

## Chapter Five

### Student participation in student organisations

*Services such as welfare could not exist without the subsidy provided by compulsory student fees. Further, DEST acknowledges that the services provided by student organisation are beneficial to the communal interest. In light of the assertions made by DEST on behalf of the Minister, and the counterclaims of its unsustainability, neither DEST or the Minister are yet to release a sustainable plan for the provision of services to the student body...*

University of New South Wales' Student Guild<sup>1</sup>

5.1 It comes as no surprise to the committee that the Government has blown the dust off previously rejected policy on student organisations and resuscitated it with a new title for inclusion in the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2003. In his second reading speech, Minister Nelson has argued that student choice is one of the foundation principles underpinning *Backing Australia's Future*. That choice is how people have access to university education; how they pay for it; and what organisations at university they want to join.

5.2 Specifically, the bill will amend the Higher Education Support Bill when (and if) it is passed. The amendments are designed to insert 'fairness' requirements into the quality and accountability provision in the main bill. As the Minister explained in his second reading speech:

An institution may have its approval as a higher education provider revoked if it does not comply with these requirements, and as a result will not receive any grants under the Act if that occurred. Alternatively, it may be required to repay amounts to the Commonwealth or it may have its grants reduced.

The fairness requirements will ensure that higher education providers do not require students to be members of a student association, union or guild, as a condition of enrolment. It will ensure that institutions do not collect any amount that is required to be paid as a condition of enrolment that is not directly related to a student's course of study.<sup>2</sup>

5.3 Thus, the purpose of the legislation has in common with the main bill the unwarranted and outrageous intrusion of government in the internal affairs of universities. This separate piece of legislation also sheds light on the hitherto

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1 Submission No. 342, UNSW Student Guild, p. 23

2 Hon Brendan Nelson MP, *Hansard (House of Representatives)*, 17 September 2003, p. 20250

unexplained 'fairness' provision (19-35(1)) of the main bill. At the core of this policy is an ideological objection to activity of any kind which responds to, and is couched in terms of, collective or community-based needs - the public good - at the expense of theoretical and purist notions of individual rights. Compulsory membership of public amenities such as student organisations is opposed by libertarians because, apparently, the community is elevated above the individual. Fortunately, there is still a great deal of respect in both statute and common law for the safety net we call the 'common good', or 'public interest'. It is not to be found in this legislation.

5.4 It is worth noting here that students, who for reasons of conscience object to belonging to the relevant student organisation, are accommodated by current rules and practices in all universities through conscientious objection clauses in university statutes, and often in student organisation rules of association. It would appear that 'freedom of association' motives are not the real reason why the government is insistent on these amendments.

## **What student organisations are about**

5.5 When this committee first looked at what the Government proposed in the notorious (and lapsed) 1999 amendment to the Higher Education Funding Act to abolish automatic student unionism, it needed to remind itself that this was as much an attack on student appetites for food and drink as for political rights; and an attack on their entertainment choices and their health, fitness and need for counselling and essay-writing skills.

5.6 The Government's moves against automatic student unionism appear motivated by the desire to weaken, if not eliminate, the likelihood of any anti-government political movement among students. The effect of weakening these organisations will be to severely restrict student access to food outlets, sporting facilities and counselling.

5.7 The committee emphasises that the organisations provide important basic and essential services including catering, childcare, welfare and health services, recreation and entertainment. These goods and services are offered at a greatly subsidised rate because of the co-operative arrangements which are now operating in universities. The levy keeps down the prices and provides the services to students in the same way as compulsory agricultural levies underwrite the scientific research and the marketing which enable the primary producer to make a decent living.

