upon which judgements can be made about what constitutes, for example, the

“failure of Canadian bioethicists to play a pivotal role in this precedent setting research ethics controversy” (Baylis, 2004, p. 45). Similarly, academic freedom “always entails freedom from institutional censorship” (CAUT, 2011, §2) and “the right to contribute to social change through free expression of opinion on matters of public interest” (§4). Such matters can include patient safety and other concerns of bioethics, since, as I have argued, the position of bioethicist is not necessarily delimited by the academic discipline of bioethics. In this way, it becomes possible to say (more) than bioethics and academic freedom have “something in common”: it is possible to say that their statements are “indissociable” (Foucault, 1969/1972b, p. 124) and that they have complex, material effects. For example, when subjects break contractual non-disclosure clauses by informing research participants that they might be in danger, they practice bioethics *and* academic freedom.

To recap, by considering one aspect of the Olivieri case’s taken-for-grantedness, namely its ubiquity in the recent history of academic freedom in Canada, to be a type of productive knowledge that accumulates additively through statements, we can see that particular rules of discursive formation allow the practice of academic freedom to be taken up as a matter of bioethics and vice versa. By pointing to the ways in which statements disperse and merge (Foucault, 1969/1972b) in the field, we can also see how it is that academic freedom is “cross-disciplinary” in the sense that it moves across discursive limits of the academic

disciplines, constructing the porousness of their domains and effecting particular subject positions, practices, and “strategic possibilities” (p. 37). Thusly, we can begin to see how the Olivieri case is “everywhere,” and how it is that academic freedom operates as a unique system.

Recurrence

The third and final analytic I apply to the Olivieri case in describing its accumulation is *recurrence*. To review in brief, recurrence concerns the ways in which statements (re)produce their own pasts, as effects of their relations with pre-existing discursive elements in the field (Foucault, 1969/1972b). As I have already argued, the statement is rémanent as an effect of the ways in which it is always already caught up in the totality of its historical practices and social relations. Certainly, these are ways in which academic freedom in Canada “constitutes its own past” (p. 124), but how does this particular past *recur*? Some sense of this phenomenon can be attained by considering how statements related to the Olivieri case *iterate*.

In one sense, iteration can be understood as a primary function of traditional historiography in that to construct history through text is to recount, re-live, and re-tell socio-material events as an interrelated, chronological series. Such is the “story,” both in and of, history. It follows that historiography is, as a practice of truth-telling, predicated upon various assumptions, including that the search for origins is an appropriate

methodological approach to the search for truth and that historical truths are evident in origins (cf. Foucault, 1969/1972b). Whether or not the purposes of a given text are historical, though, and regardless of its scholarly or non-scholarly nature, in another sense, iteration is understood to be a hallmark of “good” texts. For example, in terms of content, organization, and style, good writing gives readers’ sufficient context--historical or otherwise--so that ideas and arguments can be situated and advanced relatively. Here again, it is usually through a re-counting, re-living, and/or re-telling that such background is provided. In these ways, “new” knowledge is presented in relation to what is extant; but there is more to be said if we consider iteration to be otherwise productive.

Let us consider the following two examples of texts related to the Olivieri case.

1. In their legal analysis, Litman & Sheremeta (2002) “briefly summarize the facts as found by the Committee of Inquiry and describe earlier attempts to deal with the complex issues raised” ahead of “comment[ing] on the most significant recommendations made by the Committee ... [and] refer[ring] to fiduciary law” (§3).
2. As part of their “Introduction to the Olivieri Symposium,” Viens & Savulescu (2004) present a “timeline of events” (p. 2) that draws its facts from three sources: the *Olivieri Report*, the Naimark

report, and *Report of the Complaints Committee (Complainant: Dr Lawrence Becker, Respondent: Dr Nancy Olivieri) December 19, 2001*, written by the College of Physicians and Surgeons of Ontario.

Superficially, we can see how, in the re-counting, re-living, and re-telling of the story, context is produced through iteration. In this regard, what is already said in text about the case might appear to be only a series of statements about events (i.e., historiography); however, being that “the enunciative domain is identical with its own surface,” (Foucault, 1969/1972b, p. 119), I suggest that these iterations of statements are *themselves* a series of statement-events effected through discursive practice. As such, I argue that what is already said circulates in the field as more than knowledge *about* the case: it is power that effects knowledge production. In these ways, it becomes possible for what is already said about the case--and academic freedom--to operate as a particular truth (or untruth) about itself. That is, specific accounts of what occurred *recur*, such that they become “truthful,” “untruthful,” or both.

To be more specific, in the above examples, each of the reports cited operates, to some degree, as a truth-ful telling of (i.e., knowledge about) the story. However, as Foucault argues, being that knowledge is power, it is also the site of micro-political struggle. In the Olivieri case, speaking truth to history and the establishment of the subject positions from whence such truth might be spoken are the sites of these contests.

Hence, *The Olivieri Report* can circulate in the field as “represent[ing] the most comprehensive, thorough, and credible study to date of the complex tensions involved in commercially sponsored clinical research” (di Norcia, 2003, p. 126), while, at the same time, the Naimark report can circulate as an account of historical truth credible enough to re-tell on one hand (as above), and as not truth-ful, on the other:

Serious doubts about the objectivity of the Naimark inquiry were raised as soon as it was established, and doubts about the accuracy of its report surfaced almost immediately after its publication. ... Evidence that the ... report’s authors had relied on false, misleading, and heavily biased information led to the launch of a second inquiry, this time commissioned by the Canadian Association of University Teachers⁵. (Schafer, 2004, p. 10)

What is more, iterations such as this are, in turn, “reactivated” (Foucault, 1969/1972b, p. 123)--that is, (re)iterated--as new statements enter the field, become objects of political contest over what constitutes the truths of the case, and in turn effect new knowledge. For instance, three years after the above statement is enunciated, the Naimark report is (re)iterated as having been “shown by two independent inquiries to be based upon misinformation¹⁰” (Schafer, 2007, p. 112) at the same time as Shuchman’s (2005) *The Drug Trial*, a new series of statements, is reviewed as containing “warmed-over versions of allegations already disproven by one or more ... impartial inquiries, and ... undocumented

hearsay” (p. 115). The effect is that particular truths about events are (re)produced by iterations of statement-events, even as competing statements enter as effects of the iterations themselves.

The point I am trying to make is that if we consider how it is that knowledge about academic freedom accumulates through recurrences such as iteration, we can see how it is possible for a particular regime of truth about it to emerge and become institutionalized, as effects of the play of, and contest over, propositional and historiographical truth claims. We can see how it is that, for example, some claims and their texts come to be considered more accurate, unbiased, and truth-ful accounts of the history of, and the various issues raised by, academic freedom cases such as Olivieri’s while other claims and texts are considered to be less truth-ful, at least in some ways and for some purposes. And, we can see how it is possible for subjects to say that “the conventional telling of the [Olivieri] story is archetypal” (Tsai, 2006, p. 74) not because there is an archetypal statement, but because the archetypal is power-knowledge effected through the iteration of statements.

Summarizing

There is no disputing that the Olivieri case was and is the most widely publicized, politicized, and popularized academic freedom dispute to occur in this country. By taking a genealogical approach, I have attempted to problematize its omnipresence in order to show how it is

possible to think about it as omnipresent. To this end, I have tried to show how the case operates as power-knowledge that effects a regime of truth about itself and academic freedom in Canada. Specifically, I have suggested that its statements are produced and preserved--even when academic freedom is not spoken--as effects of *rémanence* such that academic freedom emerges as an object that is not merely dialogic, but discursive. Paying attention to the acrimonious social relations that are also its effects, I have pointed out some ways in which statements related to the case produce various subject positions (e.g., hero, villain, whistleblower, etc.) as products of investment. I have made the claim that the “already said” is more than knowledge about the case, but also an effect of knowledge production that allows academic freedom to cross the boundaries of disciplinary domains, in this way suggesting how it is that the case and the issues it raises can be spoken of as being “everywhere.” I have argued that academic freedom discourse is enunciated in the fields of various disciplines as an effect of the additive dispersion and mergence of statements such that subjects may take it up in different domains of ethical practice, such as bioethics. Finally, in attending to the phenomenon of recurrence, I have tried to describe how it is that academic freedom accumulates its statements through iteration, as a further effect of the ways in which it is forever caught up in its own historicity, which is also forever a site of micro-political contest and that which produces and is the effect of its contentiousness.

Chapter 5 -- Academic Freedom and the Rules of Inclusion and Balance

In this chapter, which employs the analytic of *exteriority* (Foucault, 1969/1972b), I describe how it is that some practices, processes, and subject positions become (im)possible as micro-physical, material effects of the ways in which power-knowledge operates intertextually, through language and history. Specifically, I use Thomson's (2011) historical account *No Debate: the Israel Lobby and Free Speech at Canadian Universities* (also known as the *Thompson Inquiry*), as the entrée to a particular historico-discursive field where I situate the controversy surrounding the organization of the academic conference entitled *Israel/Palestine: Mapping Models of Statehood and Paths to Peace*, held on a campus of York University in 2009, as an irruptive, discursive statement-event (Foucault, 1969/1972b). Here, practices of planning related to academic freedom operate intertextually through various iterations of the conference title. These are especially efforts to (a) include a diversity of participants and a range of ideas in the conference, and (b) ensure balanced academic discourse. In this way, I suggest that particular practices in relation to planning that are intended to help ensure academic freedom operate commonsensically but paradoxically such that they both include and limit conference participation.

By way of introduction, two things. First, although in many ways Israeli-Palestinian relations and models of state were at the centre of the

difficult historical situation I take up here, my intent is not to take sides in the related debates and struggles. Truthfully, I am not qualified to do so. Rather, bearing in mind the broad aims of Foucault's genealogical project, especially his notions of the specific intellectual and the need for a tentative approach to inquiry, my aims are (a) to contribute a micro-level analysis of one of the "regional structures of power-knowledge" (Shiner, 1982, p. 384) that circulated within the field of the statement-event, and (b) to offer a "critique of the regime of truth" (p. 384) about academic freedom that operated intertextually in the lead-up to the Conference. I proceed with a view to countering some assumptions about language, institutionalized practices related to academic freedom, and their effects. Second, what I offer in terms of an analysis about this historical event is not presented for the purposes of discounting Thompson's (2011) historiography. Instead, my work is oriented towards bringing something supplemental, perhaps even complementary, but, nevertheless, very different to a consideration of what occurs when Canadian universities mobilize themselves, both anticipatorily and responsively, in relation to an academic freedom-related crisis.

Describing the Discursive Event

Israel/Palestine: Mapping Models of Statehood and Paths to Peace

was a conference organized by Prof. Bruce Ryder, Prof. Susan Drummond, and doctoral candidate Mazen Masri, supervisee of Prof. Ryder, all of York's Osgoode Hall Law School, and Prof. Sharryn Aiken of

Queen's University's Faculty of Law. It was held between June 22nd and 24th, 2009 on York University's Glendon College Campus in Toronto, Ontario and was sponsored by three institutions: York University, Queen's University, and the Social Sciences and Humanities Research Council of Canada (SSHRC). Funding was also provided by the Jack and Mae Nathanson Centre on Transnational Human Rights, Crime, and Security and both York University's Office of the Vice-President, Research and Innovation and its Faculty of Graduate Studies. The organizing committee, which consisted of Ryder, Drummond, and Masri, was advised by an international board of 11 members. As the organizers describe it, the purposes of the Conference were to "explore which state models offer promising paths to resolving the Israeli-Palestinian conflict ... [and] to open up measured and thoughtful conversations on the range of possible paths out of the current impasse" (Israel/Palestine: Mapping Models of Statehood and Paths to Peace, 2009, Welcome section, para. 1).

