

Government Senators' Dissenting Report

Introduction

1.1 The Howard Government introduced Voluntary Student Unionism legislation in December 2005, with effect from July 2006. At that time, the higher education sector broadly opposed the legislation and argued it would have a detrimental impact on the provision of essential student services and representation.

1.2 Following the election of a Labor Government in 2007, the then Minister for Youth, Kate Ellis MP, launched an extensive consultation of the higher education sector to determine the impact of the Howard Government legislation and canvass opinion on models to restore student services and representation on Australian university campuses.

1.3 The result of these extensive consultations was the Higher Education Legislation Amendment (Student Services and Amenities, and other measures) Bill 2009 and the subsequent Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010. The Government has proposed to allow higher education providers to charge up to \$250 per student per annum, and will allow students to access a loan from the Government to cover the fee via the new Services and Amenities-HELP component of the Higher Education Loan Program. The proposal also requires higher education providers to comply with benchmarks for minimum service provision for students as well as meeting standards of student representation and advocacy.

1.4 We strongly support the proposed Bill and urge all Senators to support its passing in the Senate. It is a sensible and balanced solution to the devastating effects of the Howard Government legislation on student support services, student representation and 'student life' more broadly.

1.5 Furthermore, this issue has already undergone extensive consultations in the higher education sector and community at large. This includes not only direct Government consultation with the sector in 2008, but also consultation and review via the Senate Standing Committee on Education, Employment and Workplace Relations and the House of Representatives Standing Committee on Education and Employment.

1.6 The time for considering and debating the merits of the Government's proposed measures has well expired. Coalition Senators should stop fighting the ideological battles of their University days; they should no longer delay the passing of this Bill. It is time to stop playing politics with the restoration of vital funds and essential student services to Australian universities.

Why the Student Services Levy is not a tax

1.7 We are strongly of the view that the proposed Student Services and Amenities Levy is not in fact a tax but rather a fee for educational support services to be provided by higher education institutions and not the Government.

1.8 This view was shared by many of the submissions received. Indeed, the Clerk of the Senate in providing advice to the committee declared bluntly that:

...strictly speaking, the proposed compulsory student union levy is not a tax.¹

1.9 Furthermore, advice provided by the Acting Secretary of the Department of Education, Employment and Workplace Relations (DEEWR), Kathryn Campbell, argued that:

The fees and student contribution amounts required under the Higher Education Support Act 2003 would not be considered taxes as they constitute payments for educational services to be provided by a higher education provider to the person enrolling in its courses.

The Bill, which provides for the fee and the loan scheme similarly does not have the purpose of raising general revenue for the Government...

...the monies to be paid are not payable for a public purpose of the Commonwealth.²

1.10 Such a view was also shared by the National Union of Students in its testimony to the committee,³ and the National Tertiary Education Union in its written submission.⁴ Dr Glenn Withers of Universities Australia argued that even if one accepts a very broad definition of taxation, the student services levy is really a

...compulsory insurance charge, at its core.⁵

1.11 Indeed it is our view that consideration of the Bill by this committee was inappropriate and motivated by ideological dogma and a desire amongst Coalition Senators to delay the Senate's ultimate consideration and vote on the Bill.

1 Dr Rosemary Laing, Clerk of the Senate, *The Committee's Terms of Reference*, Advice to the Select Committee on the Scrutiny of New Taxes, 11 October 2010.

2 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 1.

3 Mr Graham Hastings, Education Research Officer, National Union of Students, *Committee Hansard*, 9 December 2010, p. 4.

4 National Tertiary Education Union, *Submission 4*, p. 2.

5 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 33.

1.12 Regardless of whether it is indeed a fee for service or a tax, it is important to outline the sensible and logical rationale for passing this Bill.

The detrimental impact of the Howard Government's Voluntary Student Unionism legislation

1.13 It has been well documented from previous Senate Committee inquiries and from DEEWR consultations that the existing Voluntary Student Unionism legislation introduced by the Howard Government had an immediate negative impact on the provision of essential support services for university students in Australia.

1.14 Indeed, the Summary Report of the DEEWR consultations in 2008 outlined that:

Most submissions concluded that the abolition of upfront compulsory student union fees had impacted negatively on the provision of amenities and services to university students, with the greatest impact at smaller and regional universities and campuses.⁶

1.15 Submissions to this committee also shed light on the devastating impact of Voluntary Student Unionism. The AUS/ACUMA submission referred to its 2007 VSU Impact Study which showed that within the first year alone of Voluntary Student Unionism there was:

- an overall 30% reduction in employment in the campus services sector (involving a loss of about 370 full-time jobs and about 1,300 part-time jobs nationally)
- 100 sporting and 261 student union services lost nationally
- 17% reduction in the number of students in sporting clubs and 14% reduction in the number in social and cultural clubs.⁷

1.16 Many individual student organisation and university submissions outlined the direct impact on their campus and listed a variety of support services that are no longer able to be provided due to a lack of funds thanks to the Howard Government legislation. We were shocked to see the depth and breadth of important student services that are no longer provided, or have been drastically cut, since 2006.