5.8 Student organisations have an important educative and social role to play at universities. They develop organisational and leadership skills among students. This is part of the university experience, although its importance and value is not 'quantifiable' by those who have a strictly utilitarian view of the purpose of a university education. This was put to the committee succinctly at the University of New England:

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I think one of the great value adding experiences that students at UNE get is their participation in student organisations by being in a club, by being involved in debate or by being involved in community service activities, and the potential loss of those value adding leadership life skills that we provide would be just enormous. It is one of the attributes that students and the wider community value when they recognise UNE graduates going out. Because so many students live on campus they participate in a range of learning and life skills. The potential for those to be lost because they are traditionally supported by student organisations would be enormous.<sup>3</sup>

5.9 The committee heard considerable evidence on the role of student organisations. They are a social and cultural focus of the university. They contribute to the well-being of students in many ways. They provide services which the universities themselves cannot afford to provide. There can be no question of the ‘utility’ of these organisations and their facilities in rural universities and those in outer metropolitan centres.

5.10 The Australasian Campus Union Managers Association had a great deal to say about the positive role of student organisations in contributing to the social and psychological well-being of students. ACUMA stated that:

University experience does a lot to grow the whole person. That is part of the issue where we are fundamentally at odds with the government, on the basis that the part of the university experience that is being overlooked is all those other things that go on, and all those support mechanisms. We help in retaining students, instead of them dropping out. Craig McInnes of Melbourne University has been doing surveys in relation to the first-year experience. Usually the loneliness and the fact that the student does not feel a sense of connectedness to the university is the reason they drop out.

The government has a major agenda to make sure that the drop-out factor at universities is reduced. The sorts of services that we provide, and the opportunities and networks through the clubs and through activities, help students get to know each other. We are trying to make our society a diverse one. The fact that we have students from different countries in the same club and the same group means that students who come from different countries get to know other students and their behaviours, their beliefs and their attitudes.<sup>4</sup>

5.11 One argument of ACUMA that ought to strike a chord with a Government eager to promote private investment in universities was the potential value of former students: the alumni, or convocation. According to ACUMA, universities want their alumni to have positive memories of their university days. They do not want them to

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3 Mr Stephen Griffith, *Hansard*, Armidale, 24 September 2003, p. 16

4 Mr Trevor White, *Hansard*, Adelaide, 1 October 2003, p. 11

feel that they have been educated at a factory.<sup>5</sup> This they regard as a precondition to building strong alumni networks and associations.

5.12 The committee heard evidence about the absence of alumni activism and takes the point made by the Vice-Chancellor of Swinburne University, Professor J Wallace, there has never been a strong tradition of this in Australia, as compared to the United States, for reasons to do with culture and the stronger consciousness in this country of sentimental ties to schools rather than to universities.<sup>6</sup>

### **How necessary are student organisations?**

5.13 If the Government is intent on weakening student organisations, then the question arises as to how this will affect their operating capacity. Will the university suffer as a result? Student leaders meeting at the University of New England were asked about the effect the legislation would have on union activities. Their response from a Charles Sturt University student was:

Our vice-chancellor has come out, as UNE's vice-chancellor has, and said he could not financially carry the costs of the association at the same level as they are now—they could not provide what we provide and do what we do. Further to that, our vice-chancellor has expressed that he would not support anything which detracted from the student experience, and I think that is something that regional universities pride themselves on—the student experience. When you go to regional a university, regardless of where you come from, you learn life lessons. You live out of home. You stand on your own two feet. A student association is an absolutely vital part of providing support. For this reason alone, 950 students live in residence on our campus. Without the student association, they would not have access to many social and cultural facilities. We do simple things, like run buses into town because it is simply not safe to travel at night from campus into town. An important point to make about student associations in regional universities—and I can speak from my own experience—is that they reach beyond the campus and into the community. We undertake a lot of community projects. Two examples are that we work with Bathurst Action Against Sexual Assault and with violence against women projects. We run them out of our student association; our welfare officer runs them. We do things like drinking and smoking campaigns in town.<sup>7</sup>

5.14 Supporting evidence came from University of New England student leaders, who reminded the committee of asset maintenance issues which are among many unresolved questions that appear not to concern promoters of this legislation:

The university administration has indicated that they could not afford to provide the services at the level that they are currently provided. An

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5 *ibid.*, p.11-12

6 Professor J Wallace, *Hansard*, Melbourne, 2 October 2003, p. 38

7 Miss Amy Coopes, *Hansard*, Armidale, 24 September 2003, p. 16

example the vice-chancellor has used a number of times is Sport UNE. They have 15 hectares of playing fields and the university could not afford the mowing bill alone. A question was asked of administration last week, 'What would you do if it came in?' They said: 'We would reassess in 12 months time after everything was closed down.' The student associations provide the cinema, entertainment, all the food and services on campus here and all the sporting facilities that are available to the wider community beyond Armidale in terms of the indoor pool, indoor sporting facilities and playing fields. There are 26 sporting clubs affiliated with Sport UNE.

They are just the tangibles. You have the housing services provided by UNESA and the 'How to write a thesis' seminars and other workshops provided by UNEPA to postgraduate students. The postgraduate association has a postgraduate computer lab that residential and external students regularly use. That is available to them, as is other counselling advocacy. They are represented on many UNE committees and provide a strong voice for the university and for students. In terms of the financial implications of that, Armidale Dumaresq Council and the university would have to look seriously at the cost involved in replacing or providing those services to UNE students and the wider community.<sup>8</sup>

5.15 ACUMA made clear to the committee the serious implications for assets and staffing should the bill be passed.

It is true to say the sector does not have very big balance sheets, because typically they have their premises on university land and quite often in law it is the university who owns the buildings. The provision for redundancies for the sector would be a serious problem. They do not have that sort of ready cash around to provide for redundancies, and so I think in the event that the legislative amendments were brought in, or these changes were brought in for VSU, the sector would have a problem in terms of providing for its people, and certainly it raises the issue as to how much time the sector would preferably need in a situation like that. It would be a major problem for the sector to provide for these redundancies from a financial perspective.<sup>9</sup>

5.16 The committee recalls that evidence presented to the 1999 bills inquiry into VSU included a submission from the student organisation of the Wagga Wagga campus of Charles Sturt University which stated that VSU would have resulted in forced redundancies of union employees. In view of their precarious financial position, the university would have been required to step in to pay them out.<sup>10</sup> These are serious issues, not simply for student organisations, but for universities and the Government. There is the potential to force on universities considerable unforeseen

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8 Mr. Stephen Griffith, *Hansard*, op. cit., p. 3

9 Mr Peter McDonald, *Hansard*, Adelaide, 1 October 2003, p. 4

10 Miss Amy Coopes, *Hansard*, op. cit., p. 15

costs. On top of this would be the costs of subsidising or directly assuming the running of basic levels of student amenities.

### **International students**

5.17 ACUMA was asked about the participation of foreign students in student organisation activities, and how important the amenities were to them. The committee was told that foreign students were reluctant to express their views about this issue for fear of violating their visa conditions. But, anecdotally, there was evidence of their concern, and that of their parents, about the threat to support services which would make their student lives more difficult. There was a danger that foreign students would be deterred from enrolling in Australian universities if voluntary student unionism was introduced. As the committee was told:

They see advertising going to other countries—and here is an example from the IDP—talking about clubs and societies and support mechanisms for students, campus life and making friends. We all know that if you come from another country to study in Australia, the friendship network is the No. 1 issue international students want to maintain. You will not see a submission from international students because of the issue of their visa. We know the international students have gone to some of their consuls and that will take up a different angle, because the consuls will get involved. They are saying, ‘Here is a country which is advertising these support services for students when they come to Australia.’