As Thompson (2011) explains, the intense controversy leading up to the Conference began as early as 2007, in the event-planning stages, and continued even after the Conference was over. For example, although Prof. Ed Morgan of the University of Toronto eventually joined (and later resigned from) the advisory board, the organizers "had great difficulty in attracting any Canadian Jewish scholar to serve in this capacity ... because ... there was strong pressure against participation from elements of the Canadian Jewish community" (p. 50). Opposition to the Conference

was lodged by what Thompson and others refer to as the *Israel lobby*, on three grounds:

1. allegations that the Conference was an anti-Semitic event, which Thompson concludes were “incorrect and unfair” (p. 13);
2. opposition to the one-state, binational model; and
3. acceptance of proposals from Jewish and non-Jewish supporters of the one-state model and critics of Israel’s policies about Palestinians.

The thorny atmosphere surrounding the planning of the Conference was further intensified by the interference of the Minister of State (Science and Technology), Gary Goodyear, who, in a public press release on June 5, 2009, ostensibly called for a second peer review of the conference’s SSHRC grant even though there was no policy related to such a process. The SSHRC’s immediate response was to consider ways in which it might comply with both the Minister’s requests and public opposition to the conference. Protesting organizations included B’nai Brith, which, for example, in a Community Action Alert, asked supporters to “urge the Minister to direct SSHRC to immediately withdraw its funding from this sham of a conference that seeks to delegitimize the Jewish State and its supporters here at home²⁶” (p. 126). In this context, SSHRC staff members considered the following actions:

1. questioning the grant holders' compliance with (non-existent) policy requiring conferences to represent balanced views;
2. holding a misconduct investigation;
3. having legal authorities investigate the possibility of a hate crime; and
4. cancelling the conference grant.

Ultimately, the Council did not conduct a second peer review of the grant application and instead required Prof. Ryder, the grantee, to write a report detailing changes to the Conference program that had been made since the original application, which the SSHRC maintained was “in keeping with regular practices [and] ... due diligence” (as quoted in Thompson, 2011, p. 130).

At this point (June 10, 2009), the CAUT intervened on the grounds that the SSHRC's insistence on an interim report about changes to the conference went against its existing policies and “‘legitimat[ed] the unethical and inappropriate political intervention by Minister Goodyear’⁴⁴” (p. 131). The CAUT also called for Goodyear's resignation, offered financial support to the conference if SSHRC reneged on its funding, and issued an open letter to SSRHC President Gaffield expressing its displeasure at the Council's actions. In his response to CAUT's letter, Gaffield reaffirmed the Council's position that it had acted appropriately “as stewards of public funds ... expected and committed to look into

concerns about how awards are being administered” (as quoted in Thompson, 2011, p. 137). In accordance, the official position of the Federal Government on the matter was that it was “committed to the arm’s-length status with which SSHRC had been established by Parliament” and that it “did not interfere in the arm’s-length process pertaining to the SSHRC grant” (pp. 138-139).

Changing the Conference Title

It is important to note that the concerns expressed above were understood by the conference organizers and other interested parties to be directly related to the conference title, which was changed twice between the time the conference was originally conceptualized and when it was actually held.

The first title. When planning began in late 2007, the “initial working title” (Thompson, 2011, p. 48) was *Imagining a Bi-National Constitutional Democracy in Israel/Palestine*. This title appeared on the organizers’ first grant application, submitted in the spring of 2008 to York University’s U50 (i.e., 50th anniversary) Committee. According to the vision statement that was included in the application, the purpose of the conference was to “explore the possibility that a single bi-national constitutional democracy in Israel/Palestine may be the most promising path to future peace and security in the region” (p. 51) and the explicit aim was to “envision in specific terms the possible constitutional dimensions of

a future single state” (p. 51). Thus conceived, even though the organizers hoped it would “also include discussions on the two-state model and its prospects for realization” (p. 50), the conference was clearly centred on the “unorthodox” (p. 53) idea of the one-state model.

The second title. After the submission of the U50 grant application, a major change to the title of the conference occurred “on the advice of Israeli members of their Advisory Board who had informed the organizers that a conference focused primarily on the one-state model would be unlikely to attract many participants from Israel” (p. 52). It was now called *Israel/Palestine: One State or Two*. The “Statement of Purpose of Conference” was also changed to reflect the new focus of the event:

The conference seeks to systematically measure models based on two states or a single binational state, federal and con-federal approaches, and other models in between and beyond. The framework of the conference invites robust academic critique of the deficiencies, promise, and perils of the range of prospective models of statehood.⁸ (p. 53)

The most significant difference between the two iterations of the conference associated with each title, as Thompson notes, “was that in the second one, approximately equal prominence would be given to the currently orthodox model (two-state) and the currently unorthodox model (one-state)” (p. 53).

The third title. After plans to hold the conference under the second title were made public via the conference Web site and the call for papers in September, 2008, opposition to the event intensified among members and organizations in the Jewish community both in and outside the academy. Protestations were chiefly focussed on the inclusion of the one-state model on the conference agenda and many were expressed in e-mails. For example,

on October 2, 2008, [Prof. Benjamin] Geva sent an email to Dean Monahan (copied to Morgan, Ryder, and Drummond, among others) raising concerns ... that “the mainstream Peace Camp is committed to the two-state solutions,” that “the ‘one-state solution’ has become a code word disguising a call for the destruction of Israel,” and that the one-state model might lead to “repatriation of the 1948 Palestinian refugees to their old homes in Israel,” along with questions as to:

Whether it was appropriate for Osgoode Hall and the U50 Committee to support a conference discussing such a controversial topic as the one-state model;

Why other territorial conflicts (such as in Sri Lanka or in the former Yugoslavia) were not included in the program;

Why other regional statehood options, such as “a Jordanian-Palestinian Federation,” were not included in the program;

[and]

Whether the conference may inadvertently give support to extremists, including those who would destroy Israel.¹¹

(Thompson, 2011, p. 54)

The organizers responded to these concerns, which were similar to those expressed over the ensuing months, by changing the title of the conference again to *Israel/Palestine: Mapping Models of Statehood and Prospects for Peace*. The new title was subsequently used in the committee's successful application to the SSHRC's Aid to Research Workshops and Conferences in Canada Program, which was completed on October 28, 2008.

Describing Exteriority

Employing Foucault's (1969/1972b) metaphor of concentric circles, in which the analysis of statements and events moves "sometimes towards the outer and sometimes towards the inner ones" (p. 114), I turn to the analytic of *exteriority*, which might be considered an "outer" circle, in order to contextualize the analysis that follows. As such, I would like to emphasize two ideas that distinguish it as a type of immanent critique. First, an analysis of statements and events that pays attention to that which is "exterior" intends to decentre the subject. As Foucault (1969/1972b) explains, such work "presupposes that ... [the] enunciative domain refers neither to an individual subject, nor to some kind of

collective consciousness, nor to a transcendental subjectivity” (p. 122). That is, although what follows identifies who spoke what, it is not oriented to an analysis of individuals’ behaviours (e.g., speech acts) for the purposes of placing blame or giving credit, nor for making determinations about the degree to which specific individuals might have possessed or lacked academic power. Rather, I assume here that what is stated is discourse-practice that operates intertextually and in relation to multiple, anterior, institutionalized practices (e.g., academic freedom, bureaucratism) and their effects, insofar as statement-events are only possible through their discursive and material effectiveness. Here, I understand statements and events to be both effects of, and to effect, other statements, events, and discursive practices (Foucault, 1969/1972b).

Second, an analysis of exteriority must consider *how it is* that subjects may speak and otherwise practice, as material effects of the possible positions from *whence* they may speak. As Foucault (1969/1972b) puts it, the enunciative domain is “described as an anonymous field whose configuration defines the possible position of speaking subjects” (p. 122). Hence, the analysis I offer necessarily addresses those positions that individuals can or cannot occupy in relation to the discursive field of the conference. In this way, what I have to say takes up the

totality of things said, the relations, the regularities, and the transformations that may be observed in them, the domain of which

certain figures, certain intersections indicate the unique place of a speaking subject It is necessarily caught up in the play of an exteriority. (p. 122)

Discussing Rules of Formation

Describing the statement-event. The changes to the conference title that occurred before the application for the SSHRC grant was submitted might seem relatively inconsequential, especially in the context of the Council's reporting policy, which is concerned with "major program changes (such as changing the theme or focus of the event)" (Thompson, 2011, p. 131). If, however, through an analysis of exteriority, we pay attention to the discursive practices of the conference that are revealed in the specificity of its naming, we can also say something about how these practices operated on a micro level, as power-knowledge. In this sense, the title revisions can be considered important changes in that they both occurred within the highly contested discursive space of the conference and they both produced significant effects.

To begin, the titles functioned as much more than a changing series of linguistic signs; through the practice of language, they were enunciated as statement-events (Foucault, 1969/1972b). Thusly, they entered a system of intertextual dispersion where they were (and continue to be) categorized, organized, reproduced, circulated, synthesized, verified, qualified, referenced, cross-referenced, cited, contextualized, and

historicized. For example, they were

- reproduced in the conference organizers' vision statements, press releases, programs, schedules, financial statements, grant applications, facilities and room booking requests, expense claims, scholarly, professional, and lay publications, reports, curricula vitae, and tenure and promotion documents;
- contextualized in, and aligned with, conference speakers' proposals and abstracts;
- exchanged in universities', the SSHRC's, and other organizations' correspondence, telephone calls, and conversations; and
- reported in the mass media and in conference proceedings.

Thus enunciated through its titles, the conference was incited to discourse, where it was instantaneously commodified. As Foucault (1969/1972b) explains,

Discourse ... appears as an asset--finite, limited, desirable, useful--that has its own rules of appearance, but also its own conditions of appropriation and operation; an asset that consequently, from the moment of its existence (and not only in its 'practical applications'), poses the question of power; an asset that is, by nature, the object of a struggle, a political struggle. (p. 120)

Describing the rule of inclusion. In this case, the first conference title, although it was, on one hand, in the estimation of the conference organizers, a string of words meant to encapsulate the topic and purpose of the conference, it was, on the other hand, the catalyst for a series of strong responses that reflected its contentiousness as a major, international political event. However, if we consider the conference title *itself* to be a political event, we see the emergence of its first version within a discursive field that was largely about the free exchange of academic ideas. This rationality was apparent in statements such as, “The freedom of individual, independent academics to organize academic events such as conferences on subjects of their choosing--within certain limitations--goes to the very heart of academic freedom” (Monahan, as quoted in Thompson, 2011, p. 116). Ostensibly, this rationality is meant to establish and promote certain normative rules (Foucault, 1969/1972b) and conditions under which intellectually “free” subjects may come together for the purposes of generating and exchanging information, ideas, and new knowledge, especially in relation to current (and often controversial) topics. However, the response to the original title, which circulated in the correspondence between the organizers and the advisory board, centred on the probability that the conference title’s focus on the one-state model would not attract speakers from Israel. Thus, through concern about exclusion related to both the terms of the title and the possible conference participants, the discursive field came to include the normative rule of

inclusion and the conference organizers were positioned such that, in order to be responsive, they had to change the title to incorporate the concept of the two-state model.

