

## Chapter 2

### Opposition senators' report

2.1 This bill represents the latest Government move to further reduce the autonomy of universities. It continues a trend toward micro-management of universities through the agency of the Department of Education, Science and Training (DEST). This was ushered in by the *Higher Education Support Act 2003*, which the bill before the committee now amends, and which was itself the subject of critical scrutiny by this committee three years ago. The amendment to prevent universities from charging fees for non-academic services is likely to seriously impede universities in their strategic and business planning, and in the building of their institutional profiles in a highly competitive industry. It is extraordinary that any government claiming an understanding of the position of universities in the modern world, and a commitment to improve their competitive position, would regulate their operations to this degree – let alone a government that professes to champion the primacy of decisions taken at enterprise-level in preference to central regulation and ministerial fiat.

#### Freedom of association

2.2 The committee has read and has heard evidence of the practical consequences that are likely to arise from this bill. Before dealing with this evidence it is necessary to give some attention to the central argument of the Government: that this bill rests on a long-standing belief that compulsory levying of student services and representation fees is contrary to principles of freedom of association, and must therefore be prohibited. In seeking to promote freedom of association, the Government ignores the practical needs of the majority of students for accessible and affordable services, notably student welfare, including counselling, representational and advocacy services in the event of disputes with the university, as well as a range of cultural, recreational and general amenities provisions.

2.3 Opposition senators believe that students have the right to freedom of association, thus they must always have the right not to join their student organisation. This bill conflates the Government's concern with freedom of association with student service provision and membership of the university community. Students need critical services like childcare, employment services, advocacy to assist them in their university life. These services make it possible for many students who would not otherwise attend university to remain enrolled and complete. This bill will destroy those services under the guise of freedom of association. Payment of a fee to ensure these services exist, and to facilitate the student community, in no way, contravenes the essential right to freedom of association that all students must have. In the case of universities charging student services fees it can be strongly argued that payment is a condition of university entrance. The choice which a student exercises is whether or not to embark on a course of study at a university. In this regard, the consequential obligation is no different to that which would be incurred by any individual choosing

to join an organisation for the purposes of employment, learning, recreation or any other satisfaction. There would be few if any organisations or institutions which one can enter on one's own terms, or remain autonomously within it.

2.4 Conflict arises in any consideration of competing or conflicting rights and responsibilities, as in the case of individual rights and the social good. Since the study of these has preoccupied political philosophers and jurisprudential thinkers for at least a millennium, opposition senators content themselves with only the brief observation that freedom of association, and the rights it may confer, in the context of this legislation, must be qualified by consideration of the rights of the student community.

2.5 Freedom of association is not genuinely at risk in the circumstances which this bill is intended to operate. There are other rights and responsibilities in contention with freedom of responsibility, and with which it must compete. Essentially, legislators must aim at fulfilling the greatest needs for the greatest number. It follows that the rights of individuals who may choose to 'opt out' of community obligations are reasonably regarded as undermining the viability of services available to all. Analogies have been drawn with other political or administrative entities which impose taxes on everyone regardless of the services drawn upon by individual taxpayers. The essence of the argument is valid. It comes down to whether one regards a university as broadly a 'community of scholars', or whether one views it as simply another service provider like a retailer or a bank. As the committee learned at its hearings at the University of New England, it is sometimes claimed that universities are not communities in any sense. Rather, individuals 'contract' themselves to a university for very limited utilitarian purposes.<sup>1</sup> To say the least, this utilitarian view of higher education is vehemently contested by most university administrations and student bodies, and appears not to be accepted by any member of this committee.

2.6 A common line of Government party senators' questioning was whether proponents of VSU, especially university administrators, considered that students lacked the capacity and maturity of judgement to decide whether or not they wanted to join student organisations. The implication of the question was that students were being treated in a patronising way through being obliged to join an organisation. The answer of Opposition senators is, unequivocally, that at the point of enrolment, students become members of a community. Student organisations facilitate this community – they not only offer services but also provide opportunities for development. Student organisations assist their community members, that is, students, in times of need, like academic appeals, counselling, tenancy and employment advice. This is similar to the role that local councils or governments more broadly, play in return for rates and taxes. Guild or student organisation membership can be regarded as insurance, an imposed levy which serves both the individual and the common good. There are, however, very few student organisations that now require compulsorily membership to be enrolled in a course of study.

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1 Mr Dayne Rosolen, *Committee Hansard*, Armidale, 5 July 2005, p.23

2.7 This legislation elevates an individual's right to 'opt out' of a community obligation, at the expense of a benefit to a community. In doing so it contributes to the decline of a community consciousness, as well as the more measurable deterioration of public service and facilities. Much stress has been placed on the loss of services and facilities in the majority of submissions. Opposition senators agree that this is a serious problem. What should cause more profound unease is the way in which the legislation enshrines a belief that an individual benefit conferred on a fortunate individual need not be acknowledged by any token of responsibility toward the collective institution which has bestowed that benefit. Some submissions, including the Vice-Chancellor of ANU Professor Ian Chubb in evidence to the Inquiry, used the analogy that universities are like local councils:

I have always run the argument ... that you pay to be a member of a community just as I pay to be a member of a community through my rates and taxes and everything. ... However, I do not use anything like the services that are provided by my community, but I pay in order for other people to be able to use the services that they need as part of their membership of that community. I do not use the public library or the local swimming pool, but other people do. I think that the provision of those services goes to making a community and it is through communities that Australia will get strong, not through 20 million individuals finding their own way around the tree without due regard for the neighbours and the others who are trying to find their way too. So I am somebody who believes in a sense of community. I think of the ANU community as my extended family and my job is to look after it. Part of that is to provide services that they need to have a fruitful, prosperous, enjoyable life at university with a lot of hard work added in, because they work pretty hard.<sup>2</sup>

2.8 The same legislators as will support the passage of this bill may bemoan the fact that Australian universities have few private benefactors, and that their alumni lack a consciousness of any obligations of generosity to the institutions which gave them their start to a rewarding life. If only our universities were like those of the United States, they may well say. But in the United States belief in 'individualism' is part of the fabric of national life, just as universities in that country are diverse and dynamic institutions, generously supported by their alumni. The committee has nonetheless been made aware of United States universities like Harvard and University of Illinois that charge thousands of dollars in student services fees because they believe these services to be part of the education mission.<sup>3</sup> In the United States no government would presume to regulate universities in the way which has been done here, and so far as research can reveal, students in that country pay services fees set by the university in recognition of their obligation to the collective good.

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2 Professor Ian Chubb, *Committee Hansard*, Canberra, 7 July 2005, p.3

3 National Union of Students, *Submission 162*, B1.9

2.9 The connection between the university experience of students in the United States and continued support from the alumni was a point made by the Acting Vice Chancellor of the University of Western Australia:

... all the evidence is there in the United States that, if the university makes the effort with student fees, in their case, and goes beyond that to support a very vibrant student experience, the students are likely to support that university later on. ... If the university, whether it be through an amenities fee or any other way, makes no effort for these students, the evidence is that the students will make no effort for the university once they are graduates.<sup>4</sup>

2.10 Opposition senators make the point that university administrators, being keenly aware of trends and practices in university administration abroad, and embracing the need to attract students in an internationally competitive market, will be embarrassingly hamstrung in their efforts by current government policies. These betray an obsession with centralised bureaucratic control and eccentric tendencies by way of political engineering. They are the cause of so much irritation because they are irrelevant to core business of universities, yet result in both unnecessary conflict and burdensome administrative costs. The VSU controversy is an instance of this.

### **Likely effects of the bill**

2.11 Most evidence received by the committee described the likely effect the bill would have on service provision and on the quality of university experience enjoyed by students. Most agreed that the result would be a sharp reduction in the quality and quantity of services available on campus. Large numbers of students would be disadvantaged, particularly those requiring special support, such as childcare and counselling, to continue their studies. Some universities submitted that they were in a position to assist student organisations, but they would not be able to commit the same aggregate level of resources presently raised via a compulsory student services and amenities fee.

2.12 Local communities also stand to lose, particularly in rural areas, as student organisations shed staff and the student services economy contracts. For a number of university towns in rural Australia, where compulsory fees comprise a relatively high proportion of student organisation income, this will prove particularly damaging.<sup>5</sup>

2.13 The range and quantity of services provided through student organisations is, on many campuses, remarkable. This is testament to the energy of student leadership and acknowledges the diversity of student needs and interests. Perhaps the broadest of these services is representation, a role usually performed by the student representative council (SRC) or its equivalent. The workload of a student representative in a modern university is substantial. In addition to participating in the organisation of student activities, student representatives, particularly executive members, constitute the voice

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4 Professor Margaret Sears, *Committee Hansard*, Perth, 6 July 2005, p.11

5 See, for instance, Central Queensland University Student Association, *Submission 8*, p.5

of students on a large number of councils, boards and committees. They are, as far as universities are concerned, the student voice. Professor den Hollander put it this way:

The most important thing from my perspective was student representation in terms of their capacity to interact with the university and assist with decision making. As we know, students are our core business; they are why we exist, when all is said and done. While I do not like to use the word 'stakeholder', they are the major stakeholders and it is appropriate that they are involved. It is appropriate that they involved from a strong position where they are elected and they have representation and trust in their own student bodies. Interestingly, that was one of the things that fell with VSU.<sup>6</sup>

2.14 While SRCs usually operate on only a small proportion of student fee income, the removal of that income would seriously erode the ability of representatives to perform their roles effectively. Sadly, students are most unlikely to appreciate the work which goes on 'behind the scenes' on their behalf, and for this reason are unlikely to contribute voluntarily to its continuation.

2.15 Advocacy support was perhaps the most commonly cited instance of an important service likely to be threatened by the current bill. The loss of such services disadvantages particularly those least able to advocate for themselves in matters affecting university rules and decisions which adversely affect them. These services can relate to issues of academic progress, grievances, and other interactions with university administration. The Chair of the Interim Student Representative Council (ISRC) from the University of Melbourne submitted that without advocacy support some students would be required to stop their studies without graduating.<sup>7</sup> Should welfare services need to be supported by universities, resources must be drawn from elsewhere. Specialist advocacy services can only, by their very nature, be provided by student organisations. Universities cannot take responsibility on the grounds of conflict of interest.