There are nearly 8,000 international students. We have a massive orientation program; three a year. We have support mechanisms. We have associations—about 10 different nationally based associations. As a country we just cannot afford not to advertise the fact that we are providing these services as part of the total education experience in coming to Australia but we cannot then say, ‘Well, we are going to get rid of these services.’ It is an outrageous comment by the government to say that these services are not important. International students do use the services. They are heavy users of it. They do not have a family network; they do not have a friendship network until they come to Australia. What we do is develop that network.<sup>11</sup>

5.18 The committee agrees with views expressed that foreign students need strong support while in Australia and that student organisations have a responsibility and an opportunity to ensure that, in regard to the socialisation processes that are a part of a broader education, the experience of foreign students is a happy one. Again, utilitarian minds may have difficulty measuring this benefit in monetary terms, but it would be considerable in the long-term.

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11 Mr Trevor White, *Hansard*, op. cit., p. 7

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## Student organisations as anti-competitive monopolies

5.19 The committee notes throughout this report that attempts are made by the Government to fit universities into the corporate mould. The view is put, that as 'enterprises' they need to restructure themselves to meet the world on more commercially advantageous terms. They also need to conform to the rules of enterprise culture.

5.20 In evidence to the inquiry into the Trade Practices Act 1974, DEST claimed that automatic student unionism tended to be anti-competitive because it was a barrier to entry for other providers, on and off campus, who would contribute to a competitive market.<sup>12</sup> The problem with arguments that are made straight from economic theory textbooks is that they often ignore particular circumstances of market operations, and assume that social utility is irrelevant unless it can be measured.

5.21 The committee notes the views of the University of New South Wales Student Guild in relation to this. The guild believes that it is not the subsidy provided by the compulsory fee but the highly irregular market of the university that is the deterrent for entry of competing retailers into the campus market.

Student numbers are only at a peak at most six out of the twelve months of the year, which implies that for a private provider to make a profit they would need to charge higher prices to compensate for this fluctuating demand. In contrast, student organisations provide services on the basis of need, and are able to ride through these fluctuations in demand. If the university market were sustainable and competitive, these services would already exist in close proximity to the universities, as they do from some metropolitan campuses.<sup>13</sup>

5.22 The guild notes in this regard that the student organisations at the Universities of Adelaide, Melbourne and Sydney are nevertheless operating in competitive markets, with outside, private service providers offering services within immediate proximity to the university.

5.23 The UNSW Student Guild refers to the DEST submission to the TPC inquiry, pointing out that it does concede that:

Services such as welfare could not exist without the subsidy provided by compulsory student fees. Further, DEST acknowledges that the services provided by student organisation are beneficial to the communal interest. In light of the assertions made by DEST on behalf of the Minister, and the counterclaims of its unsustainability, neither DEST or the Minister are yet to

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12 DEST Higher Education Group, Submission to the Inquiry into the Trade Practices Act 1974, p. 5

13 Submission No. 342, UNSW Student Guild, p. 23

release a sustainable plan for the provision to services to the student body after the introduction of the proposed OMSO legislation.<sup>14</sup>

5.24 The committee notes the submission from the James Cook University Postgraduate Association drawing its attention to a recent ACCC ruling on membership of student organisations at James Cook University. The ACCC was asked to investigate whether compulsory payment of student organisation membership fees constituted ‘third line forcing’.<sup>15</sup> The submission notes:

While the ACCC was not asked to assess universal membership of student organisations *per se*, it did find that the compulsory payment of student organisation membership fees did not constitute third line forcing. Importantly, the ACCC concluded that the university would require the fees in order to provide similar services to the student organisation if those organisations did not themselves provide such services. Thus, it concluded, either way, students would have had to pay a fee. Indeed, there was suggestion by the University that should it take over these service provisions, the costs may in fact increase whilst service provision may decrease. This was due largely to the fact that the University would not be able to rely on volunteers to carry out service, and would have to weigh additional employment costs against service provision.<sup>16</sup>

5.25 The committee notes that the draft decision of the ACCC issued in October 2002 went against the university, but this was reversed when additional information was provided showing why its conduct was in the public interest, including that the current arrangements ensured the independence of the James Cook Student University Association to represent students. The committee hopes that the spirit of this judgement will have some influence on the Government. The ACCC has never been backward in upholding the principles of the free market.