Describing the rule of balance. The second title, *Israel/Palestine: One State or Two*, also circulated intertextually through technologies of, for example, the conference Web site, advertisements, and the call for papers. This title generated more and stronger responses, this time from the academic community and administrators who relied on the discourse of academic freedom to assert an argument for “broad representation.” Thus, albeit in another sense, the issue of exclusion continued to pose a problem. This is evident in questions raised about “why other territorial conflicts (such as in Sri Lanka or in the former Yugoslavia) ... and other regional statehood options, such as ‘a Jordanian-Palestinian Federation,’ were not included in the program” (p. 54). Furthermore, the Jewish Defence League threatened to invoke “boycott, divestment and sanctions” (as quoted in Thompson, 2011, p. 55) against York University if it continued to sponsor the conference through the U50 grant. In response, Dean Monahan wrote the following to York University President Mahmoud Shoukri:

I recognize that this conference will certainly be controversial and attract a good deal of attention. I just wanted you to know that I have met on a number of occasions with the two Osgoode faculty members who are on the organizing committee, and that I plan to

work closely with them to ensure that the conference is balanced and scholarly in its approach. (p. 55)

In light of the various responses to the second title and to Dean Monahan's assurance to President Shoukri, the conference organizers were positioned not only by the normative discourse of inclusion but also of balance to once again change the conference title, this time to *Israel/Palestine: Mapping Models of Statehood and Prospects for Peace*. The introduction of these rules of inclusion and balance into the now rather "crowded" discursive field of the conference not only operated to discipline the conference organizers and to effect a third title, but also to shift the conditions under which the conference would be held and its subjects would participate. For example, as the vision and purpose of the conference shifted as an effect of its changing title,

the organizers worked diligently to recruit speakers from diverse political, cultural, and geographic backgrounds, as well as those representing a range of academic disciplines.

They made these efforts because they hoped to engage participants in a wide-ranging discussion, with a view to making a contribution toward identifying solutions to one of the most complex and difficult international problems... . (Thompson, 2011, p. 65)

Nevertheless, even with such concerted efforts, concerns about a lack of balance and exclusion persisted. For example,

Professor Howard Adelman sent a memo captioned “Explaining My Withdrawal from the Conference”--unaddressed, but widely circulated by email.⁹ In it he explained that he had been very reluctant to participate, but eventually was persuaded to agree, based on two conditions: that the conference would be scholarly, and that it “would not be used to bash Israel.”¹⁰ He said that a few days earlier he had reviewed the list of confirmed speakers and read their abstracts. Although he found that “a clear majority of the scholars are reputable and do excellent work and whether I agree or disagree with them, I respect their work,” he decided to withdraw because of “the inclusion of five papers of unequivocal Israel bashers in the neo-colonialist and apartheid language mode.”¹¹ Adelman also expressed disappointment that the list of speakers did not include what he would have regarded as a sufficient number of strong proponents of the two-state model. (Thompson, 2011, p. 66)

Eventually, however, the conference organizers did recruit a range of participants, “although not a complete range. For example, there were none representing some of the more extreme currents of Palestinian or Israeli political thought” (Thompson, 2011, p. 65).

Describing Effects of the Rules of Formation

The repeated efforts to accommodate rules of inclusion and

balance within the complex discursive field of the Conference had some interesting and paradoxical effects. In the name of academic freedom, the succession of conference titles both were effects and also effected; i.e., they were power-knowledge products and producers. That the organizers were not the free individual, independent subjects able to organize a conference on a topic of their choosing, as Dean Monahan stated they ought to be, is noteworthy. Further, that Dean Monahan's assertion about organizers having the freedom was qualified by the phrase "within limits" serves to underscore the irony in the efforts of the organizers to respond to the opposition to the first two conference titles. In relation to discourses of exclusion and a lack of balance, inclusion and balance emerged as normative rules in two senses. They organized the practices and processes of conference naming according to the rationality of academic freedom such that the freedom of organizers to name the conference was simultaneously limited by the freedom of others to oppose the titles. Moreover, with each title change, the discursive field also shifted, with the effect that the freedom of the organizers to set their own agenda was undermined by the very practices engaged, through normative rules of inclusion and balance, to "correct" the agenda in the name of academic freedom.

In addition, the norms of inclusion and balance operated to both widen and narrow the possibilities of participation. That is, in attempts to be as inclusive as possible, the organizers were obligated to include in the

conference title concepts about state models that widened the possibilities for participation. However, not only did this still not satisfy all involved, more importantly it had the inadvertent effect of narrowing the pool of prospective participants, as “there were none representing some of the more extreme currents of Palestinian or Israeli political thought” (Thompson, 2011, p. 65). Given that the purpose of the conference was to promote a wide range of discussion, it is ironic that the final conference title, an attempt to be inclusive, may have had an excluding effect.

This is perhaps even more ironic if one considers that the reason the conflict between Israel and Palestine is “one of the most complex and difficult international problems” (Thompson, 2011, p. 65) is precisely because of the persistence of “extreme currents of Palestinian or Israeli political thought” (Thompson, 2011, p. 65). I argue that the effect of the normative rules may have been to create a set of conditions under which participation itself clustered around the “norm,” what might be considered to be a typical, average, or even centrist position on a spectrum of political struggle, where those scholars with radical (perhaps novel) or extreme (perhaps critical or dissenting) ideas were excluded. In this way, the micro-political effects of the rationality of academic freedom may, paradoxically, reproduce mainstream, orthodox ideas while marginalizing other possibilities.

This analysis reveals the ways in which something as seemingly uncomplicated in the planning of a conference, such as its naming, can

indeed operate as power-knowledge by simultaneously including and excluding, balancing and unbalancing, and widening and narrowing the conditions of possibility for both practices and subjectivities. When considered in relation to academic freedom, we can see how the very rules that support it as a rationality by which we organize our institutions and perform ourselves as social beings are also those rules that can undermine and limit the possibilities of this freedom.

Summarizing

By focussing on the changes made to a very specific statement-event in an analysis of exteriority, I have attempted to demonstrate how it is that the discourse-practice of academic freedom can be undermined by the very institutionalized and normative rules meant to ensure it. Specifically, I have considered the ways in which the desire for discursive spaces such as academic conferences to be inclusive and balanced, i.e., to be diverse in terms of the range of opinions and ideas represented, have paradoxical effects. They simultaneously include and exclude, balance and unbalance, and widen and narrow the conditions of possibility for the practice of intellectual freedom.

In the case of *Israel/ Palestine: Mapping Models of Statehood and Paths to Peace*, these rules had the effect of obviating the possibility that the organizers could hold a conference about a currently “unorthodox” (i.e., unacceptable) approach to the socio-political problem of

Israel/Palestine in the first instance, which served as a negation of academic freedom. Attempts to bring balance and inclusion to the Conference by changing its title (and thereby its focus) also generated the double, intertextual effect of shifting the discursive space such that, while creating the possibility that those from multiple positions in relation to the conference topic might participate in discourse, those scholars of an extreme or radical position could not. The rules also had the effect of normalizing the possible positions in relation to the conference topic, moving them from the outer edges of the spectrum towards the middle ground, as represented by the currently “orthodox” (i.e., acceptable) approach. In this sense, the norms of inclusion and balance operated oppositely in relation to the aims of academic freedom, insofar as it is understood to be a practice whereby subjects might think and otherwise practice scholarship without restrictions.

Chapter 6 -- The Singularity of Academic Freedom

For at least two decades, Canadian universities have been under ever-increasing pressure from provincial governments, businesses, students, and the general public to operate more efficiently and effectively on as little public funds as possible, and, at the same, to contribute meaningfully to the diversity and prosperity of the “knowledge economy” (cf. Dickeson, 2010). In this context, is not uncommon for individual institutions to rationalize their operating budgets by reorganizing and/or closing programs and schools, so a university’s decision to close a residential college, for example, might seem justified by common sense even if it means reneging on historical promises to contribute to the local community and economy by maintaining such a facility. However, in the case of Professor George Nader of Trent University, the dissolution of a college--or, more precisely, the *opposition* to the dissolution of a college--placed academic freedom at the epicentre of a dispute that was more than economic and that waged for several years between the late 1990s and the mid-2000s. Here, the academic right of faculty members who occupy administrative positions to critique management decisions emerges as the basis upon which difficult questions can be asked about how it is that the discourse of academic freedom effects and limits particular subjectivities and the ways in which it operates as a particular type of power-knowledge. In this chapter, through an analysis of *rarity* (Foucault, 1969/1972b), I analyze Nader’s case, as it is explained in Bruneau and Quigley’s (2007)

final report for the CAUT, *Trent University & the Denial of Professor George Nader's Reappointment*, to show how academic freedom has the power to simultaneously unite and bifurcate the subject and to discuss how it is that, as discourse-practise, it operates in a regime of truth where it is paradoxically highly valued and of no value. First, in order to position Nader's case as the entrée into the discursive field, I recount it in some detail. Then, I explain the analytic of rarity to set up my description of the system of academic freedom and its effects in relation to the micro-political struggle over free speech in the field.

Describing the Discursive Event

Professor Nader's case. The CAUT convened an ad hoc committee in October, 2003 to investigate (a) the matter of Trent University president Bonnie Patterson's refusal to reappoint Prof. George Nader as principal of Peter Robinson College, which occurred despite the search committee's recommendation of Nader, widespread support for his reappointment among college colleagues, and his expression of interest in reappointment; (b) the question of whether Nader's public opposition to the Trent University board's proposal to close, sell, or move Robinson (and Traill) College in order to economize contributed to, or was the primary reason for, the denial of his reappointment; and (c) the possibility of making recommendations to the Association about the "extent and nature of the entitlement of administrators to academic freedom" (Bruneau & Quigley, 2007, p. 2). Nader and his supporters--among whom he

counted various members of the Trent faculty, faculty association, senate, staff, general public, students, and the CAUT--held the position that to act on the university's proposal would "amount to the undermining of Trent's historic mission⁵" (Bruneau & Quigley, 2007, p. 2) in the sense that it would have gone against the original decision to locate residential colleges in downtown Peterborough. This decision was considered to have been an act of good faith and commitment to the City and community. In this context, Nader mobilized himself and his supporters against the proposal in several ways. For example, they applied for a judicial review of the board's resolution authorizing the proposal and they (unsuccessfully) appealed the Divisional Court's denial of the review to the Ontario Court of Appeal and the Supreme Court of Canada. Nader also voiced his opposition in

letters and memoranda to university officials, contributions in proceedings of the senate and board (including 'open letters' to the board),⁸ [the] organization of a society devoted to the survival of Peter Robinson College in its traditional home, communications with the press, public utterances and through communications with interested colleagues at Trent. (p. 3)

The Trent Faculty Association demonstrated its support for Nader's reappointment in its bid to launch a selection grievance on his behalf on the grounds that his academic freedom to criticize the University had been violated, as per the relevant clause in the collective agreement. However,

this avenue was “not pursued because Nader had not been a member ... at the time of the claimed abridgement” (p. 3).