2.16 In recent years, university student organisations have developed an exciting array of specialist employment services, ranging from casual and vacation based employment, course-related employment to careers advice and professional employment beyond graduation. Such services are often augmented by opportunities for students to meet recruiters from major employer organisations, ensuring that the transition from university study to work is considerably eased. The implementation of this bill is likely to emasculate an impressive and sorely needed portfolio of employment services. The loss of these employment opportunities is likely to be especially pronounced at regional institutions and in their associated economies.

2.17 Another critical service likely to be affected is childcare. La Trobe University Children's Centre submitted that it provided a childcare service to about 250 families per week, and that the majority of the Centre's clients were students receiving

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6 Professor Jan den Hollander, *Committee Hansard*, 6 July 2005, p.3

7 Interim Student Representative Council, University of Melbourne, *Submission 158*, p.4

maximum Centrelink assistance. Without this support, it was submitted, a significant number of (mostly women) students would not be able to continue their university studies.<sup>8</sup> There are likely to be implications for student retention rates if student association subsidies cease as a result of this legislation.

2.18 The Government has consistently argued that 'the market' will cater for students making an economic choice to purchase unsubsidised services. 'The market' is a blunt instrument, especially so if the returns to business are considered to be too low to warrant the provision of a service.

2.19 Food and beverage provision is often seen as a lucrative area of activity for student organisations, and is probably the most visible service offered to students. Most, if not all, student organisation service providers operate cafeterias, often providing multiple outlets on a single campus. Although prices are usually subsidised by compulsory student fees, most operations generate profits which are then directed back to students in the form of still cheaper prices or extra services.

2.20 Another key activity of student organisations is the staging and subsidy of social and cultural activities for students, contributing to a vibrant campus life which adds real value to a university profile. Opposition senators understand the importance of such events, activities and traditions in developing social and organisational skills, as well as lifelong contacts. Those choosing to take part in the organisation and running of activities obtain the added benefits of teamwork, leadership, interpersonal and negotiation skills. *Campus Life*, the Griffith Student Union journal, submitted that in 2004 it sponsored 233 events involving 6752 participants.<sup>9</sup> The Melbourne University ISRC argued that it:

... puts on a range of events for students including film nights, bands, barbeques, cultural events and night markets. These are subsidised or free of charge and provide students with a wide array of activities to make their time at university more enjoyable and encourage social and cultural interaction. [These activities] aid students' personal development, offering students a broader educational experience than what is learned in lecture theatres... [I]t has also been demonstrated that there is a positive correlation between participation in extracurricular activities and student retention and progression rates.<sup>10</sup>

### **The special case of university sport**

2.21 The committee heard evidence of the effect the bill on sport and recreation facilities and services. The provision of affordable sport and recreation facilities not

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8 La Trobe University Children's Centre, *Submission 4*, p.1

9 *Campus Life*, *Submission 14*, p.2

10 *Submission 158*, p.5. For further information on services directed to enhancing the student experience of university see also, for instance, University of Southern Queensland Student Guild, *Submission 57*, p.18; Swinburne University Union, *Submission 74*, p.7

only encourages health and fitness, but is important in strengthening links between the university and its supporting community. This is particularly so in rural areas. What is described here in relation to the University of New England can be applied to most university sports associations. Citing an anticipated loss of \$850 000 in annual operational income, The University of New England Sports Association reported that half of its full time staff would be retrenched, that no funds would be available for maintenance of sporting fields or indoors facilities, and that intervarsity, intercollegiate and club sport subsidies would be withdrawn. Infrastructure worth \$12 million could be underutilised and inadequately maintained. The Association would also be forced to compromise insurance cover on its facilities, increase user fees, and open fewer hours.<sup>11</sup>

2.22 Such measures would reduce access of students to sports facilities and eventually deny also to the local community access to sports facilities at UNE for the reason that they could no longer be maintained. Financial constraints would inhibit the UNE's ability to host sports camps and major championship events, affecting not only the Association but also colleges on campus for whom accommodation revenue at vacation period is critical. Similarly wide ranging effects were anticipated by all other sports associations which made submissions.<sup>12</sup>

2.23 Submissions have pointed to the contradiction between the effect of the bill on university sport, and the aims of the Government's own health and fitness policies. Australian University Sport submitted that the bill would have the effect of removing \$32 million from sport, health and fitness in both Australian universities and the broader community.

... inconsistencies with government policies on sport, health and fitness, one of which is the user-pays myth that sport, health and fitness can be funded on a user pays basis. This is totally inconsistent with government expenditure at federal, state and local levels where \$2.2 billion is invested annually...we would also like to think there is a major inconsistency in the government's investment of \$90 million into sport, health and fitness for children at primary school or high school. We look at that and ask, "Where do we find a corresponding opportunity for our organisations to be able to raise the essential funds to be able to provide the infrastructure that is so important for these activities?"<sup>13</sup>

2.24 It should be kept in mind that a significant number of universities in Australia are spread over more than one campus. Central Queensland University, for instance, operates at nine different campuses. Replicating infrastructure and services for the benefit of students on each campus inevitably involves added expense, further

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11 University of New England Sports Association, *Submission 69*, p.3

12 See, for instance, University of New South Wales Sports Association, *Submission 72*, p.5; Newcastle University Sport, *Submission 82*, pp.6-12; Adelaide University Sports Association, *Submission 143*, p.3

13 Mr Gregory Harris, *Committee Hansard*, Armidale, 5 July 2005, p.39

straining the resources of student organisations. Australian University Sport submitted that nation-wide more than \$600 million of sporting infrastructure built up over generations of student contributions would be jeopardised by the removal of guaranteed revenue streams.<sup>14</sup> The committee also heard that community sporting competitions, especially in rural areas, rely on the participation of university sporting teams and facilities to remain viable. If university sporting clubs were forced to withdraw from a local competition, it could render the entire competition unviable.

