

Government Senator's Report

1. This inquiry has been quite unlike any other conducted by this committee, at least in the last ten years. Its unusual features should be noted. The inquiry was essentially a procedural stratagem to pressure the Minister to respond to the Senate return to order, and to ensure therefore that the issue could be kept alive for the Opposition over an extended period of time. There were no terms of reference. The resulting report of this inquiry is thus a curious document which defies categorisation.

2. First, it deals for the most part with a point of Senate procedure which very occasionally results in a resolution of the Senate being in conflict with the Government's determination to insist on the exercise of a ministerial prerogative. Governments of all persuasions have from time to time insisted that such prerogatives take precedence over Senate returns to order.

3. Second, the report purports to demonstrate that the Minister's motivation in denying to the Senate the information sought by the Opposition was to suppress information which might show that universities were in serious financial difficulties. Much of the main report is taken up with 'commercial-in-confidence' considerations as a basis for refusal to table documents. This is an interesting but irrelevant issue so far as this matter is concerned, as will be shown.

4. The main report describes the circumstances which gave rise to the inquiry. It may be further explained that the information sought by the Opposition is largely contained in documents resulting from the regular consultations that take place annually between university vice-chancellors and officers of DEST. These are known as 'profile' discussions, and they are held for the purpose of defining, for the information of DEST, the business and planning strategies of each university, and of assisting higher education policy development, including identification of expenditure priorities.

5. The profile discussions are regarded by both DEST and each university as being confidential, although, as is described in the majority report, the fact that some universities are prepared to publicly reveal financial details provided to DEST is not a matter of particular concern to the Minister. Ten of the fifteen vice-chancellors who responded to the committee's invitation to provide information stated that they regarded the information as being within the Minister's domain to release if he chose to do so.

6. As related in the main report, some vice-chancellors had misgivings about the accuracy of information processed by DEST. The Minister, quite understandably made no comment on this, but it underlines the significance of his decision not to release the information without the consent of universities. In the letter attached to this report at Appendix 4, the Minister advised the Chair that the information which was subject to the Return to Order would be provided if the consent of the vice-chancellors was secured. The Minister advised that all but seven vice-chancellors (later revised to eight) had agreed to provide information that was part of the profiles process.

7. Contrary to the main report's contention therefore, this is not an issue centred on the merits of claims of commercial confidentiality by the Minister. Rather, as explained in the submission from DEST, it is one of protecting the commercial confidentiality of information provided by universities. There can be no permanent protection of this information, as annual reports and other sources of consolidated data will be available in due course. The real issue is whether the Minister should take due regard for the sensitivities of universities as autonomous and independent institutions. Naturally, questions about accountability will arise, but the operations of universities, including their internal financial administration has never been, and never should be, the subject of direct parliamentary scrutiny. That role is ably performed by state auditors-general and state parliaments.

8. The sub-committee sought advice from state auditor's general and the Commonwealth auditor-general in the hope of discovering any systemic weakness or evidence of impropriety or violation of audit rules in the processes which surround university agreements with DEST or which point to some lack of accountability to state parliaments. Beyond explaining the audit processes which apply to universities, those auditors-general who replied added no information that was useful to the inquiry. The sub-committee can draw no conclusion other than the fact that universities are complying with all statutory provisions and other audit requirements.

9. It should be noted that some information which was sought by the Opposition was provided, mainly relating to the operating results for universities in 2000. As the Secretary of DEST informed the sub-committee chair, much of the information sought from other documents had to do with policy advice to the Minister, which, by long-standing convention was never made public. In this instance the issue of commercial confidentiality is irrelevant.

10. On the broader issue of the state of university finances, a matter which takes up a large proportion of the main report, it may be observed that policy debate has moved on a great deal further than when this inquiry commenced. It is unlikely that the now outdated information given in the main report accurately describes the current financial position that universities find themselves in, or will find themselves in the future. The financial position of any institution will fluctuate over time. This subject of this report has been overshadowed in the Government's reform proposals in its Backing Australia's Future legislative initiative, the main purpose of which is to ensure reliable income streams for universities which should end a long period of financial uncertainty for them.

11. In conclusion, it does not appear that any particular purpose was served by this inquiry, and it is unlikely that the Minister will respond as requested to comply with the Senate's return to order, if for no other reason that profiles discussions and university finance reform measures have moved along.