Both President Patterson and Vice-president, Academic Graham Taylor formally reprimanded Nader in writing for his public statements against the University’s plans for Robinson College. Taylor wrote that Nader failed to “differentiate between the expression of ... [his] views as an individual member of the Trent community and [his] responsibilities as ... Principal of the College” (as quoted in Bruneau & Quigley, 2007, p. 3). He also claimed that Nader’s public comments questioning the financial soundness of the proposal to close the College were “detrimental to the well-being of the university” (p. 3). Patterson wrote, “I hope that for the sake of the College and the University as a whole, and in particular our students, you will fulfil your role as expected and allow progress to be made on transition issues” (as quoted in Bruneau & Quigley, 2007, p. 4).

As mentioned, Nader was not reappointed to the position of principal. In a meeting between Nader, Taylor, and Patterson, President Patterson cited the following reasons for denying Nader the position, according to notes Nader made during the meeting and made available to the CAUT investigating committee.

1. Nader publicly opposed the capital development plan.
2. Nader was a trustee of the Friends of Trent Colleges.

3. Students and faculty members were “divided on the matter of relocation ... therefore, the college should be moved” (as quoted in Bruneau & Quigley, 2007, p. 5)

Although the site development and space utilization committee rejected the plan to close the College, Patterson vetoed the decision and the College was dissolved. Nader returned to his previous position as professor in the Geography Department.

The CAUT committee’s findings. Not surprisingly, the Trent administration refused to participate in the CAUT’s investigation into Nader’s denial of reappointment, calling it “neither appropriate nor useful” (Patterson, as quoted in Bruneau & Quigley, 2007, p. 15). Even when the committee later explained to Patterson that it was “concerned less with the reappointment of Nader and more with academic freedom as it pertains to senior administrators” (p. 3) and Patterson referred the matter to Vice-president Susan Apostle-Clark for a response, Apostle-Clark did not answer the committee’s request for a telephone interview. Nevertheless, after considering the evidence made available to it, which included documents and information gleaned from 10 interviews held on the Trent campus, the committee asserted several findings. The most important is that Nader’s academic freedom had been violated because the denial of his reappointment was the result of his outspoken opposition to the University’s plan to close the College. Although it acknowledged that Nader had not been a member of the Trent Faculty Association during his

appointment as college principal, the committee justified its conclusion by arguing that he “was a tenured academic holding an academic teaching appointment ... before, during and after the key events” and that “as principal ... Nader was at all times an academic” (Bruneau & Quigley, 2007, p. 7). Therefore, the committee asserted, the CAUT policy stating that “academic colleagues should face no material penalty for criticizing administration policy” (p. 7) applied in the case. The committee could not, of course, recommend Nader’s reinstatement as principal because the College had closed; instead, it called for the University to apologize to Nader. However, in a letter to James Turk, Executive Director of CAUT, President Patterson reiterated her position that the investigation had been “inappropriate and in no way useful” and declared that “the university [had] no comment on CAUT’s findings or report” (as quoted in Bruneau & Quigley, 2007, p. 23).

Describing Rarity

“We are studying statements,” Foucault (1969/1972b) instructs, “at the limit that separates them from what is not said, in the occurrence that allows them to emerge to the exclusion of all others” (p. 119). In other words, genealogical inquiry is concerned with the *rarity* of the statement-event, not only insofar as, despite the possibilities of grammar and vocabulary, “there are, in total, relatively few things that are said” (p. 119), but also in the sense that the analysis of discursive formation pays attention to the conditions of possibility that render statements “as being

always in their own place” (p. 119) and no other. This is not to say that the rarity of statements precludes their multiplication in verbal performances and texts or that the effect of their multiplication cannot be the multiplication of internal meanings; however, the search for such meanings is not the task. Rather,

the analysis of discursive formation turns back towards ... rarity itself; it takes that rarity as its explicit object; it tries to determine its unique system; and, at the same time, it takes account of the fact that there could have been interpretation. (p. 120)

Individual interpretations, however, are not the objects of such analysis, either; instead, it is the *rules of discursive formation* (i.e., the “unique system”) that make such interpretations *possible* (e.g., an “enunciative poverty”, p. 120). This type of analysis moves away from a conceptualization of discourse as “an inexhaustible treasure from which one can always draw new, and always unpredictable riches” (p. 120) and towards a view in which discourse is a political “asset” because it is power-knowledge:

It appears as an asset--finite, limited, desirable, useful--that has its own rules of appearance, but also its own conditions of appropriation and operation; an asset that consequently, from the moment of its existence (and not only in its “practical applications”),

poses the question of power; an asset that is, by nature, the object of a struggle, a political struggle. (p. 120)

Although it is tempting to consider academic freedom to be the statement--and thus the object--of analysis in Nader's case by taking it up as a group of signs that operate intertextually, in addressing questions about how is it that academic freedom is rarefied and what it effects, we must acknowledge the statement's synonymy with its own surface. We must approach academic freedom as also a "function of existence" that effects sense *making* (Foucault, 1969/1972b, p. 86). In this regard, describing rarity concerns academic freedom's "actual practice, its conditions, the rules that govern it, and the field in which it operates" (p. 87). This can be accomplished through an analysis of subjectivity that considers academic freedom as power-knowledge.

Analyzing Statement-events

Academic freedom as statement. To begin, as I have noted, there are relatively few statements circulating within a discursive field because everything is never said; that is, because of the possible combinations in language and discourse, statements are rare, in and of themselves. This is not to deny that the field of the Canadian university is not already "crowded" with statements operating in ways that produce multifarious economies of discourse where subjectivities are commodified and contested, but to suggest specifically that academics depend upon

academic freedom as a discourse-practice that differentiates their profession from others'. The distinction is particularly evident in documents such as university and professional association policies and higher education and legal scholarship, where academic freedom is variously constructed as an essential feature (e.g., Gappa & Austin, 2010), defining element (e.g., Rostan, 2010), professional right (e.g., CAUT, 2011), core value (e.g., MacKinnon, 2011), and/or "special prerogative" (Gerber, 2010, p. 22) of the academic. Through such discourses, academic freedom is rarified by virtue of the subjects which are its effect and which reproduce it in relation to the profession. Being that nothing separates the position of academic from other possible positions in the field but academic freedom, it emerges and is reproduced in a "limited set of presences" and is "isolated in the general dispersion of statements" (Foucault, 1969/1972b, p. 119). In other words, since subjectivity effects and is an effect of the limits of a discursive field wherein academic freedom is rarefied, academic freedom is assumed by individual subjects because it is what defines, differentiates, and indeed legitimizes the profession and its practice. Thus, for Nader and his supporters, there exists an "enunciative poverty" (p. 120) in the field where academic freedom functions as a *singular* statement and, therefore, the "limit ... [of] what is not said" (p. 119). That is, as professors, Nader and his supporters understand themselves within the bounds of this discourse; their subjectivity is reliant on academic freedom as a fundamental and necessary right. They *assume* the position of

academically free subjects precisely because this subjectivity is *assumed*.

As an academic, Nader's position is inscribed with certain freedoms, in particular those of speech and expression. In the wider field of the Canadian university, these are conceptualized and codified in terms of intra- and extra-mural speech:

Academic freedom includes the right ... to freedom to teach and discuss; freedom to carry out research and disseminate and publish the results thereof; freedom to produce and perform creative works; ... freedom to express one's opinion about the institution, its administration, and the system in which one works (CAUT, 2011, §2)

Disagreement and dissent can only happen among subjects who are free to practise as subjects; thus, explicit in the above definition is the freedom to express opposing opinions in the academic subject's capacity as teacher, scholar, researcher, and worker. Indeed, the position of academic is effected through discourses of truth seeking, where the discovery of truth is constructed as the primary purpose of intellectual activity and where the practices of knowledge production, innovation, and creativity are predicated upon the freedom to think independently. As the United Nations Educational, Scientific, and Cultural Organization (1997) puts it, "academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research on an honest

search for truth” (§§33).

In addition to being inscribed with the “scholarly obligation” to engage in the search for truth, Nader’s position as academic/university subject is also historically based upon notions and values related to promoting and protecting the common social good. CAUT (2011) establishes these normative relations in its assertion that “serv[ing] the common good of society through searching for, and disseminating, knowledge and understanding ... cannot be achieved without academic freedom” (§1). For his part, Nader is an advocate of the social good in that his duties to honour Trent University’s historical promise to support and enrich the urban community of Peterborough by maintaining Robinson College in the downtown and to help ensure that the College continued to be considered an academic community are effects of the practice of academic freedom.

Academic freedom as enunciative domain. In understanding the rarification of academic freedom in relation to Nader’s position as an academic/university subject, we can also see how, in three ways, it functions as an “enunciative domain” and hence “what special place it occupies” (Foucault, 1969/1972b, p. 119) in the field. First, academic freedom is the position from whence Nader can act in opposition to the administration’s attempts to close the College. For example, when the President vetoes the site development and space utilization committee’s rejection of the proposal to close the College, Nader writes an open letter

to the board of governors in which he (a) emphasizes the potential consequences that implementing the SuperBuild plan (of which closure is a part) would have on the financial well-being of the University, and (b) challenges the validity of its financial justification to close the College by presenting a competing analysis of its fiscal circumstances. He states, “the SuperBuild Plan, if fully implemented, will place Trent in financial jeopardy by *increasing* our financial indebtedness There is currently no budgetary crisis at the colleges ... [and] the college budget will be balanced in 2000-01” (as quoted in Bruneau & Quigley, 2007, p. 10, emphasis in original). In this way, the discourse-practice of academic freedom enters the field as its own powerful, enunciative domain; that is, the “special place” it occupies in the discursive field is as the condition of possibility for the practice of *dissent*.

Second, academic freedom is the position from whence Nader makes claims when the administration tries to discipline him. For example, when the President refuses to reappoint him as master of the College, Nader tells the *National Post* newspaper, “It comes down to whether I have the right to criticize the administration as head of a college” (as quoted in Smyth, 2001, para. 6), at the same time pointing out that “he was told a college master does not have the same academic freedoms as a professor, even though he continued to teach part time” (Smyth, 2001, para. 9). Here, academic freedom occupies a powerful “special place” in the discursive field as the condition of possibility for the *defence* of

dissension where subjects simultaneously occupy the positions of teacher and administrator, even where counterclaims are made about its application to managers and part-time faculty.

Third, academic freedom is the position from whence the CAUT makes claims about Nader's case because it (the CAUT) operates under the same conditions of possibility. For example, in the assertion that "there was a *prima facie* case that Nader's academic freedom had been abridged, as his criticism of the Trent administration looked to have been a contributing, if not the chief factor in the decision to refuse reappointment" (Bruneau & Quigley, 2007, p. 2), academic freedom is invoked as the condition of possibility for subjects' dissent, the defence of such dissent, *and* the CAUT's own claims to dissent. CAUT's claims, which are evident in its material actions--the investigation of Nader's case, the attempts to substantiate his claims to academic freedom, and the vindication of his claims through the production of the text of the investigatory committee's report--also indicate academic freedom's "special place" in the discursive field as being its own enunciative domain, where it operates as singular power-knowledge. I will discuss the paradox of the singular power, but first, it is important to point out that academic freedom is also rarified in the field because it operates as a kind of asset in a "unique system" (Foucault, 1969/1972b, p. 120).