2.25 Government senators supporting this bill appear to believe that students attending university should only expect to be provided with a narrowly focussed academic experience and that a well-rounded campus life is neither necessary nor desirable. This view fails to take into account the interconnectedness of academic and campus life, particularly as it relates to participation in sport and recreational activities. In the words of Senator elect Barnaby Joyce:

... Now when you go to a university you acknowledge that you are going to an institution that is both buildings and fields – ‘*mens sana in corpus sana*’ a healthy mind and a healthy body – and sport is a great mechanism for getting some social interaction going ... .<sup>15</sup>

### **Postgraduate students**

2.26 Postgraduate associations provide students with services which are different in character to those provided to undergraduates. Nonetheless, the committee heard that the effect of the bill on those services would be the same. Services relating to candidature and academic issues, research for quality assurance, and support for international and external postgraduates through the provision of study corrals and other study facilities would be severely curtailed, if not discontinued. If anything, the effect on postgraduates associations would be swifter and more dramatic, as they tend to draw all or most of their income from the compulsory fee, and rarely engage in commercial activities to bolster their income.<sup>16</sup>

### **Effect on universities**

2.27 Vice chancellors have argued that the inability to provide an adequate range of services and amenities would inhibit the ability of their universities to attract students.<sup>17</sup> With domestic and international demand weakening, universities such as UNE have to find new and novel ways to sell themselves. Vice Chancellor Moses put it this way:

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14 Australian University Sport, *Submission 173*, p. 3

15 Senator Barnaby Joyce speaking on ABC 774, 29 June 2005

16 Council of Australian Postgraduate Associations (CAPA), *Submission 157*, p.11

17 See, for example, Professor Ingrid Moses, *Committee Hansard*, 5 July 2005, p.3; Dr Kerry Ferguson, *Committee Hansard*, 4 July 2005, p.11; Ms Lin Martin, *Committee Hansard*, 4 July 2005, p.3. Other witnesses made this observation, too. See, for instance, Mr Michael Torney, *Committee Hansard*, 4 July 2005, p.28



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UNE's recruitment hinges significantly on the "UNE package" of both academic offerings and health, welfare and support services and cultural opportunities, which attract students to study in a regional location where otherwise study at a metropolitan location would be more attractive.<sup>18</sup>

2.28 International students are heavy users of services such as advocacy, not surprisingly given difficulties with language and culture. The National Liaison Committee for International Students in Australia argued that:

Universities have always promoted themselves and Australia as a preferred destination on the basis of multiculturalism and student support services available on campus. Under VSU, support services will be costly and expenses for international students will increase, which will make Australia less competitive. The tuition fee which is already high for many programs and is equal to the US, coupled with medical fees and the highest visa charges, it is anyone's guess how many international students Australia will attract in coming years. The numbers are already slowing down and international students are already indicating that Australian education is not giving them the value for money. With such major issues looming over international education sector, introduction of VSU bill is self-destroying.<sup>19</sup>

2.29 The international student market is important to Australian universities. Making up 25 per cent of the student population, international students contribute \$1.7 billion in fees, and are worth \$5.9 billion to the Australian economy.<sup>20</sup> The government has chosen to ignore the needs of foreign students, and has failed to realise the potential for them to study elsewhere as a result of Australian universities being forced to offer a sub-standard university experience.

2.30 The ultimate responsibility of university administrations for student services looms as a serious problem to be faced in a number of universities, particularly in the newer and smaller institutions. The committee heard evidence of the likelihood that at least some student organisations would become insolvent with the successful passage of the bill. Mr Kevin Stapleton of the University of Southern Queensland Student Guild reported to the committee that, even if a significant number of students chose to remain members of the student organisation and pay their fees, the guild would be forced to retrench all staff. Mr Stapleton submitted that:

[A]s an incorporated association, the board have a fiducial responsibility to not trade if they believe that they may become insolvent. In order to protect staff entitlements of approximately \$800 000, the board have a responsibility to ensure that if they are unsure of the income that may come

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18 UNE, *Submission 19*, p.4. See also Central Queensland University Student Association, *Submission 8*, paragraph 2.2.9.

19 National Liaison Committee for International Students in Australia, *Submission 168*, p.8

20 *ibid.*, p.8. See also CAPA, *Submission 157*, ACUMA, *Submission 117*, p.8

in next year, they cannot, in accordance with their corporate responsibilities, continue to trade.<sup>21</sup>

2.31 Like a number of other student organisations, USQ also carries debt incurred for the construction of buildings. This debt would have to be assumed by the university in the event that the guild was unable to function at a level at which it could repay the loan.

