

## Chapter 2

### Concerns in the community

2.1 Before the enactment of the *Higher Education Support Amendment (Abolition of Up-Front Compulsory Student Union Fees) Act 2005* university students were required to fund student unions and services irrespective of whether they wished to join the union, or use the services provided.

2.2 In 2009, contrary to clear cut commitments made prior to the previous election, the government introduced legislation to bring back compulsory fees to be imposed on university students for non-academic purposes. The Coalition senators' dissenting report to the committee inquiry into the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 argued that the bill was a backward step in that it:

- reintroduces compulsory student unionism (CSU) through students being forced to fund the activities of student unions;
- slugs students with a compulsory fee regardless of their need or even ability to access the services it purportedly funds, and regardless of their means;
- almost certainly ensures the return of compulsory levies funding and supporting marginal and extreme political activities.<sup>1</sup>

2.3 Evidence provided to the committee shows that this latest bill to impose a compulsory levy on students is as bad as the 2009 version. Concerns in the community about the impact of a compulsory student services and amenities fee as proposed remain, particularly in relation to:

- the increased financial burden on students;
- access to services funded by the fee for part-time and external students; and
- inadequate protection against an increase in political activity.

#### **The student service 'levy' is in fact a tax**

2.4 Merriam-Webster's *Dictionary of Law* clearly defines a tax as 'a charge usually of money imposed by legislative or other public authority upon persons or property for public purposes'.<sup>2</sup>

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1 Senate Standing Committee on Education, Employment and Workplace Relations, *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 [Provisions]*, March 2009, p. 21.

2 *Merriam-Webster's Dictionary of Law*, <http://dictionary.lp.findlaw.com/scripts/results.pl?co=dictionary.lp.findlaw.com&topic=9c/9c9a8bdd7998efe1e133c7ec3693d283> (accessed 4 February 2011).

2.5 The Committee is of the view that the so called student services and amenities fee proposed has all the elements of a tax. It is a compulsory charge to be imposed by legislative authority if this bill is passed. There is no doubt that it is to be imposed for public purposes in so much as it is payable irrespective of whether relevant services are in fact accessed by individual students who are required to pay the levy. The proposal is effectively for universities to act as agents for the Federal government in collecting \$250 million of tax per annum from students across Australia.

### **Evaluating voluntary student unionism**

2.6 The Committee considers that Voluntary Student Unionism has been a success. The evidence received by the Committee is that where it has been embraced by relevant student bodies it has made them more focused and responsive to genuine student needs with those organisations who have adapted continuing to thrive.

2.7 That was certainly the evidence received from Miss Uher from the ALSF:

**Miss Uher**— ... I do not dispute the right of student unions to exist. I do not even dispute the right of student unions to be highly political if they want to be, provided that membership and financial support of that union is voluntary. If students know what their union is doing and they have the choice to support those activities then it is their right to join. For example, I joined my student union this year because under VSU it has remodelled itself into an organisation that actually provides benefits to students. I am involved in clubs and societies, so it is worthwhile for me to join my union.<sup>3</sup>

**Miss Uher**—...at the University of Western Australia union membership is up around 60 per cent. They have operated under VSU for a longer period of time, so the unions there know that they need to provide services that students want. The unions there are pretty decent. The average student wants to join because they gain a benefit out of it. Their membership numbers are quite high, and VSU has been largely responsible for that<sup>4</sup>.

2.8 Ms Drakeford from the National Union of Students conceded in her evidence that Voluntary Student Unionism had not prevented students from accessing sport and recreation services:

**Ms Drakeford**— ...The Australian National University's gym membership has gone up by 500 per cent since VSU...<sup>5</sup>

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<sup>3</sup> Miss Sasha Uher, President, Australian Liberal Students Foundation, *Proof Committee Hansard*, 9 December 2010, p.18.

<sup>4</sup> Miss Sasha Uher, President, Australian Liberal Students Foundation, *Proof Committee Hansard*, 9 December 2010, p. 19.

<sup>5</sup> Ms Carla Drakeford, National President, National Union of Students, *Proof Committee Hansard*, 9 December 2010, 9/12/2010, p. 9.