Academic freedom as discursive asset. In addition to describing it as a discursive field wherein it emerges as statement-event and as its

own enunciative domain, Nader's case can also be understood as an "economy of discourse" (p. 120) where statements are commodified, i.e., a space where statements are transformed into "object[s] of a ... political struggle" (p. 120), a space where they become assets. As I have noted, academic freedom emerges singularly in Nader's case in response to an enunciative poverty. Thus, it also functions as the primary "currency" in the economy of discourse, where it holds value as the basis upon which Nader, his supporters, and the CAUT can make their various claims to the freedom to dissent, to act in relation to those claims, and to respond to particular events. Here, academic freedom is "currency" in the sense that in its absence, it would not be possible for Nader to act as an academically free subject. This would preclude material acts of dissent such as producing a competing interpretation of the financial state of the College, writing an open letter to the board of governors, and speaking to the press about the denial of his reappointment as master/principal. In the absence of the appropriate currency, it would also not be possible for Nader to justify his actions in relation to academic freedom. In the same way, the CAUT's claims to knowledge about Nader's case, its conclusion that his academic freedom was violated when he was not reappointed as a result of speaking out publicly against the University's plan, and its judgements about the culpability of the Trent University administration in the case would not be possible. The point is that the rarity of academic freedom effects not only the position of the academically free subject and

the conditions of possibility for the practice of dissent and its defence, but that it also functions as the discursive asset necessary for subjects to practice dissent and defence in the field.

Complicating the Discursive Field

We can also see in Nader's case that the contested terrain of the Canadian university, in which academics find themselves occupying multiple positions in relation to academic freedom, complicates the discursive field. For example, along with enacting his position as academic/part-time professor, Nader also occupies positions as College principal and member of the Trent University Board of Governors. His acts of dissent and the arguments he makes in them reveal how, for him, the subjectivities of College principal and academic are one in the same or, at least, very closely enmeshed. This "unity" is the basis for his actions, their defence, and the case he brings before the CAUT; however, it becomes clear that Nader's assumptions about his position and its power-knowledge are naïve when, after he sends his open letter to the board, Vice-president Taylor responds by writing,

Until recently it appeared to me that you were making an effort to differentiate between the expression of ... [your] views as an individual member of the Trent community and your responsibilities as an appointee of the Board of Governors as Principal of the College. But I now perceive that not only do you seem to be

conflating those roles but you are making statements to the public media, purportedly in your role as Principal, that must be recognized as detrimental to the well-being of the university. (as quoted in Bruneau & Quigley, 2007, p. 11)

There is now contest over Nader's subjectivities. Evidently, Taylor sees Nader's roles as part-time professor of geography and board member to be inconsequential in relation to Nader's position as principal. Moreover, Taylor's view of Nader's position as principal is informed by a set of norms and values that are very different from those of academic freedom, upon which Nader has relied as currency. In this sense, Nader's subjectivities as academic and advocate are contested by Vice-president Taylor's understanding of the subjectivity of principal as being mainly concerned with loyalty (i.e., "cabinet solidarity") and subordination to the board, which are conceptions related to institutionalized discourse-practices of bureaucratic authority and corporatism.²⁰ By invoking his notion of principal, in effect, the Vice-president is devaluing academic freedom and placing value on an *entirely different* kind of currency.

How is it that this can happen?

Considering the discursive field to be centrally concerned with competing knowledge claims over Robinson College, we can see how

²⁰By "corporatism," I refer to both the ways in which the academic subject is enrolled in discourses of business management practice and to how it is that the subject has emerged in relation to the incorporation of universities since colonial times in North America.

academic freedom is being interrupted by a new set of discourses and subjectivities. In this context, the College is a resource and, as such, it is the object of struggles over its nature and role in relation to Trent University's past, present, and future. On one side of the contest, the University administration's practices effect knowledge of the field through specific technologies (e.g., balance sheets, budgets, revenue projections, estimates of expenditures, strategic, operational, financial and capital plans, property valuations, enrollment data, etc.) that establish the College as an economic commodity--or, more specifically, an economic liability. These technologies operate intertextually and circulate within the field in relation to wider discourses of economic efficiency and effectiveness, fiscal conservatism, downsizing, and retrenchment, such that subjects come to "know" about the College in relation to a certain "truth" about it and the wider University's financial "well-being." On this side, common sense arguments about the past, present, and future of the institution are the effects of the power of economic rationality to produce and assemble knowledge through its various technologies and practices. Being essentially scientific, the knowledge produced here has the effect of constructing understandings about the University that are "objective" and therefore not only sensible, unbiased, and trustworthy, but also *unquestionable*. For example, in her letter to Nader, in which she responds to the open letter he wrote to the Board challenging its financial argument to close the College, President Patterson writes,

The Finance and Property Committee reviewed your document, an overview of the context within which the decision to adopt the Capital Development Strategy was taken, the original financial analysis that had informed this decision, the actual costs of operating the colleges, changes in the college budget since that time, the potential savings that are to be realized from the campus consolidation and other cost factors relevant to today and the future.

The ... committee is of the view that your “open letter” warrants no further analysis or discussion by the Board ... (as quoted in Bruneau & Quigley, 2007, p. 13)

The power-knowledge produced here about the College also operates in relation to discourses of professionalism and new managerialism (cf. Deem & Brehony, 2005). These discourses have the effect of disciplining subjects. As Foucault (1977/1995) reminds us, discipline occurs beyond disciplinary acts such as those meted out by President Patterson; it also operates through governing practices such as accountability and normative practices such as loyalty, duty, and service to the corporation (Foucault, 1977/1995). As such, subjects come to understand themselves and their practice in relation to particular ideas about what it means to serve and care about the “business” and its “customers” and to be loyal and dutiful to the university and its officers:

I hope that for the sake of the College and the University as a whole, and in particular our students, you will fulfil your role as expected and allow progress to be made on transition issues
(Patterson, as quoted in Bruneau & Quigley, 2007, p. 14)

Being that these practices of knowledge production are powerful (i.e., they operate in the *vinculum* of power and knowledge), on the other side of the struggle, Nader and his supporters appropriate them to effect an antidote to the administration's knowledge claims, *on the claims' own terms*. This is evident in the quotation above, where a counter-argument that invokes economic rationality and the discourse-practice of financial management is presented in response to the President's justification for closing the College. In terms of the discursive field, the difference between Nader and Patterson's competing claims is that in Nader's, competition over the resource operates in relation to discourses of loyalty and duty to the College and the University that are at odds with those emphasizing the bureaucratic, managerialist, and professional interpretations of such practices. Indeed, in his study of seven community colleges, Levin (2006) found that

the predominant expression of faculty values is at odds with the economic behaviors of the institution. Although faculty are the agents of much of these behaviors--they develop and teach the curriculum that serves both government priorities and business interests, for example--they articulate their opposition to their

colleges serving these interests. (p. 84)

Nader's stake in the College enrolls him, his supporters, and the College in understandings of institutional well-being and an ethic of care that operate in relation to normative practices of the "duty to oppose" and the obligation to honour institutional history, rather than those that emphasize loyalty to the board, the administration, and their financial decisions. This is evident in the CAUT investigatory committee's interview data, where, for example, it was found that "Morrison agreed with Nader's behaviour because he saw the latter's responsibility as securing the best interests of his college and that it was Nader's duty to oppose the closure if he felt it was not an appropriate action" (Bruneau & Quigley, 2007, p. 6).

Struggling over subjectivities. I also argue that, while academic freedom functions as a rarefied power-knowledge, its effects are limited within a contested discursive field where the political struggle is over subjectivities. Specifically, I suggest that the enunciation of the statement has the dual and paradoxical effects of bifurcating *and* unifying the subject. For instance, the Trent administration asserts that there is a difference between being an academic and being an administrator. In this regard, it goes so far as to declare that the freedom of extra-mural speech is possible only in relation to Nader's role as "citizen of the university community" (i.e., academic). On these grounds, it "grants" Nader permission to speak as opponent, but only if he operates from the position of academic, which is not possible. In effect, it shuts down the possibility of

speaking out as administrator by denying Nader's position as academic and, thusly, dismissing academic freedom as something that does not "matter"; that it is not the singular truth that it is for Nader and his supporters. In this context, academic freedom has no "value" as currency. Ironically, the eclipse of the position of academic subject is not only an effect of the administration's actions, however: when the grievance that Nader's supporters launch with the faculty association is "not pursued because Nader had not been a member ... at the time of the claimed abridgement of his academic freedom" (Bruneau & Quigley, 2007, p. 3), the academic-administrator subjectivity is bifurcated again because academic freedom holds no "value" in an economy of discourse where all subjects are not "free" to be members.

The contest over subjectivities continues when Nader's case is taken up by the CAUT, which writes,

this inquiry is satisfied that Nader was, as principal of Peter Robinson College, at all times an academic Had he been in scope of the Trent University Faculty Association, ... [he] would have been protected from sanction by the university administration. But no one would suggest faculty in a non-unionized university would not be entitled to academic freedom. To do so would, among other things, invite censure from CAUT and the Association of Universities and Colleges of Canada. (pp. 7-8)

Here, the singularity of the statement annuls Nader's exclusion from the field as a non-member of the Trent Faculty Association and reunifies the subjectivities of administrator and academic. Ostensibly, CAUT's assertions throughout its report have the effect of unifying *all* available subjectivities through its policy-based declaration that every academic, no matter his or her employment or union-related status, whether acting or not acting in an administrative capacity, is "entitled" to be academically "free." In light of this position, a paradoxical effect of the rarefication of academic freedom is the limitation of the subject positions from whence freedom might be practiced: the position of academic always trumps other positions, including administrator. In this sense, it is additionally paradoxical that the CAUT proposes to develop policy "that enshrines to the fullest extent possible academic freedom protection for senior university personnel" (p. 9) such as Nader, since the unification of the subject is already effected. That is, there is always already only one way to "be" in relation to academic freedom. The irony is that the position of academic is being eroded in North American universities and colleges as professors are increasingly pressured to assume administrative roles as an effect of budgetary crises. As Thies (2003) explains:

Facing shrinking budgets, many schools find it more cost effective to augment the salaries of faculty rather than hire full-time personnel to serve in administrative positions. At many four-year liberal arts colleges and junior colleges, new faculty may even be

required to engage in administrative tasks as a matter of course without reduced teaching or additional compensation. According to the transcripts of a recent round-table discussion, this phenomenon also occurs at community colleges. (p. 447)

Diminishing academic freedom. I argue that Nader's case shows us how academic freedom is now being challenged in the very institution from which it emerged. That is, the discursive space of the Canadian university simultaneously produces *and* abrogates academic freedom. Through an analysis of rarefication, especially one wherein subjectivity is the focus, we can see how it is that academic freedom has, at the same time, high value and no value within the discursive field; how it is that although its law of rarity is its singularity as power-knowledge, its power can also be completely nullified. We can see how, as power-knowledge, academic freedom is what is assumed by subjects to be power-ful and how it operates as an asset and a kind of discursive currency. However, we can also see how it effects nothing material in cases such as Nader's, where (a) administrations apparently do not care about academic freedom and refuse to participate in the CAUT's investigative processes, (b) it does not matter that the CAUT finds the denial of a professor's reappointment to an administrative position to have been a violation of his/her academic freedom, and (c) the closure of colleges can go ahead for economic reasons, even when the counterarguments put forward are themselves at least partly economic and are enunciated from a position of academic

freedom. But why is this important and what does it tell us about academic freedom in a broader sense?