2.32 In the event that other student organisations take a similar view to that of USQ (and this may depend on the application of state laws) the bill could see student organisations in several universities forced to close. Again, the university would be responsible for student services arrangements, and this task would be likely to last into the long-term. Such consequences have been left unexamined by those trying to impose this bill on universities and their students.

### **The wider community interest**

2.33 The effects of this bill do not stop at the campus gates. The Australian Campus Union Managers' Association (ACUMA) submitted that of the \$1 billion or more in gross receivables taken by the campus services sector nationally, around \$170 million is derived from compulsory fees. They point out that VSU is likely to see fees income contract to around \$45 million, a fall of \$125 million. ACUMA draws on the West Australian experience, discussed later in this dissenting report, to conclude that gross sector wide receivables are likely to decline by half or more, to less than \$500 million per annum.

2.34 The effects of income reduction will have their most obvious and significant effect on the staff employed by student organisations, and the external suppliers of goods and services. Of the estimated 14 000 people employed in campus service provision nationally, it is forecast from the Western Australian experience, that around 30 per cent, or about 4 200 people, will be made redundant.<sup>22</sup> Many of the newly unemployed will have lost part-time jobs, significantly in new or regionally-based universities, which generally do not have significant cash reserves with which to sustain themselves. Alarming, given the findings of the EWRE references committee's recent inquiry into student income support, many of the retrenched will be students.

2.35 The bill has scant regard for campuses outside the major cities, and represents a threat to those regional communities who rely on the economic activity generated by student service provision. Many of the local clubs and societies which have come to rely on university infrastructure will also lose out, as facilities become run down, or are withdrawn from use. Local economies in rural and non-metropolitan areas will

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21 Mr Kevin Stapleton, *Committee Hansard*, Armidale, 5 July 2005, p.34

22 ACUMA, *Submission 117*, p.6

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suffer most acutely through the implementation of this policy because university campuses account for a substantial proportion of demand for goods and services.

2.36 The committee heard evidence that in the case of La Trobe University, which has six non-metropolitan campuses, 43 staff of that organisation are likely to lose their employment and about \$1.4 million will be taken out of local rural economies in Victoria. In addition, local university facilities will not be able to be maintained for use by local community organisations.<sup>23</sup> This problem would be felt in rural areas across the nation.

2.37 The committee also heard of the likely effect in Armidale, where support services for the university and its students are a cornerstone of the local economy. The effect of a multi-million dollar withdrawal of funds from a community like this could be serious. The university acts as a resource for the community, particularly in relation to sporting fields, conference facilities and cultural events. If funding for the development and maintenance of such facilities is not available, they will be lost to the community. Mr Gerard Stephen, Chair of the Armidale Community International Sports Precinct Fundraising Committee, put it this way:

As well as directly benefiting the students of UNE, facilities are available for the use of the wider university and Armidale communities, helping the region and the university to attract and retain qualified staff and their families to live and work here. Within a VSU environment, facilities and services such as student advocacy and maintenance of playing fields which by their nature generate very limited revenue, yet require a high level of resources to maintain will fall to the university to fund, or will result in the decline in facilities and increased pressure on those provided by the local council, welfare organisations, or Armidale sporting clubs.<sup>24</sup>

### **Experience with VSU in Western Australia and Victoria**

2.38 Two very different models of VSU were introduced in 1994 by the Kennett government in Victoria, and by the (Richard) Court government in Western Australia. When first introduced, the main point of distinction between the two models was that Victorian students were still able to be charged a compulsory fee, even where they chose not to join a student organisation. This fee could be allocated by universities to student bodies according to a prescribed list of activities, which excluded political activity. In Western Australia, universities were prohibited from charging students a compulsory fee. Legislation in that state made guild membership voluntary. The list of prescribed activities for Victoria was broadened in 1996, and replaced in 2000 by the Bracks government with the requirement that universities could charge a fee to provide facilities, services or activities of direct benefit to students. Western Australia

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23 Dr Kerry Ferguson, *Committee Hansard*, Melbourne, 4 July 2005, p.2

24 The Armidale Community International Sports Precinct Fundraising Committee, *Submission 66*, p.2. See also Mr Greg Harris, *Committee Hansard*, Armidale, 5 July 2005, p.39

adopted a model similar to the one in place in Victoria for the beginning of the 2003 academic year.

2.39 The most immediate effect of the West Australian legislation was a dramatic loss in income as only a small proportion of students chose to pay fees. The University of Western Australia and Curtin University retained a membership of about 30 per cent, while Edith Cowan Student Guild dropped to 6 per cent. The Murdoch University student organisation did comparatively well, retaining 35 per cent of the student body as members.<sup>25</sup> It was observed that members of student organisations were forced to spend more time marketing the organisation, and less time delivering services.<sup>26</sup>

2.40 The nature of student services is that viability and access are maximised where services are used widely and the revenue base for services is broad. Once a significant number of users withdraw, the capacity to provide for low volume services, or services provided at lower demand times, reduced significantly. When services become restricted, fewer will seek to use them, and a downward spiral develops in which the services fall away. Students see a declining benefit in their membership of the organisation, and patronage falls.<sup>27</sup> This 'reverse multiplier effect' is debilitating, and accounts for the larger drop in projected income for student organisations under VSU than might be anticipated merely from extrapolating projected voluntary membership.