2.9 Most students appear to be opposed to the reintroduction of this compulsory student services and amenities fees.<sup>6</sup> Of the 28 submissions from individuals to this inquiry, only three (11%) were supportive of the bill. This lends weight to statements provided to the committee that the majority of students do not support the reintroduction of compulsory fees.<sup>7</sup> Further evidence is provided by the Australian Democrats Youth Poll 2008 which showed that 59% of those surveyed did not believe that the voluntary student unionism (VSU) legislation should be reversed.<sup>8</sup>

2.10 Many submissions argued that that the current arrangements under VSU are working and providing the best outcome for students:

Under CSU, student unions were guaranteed an enormous sum of money every year, regardless of whether or not they provided decent services or services that students used or wanted. This meant that no matter how substandard or unwanted the services student unions provided were, they would continue to survive due to compulsorily acquired funds. As such, student unions had no incentive to improve the services they were providing so students were receiving poor value for money. On top of this, student union office bearers were able to ignore the opinions of students and promote (with student money) partisan political causes. Without the threat of insolvency, there was nothing to stop this practice. Since VSU was introduced, student unions have had to rely on voluntary membership fees. This has meant that they have had to remodel themselves to meet the needs and wants of students in order to survive.<sup>9</sup>

2.11 Furthermore, at the hearing, it was suggested that if student unions provide services that are vital to students a large number of students would be willing to pay for these services:

There is absolutely no reason why under VSU student unions cannot survive because there should be broad support of certain services. Obviously, student unions are not going to survive if they are providing services that students do not want.<sup>10</sup>

2.12 The committee agrees with these arguments. The committee was not convinced by suggestions that the current voluntary system has failed. As noted above, VSU should not threaten the provision of essential services to students: if there

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6 Senate Standing Committee on Education, Employment and Workplace Relations, *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 [Provisions]*, March 2009, p. 22.

7 See, for example, Mr James Hicks, *Submission 28*, p. 1.

8 *Australian Democrats Youth Poll 2008*, p. 8, [http://www.natashastottdespoja.com/cms\\_resources/Youth%20Poll%202008%20final.pdf](http://www.natashastottdespoja.com/cms_resources/Youth%20Poll%202008%20final.pdf) (accessed 11 January 2011).

9 Australian Liberal Students' Federation, *Submission 30*, pp 10–11.

10 Miss Sasha Uher, President, Australian Liberal Students' Federation, *Proof Committee Hansard*, 9 December 2010, p. 19.

is demand among students for such services they will choose to use (and pay for) them.

### **An increased financial burden on students**

2.13 Many submissions to the inquiry raised concerns about the financial burden that would be placed on students by the introduction of a compulsory student services and amenities fee:

Poorer students will struggle as it is to meet the costs of getting an education. Hitting those vulnerable students with an expensive tax for a service they will seldom use (because of need to work off campus) would mean that the poor students will subsidise the wealthy who do not need to work and can enjoy campus life more fully.<sup>11</sup>

I have seen repeated cases of prospective students and their families having to opt for additional time away from study, or simply to forego study completely due to financial pressures. Many of those who do make it over those initial hurdles have to work long hours to fund their studies, and to make ends meet. It therefore seems ludicrous that the government would propose a further levy on these hard working individuals, when voluntary student unionism has been shown to work, and to work well, over recent years.<sup>12</sup>

2.14 Furthermore, many submissions argued that the introduction of the SA-HELP scheme would not ameliorate the impact of the fee:

The UQ Union does not support the Federal Government's statement that the implementation of the SA-HELP debt in a time of economic meltdown. The total increase in student's HELP debts will be \$750 on a minimum 3 year course plus the accumulative interest that is placed upon HELP debts. Furthermore, the proposed Compulsory Student Amenities Fee is a regressive form of taxation that does not take into account the different income levels of students or a student's ability to use those services.<sup>13</sup>

2.15 The yearly indexation of the maximum fee payable means that the total burden for a three year degree will soon reach \$1000. Of course, many students take much longer than three years to complete their degrees and will therefore be facing an even larger debt on entry into the workforce.

2.16 The committee believes it is unfair to expect students to be burdened with more debt in order to pay for services that they may never use. Furthermore, if students chose to pay the fee up-front in order to avoid increasing their level of debt, a compulsory amenities fee would force students to reduce expenditure on other things

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11 Mr Grant Ross, *Submission 3*, p. 1.

12 Mr Craig Buchanan, *Submission 13*, p. 1.

13 The University of Queensland Union, *Submission 50*, p. 11.

that they may consider to be more important, such as books and participation in groups external to university.

