

FORCED TO BE FREE?

COMPELLING VOLUNTARY STUDENT UNIONISM

The ossified politics of an earlier era are behind the VSU bill, argues **Charles Richardson**

Earlier this year, the Howard government introduced the *Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005*, its third attempt to force so-called voluntary student unionism (VSU) on Australia's universities. Strongly supported by the Australian Liberal Students' Federation (ALSF), and described by education minister Brendan Nelson as 'iconic',¹ the bill is opposed by university administrations, student unions, the opposition parties and various community groups. It is nonetheless expected to become law later this year.

Many observers have queried why this particular legislation should have such a high priority. My purpose in this article is to try to answer this question: how did a slice of student politics from another era become a national political issue? Putting it another way, how did a dispute about freedom of association and the behaviour of student unions come to open up complex issues about the funding and autonomy of Australian universities?

History, part I

The origins of the VSU debate lie in the 1970s, when student unionism became an issue through the struggle over the national student organisation, the Australian Union of Students (AUS). AUS was the stereotypical radical left-wing body; its assorted factions of Trotskyists, Maoists and mainstream communists fought over (and funded) obscure causes far removed from the concerns of most students. As its behaviour became more of a scandal, an opposition movement developed, driven especially by anger among Jewish students at violently anti-Israeli tendencies within AUS.

The first anti-AUS campaigns in the mid-1970s had only limited success, but in 1979 a wave of

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secessions from the union by major campuses brought about some internal reform and a slightly more moderate leadership. These campaigns were led mostly by students from the political centre (either non-aligned or right-wing ALP), prominent among whom were Michael Danby and Peter Costello; their position was reformist, not anti-union or even opposed to compulsory unionism. Liberal students in the 1970s endorsed the campaigns against AUS, but they were not major players at first.

As matters progressed, however, Liberal students became more radicalised. A key catalyst was the 1977 court case of *Clark v. University of Melbourne*,

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in which a Liberal student, Robert Clark, challenged a number of payments made by AUS and by the campus student organisation, and which for a short time resulted in union fees at Melbourne University being outlawed. This foreshadowed what I shall call the 'purist' VSU position (which was to become the mainstream ALSF line), that all non-academic fees should be made voluntary. The policy of ALSF itself caught up with this position in the late 1970s, after a change of leadership at the 1977 annual council; it was set out clearly in the following resolution from 1979 council:

That ALSF believes that no student should be compelled to pay any fee either directly or indirectly to Student Associations, Unions, Guilds or Representative Councils or the governing bodies of tertiary institutions for the provision of services and amenities as a pre-requisite to enrolment in or graduation from post-secondary institutions. Payment of such a fee should be completely on a voluntary basis.

The purist VSU position, partly a rationalisation of the unexpected success in *Clark*, also resulted from a growing awareness of the problems that beset more

limited options—problems that were economic as much as they were political. The political problem was that it was impossible to quarantine effectively the sort of objectionable political expenditure that AUS and some campus unions had engaged in. Money is fungible, and student unions were complex organisations; in the absence of detailed supervision (which no-one really wanted to engage in), unions that were funded for service activities could divert money to political causes.

The economic problem was that quarantining political expenditure, even if it was possible, was still unsatisfactory, because waste was greater elsewhere. Political activities, even broadly interpreted, accounted for only a small fraction of student union expenditure, and they had at least the semblance of a rationale for collective provision: student representation, it could be argued, was a public good that could not be funded on a user-pays basis. The service activities—catering, sporting clubs, even dental services—were (and are) much more extravagant and much harder to justify in that fashion.

Erected above these considerations was a philosophical rationale to the effect that no-one should be forced to pay non-academic fees as a condition of academic study. In a competitive education market, that position would have to be justified by a complicated argument about third-line forcing, but in a world of monopoly government-owned and tax-funded providers things seemed much simpler.