1.17 The National Union of Students submission⁸ provided a comprehensive overview of some of the services that have been cancelled around the country, particularly at regional universities:

6 Department of Education, Employment and Workplace Relations, *The Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students Summary Report*, April 2008, p. 2.

7 Australian University Sport and the Australian Campus Union Managers Association, *Joint Submission 55*, p. 2.

- loss of 30 staff, independent academic rights advocacy service and second-hand book store at Charles Sturt University;
- loss of 200 jobs, dental service, independent advocacy, textbook loans, and scholarships at Southern Cross University;
- loss of parent room, print services, emergency loans, and second hand book store at Newcastle University;
- loss of student publications, social activities and community programs at the University of New England; and
- closure of legal service and reduction of student publications and orientation services at James Cook University.

1.18 It is clear that the current Voluntary Student Unionism legislation created a vicious cycle of cuts to student support services. Indeed, it appears that the initial instability and uncertainty regarding funding of services following VSU caused many services to be immediately cancelled. This in turn made voluntary contributions less enticing as less was able to be offered to students, and this subsequently led to even further cutbacks of vital support services.

1.19 Furthermore many submissions outlined that on campuses where support services continue to be offered to the student body it is as a result of substantial university financial support. This was usually by way of tied grants or service level agreements with student associations. Some universities have made extremely generous contributions to student bodies to allow them to continue providing essential services, which has been to the detriment of teaching and research funds and is generally regarded as an unsustainable solution.

1.20 For example The University of Sydney submission stated:

By the end of 2010, we estimate that our direct financial support for services and amenities provided by our six student organisations will have amounted to \$38 million over the four years 2007 to 2010....

Despite the University's strong belief in the value and importance of the services historically provided by student bodies, we cannot commit indefinitely to supporting them by redirecting funds from competing teaching, research and other priorities.⁹

1.21 It is clear that the current situation facing Australian higher education providers is unsustainable and detrimental to the wider student body by not having access to such vital support services.

8 National Union of Students, *Submission 27*, pp 11–42.

9 University of Sydney, *Submission 57*, pp 1–2.

1.22 Even submissions from organisations opposed to the fee, such as the Australian Liberal Students Federation, concede that universities have been propping up essential services since the introduction of Voluntary Student Unionism.

In the cases where services have collapsed, if they were deemed essential or beneficial to students, the university or private sector providers have generally stepped in and provided those services.¹⁰

1.23 This concession implies that even the Australian Liberal Students Federation recognises the importance of supporting certain student services so they are available to all students on campus.

1.24 For these reasons the Government was sensible to, following extensive consultation, propose a new Student Services Levy and national benchmarks for higher education providers, to revitalise student services and advocacy.

The benefits of the proposed Student Services Levy to higher education in Australia

1.25 Many submissions to the committee outlined a variety of positive impacts of the Bill beyond merely restoring funding for student services. Indeed, it is our view that this Bill provides many broader benefits to the higher education sector.

1.26 In particular, Dr Glenn Withers from Universities Australia in his testimony to the committee gave a good overview of the range of benefits the Bill would provide. These include:

- improved student retention and graduation rates
One single improvement that is well documented is the strong research evidence in North America that more spending on student amenities and services has a highly responsive increase in completion and graduation rates of the students, so that, when you calculate the savings in what is otherwise under-rewarded funding for those students and their increased lifetime incomes from completion, that is way ahead of modest costs in support of student services and amenities.¹¹
- particular benefits for the participation and support of international students and students from regional Australia:
They [international and regional students] are the ones who need more access to these services and benefit most from them because they do not have their well-established networks outside in the ordinary community in quite the same way.¹²

10 Australian Liberal Students Federation, *Submission 30*, p. 12.

11 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 32.

12 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 38.