First, the stakes and risks are high in an economy of competing discourses where administrative cutbacks are contested on the grounds that they are financially unjustified and/or ethically questionable. This seems antithetical to the normative bases upon which participatory governance is organized. Moreover, it is in such discursive spaces that the practice of academic freedom--especially extra-mural speech--can produce new knowledge about the university and its practises through the critique of its corporate governance. Being that the fundamental purpose of 21st century Canadian universities is to innovate through knowledge production, it seems counter-productive to curtail the freedom of academic administrators to take up institutional decisions and policy as objects of critique by dissolving their rights to free speech and disciplining them for “disloyal” behaviour when they dare to question the status quo.

Second, I argue that a dangerous effect (Foucault, 1984b) of the singular power of academic freedom is that because it operates supra-rationally, it is possible for subjects to invoke it like a talisman--that is, as though it transcends language--even in local contexts where no relevant policy exists, to little or no beneficial effect. What this chapter points to is that in situations where subjects might rely on the singular power of academic freedom by citing, for example, the CAUT’s assertions that, whether unionized or not, Canadian faculty members have academic

freedom, the value of academic freedom as discursive currency *simply cannot be assumed*.

Third, the singularity of academic freedom undermines itself by making it (im)possible to critique on its own terms. As is illustrated by the Nader case, academic freedom's incontrovertibility, as, for example, "the doctrine" (Bruneau & Quigley, 2007, p. 5) through which the academic subject constructs and conducts itself, can be antithetical to (a) the purposes of truth-seeking and knowledge production upon which it is based, and (b) its own compound refusal of "doctrine," insofar as doctrine constitutes a threat to the exercise of free thought:

Members of the academic community are entitled, regardless of prescribed doctrine, to freedom in carrying out research and in publishing the results thereof, freedom of teaching and of discussion, freedom to criticize the University and the Association, and freedom from institutional censorship. (Trent University Faculty Association, as quoted in Bruneau & Quigley, 2007, p. 8)

Here, the effect is that there are no other statements in the discursive field because there does not *need* to be a choice among statements, since academic freedom is so powerful that it obviates such a need. This is dangerous because, as my analysis of Nader's case suggests, despite its current status as a natural, individual right and its productive power to effect social benefits that are difficult to challenge, academic freedom is

not shielded from the slipperiness of shifting and contested subjectivities in the disputed field of the Canadian university. For depending upon how it is enunciated, it can be appropriated for particular ends in relation to its powers of division and unification such that subjects can be either “protected” or disciplined, included or excluded, according to the norms and practices associated with the various positions that are its effects. And even within a policy context where the freedom of all academic administrators to criticize their institutions might be codified, such as is suggested by the CAUT in its report on Nader’s case, the singularity of academic freedom as power-knowledge would still protect those who would make charges of disloyalty against them.

Summarizing

By taking the rarity of academic freedom as the “explicit object” (Foucault, 1969/1972b, p. 120) of this analysis, I have attempted to describe how it is that the uncontestable is contestable; that is, how academic freedom operates as a particular regime of truth that both defines the freedom of the subjects it produces to critique their administrations and has the effect of undermining itself as institutionalized discourse-practice. Rather than merely stating that academic freedom is “hegemonic,” that is, it is the freedom of professors, middle- and senior-level managers to “think like the CAUT,” I have tried to describe how it is that such statements about it might be spoken. I maintain that these observations are important because they help us to understand the ways

in which the practise of intellectual freedom quakes in a shifting discursive field where contest over academic subjectivities is an effect of current practices of the “best ways” to “do” postsecondary public education in Canada. These are related to competing discourses such as new managerialism and corporatism on one hand and creativity and innovation for truth seeking in a knowledge economy on the other. In this sense, an analysis of rarity is helpful in understanding the changing conditions of academic life and practice in Canadian universities, where faculty members regularly find themselves in difficult positions where ethical and practical orientations towards the re-visioned aims of the university are at odds.

Chapter 7 -- The Social Programme of Academic Freedom and the Possibilities for Action within It

The immediately preceding three chapters, although they are analyses of statement-events that might seem, on the surface, to be unrelated because they occurred in different institutions at different times and are organized according to different archaeo-genealogical analytics, operate intertextually in this research study as an effect of the problematization of academic freedom historiography I set out in Chapter 1. As such, I suggest that it is possible to see them as contributing to broader critical understandings about the ways in which academic freedom both produces its subjects and objects and effects its subjects as objects in a “system of dispersion” (Foucault, 1969/1972b, p. 38). I believe this goal-effect is important because, as Baker (2001) points out,

for Foucault, how one thought about the subject was not just a “so what?,” for it opened onto what counted as truth, what was sanctioned as real, and what could count as an event. The rethinking of the subject was therefore also intrinsically allied to his rethinking of power. (p. 30)

From this position, I also suggest that understandings about how it is that academic freedom operates as a regime of truth and power are essential to any prospect of hope that its economy of discourse might, in future, be something different. I contend that it is only through this possibility that

subjects might think and be in other ways.

To these ends, this last chapter, which can be considered a concentric circle on the outskirts of the analysis (Foucault, 1969/1972b), is about two things: what this study of rarity, exteriority, and accumulation suggests about the operation of academic freedom in Canadian universities as a social *programme* (Foucault, 1977/1995; Gordon, 1980) and the possibility for agential action within the programme, insofar as agency is understood to be both a refusal of “what we are now” and a practice of freedom and ethics made material through the very productive nature of power-knowledge itself (cf. Hofmeyr, 2006). My intentions are to (a) offer a description of academic freedom that goes further than the paradoxes, ironies, and agonisms I have so far drawn attention to, and (b) move towards addressing ethics-related questions Foucauldian studies ask, especially “What kind of relations can the role and activity of the [specific] intellectual establish between theoretical research, specialised knowledge and political struggles?” (Gordon, 1980, p. 233). Guided thusly, I end with a tentative vision of hope for socio-institutional change that, while it suspends my individual responsibility as “expert” for recommending how every Canadian university might solve the problems of academic freedom, advocates for widespread participation in the collective re-imagining of its discourse-practice.

Describing What We Are Now

Returning to the motivation for this study, outside teleological histories, it has hitherto been impossible to account for the ways in which the academically “free” subject is constituted in Canadian universities, other than to say that it is the amalgamation of the German Humboldtian, the 19th century American research university academic and citizen of American constitutional law, and the Oxbridgean (cf. Hofstadter & Metzger, 1955; Horn, 1999). I have endeavoured to interrupt such totalizing explanations because, however necessary they are to our understandings of historical roots and origins, they are rendered insufficient by the play of the Platonic modalities, as I explain in Chapter 2. In this way, they have generated my questions about what else might explain what we are, and how it is that we are what we are, as a matter of critically interrogating some present, taken-for-granted, institutionalized practices of freedom.

In response to this *problématique* (Foucault, 1969/1972b), I have so far tried to describe the discursive formation of academic freedom by paying attention to the ways in which statement-events circulate intertextually, effect power-knowledge, and operate as both the conditions of possibility for, and the limits of, intellectual freedom. To recap, in relation to rarity, I have suggested that academic freedom operates in the discursive field as

- a singular power-knowledge effected through the subjects that are its effects;
- a power-knowledge having the dual and paradoxical effects of unifying and bifurcating the subject;
- an asset necessary for subjects to practice dissent;
- a currency whose value cannot be assumed, yet has, at the same time, both high value and no value; and
- a supra-rationality that transcends language.

In relation to exteriority, I have tried to show how it is that academic freedom discourse forms through particular rules that it also produces and that these rules can have paradoxical and dangerous effects. For example, the rules of inclusion and balance, which are invoked through practices of academic freedom related to the desire for the broad representation of ideas, may actually serve to restrict intellectual freedom as consequences of (a) limiting the possibilities for occupying particular subject positions (e.g., critic, dissenter, and radical); and (b) re-producing mainstream ideas. And in relation to accumulation, I have tried to describe the institutional preservation techniques and technologies through which academic freedom discourse not only operates as a particular regime of truth and can thusly produce specific truth statements about itself and its events, but also how it possible for it to

- accumulate its statements through the progressive mode of history;
- cross enunciative domains (e.g., bioethics);
- be invested in, and produced through, contentious social relations;
- produce knowledge that is also power, and that is therefore dangerous; and
- emerge as the site of micro-political contests over how subjects may/not practice the freedom to speak and publish, as well as other ethical practices such as patient safety.

I maintain that these phenomena--especially those that are paradoxical--are of consequence because they are concerned with what we are (i.e., what it is possible to be) as academics, scholars, administrators, students, intellectuals, etc., as matters of the *historical a priori* (Foucault, 1969/1972b) rather than of historical determinism. In other words, I suggest that they are genealogical *antecedents* (Foucault, 1969/1972b) that “‘secrete’ a certain kind of historicity” (Gordon, 1980, p. 242) that, once described, can help us to understand how it is that what we are is the effect of a particular, contingent, and frequently agonistic system of institutionalized knowledge and social power through which it is currently possible to think freely in universities only as a matter of being simultaneously unfree to do so.

Describing the Programme of Academic Freedom

This description, when it pays further attention to technologies of power and normative strategies, also makes it possible to see how it is that academic freedom operates as an unsuccessful social *programme* “whose object (in both senses of the word) is the rendering rationalisable, transparent and programmable of the real” (Gordon, 1980, p. 245). In relation to this argument, it is important to first distinguish between the identification of unintended consequences of human actions, which, although it is necessary for the analysis of programmatic power, is insufficient for its critical purposes. To wit, the aim of analyzing programmes is to describe how it is that “the illusory expectations that are associated with certain social decisions at the time of adoption may keep their *real* future effects from view” (Hirschman, as quoted in Gordon, 1980, p. 248, emphasis in original). As such, the analysis of the programmatic power begins with attention paid to *non-correspondence*:

The concepts of strategies, programmes and technologies of power serve to analyse not the perfect correspondence between the orders of discourse, practice and effects, but the manner in which they fail to correspond and the positive significance that can attach to such discrepancies. (Gordon, 1980, p. 247)

The imperative point about the positivity of programmatic power is that it does not matter whether undesirable socio-material effects (e.g., limiting

the range of ideas that can be expressed during a conference, as discussed in Chapter 5) are intended or not: that there *are* such effects is what is important for the purposes of immanent critique in relation to academic freedom.

Technologies of power and the will to knowledge. I argue that in the discursive field of academic freedom, it is through the production of particular types of knowledge that non-correspondence is effected among the orders of discourse, practice, and effects. Here, institutional preservation techniques produce technologies that circulate as power-knowledge that is also dangerous and that can therefore be taken up as the object of political contests, such as that between the freedom to publish and the censorship of scientific evidence that occurred in the Olivieri affair. Similarly, as a regime of singular truth effected through intertextually operating technologies of power (e.g., policy statements such as the CAUT's (2011) *Academic Freedom*, the scholarship of higher education), academic freedom discourse effects non-correspondence in relation to its value and non-value in the discursive economy. As in the case of Professor Nader, for instance, it operates at the same time as the basis upon which subjects can make claims to unique professional status and the very grounds upon which such claims can be ostensibly dismissed.