2.41 The Government has argued that student services substantially continued under VSU in WA, even going so far as to say that services 'flourished'.<sup>28</sup> This is demonstrably the opposite of what really happened. In claiming that services were substantially continued under VSU in Western Australia, proponents neglect to report the massive assistance rendered by universities and by the Commonwealth to ensure that this was the case. Commonwealth support was discontinued after 1996, by the Howard government, leaving universities to assist student organisations. During this committee's inquiry into the 1999 bill, the acting Vice Chancellor of Edith Cowan University advised the committee that in 1998 the university had provided \$100 000 to their guild to support a limited range of representational, social and cultural activities. Such measures put pressure on the university's funding for its academic program, but there was no alternative if the university was to remain competitive locally and internationally.<sup>29</sup> Services which may have continued for the first couple

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25 AVCC, *Submission 176*, p.7

26 See, for example, Professor Jan den Hollander, *Committee Hansard*, Perth, 6 July 2005, p.3

27 For further elaboration of this argument see, for example, AVCC, *Submission 176*, p.7; Australian Law Students' Association, *Submission 53*, p.6; Swinburne University Union, *Submission 74*, p.9; Murdoch University Guild, *Submission 87*, p.4

28 Hon. Brendan Nelson MP, *The 7.30 Report*, ABC television, 16 March 2005.

29 Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, *Consideration of the Provisions of the Higher Education Legislation Amendment Bill 1999*, p. 32

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of years after VSU only survived through external subsidy. It is a demonstrably false claim that services 'flourished' under the VSU system.

2.42 Even with the assistance received from universities and from the Commonwealth until 1996, student services at universities in WA were not fully maintained. At the University of Western Australia Guild, alone, the committee heard that twenty eight employees were laid off, the guild computer lounge, sexual assault service, and accident insurance for students were all cancelled, and budgets for other student services were cut by up to 80 per cent.<sup>30</sup> Curtin University Guild lost \$3 million in revenue the year following the introduction of VSU, as membership plummeted to 10 per cent. There were fourteen staff redundancies, and a range of services discontinued. More dramatically, Edith Cowan University Student Guild went into liquidation in 1999 as a direct consequence of the WA legislation. The current bill most closely resembles the legislation introduced in WA, and it was in that state that most harm was caused to student services and to the quality of university services.

2.43 The Victorian situation was somewhat different, as universities continued to collect compulsory fees. The legislation prescribed the types of activities able to be funded through fees collected, and this was subsequently broadened to encompass most of the activities undertaken pre-1994. The result was that associations in Victoria continued to offer a generally wide range of services, and membership of organisations, although voluntary, remained high.<sup>31</sup>

2.44 As noted earlier, membership of student organisations in Victoria is voluntary and yet the bill as presented would prevent the payment by students in that state of a universal services and amenities fee, even though such a fee is necessarily unrelated to considerations of organisational membership. This suggests to opposition senators that the proponents of the bill are merely using arguments regarding the undesirability of compulsory membership as a smoke screen to obscure other ideologically driven aims and objectives.

2.45 Universities are the only possible source of supplementary funding for organisations in the event of the bill passing unamended. While some universities have signalled their ability to supplement revenue at the margins, as happened in WA, none claim to be able to replace student fees in their entirety. A number of vice chancellors indicated that they were examining which services they would be most likely to be able to fund, should the bill proceed, with the clear implication that many valuable services and amenities will be discontinued rapidly.<sup>32</sup>

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30 Curtin University Student Guild, *Submission 73*, p.15

31 Australian Law Students' Association, *Submission 53*, p.11

32 See, for example, Professor Ingrid Moses, *Committee Hansard*, 5 July 2005, p.3; Ms Lin Martin, *Committee Hansard*, 4 July p.3; Professor Ian Young, *Committee Hansard*, 4 July 2005, p.4

## Private enterprise on campus

2.46 The Government has argued that the market will cater for students making an economic choice to purchase unsubsidised services. It is argued that with additional discretionary money at their disposal, since the removal of the compulsory fee, students will take advantage of wider choice and improved competition. But as noted earlier in this report, the market cannot be relied on to provide the goods and services which students need. The Government's expectations are based on some theoretical model of market competition which ignores certain realities which pertain to university campuses.

2.47 First, there is some doubt that commercial retailers will find sufficient incentives to establish outlets in universities. Students spend barely more than half the year on campus, and retailers must endure longer than normal periods of low trading, without the possibility of pricing their goods and services at a premium during periods of peak custom. It is believed that rural campuses will be especially affected in this regard. UNE was able to draw on actual experience in making the point:

A number of services have already proven unviable to operate commercially, with two banks closing down their campus operations, the Commonwealth in 1998 and the National Australia Bank in 2001. The on-campus travel agent franchise and real estate business shop front recently closed down, and in 2003 the student organisation took over the post office...and the hairdressing salon in order to ensure those services would still be available on campus.<sup>33</sup>

2.48 It is highly unlikely that commercial services lost under current arrangements would return in the more straitened circumstances of VSU.

2.49 Second, students, particularly undergraduates, are predominantly low income earners with limited spending capacity. They require services which are basic and inexpensive. Such services, which have been provided effectively by student organisations for many years, also need to be responsive to changing student needs and interests, or they will cease to be relevant or attractive to their customers. Student organisations are uniquely well-placed to stay in touch with changing student priorities.