## **Privatisation**

5.26 The question was raised in 1999, and is raised again here, as to whether services now provided by student organisations could be replaced or complemented by the services of private contractors. Obviously, whether this is practicable depends on the size and location of the university. As an ACUMA representative told the committee:

The first [consideration] ...is that if you take the smaller rural and regional campuses, the economic reality of running those services is probably not what the commercial environment would think is financially viable to

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14 *ibid.*

15 Section 47 of the Trade Practices Act prohibits, in most cases, exclusive dealing. Third line forcing is defined as a specific form of exclusive dealing which is prohibited regardless of its effects on competition.

16 Submission No. 463, James Cook University Postgraduate Students Association, p. 9



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operate, so I think the small campuses are going to have a real problem getting commercial operators to run those commercial services.

The second thing is that the commercial activities that your question is about is a very small part of a lot of unions' activity. Even if you take this building here, sure, there are shops in here and there are food outlets, but there are also a lot of welfare services, there are a lot of services related to clubs and societies; there are orientation activities; there is support for international students. All those services no-one in the commercial world would ever dream of trying to run because in fact they are subsidised services, and that is the whole philosophy of why we exist. There are some areas where the students do have to contribute as they use the service—in other words, they are buying a pie or buying a sushi or whatever—but there are also lots of services that, just to open any of the union buildings at our place at RMIT, it is a million dollars before we start, just opening the buildings. A commercial operator is not going to come in and operate a building for us because we have to pay for the operating costs and the cleaning and the maintenance.<sup>17</sup>

5.27 Additional evidence complemented this:

The other example which my colleague just mentioned is that these businesses are not really all that viable for private enterprise: for example, just this year the university decided to outsource its catering to a number of individual food outlets. One of those has already folded because it can see, for the next three or four months, there will be almost no business before students return in February. They have cut their losses and are leaving now. Two or three of the others are looking at their options because they have not been able to generate the sort of interest and turnover they need.<sup>18</sup>

5.28 The committee considers it likely that in the event of this bill passing, universities would need to heavily subsidise the operations of student amenities. The administrative burdens on universities would be considerable and they would face such problems in relation to the peaks and troughs of the academic year as described below:

Quite often there are subsidies provided to the commercial operators. I should note that there are a lot of commercial operators in the campus services sector already. On pages 3 and 4 of our submission we listed the five main groups. The fifth main type of campus service providers in Australia are the commercial operators who will come on campus with some sort of a franchise arrangement. I would estimate that they already account for about 15 per cent of the turnover of the industry. That sector is growing quite rapidly. The commercial providers are growing quite rapidly as part of the sector, but in many campuses it is an artificial environment, from a true commercial perspective. It is quite difficult to attract commercial operators on to the campus. It often involves protracted negotiations, where you meet

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17 Mr Trevor White, *Hansard*, op. cit., p. 5

18 Mr Greg Mahney, *Hansard*, Adelaide, 1 October 2003, p. 5

their fears about whether or not they can make the business work in a campus setting.<sup>19</sup>

5.29 The committee was interested in the Western Australian experience of universities living under a VSU regime until recently. The committee was told that not only did the guilds suffer as a result of the reduced activity on campus, but so did a number of private businesses associated with the student associations. The guild at Murdoch University was unable to keep generating activity and flow-through onto its premises. A computer shop went out of business following the introduction of VSU, as did a record and CD shop and a ticketing agency. A bank took away its ATM. These things have not been replaced by anything else. There is vacant land and buildings at Murdoch University as a result.<sup>20</sup>

### **Financial costs of ending automatic fees**

5.30 The committee is unaware of any cost projections by DEST on the effects of the abolition of automatic student organisation fees. If such work has not been done, this is an unfortunate omission in policy planning. The committee is also unaware of any cost projections, produced by universities, who might assist in the consideration of the Government's policy position on this matter. The cost, should the bill be passed, will be considerable.