In again considering such examples from the analysis, we can see how it is that through the agonistic limit-effects produced through

technological power, the “free” subject is the subject-object of its will to knowledge about *itself* (cf. Foucault, 1971/1984a). Furthermore, we can see how it is that this will to knowledge problematizes the free subject: the very *possibility* that the subject can occupy positions from whence it might practice freedom and produce knowledge about its practice and itself is such a power-ful and dangerous knowledge-possibility that it effects the objectification of the practice of freedom and its subjects as *problems*. In this way, the free subject becomes “known” to the programme of academic freedom as a particular type of object: a *dangerous* one. As Gordon (1980) explains,

every programme ... either articulates or presupposes a *knowledge* of the field of reality upon which it is to intervene and/or which it is calculated to bring into being. The common axiom of programmes is that an effective power is and must be a power which *knows* the objects upon which it is exercised. (p. 248, emphasis in original)

Once the free subject is known as a real problem-object, it becomes *programmable*, but not in the sense that it is “made subject to the understanding” of a programmer, but rather through “understanding [that] appl[ies] itself to the phenomena which are subject to it” (Deleuze, as quoted in Gordon, 1980, p. 248). Thusly, within the same programme where practices such as Nader’s criticism of his administration and its decisions about Peter Robinson College are constructed as ways to be academically and intellectually free, they are also constructed as a power-

ful set of dangerous and undesirable discourses, practices, and effects that must be *managed* and *controlled*. Ergo, it becomes possible for freedom and its subjects to be the subjects-objects of regimes of micro-disciplinary and micro-punitive counter-power (cf. Foucault, 1977/1995) exercised through the programme. For example, local practices of legal-rational authority (cf. Weber, 1978) can be applied as effects of the ways in which the free subject is always already caught up in such practices, being, as it is, rendered knowable as a problem through their technological power-knowledge. Within the institution of the Canadian university, we can see how it becomes possible for academically “free” individuals such as Nader, Olivieri, and Ryder to be denied administrative reappointment, abandoned by their employers when they break contractual non-disclosure clauses, ordered to change conference programs about sensitive sociopolitical topics, and removed from their jobs when they attempt to practice academic freedom. These are all effects of the dangerousness of freedom produced through technological power-knowledge.

What is important to note is that such responses are all examples of practices of counter-power (i.e., counter-freedom) produced through the discourse-practice of academic freedom *itself*. In other words, technological power operating within the programme effects both academic freedom and unfreedom simultaneously, both as dangerous possibilities. As such, I argue that programmatic power is one way of

understanding how it is that sometimes, academic freedom's "desired effects fail to happen and refuse to come into the world" (Gordon, 1980, p. 248) *as a matter of its own discourse*. It is one way of understanding how it is that academic freedom can sometimes fail to free, and thus how it is that, like all social programmes, it "caters in advance for the eventuality of its own failure" (p. 250).

Normativity and the (failed) genius of academic freedom. Any attempt to describe academic freedom as an unsuccessful social programme cannot assume that an articulation of the ways in which the free subject becomes known is sufficient for understanding how it is that desirable effects can be unrealized. In order to grasp the ways in which a programme is unsuccessful, we must also consider how the subject *knows itself* within the programme (Gordon, 1980). In this regard, I submit the question, "What does the programme of academic freedom ensure for the subjects of its knowledge?"

To reprise, when considered as being produced through technological power exercised via the will to knowledge, academic freedom discourse effects the positions of both freedom and unfreedom. Hence, we can also say that it is not possible to have one position without the other, insofar as for the academically free subject to be known to the programme as something desirable, the unfree academic subject must also be known as undesirable (i.e., dangerous) and for the academically free subject to be known as something dangerous (i.e., undesirable) it

must also be known as desirable. For example, both the “desirable” socio-material effect of freedom of speech and the “undesirable” effect of censorship are necessary to produce the positions of the freely thinking and speaking subject. This is because it is only possible for subjects to be free to think and speak if the possibility of not being free to do so also exists, insofar as the censored subject is the effect of the perpetual problematization of the possibilities of free thought and speech. That is to say, since “power is exercised only over free subjects, and only insofar as they are free” (Foucault, 1983, p. 221), both positions are necessary and therefore mutually unexclusive; we are always already caught up in a regime of programmatic power-knowledge in which subjects cannot be academically free if there is no coexistent possibility of being unfree. This is evident in all three discursive events I have paid attention to in this research.

I contend that this description is a strong basis upon which the programme can be considered unsuccessful in the first instance. What I mean is that by virtue of the nature of power-knowledge and its relations with freedom, struggles over academic freedom in Canadian universities are continual, as consequences of the “empirical non-correspondence between the level of [its] discourses and the level of [its] historical effects” (Gordon, 1980, p. 248). As Foucault (1983) states,

At the very heart of the power relationship, and constantly provoking it, are the recalcitrance of the will and the intransigence

of freedom. Rather than speaking of an essential freedom, it would be better to speak of an “agonism” of a relationship which is at the same time reciprocal incitation and struggle, less of a face-to-face confrontation which paralyzes both sides than a permanent provocation. (p. 221-222)

However, the historical “agonisms” arising from the “permanent provocation” that I have described in this study are not completely accounted for until we also ask by what strategy it is possible for certain practices of freedom to be agonistic.

Returning to the analysis of exteriority as applied to *Israel/Palestine: Mapping Models of Statehood and Paths to Peace* in Chapter 4, we can see how assumptions about how it is possible to broaden the range of ideas that can be discussed in an academic space are the effect of particular practices of academic freedom. More to the point, we can see how it is possible for subjects to attempt to make adjustments to a social context that is potentially intellectually exclusive as an effect of the normalization of academic freedom operating within the programme. Thus, the multiple attempts to rename the conference can be understood as examples of “technical operations” (Gordon, 1980, p. 250) to correct behaviour such that it is normal (i.e., appropriate to the norm). On this point, Gordon explains that

the concept of a norm is inseparable, as Canguilhem has shown,⁹ from concepts of normativity and normalisation; the specification of a norm is inseparable from the specification of natural and technical operations which effect or correct this normativity. Indeed without the availability of means of normalisation a norm is hardly knowable. (p. 250)

However, since “techniques of normalisation themselves suffer from defects which necessitate correction and adjustment” (p. 250), we can also see how it is possible for normalization to produce inconsistent and undesirable effects, such as potentially limiting the positions from whence subjects might speak, and thereby limiting what is “normal” to what is also mainstream and orthodox. This becomes evident when we pay attention to the exteriority of statements, as in the analysis of the Conference, where alternative sociopolitical viewpoints might be suppressed even as efforts are made at scholarly inclusivity. These effects are, of course, *abnormal* in relation to the norm of academic freedom in Canada, at least as it is known through technologies of power-knowledge such as those written by the CAUT (2011). It asserts, for example, that “academic freedom makes intellectual discourse, critique, and commitment possible” (§3). In this sense, these effects are *anti-functional* (Gordon, 1980).

Yet, as a strategy, normativity ensures more for the subjects of its knowledge than a knowable norm wherein freedom is the object(ive). I maintain that it also renders the subject knowable to itself in relation to the

discourse of academic freedom, in particular as it operates as a set of ethical, professional practices. It is this particular self-knowledge that effects the normalization of freedom, that makes it possible for the subject to desire the correction of abnormal behaviour, *and* that produces the particular series of possible technical operations that can be deployed within the field in response to variations against the norm. In this way, the strategy of the norm of freedom ensures the exercise of technological power-knowledge such that the subject is programmable:

The genius of the programme consists in positing a real mechanism which itself “programmes” the appropriate form of intervention upon it. In ... the human sciences, the notion of a mechanism is supplemented with a perhaps even more powerful conception, that of the *norm* of behavior and function of human individuals and collectivities. (p. 249, italics in original)

It is my contention that the genius of the programme of academic freedom is that, as normative power-knowledge, freedom ensures that the subject can police itself in relation to the norm. That is to say, I venture that academic freedom is also auto-disciplinary power-knowledge that ensures its normal practice is a problem of the “care of the self” (Foucault, 1984/1994). The failure of the genius, of course, is its inability to ensure that only desirable effects consistent with the normative objectives of the practices of freedom are materialized, as in the case in each of the discursive events I have analyzed in this study. The point is that, in such

instances, academic freedom fails to free *as a matter of its own normative logic* (cf. Foucault, 1977/1995).

At the same time, the programme depends upon its perpetual anti-functionalism to guarantee some measure of success in terms of producing “free” subjects and the undesirable effects that are necessary to produce a position from whence freedom might be practiced. That is to say, *its operation as a programme is effected only through the success of its necessary failure*. For as Foucault (1977/1995) demonstrates in *Discipline and Punish* in relation to the practice of incarceration in prisons, programmatic power ensures that academic freedom, like all unsuccessful social programmes, “continually reinvokes the model of its original, aborted programme” (Gordon, 1980, p. 250) as a matter of its own correction. Hence, it becomes possible and necessary for problems such as those faced by Olivieri, Nader, and the Conference organizers to recur.

What I am trying to show is how it is that academic freedom in Canadian universities is a dangerous and unsuccessful social programme effected through the “instinctive violence” of the will to knowledge (Foucault, 1971/1984a). I believe this is important because it is one way of elucidating, for example, how it is possible for subjects to say, “Academic freedom is dead.” But perhaps the greatest danger--and therefore also the location holding the most promising possibilities for reimagining and other forms of action--is not so much that academic freedom is already dead or even that it might be dying, but rather that it seems programmed to *kill*

itself.

Refusing What We Are Now

“At this point,” declares Gordon (1980) in his discussion of programmatic power, “the contribution of the intellectual as historical analyst ends and gives way to the reflection and decisions, not of the managers and theoreticians of resistance but of those who themselves choose to resist” (p. 258). Counting myself among the people in both groups and having confidence in the potential of genealogical approaches to the study of the problems of higher education policy to contribute substantively and meaningfully to different ways of being and practicing, I now offer some departing thoughts about hope for institutional change in relation to academic freedom. For it is my belief that the possibility of difference, that is, the chance that we might be able to practice intellectual freedom differently in Canadian universities, depends upon the possibility of thinking about it in different ways first. Ultimately, this has been the purpose of my study.

That said, I would like to preface this section by adding that, because I consider the labyrinthine problems of the socio-educational world to be much greater than I, and thus that they are the shared, ethical concerns of social groups and Canadian society broadly, I do not consider the crafting of their universal solutions to be my individual duty. In this regard, I responsibilize solutions and interventions generally, rather than

accept them as the personalized grounds upon which I ought to construct recommendations, guidelines, procedures, and other instruments for the “better” governance and management of universities or the “best” ways to practice academic freedom. Instead, I maintain that “the intellectual’s role is not to provide vision and leadership, nor is it to offer a global social and economic theory. Rather, it is to provide an analysis of the ‘specificity of the mechanisms of power’³” (Foucault, as quoted in Shiner, 1982) for the purposes of acting individually through their inherent instabilities, as part of collective and tentative change efforts.

Questioning the Present

If, as this study suggests, we are not always free to think and be in the ways we might think we are, then what are we, as a profession that organizes its identity on the grounds of its unique claims to academic freedom? As the profession shifts in relation to heightened expectations for fiscal prudence and public accountability, amplified demands for programs that are more “relevant” to the labour market, and accelerated efforts to commercialize research, on what basis can we continue to define ourselves as intellectuals in relation to academic freedom? Given that newly hired and untenured professors increasingly find themselves in administrative positions early in their careers as a result of budget cuts, the aging workforce, and other institutional changes, how can we navigate multiple, competing subjectivities that rely upon academic freedom as the basis for their legitimacy (and, therefore, the ethical grounds for particular

practices), but are also cast aside as inapplicable? Can it/we be otherwise? How might it be possible to resist?