2.50 The need to drive both efficiency and competition in provision of student services was highlighted by Government party senators. This received a cautious response from ACUMA about the realities of university marketing.

Retail operates on the brutal truth of feet past the door. If the level of activity around guild premises or union premises is diminishing because of the lack of funding of activities or other services and if there are no feet past the door, then whether it is a union operated outlet or a private enterprise

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operated outlet, if that traffic is not being generated, there can quite clearly be some knock-on effects on both union services and private services.<sup>34</sup>

2.51 This refers to the maxim that business attracts business, and that crowds mean sales. It is a concept familiar to shopping mall proprietors, who maximise returns from a careful mix of retailers. But if core funding on important services is cut, equivalent to the departure of a leading retailer, the reverse multiplier effect will come into play.

2.52 Another difficulty for commercial retailers in universities may be that in some circumstances their profitability may be further eroded by peculiar needs of students and community life on campus. One submission, from the University of Adelaide Union has pointed to instances where its role would be in conflict with commercial retailing:

In many instances the interests of the members of the AUU and the commercial imperative of the AUU ... are in direct conflict. For example, a free BBQ for AUU members on the Barr-Smith Lawns, which are directly in front of the AUU's main food outlet, is beneficial for members of the AUU, but is contrary to commercial interests. Likewise, the provision of food for minority groups, such as Halal and vegetarian options, are beneficial to members but are not commercially viable. Unibooks face a similar difficulty in stocking highly specialised academic texts that do not sell sufficient quantities to be profitable.<sup>35</sup>

### **Advocacy and representational roles of student organisations threatened**

2.53 Although it can be anticipated that commercial retailers will have a difficult time taking up their assumed role in substituting for current services provision by student organisations, the fee-for-service businesses presently run by student organisations will have an equally difficult time, and like commercial retailers, will need to seriously compromise the way they have traditionally operated. They will need to make profits in order to fund essential services for which fees cannot be charged. This will distort the usual role of student organisations, and oblige them to devote more of their efforts toward marketing their wares.

2.54 This experience was rather an unhappy one for guilds in Western Australia when VSU operated in that state. Government party senators have stated the necessity for student organisations to market themselves to attract student membership, but this creates problems for student leaders who see their main role as being advocates for student interests, both collectively and individually. The Pro Vice Chancellor of the Curtin University of Technology had some comments to make on this point, recollecting that student leaders had to spend so much time marketing to the student body and saying, 'Please come and join us; this is what we can do for you.'

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34 See, for example, Mr Thomas O'Sullivan, *Committee Hansard*, 6 July 2005, p.44. For an example of reduced income for maintenance, see La Trobe University Union, *Submission 91*, p.2.

35 Adelaide University Union, *Submission 101*, p.13

They had to spend a lot of time in what I would call hospitality management. That attracts a different kind of person than perhaps the broad group of people that you need to get the kind of representation you have in universities. There was a drop-off in the energy that was required to do the representation on the committees of the universities, because so much time was spent in marketing and making sure that they got their memberships up.<sup>36</sup>

2.55 Professor den Hollander stated that in the VSU days the effectiveness of the representative role of student organisations was to some extent compromised because they had less time to devote to their core function.

I would say that the intensity of what they had to concern themselves with was diverted from the very things we might have wished them to spend 100 per cent of their time on into things that maybe they needed to spend their time on. They had to become money raisers rather than be representatives of their community. I think the two things are somewhat different. I spoke to some of the guild presidents during that period and I remember one famously saying to me, 'I'm just a hospitality manager; I need to make sure we have the money so that I can do the other stuff but the time I have to spend getting the money is much more than it should be compared with the amount of time I need to spend in the university understanding teaching, learning and research and development and the very things that impact on student experiences.'<sup>37</sup>

2.56 Opposition senators take this as evidence that student advocacy services are likely to be threatened in the absence of a student fee, even if other services manage to survive. It is generally accepted that cost rules out the use of private practitioners in student advocacy services. The cost of a solicitor's time at commercial rates far exceeds the annual student organisation fee. La Trobe University Union, reported that 1 200 students used the University Union's legal service in 2004. In the absence of advocacy assistance from the student organisation, students in need of services but not able to afford professional legal representation would be forced to apply for legal aid.<sup>38</sup>

2.57 Student advocacy services are regarded by universities as very important for the purposes of ensuring transparency in their own appeals processes. Yet this important facility is one which universities will be unable to provide, or even subsidise. For them to do so would compromise the independence of the student body and they would be placed in the untenable position of advocating against themselves. This conflict of interest would not only diminish the likelihood of a fair hearing, but would also result in a perception of justice not being seen to be done. As the Distance

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36 Professor Jan den Hollander, *Committee Hansard*, Perth, 6 July 2005, p.3

37 *ibid.*, p.4

38 Mr Michael Torney, *Committee Hansard*, Melbourne, 4 July 2005, p.33



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Education Liaison Officer from the Rivcoll Union at Charles Sturt University explained:

Advocacy requires direct challenges to the university and its staff. It is hard to imagine how mechanisms could be put in place to protect employees from pressure from more senior university members. It is even more fanciful to suggest that universities would engage barristers on behalf of student to challenge the legality of its own decisions.<sup>39</sup>

2.58 This dilemma would be one of the most problematic to be faced by universities in the event of the bill being passed, at least in unamended form, and is one of many contentious issues conveniently overlooked by the Government in its single-minded implementation of what it likes to call 'reform'.