### **Part-time and external students**

2.17 Of particular concern to the committee is the significant percentage of students who will have limited, if any, access to student services and amenities funded by the compulsory fee. In 2008, of the 1,066,095 higher education students in Australia:

- 206,307 (19.4%) were part-time internal students;
- 132,300 (12.4%) were external students; and
- 76,285 (7.2%) studied both internally and externally.<sup>14</sup>

2.18 Many submissions raised concerns that these students would be unfairly charged for services they may not have the opportunity to use:

I am currently studying an undergraduate degree part time, I work full time during the day and attend classes 2/3 nights a week. Due to me not being on campus full time and certainly not in the day time I do not have the option of using the amenities that this new compulsory tax is supposedly funding. So I will be forced to pay a fee towards facilities I do not even have the option of using!<sup>15</sup>

There are many students who study part-time or by correspondence and therefore rarely, if ever, set foot on campus. These students have no capacity to use or benefit from the services provided by their student union but will still be forced to pay this fee. There are also those students who are not involved in extra-curricular activities at university and simply attend classes to get their degree. These students receive absolutely no benefit from their student union and should not be forced to prop up support services they do not use.<sup>16</sup>

2.19 In response to these concerns the Department of Education, Employment and Workplace Relations states that:

Higher education providers will be able to charge different fees for different groups of students, for example, a lower fee for students studying off-campus compared to the fee for students studying on-campus. The Administration Guidelines made under the Act will require providers to charge part-time students a lower fee than full-time students.<sup>17</sup>

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14 Department of Education, Employment and Workplace Relations, *Students: 2008 Summary of Higher Education Statistics*, p. 38.

15 Ms Alyson Richards, *Submission 42*, p. 1.

16 Australian Liberal Students' Federation, *Submission 30*, p. 4.

17 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 3.

2.20 An exposure draft of the instrument to amend the Administration Guidelines has not been released by the government so it is not possible to confirm whether the guidelines will also address the fee that could be charged to external students (or the specific amount that could be charged to part-time students). The committee believes the Senate should not be expected to consider the bill without this important information.

### **Recommendation 1**

**2.21 The committee recommends that the government publicly release an exposure draft of the instrument to amend the Administration Guidelines made under the *Higher Education Support Act 2003* as soon as possible.**

### **Recommendation 2**

**2.22 The committee recommends that the Senate postpone consideration of the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010 until the draft instrument to amend the Administration Guidelines made under the *Higher Education Support Act 2003* is publicly released.**

### **Activities to be funded by the fee**

2.23 The bill specifically provides that the fee must not be used (by the higher education provider itself or a third party provider) to support a political party, or the election of a person to the legislature of the Commonwealth, a state or territory, or a local government body.

2.24 Universities Australia supports this provision:

Individual students hold a range of party-political views, and it would be inappropriate for funds collected from the entire student body to be used for partisan purposes.<sup>18</sup>

2.25 In addition, the bill further restricts the types of activities that can be funded by the fee to those set out below:

- providing food or drink to students on a campus of the higher education provider
- supporting a sporting or other recreational activity by students
- supporting the administration of a club most of whose members are students
- caring for children of students
- providing legal services to students
- promoting the health or welfare of students
- helping students secure accommodation

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18 Universities Australia, *Submission 33*, p. 2.

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- helping students obtain employment or advice on careers
  - helping students with their financial affairs
  - helping students obtain insurance against personal accidents
  - supporting debating by students
  - providing libraries and reading rooms (other than those provided for academic purposes) for students
  - supporting an artistic activity by students
  - supporting the production and dissemination to students of media whose content is provided by students
  - helping students develop skills for study, by means other than undertaking courses of study in which they are enrolled
  - advising on matters arising under the higher education provider's rules
  - advocating students' interests in matters arising under the higher education provider's rules
  - giving students information to help them in their orientation
  - helping meet the specific needs of overseas students relating to their welfare, accommodation and employment.<sup>19</sup>

2.26 The fact that the types of activities that can be funded by the fee is now set out in the bill is regarded by the Scrutiny of Bills Committee as an improvement on the previous versions of the bill which left the determination of approved purposes to delegated legislation. In this regard, the Scrutiny of Bills Committee was:

...pleased to note that the reintroduced version of the bill increases Parliamentary scrutiny by listing in the Bill categories of approved purposes for the expenditure of student services and amenities fees. This replaces the previous approach in which it was left to the Minister to specify approved purposes in delegated legislation.<sup>20</sup>

2.27 The Department of Education, Employment and Workplace Relations states that 'the Vice-Chancellor or Chief Executive Officer of the higher education provider will be required to ensure that third parties also comply with the requirements of the bill in expending the funds'.<sup>21</sup>

### **Inadequate protection against political activity**

2.28 The committee, however, remains concerned that the bill provides inadequate protection against political activity. When asked whether he could rule out any money

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19 Proposed subsection 19-38(4).