- general benefits for students health and wellbeing via the provision of specialist on-campus services:

If, for instance, you are confused and worried about a number of matters such as health and identity and you are not benefiting from expert guidance from people who are well used to helping people through these matters then your studies are totally and utterly distracted. You cannot focus on your studies so that your productivity as a student is substantially reduced.¹³

1.27 DEEWR also cited research from North America which demonstrates benefits to students from low-SES backgrounds:

Quantitative research from the United States of America shows that students from low SES backgrounds are those that benefit the most from additional expenditure on student services and activities that contribute to students' emotional and physical well-being and to their intellectual, cultural and social development outside of the institution's formal instructional program.¹⁴

1.28 Furthermore, the National Union of Students in its written submission outlined the benefits broadly to the establishment of "world-class" universities in Australia and compared the Australian context to elite North American universities, such as Harvard, where compulsory student service fees have always been charged (at a considerably higher level than those ever charged in Australia). The NUS argued that providing a range of student services is part of providing "world-class" higher education:

Those who are genuine about creating more diversity, student choice and having world class universities in Australia should assist in this by repealing the current legislation.¹⁵

1.29 We are of the view that this Bill aligns with the Government's broader participation agenda in higher education. It will contribute positively not only the experience of Australian students but also international students, and it will assist in developing world-class institutions.

Why the Student Services and Amenities Bill 2010 is not compulsory student unionism

1.30 Opponents of the Bill have interpreted it as a return to compulsory student unionism and a violation of freedom of association:

13 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 41.

14 Department of Education, Employment and Workplace Relations, *Submission 51- Attachment A*, p. 1.

15 National Union of Students, *Submission 27*, p. 27.

The ALSF believes that although this Bill doesn't explicitly force students to become student union members, it forces them to support their student union financially, which amounts to the same thing...

Freedom of association is a fundamental right in Australian society. It would be considered completely unacceptable to force individuals in the workforce to pay a compulsory fee to their respective unions – so why should students be exempt from this fundamental right?¹⁶

1.31 This argument, however, completely ignores fundamental and important features of the Bill. Indeed, the Bill does not in any way represent a return to compulsory student unionism:

- The provisions in the existing legislation that prohibit universities requiring students to be members of their relevant student organisations are maintained. This Bill does not violate the principle of freedom of association as students are still free to voluntarily become a member, or not become a member, of their student organisation.
- The levy is directed to universities, not student organisations. It is up to universities to meet the benchmarks for student services and representation and the money is directed to them, not student organisations, for that purpose.
- It is up to universities, not student associations, to decide whether or not to even charge the fee and, if they do, at what rate. The Government has set a cap at \$250 (indexed annually), but universities can theoretically decide not to charge the fee or charge the fee at a lower rate than \$250.

1.32 Furthermore, this Bill is not about freedom of association – it is about introducing a new levy so that all university students contribute to services provided for the common good. Indeed, the services supported by the levy will benefit the entire university student community – whether or not an individual university student uses each service on a daily basis, the availability of these services for all students fosters a supportive educational experience for all students.

1.33 The Australian Liberal Students Federation have also argued that universities will be able to pass on the levy funds to student organisations to use at their discretion on political causes:

The implication of this is that once this money is handed over to student unions by the university, it becomes unregulated and can therefore be spent on political causes.¹⁷

1.34 This again ignores key features of the Bill. As advice from the DEEWR makes clear:

16 Australian Liberal Students Federation, *Submission 30*, p. 7.

17 Australian Liberal Students Federation, *Submission 30*, p. 8.

- The Bill prohibits the fee being spent by a higher education provider on supporting a political party or candidate for election to the Commonwealth, State or Territory parliament or local government.
- The Bill allows higher education providers to spend the fee only on a list of allowable expenditures outlined in the Bill (such as legal, financial, employment and orientation services).
- If a Higher education provider chooses to contract third parties, such as student organisations, to provide any of the listed allowable services, the Vice-Chancellor or Chief Executive Officer of the institution will be required to ensure that the third party also complies with the requirements of the Bill in expending the funds.¹⁸

1.35 Indeed, during his oral testimony to the committee, Dr Withers from Universities Australia reassured the committee that universities are well-placed to oversee the proper use of the funds, and are accustomed to rigorous Government reporting and auditing procedures:

Universities... are highly transparent institutions who account for themselves to parliamentary committees, ombudsmen, auditors-general and more, and within that we think there is a framework for ensuring responsible administration of these fees through the universities for the purposes of student services and amenities.¹⁹

1.36 Indeed, we have full confidence that university Vice Chancellors will ensure the proper use of the levy funds in accordance with the legislation if the Bill is passed.

The fair and flexible nature of the proposed compulsory fee

1.37 Another argument put forward by opponents of the Bill is that a new fee for university students is inequitable and could deter participation in higher education:

... the reintroduction of compulsory amenities fees will deter low socio-economic students at the margins from seeking university qualifications, effectively pricing thousands of poor students out of a degree, in much the same way as an equivalent rise in tuition fees would.²⁰

1.38 This argument is odd, if not hypocritical, coming from an organisation that supported the Howard Government and its dramatic increases in higher education contribution fees during its years in power (increases far beyond the modest \$250 annual levy proposed in this Bill).