5.31 First, there is the cost to be borne by student organisations. Based on Western Australian experience, it is estimated that, if fees became optional, the revenue base derived from these fees would contract dramatically and swiftly.

5.32 ACUMA estimates that sector wide fee revenue would drop to roughly 25 per cent of current receipts. A 25 per cent reduction would mean a fall from roughly \$230 million per annum to about \$60 million per annum. In addition there would be a reduction in the receivables derived from amenities and services fees of some \$150 - \$200 million per annum. This would almost certainly create a flow-on effect to the other classes of receivables (which total some \$800 - \$850 million per annum) for the campus services sector. ACUMA gave an example of adverse flow-on.

Suppose for example a regional university student guild sought to lease space within the guild building to a commercial café bar operator. The café bar operator indicates that it will not be commercially viable to operate the business on that particular campus given the academic year only runs for 34 weeks and there are the remaining 18 weeks of the year when takings will be but a fraction of the normal takings per week during the academic year. The guild responds to these commercial concerns on the part of the café bar operator by offering a subsidised rental on the premises in the guild

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19 Mr Peter McDonald, *Hansard*, op. cit., p. 6

20 Mr Greg Mahney, *Hansard*, op. cit., p. 6

building. The subsidy is provided from the amenities and services fees compulsorily charged to the students as a condition of enrolment.<sup>21</sup>

5.33 The reverse multiplier effects of a dramatic decline in student organisations' fee receipts will have the effect of driving to the wall the small businesses relying on them. This phenomenon is often observed in shopping malls whenever a large retailer decides to relocate. One by one, small businesses fall like dominos.

5.34 ACUMA estimates that gross sector-wide receipts would be halved in the event that student organisations relied on the voluntary payment of an amenity fee, that is, from about a \$1 billion per annum to less than \$500 million per annum, in the years following any move nationally to make the amenities and services fees an optional payment by students.

### Service losses

5.35 To obtain a more industry focused assessment of the types of campus services which could be at risk, ACUMA has recently surveyed its membership nationally to find out what types of services would be the most likely to be curtailed in the event that amenities and services fees were not available. Responses included:

- Student employment services
- Childcare
- Welfare services
- Student leadership
- Student development & activities
- Orientation and transition to university
- Cultural development
- Entertainment
- Information services
- Safety/shuttle buses
- Subsidised health services
- Resource centres
- Theatres & galleries
- Student lounges
- Meeting rooms
- Diary/magazines/publications
- Student insurance
- Student loans
- Sport & recreation
- Commercial services
- Accommodation referral services
- Legal services
- Postgraduate support
- Mature age student support
- International student support
- Distance education support
- Visual & performing arts
- New buildings

5.36 The ACUMA membership was also surveyed to determine estimates of job losses in the sector. Members responded that some 1,400 jobs in total would be lost nationally within the sector with somewhat over half of these jobs being part time positions. This is considered a low estimate by ACUMA because not all affiliates completed the survey.

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21 Submission No. 472, Australian Campus Union Managers' Association (ACUMA), p. 6

## **Conclusion**

5.37 The committee opposes this bill because any examination of the issue on its practical merits shows it is fatally flawed. There is no other way for a satisfactory level of service to be provided for students except through student organisations which, as they run at cost, depend on the fees paid by all students to run the range of services they do. Given the peculiar circumstances of running services on campus it is highly unlikely that any contracted private provider or business could offer the range or quality of basic amenities that students currently enjoy. As for the services which are peculiar to the needs of students, these could in most cases not be provided, even by the university. Student organisations are a ‘natural monopoly’, the removal of which would result in a marked deterioration in student services and a considerable loss to university life and culture.

5.38 The committee recommends that the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Unions Fees) Bill 2003 be withdrawn. The committee also recommends that the requirements in this bill relating to compulsory student unionism be removed.

### ***Recommendation***

**That the Higher Education Support Amendment (Abolition of Compulsory Up front Union Fees) Bill be rejected in its entirety.**