### **Universities as service providers**

2.59 Universities will almost certainly be forced into assuming increased responsibility for provision of services now provided by student organisations. The extent to which they can afford to do so without increasing the levels of fees to the limits of their discretion will vary considerably. This is likely to lead to wider disparities between well-off universities, and those which are struggling. This may be organised through a new form of contract between student organisations and their 'host' institutions. The Government's proposals are drastic in their scope and effect, and limited in their vision. There is not a conservative measure because it fails to protect the standing and the interests of the universities. It is the antithesis of reform.

2.60 There remains some doubt about the ability of universities to deploy funds received from the Commonwealth for the provision of student services.<sup>40</sup> Officials from the Department of Education, Science and Training (DEST) made clear to the committee that any university levying a compulsory charge for student 'non-academic' services would run foul of the provisions of the bill. On the other hand, DEST also advised the committee that universities would be free to allocate money to student services from any other source of revenue other than from the Commonwealth. From here on the advice is equivocal:

As you know, we fund universities' general operations through the Commonwealth Grant Scheme. The universities are required to deliver a certain number of student places for that funding, but there is no explicit prohibition or prescription on how they might go about that. If they choose to support in certain ways their students who are in those places, again, they could do that.<sup>41</sup>

2.61 However, such funds would come at the expense of already scarce resources directed at academic services, the core function of the university.<sup>42</sup> As noted at the

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39 Mr Bruce Boyton, *Submission 18*, p.3

40 See, for instance, National Union of Students, *Submission 159*, para. C2.9

41 Mr Rod Manns, *Committee Hansard*, Canberra, 7 July 2005, p.46

42 *ibid.*

beginning of this section, the capacity of universities to pay for these services will vary considerably. Some universities will nonetheless be obliged to stretch their budgets to cover general student organisation, and even sports association services and facilities because of their appeal to foreign fee-paying students and the need to compete on the international student market.

2.62 Even in the unlikely event that universities were able to find a way to allocate funds, pressure might still be brought to bear for the application of a 'private enterprise' business model on services. University administrations would be less likely to provide services which are unlikely to either break even or make a profit. A proportion of services offered by most student organisations, such as childcare, counselling, advocacy and representation are either not able to be charged out on a 'user pays' basis, or are required to be subsidised heavily to enable access. This, in most cases, precludes non-profit services, and would be less attractive to universities undertaking a service provision role. It is foreseeable that administrators might consider themselves to be restricted to those activities and services for which profit could be anticipated, such as unsubsidised retail outlets.

### **Penalty clauses**

2.63 The Australian Vice-Chancellors' Committee has pointed to some inconsistency in the penalty provisions:

The current penalty provision in the bill is highly unnecessary, as universities are already subject to penalties provisions in the Act for failure to meet conditions of funding. It is understood that it is a matter of Government policy that the Minister should not have discretion on the issue of the penalty. The AVCC maintains that it makes the penalty provision inconsistent with the Act, in that the Minister is able to use his discretion regarding other breaches of funding conditions.<sup>43</sup>

2.64 The Vice-Chancellor of Swinburne University described the penalty clause as 'insulting'. Another described it as a 'penalty out of kilter with the crime'.<sup>44</sup> The AVCC has stated that universities have always worked within the law, and do not need the folly of badly considered penalties to ensure that they do.<sup>45</sup>

### **Conclusion**

2.65 Can this legislation be described as promoting effective public policy? The best and only test of legislation is whether it serves the common good. There is no evidence at all presented by the Government that this will occur should this bill be passed without amendment. There has been no agitation in universities in favour of this measure, apart from a very small number of students who are members of

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43 AVCC, *Submission 176*, p.12

44 Professor Ian Young, Ms Lin Martin, *Committee Hansard*, Melbourne, 4 July 2005, p.2

45 *Submission 176*, p.12

associations affiliated with the parties of the governing coalition. Nor is there any reason to doubt the validity of opinion polls on several campuses which indicate significant majority opposition to the bill before the committee.

2.66 It is clear to opposition senators that this bill, if enacted, will severely weaken student organisations. It will greatly reduce the provision of essential services for them, and few students will be unaffected. The evidence in this regard is not merely speculative. The experience of universities in Western Australia is well-documented, and gives all universities and student bodies both serious cause for concern, and an indication of drastic measures that they will all be forced to take. Undoubtedly, VSU will diminish the quality and diversity of university life, which, despite the increasing workloads of most students, is an important experience in life's development. It is their ideal opportunity to take on, not only increased personal responsibility and development of leadership skills, but responsibility for elements of community life in the service of others.

2.67 Thus, if VSU comes into effect, it will bring no practical benefit, either to students, the universities, or the wider community which is served by the facilities and social infrastructure which universities provide.

### **Recommendation**

**Opposition and Democrat senators urge the Senate to reject this legislation.**

**Senator Gavin Marshall  
Deputy Chair**

**Senator George Campbell**

**Senator Natasha Stott Despoja**