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

19 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 33.

20 Australian Liberal Students Federation, *Submission 30*, p. 4.

1.39 Furthermore, this argument disregards the provisions in the Bill which allow students to defer payment of the fee so there need not be any up front financial burden each year.

1.40 DEEWR also made clear in its submission that that:

The Administration Guidelines made under the Act will require providers to charge part-time students a lower fee than full-time students.²¹

1.41 We share the view of the National Union of Students on this point. They have argued that the levy will actually support students from low socio-economic backgrounds through their education at university:

Not only is [the fee] deferrable; it offers essential services to students from low socioeconomic status backgrounds. It will see not only funding go back into agency and welfare services, but also the return to collective student buying power, enabling food and beverages to be made cheaper on campus for those students who struggle. It will have longer term effects for low socioeconomic students, as well as for students from regional and Indigenous backgrounds, by providing adequate support services on campus as well as a range of activities to raise retention rates.²²

1.42 We also support Dr Withers' assessment that a compulsory levy will lead to greater "economies of specialisation and scale tailored to the particular clientele and their needs in their learning life"²³ and this is beneficial because ultimately "such services will provide a safety net for those students who had begun their study with no need for the services, but whose situations change for the worse during the course of their study."²⁴

1.43 It is clear that this fee will not only assist in the restoration of essential support services for all students to access in times of need, but also is tailored fairly to allow students to defer upfront payment and pay at a lower rate if they do not study full-time.

Concerns regarding the protection of independent student advocacy

1.44 Some submissions to the committee commented that the Bill does not go far enough to safeguard independent student advocacy and representation on university campuses.

1.45 We support the Group of 8's comment in their submission that:

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

22 Ms Carla Drakeford, President, National Union of Students, *Committee Hansard*, 9 December 2010, p. 2.

23 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 34.

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

Quite separately from student politics, student organisations have an important role in representing the interests of students as consumers, and to advocate for fair provision and due process for their members, in academic, administrative and other areas. VSU has greatly weakened this advocacy function, with undesirable effects on students' rights both as consumers and as citizens.²⁵

1.46 In particular, the National Union of Students²⁶ and the National Tertiary Education Union²⁷ argued that the Government's proposed National Student Representation Protocols do not go far enough to ensure that student representation on campus is adequately supported and resourced so that there is an effective independent voice for students on university campuses and in the community more broadly.

1.47 While we are sympathetic to this view, the focus of our consideration has been the proposed levy rather than the representation protocols. The Select Committee on the Scrutiny of New Taxes has been tasked with assessing the benefits of new taxes – in this case a student services levy, considered (wrongly) to be a tax by our Coalition colleagues. For that reason we have chosen not to discuss broader education policy concerns (such as best practice student representation) that are more appropriate for consideration by the Senate Standing Committee on Education, Employment and Workplace Relations.

1.48 We do, however, encourage the Government to take notice of these concerns and the detailed recommendations on this matter already provided by Government colleagues in the Senate Standing Committee on Education, Employment and Workplace Relations' inquiries into the matter.

Recommendation 1

1.49 That the Government re-consider the recommendations regarding amendments to the student representation protocols made by Government Senators from the Senate Standing Committee on Education, Employment and Workplace Relations' inquiries into this Bill.

Conclusion and recommendations

1.50 We would like to thank all the organisations and individuals who wrote submissions to the committee, and in particular thank Universities Australia, the National Union of Students and the Australian Liberal Students Federation for sending representatives to present oral testimony to the committee.

1.51 We would like to note that the vast majority of submissions from representative groups and organisations support the passing of this Bill. Coalition

25 The Group of Eight Ltd, *Submission 2*, p. 1.

26 National Union of Students, *Submission 27*, p. 19.

27 National Tertiary Education Union, *Submission 4*, p. 3.

Senators have pointed to a handful of individual submissions opposed to the Bill as evidence of widespread student opinion. We do not share this view. Student representative organisations, staff unions and peak university bodies such as Universities Australia support the introduction of a new levy for student services and together they represent a far greater majority of students and staff within the higher education sector.

1.52 We believe there is an overwhelming case for the passing of this Bill. The proposed levy has clear benefits not only to university students current and future, but to the higher education sector more broadly via the support the student services levy would provide to students from a variety of backgrounds and experiences throughout their education.

1.53 We strongly recommend that all Senators support the passing of this Bill.

Recommendation 2

1.54 Government Senators recommend that the Bill be supported.

Senator Steve Hutchins
Deputy Chair

Senator Doug Cameron