20 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 8 of 2010*, 27 October 2010, p. 39.

21 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 2.

collected through the legislation going to the National Union of Students, the Chief Executive Officer of Universities Australia stated that he 'cannot guarantee that a single dollar would not go to the National Union of Students...'<sup>22</sup>

2.29 As highlighted in the submissions, student unions are highly political:

Office-bearer positions on student unions are almost without exception won by student politicians who are able to mobilise their activist support bases. However, the vast majority of students are apathetic to political causes and do not participate in university elections. It is extremely rare for more than 10% of students to vote in student elections, even at the most politically active universities. At Melbourne and Sydney Universities, two of the most politically-oriented in Australia, voter turnout can be 5% or less. The resulting consequence is student unions being run by student politicians, elected by a small proportion of students, who spend the wider student body's money promoting partisan political causes.<sup>23</sup>

2.30 Given the political nature of student unions, the committee remains concerned that the fee could be used for political purposes, particularly through cross-subsidisation:

Student unions can direct the funds they were previously spending on the services listed in subsection 19-38(4) of the Bill to political activities. They can then use the newly acquired compulsory fees to fund those existing services which are allowable in the Bill. Therefore, there would be no increase in spending on vital services, but an increase in spending on political activities, facilitated by these compulsory fees.

Student unions could also direct profits made as a result of a compulsory fee-supported income to fund political activities, as the spending of profits is not regulated by the Bill. For example, a student union may make an additional \$10,000 profit as a result of an increase in spending on the clubs and societies program, facilitated by compulsory fees. This \$10,000 profit then becomes unregulated, and can be spent on whatever political purposes student union office bearers see fit.<sup>24</sup>

2.31 At the hearing, the National Union of Students agreed that there is the potential for this to occur:

Senator WILLIAMS—And then the student union would be able to receive the profits of that coffee shop and then disburse the moneys as they wished. Is that correct?

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22 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Proof Committee Hansard*, 9 December 2010, p. 36.

23 Australian Liberal Students' Federation, *Submission 30*, pp 7–8.

24 Australian Liberal Students' Federation, *Submission 30*, p. 9.



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Ms Drakeford—I would see that as a likely scenario in that case.<sup>25</sup>

2.32 The committee believes that it is inappropriate for any political activity – whether party political or otherwise – to be funded directly or indirectly through a compulsory student services and amenities fee. Evidence provided to the committee shows that such funding could occur if the compulsory fee is introduced. A compulsory amenities fee forces students to indirectly support student unions; it is an indirect form of compulsory unionism.

### **Conclusion**

2.33 Of particular concern to the committee is the evidence provided by some organisations which suggests that they would like to remove the few protections contained in the current proposal and reintroduce fully-fledged compulsory student unionism:

CHAIR—When you say in your opening statement that this legislation does not go far enough, is that because you think it should go closer to compulsory student unionism?

Ms Drakeford—Yes.<sup>26</sup>

2.34 For the reasons outlined above the committee believes that any attempts to allow for the establishment of compulsory student services and amenities fees should be rejected. Evidence provided to the committee shows that students do not support the introduction of such a fee, particularly given the increased financial burden the fee would place on them. The committee is also concerned that part-time and external students, who make up almost 40 per cent of the student population, will be expected to pay for services that they may never be able to use. Furthermore, the protections against use of the funds for political activity are inadequate.

### **Recommendation 3**

**2.35 The committee recommends that the Senate reject the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010.**

**Senator Mathias Cormann**  
**Chair**

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25 Ms Carla Drakeford, President, National Union of Students, *Proof Committee Hansard*, 9 December 2010, p. 14.

26 Ms Carla Drakeford, President, National Union of Students, *Proof Committee Hansard*, 9 December 2010, p. 6.