Such are a few examples of the questions of present concern to Canadian academics in both research- and teaching-intensive universities. Pointing to the local and broader ways in which academic freedom is always already the site of sociopolitical struggle, they affirm the importance of understandings about how it is that power-knowledges operate technologically and normatively within the programme. Nevertheless, by emphasizing the omnipresence of power and its reliance upon freedom as “both the precondition for the exercise of power and also its permanent support” (Hofmeyr, 2006, p. 220), the knowledges that such understandings effect (including those produced here), however well they might be contextualized, can still lead to the conclusion that there is no possibility of an alternate future. This is because (a) the subject is immobilized within the regimes of truth and power that produce it, and (b) the practice of politics, as described in Foucault’s later works, is essentially a matter of an aesthetics of the self. For instance, as Tobias (2005) recounts,

Whereas his earlier work was widely viewed as endorsing the hopeless entanglement of political agency in a mesh of social constraints, Foucault’s later description of ethics as “aesthetics of existence” prompted claims that he had now reduced political and moral concerns to matters of aesthetic taste (Hadot, 1992; Norris,

1992; Wolin, 1986). Such political indifference was perceived as a consequence of a political analysis that saw no room for agency within the nexus of institutional, disciplinary and discursive constraints, or provided no normative perspective from which to resist the status quo (e.g. Best and Kellner, 1991; Callinicos, 1989, Eagleton, 1990). (p. 65)

However, recent Foucault scholarship such as Hofmeyr's (2006) helps us to understand that the agential subject exists by virtue of the contingent nature of the very power relations through which it is produced. As she puts it, "because power relations are unstable, they are subject to change; and because there is power everywhere, there is also freedom and the possibility of resistance everywhere" (p. 221). What this means for the antinomy of academic freedom is that its productivity as power-knowledge is also the condition of possibility that it--and we--*can* be something else. In other words, power begets hope, even in an unsuccessful social programme, and there can be no hope without an effective power. Moreover, hope is *political*.

Hoping to be something else. To understand the political nature of hope, we must also be aware that the refusal of what we are now is a practice of liberty and ethics that always has wider effects Foucault (1984/1994). As Hofmeyr (2006) explains,

Individual action, understood as an acting or reacting relation of

force, cannot simply remain localized (or be conceived as individualistic) for it has the potential of causing a chain reaction or ripple effect through the social fabric.⁸³ Moreover, since it is neither localized nor isolated, the individual ethical subject's 'practices of liberty' would then also have the potential of effecting larger-scale political changes from the bottom up, and liberation would not only be an ethical but also a political task⁸⁴. (p. 229)

Thus, what I counsel we should pay attention to in relation to the programme of academic freedom is not only that violation is normatively logical, dangerous, and inescapable, but that because it is also a practice of power, it is simultaneously the condition of possibility for the practice of counter-power. This is because statement-events about academic freedom are power-ful knowledge, as this study shows, and are therefore potential resources in strategic counter-operations of resistance:

Discourse is not a medium for strategy but a resource. And the point where the perspective of strategy becomes indispensable for genealogy is where the non-correspondence of discourse, practices, and effects creates possibilities for operations whose sense is, in various ways, either unstated or unstateable, within any one discourse. (Gordon, 1980, p. 251)

That is, resistance is the strategy of producing statement-events that are hitherto unsaid. Being that statements operate as both currency and

assets within the economy of discourse, they hold the potential for changing the practice of academic freedom in Canadian universities. This is because *different statements effect different social relations*. We can see this in the Olivieri affair, for the most famous contest over academic freedom is also the most famous example of its unabashed practice: Olivieri “stated the unstateable” by reporting and publishing her findings.

What this research also suggests is that in order to potentially effect the most appropriate (counter-) productive strategies within the programme, we must be mindful about how it is that academic freedom accumulates its statements through the phenomenon of recurrence and the progressive mode of history. In particular, I believe that we must pay attention to the dangerous knowledge that academic freedom is (re)produced through the (re)iteration of its own history. This history positions academic freedom chiefly as an individual, liberal democratic right; however, as I have tried to explain in my analysis of the Nader case, the irony is that reliance upon this historical truth makes the profession vulnerable, especially in contexts where there are struggles over subjectivities (e.g., academic-administrator). As such, it raises questions about the utility of investing so much of our professional identity in the singular discourse-practice of academic freedom as an individual right, particularly in a complicated and shifting field where it often has no value as currency.

Considering “agential” and “well-being” freedoms. Thinking

beyond this study and about future research, it might be that, in order to change the economy of its discourse, we need to consider what might be possible when academic freedom is understood to be something more than power-knowledge that produces, disciplines, and governs subjectivity. Maybe we need to consider, for example, that although it is not possible for it to transcend its own iterative historicity, academic freedom produces more than its own limits through its recurrence in the field. Perhaps Foucault's later ideas can help us understand how it might be possible to see beyond the rarity, exteriority, and accumulation of academic freedom statement-events, thereby positioning it as the object of other counter-operations.

Tobias (2005) makes the cogent case that Foucault's later work, especially the idea of the *limit-experience*, is compatible with the *capabilities approach* to the study of freedom proffered by theorists such as Sen and Nussbaum. In brief, this orientation distinguishes between two types of freedom: *agential* and *well-being*. The former is understood to be the "principal commitment of liberalism" (p. 69) and the latter to encompass the idea that "human beings are not defined or fulfilled simply on the basis of some implacable will to freedom, but are physical and social creatures whose ambitions and aspirations, even of the humblest variety, require that certain minimal conditions" (p. 70) be met. These conditions can include, for example, "mortality; physical needs such as shelter and nutrition and the avoidance of pain; cognitive capacity and

practical reason; affiliation and community; and humour and recreation (1993: 263-6, 1995: 76-80)” (p. 70). The idea is that these conditions constitute bases upon which agential freedom is possible and upon which questions can be asked about the degree to which social and political policies enable people to “function *well*” (Nussbaum, as quoted in Tobias, 2005, p. 71, emphasis in original).

In considering these two types of freedom in relation to the research I have reviewed in this dissertation, the statement-events I have chosen for study, and the analyses I have conducted, we can see that academic freedom in Canadian universities descends as agential freedom, and that, as I have noted especially in the analysis of the Nader case, the profession relies heavily upon this discourse of it. As such, it is presently difficult to see it as anything other than a matter of individual action and choice, and therefore how it might also operate as and/or in relation to the practice of well-being freedom. Perhaps studying it from this perspective in future poststructuralist research is a way to make it political in yet a different way, in the sense that it might afford a problematization that could contribute something else to alternative ways of thinking about how it is that we are (un)free to think differently in the academy. For as Foucault (1980) argues, “if ‘politicisation’ means falling back on ready-made choices and institutions, then the effort of analysis involved in uncovering the relations of force and mechanisms of power is not worthwhile” (p. 190).

To reiterate, none of this is intended to preclude or diminish acts of resistance related to agential freedom such as daring to speak the unorthodox, protecting patient safety, etc. Rather, it is to suggest how “discourse can ... also be a point of resistance, the starting point of an opposing strategy³³ (Hofmeyr, 2006, p. 220). To my way of thinking, this is possible through a continuous interrogation of its knowledges, even when these are the products of immanent critique.

Departing

In this dissertation, I have dared to suggest, within a very particular historico-theoretical framework, that academic freedom is, in many ways, both unsuccessful and dangerous. Being an unconventional position, I recognize that it is also one that some fellow academics will not welcome, at least on the surface. However, I hope that in this study, in ways that demonstrate my respect for historiography, the profession of the professoriate, and Foucault’s ideas, I have also shown that there is reason to hope for a different future for academic freedom through the type of difficult knowledge about higher education policy that I have tried to produce here. On this point, I concur with Shiner (1982), who reminds us that

the knowledge and theory [that specific intellectuals] ... develop are not something they “apply” to the problems and political conflicts which touch the areas of their expertise. By virtue of their location and status in society, their statements and interpretations become

interventions. Their discourse is a form of action; their *theory is practice*.” (p. 383, emphasis in original)

As a form of intertextual practice and theory building, I also hope this study contributes to conversations about the politics of academic and intellectual freedom in Canada by both situating and interrupting the problématique of free thinking as a regime of institutionalized truth, knowledge, and social power. At the same time, I admit that my work is itself a form of power-knowledge, and that, as research taking a genealogical approach, it is merely “the latest in the line of accounts which fabricate their subject” and thus “can claim no privileged status” (Fox, 1995, Foucault section, para. 2) for itself, except that it is dangerous. Nevertheless, in presenting such efforts as another way to consider and conduct scholarship about academic freedom that engages in critique and political action, I hope I have begun to meet the double challenge of Foucault’s project, which is to simultaneously assume a position of humility towards historiography and provide an alternative to it (Castel, 1994). It is in this spirit that I have aimed to contribute learnings about different ways to “be” in Canadian universities, as a matter of considering different ways of practicing personal and institutionalized ethics of “freedom.”

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Appendix A -- The Canadian Association of University Teachers'
Policy Statement on Academic Freedom

1. Post-secondary educational institutions serve the common good of society through searching for, and disseminating, knowledge and understanding and through fostering independent thinking and expression in academic staff and students. Robust democracies require no less. These ends cannot be achieved without academic freedom.
2. Academic freedom includes the right, without restriction by prescribed doctrine, to freedom to teach and discuss; freedom to carry out research and disseminate and publish the results thereof; freedom to produce and perform creative works; freedom to engage in service to the institution and the community; freedom to express one's opinion about the institution, its administration, and the system in which one works; freedom to acquire, preserve, and provide access to documentary material in all formats; and freedom to participate in professional and representative academic bodies. Academic freedom always entails freedom from institutional censorship.
3. Academic freedom does not require neutrality on the part of the individual. Academic freedom makes intellectual discourse, critique, and commitment possible. All academic staff must have the right to fulfil their functions without reprisal or repression by the institution, the

- state, or any other source. Contracts which are silent on the matter of academic freedom do not entitle the employer to breach or threaten in any way the academic freedom of academic staff employed under such collective agreements or other employment contracts.
4. All academic staff have the right to freedom of thought, conscience, religion, expression, assembly, and association and the right to liberty and security of the person and freedom of movement. Academic staff must not be hindered or impeded in exercising their civil rights as individuals including the right to contribute to social change through free expression of opinion on matters of public interest. Academic staff must not suffer any institutional penalties because of the exercise of such rights.
 5. Academic freedom requires that academic staff play a major role in the governance of the institution. Academic staff members shall constitute at least a majority on committees or collegial governing bodies responsible for academic matters including but not limited to curriculum, assessment procedures and standards, appointment, tenure and promotion.
 6. Academic freedom must not be confused with institutional autonomy. Post-secondary institutions are autonomous to the extent that they can set policies independent of outside influence. That very autonomy can protect academic freedom from a hostile external

environment, but it can also facilitate an internal assault on academic freedom. Academic freedom is a right of members of the academic staff, not of the institution. The employer shall not abridge academic freedom on any grounds, including claims of institutional autonomy.

Appendix B -- Bibliography of Resources Used in Chapter 4

A drug company's effort to silence a researcher: The case of Nancy

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