State of play in the '80s

The struggle against AUS, which folded at the end of 1984, masked for a time the division among Liberal students as to their attitude to campus student unions—which, in the absence of AUS, would become more the centre of attention. In general, there were two groups (on some campuses, especially in Western Australia, they maintained separate organisations): one that was focused more on participation in student unions, and therefore had a tendency to scepticism about ALSF and VSU; the other, dominant in ALSF, much more strongly anti-union. The latter group was strongly committed to VSU, but its lack of union involvement meant that almost inevitably it pursued a legislation-based strategy for achieving it:

VSU was something Liberal governments should be lobbied to legislate for, not something to be fought for and adopted on campus.

I had personal experience of this division in 1984 when I participated in the national consultative process that attempted to establish a replacement for AUS. In trying to argue the case for VSU in a series of cross-campus ballots, I had to contend not only with opposition from the left, but with scepticism from both wings of the Liberal student movement—the first because it thought VSU was a liability and should be downplayed, the second because it was opposed to setting up any sort of student union at all. (It is worth noting that despite the lack of advocacy for it, 41% of students in the ballots voted that a national organisation should have voluntary membership.)

In the mid- and late 1980s, however, the difference was less noticeable than it might have been, for two reasons:

- the Liberal student movement still felt the influence of its older generation, including people such as Clark, who could boast both involvement in student unions and a strong commitment to VSU.
- after 1983 there were no mainland Liberal governments, so the campaign for VSU legislation lay dormant for want of opportunity.

History, part II

Fast forward now to the early 1990s, when Liberal governments started returning to power. A number of former student activists from both sides were now in politics—a generation earlier, far fewer politicians had even been to university. But with VSU off the agenda for so long, and with the founding generation from ALSF long gone from campus, positions on the issue had become fossilised.

ALSF had become more than ever a dogmatically anti-union organisation. On many campuses, participation in student unions was taken as a sign of lack of commitment to VSU. A new national organisation, the National Union of Students, had been established; it was a far cry from AUS, being more like the sort of toothless mainstream organisation that Danby and Costello had wanted, but ALSF opposed its very existence. Instead of working in student organisations, many of the new

generation in ALSF took jobs with politicians. In the 1980s, a strong current in ALSF had cherished its independence from the Liberal Party, but now the links between Liberal students and the party drew much closer. ALSF therefore became more than ever locked into legislation as the only strategy for achieving VSU.

The world had changed, too, with the end of the cold war and the death of socialism as a serious ideal. Many on the right had difficulty in adjusting to these new conditions. There was very little rethinking of fundamental issues—especially in the Liberal Party, whose very existence was based on the Cold War liberal-conservative alliance. In the tumultuous Hawke-Keating years, when old ideological landmarks were disappearing, anti-unionism was one of the Party's few unifying tenets. The shortage of new ideas and policies meant that surviving ones from earlier times were clung to all

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The new Liberal state governments made some moves towards VSU, but they were largely ineffective. Suggestions were also seriously made for the first time for the implementation of nationwide VSU by federal legislation. Prior to the 1993 election, which the Coalition was widely expected to win, a draft bill was prepared for this purpose. It showed that the issue was still powerful, and that it was now associated with central control of universities: not just institutional autonomy, but federalism as well, would have to take second place.

How times had changed

This added impetus to a purist VSU came just as other changes had undermined its foundations. Since the early 1980s there had been two important developments in the field of higher education:

- The introduction of the Higher Education Contribution Scheme (HECS) by the Hawke government returned the country to a more user-pays model of tertiary education; student union fees—or Amenities and Services fees, as they are more commonly called—were no longer the only charge that students faced for attending university.
- The progressive introduction of ‘full-fee’ university places took some students (first overseas students, then postgraduates, later some undergraduates) outside the Commonwealth-funded system, and therefore destroyed the rationale for separating out the Amenities and Services fee from the rest of a university’s operations: if neither academic nor non-academic services were being funded by the government, there was no special reason why a university should not levy just one charge to cover both.

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Taken together, these changes made universities look less like organs of government and more like private suppliers—the sort of change that the leaders of ALSF had always supported. Back in the mid-1980s a few people had wondered what implications this would have for VSU, and had concluded that there would be no justification for forcing VSU onto privately-funded universities, but at the time the question seemed purely academic.

Now it became a live issue, but because thinking on VSU had ossified it was never properly addressed. At the extreme, if all its students were funded on a full-fee basis, a university could merge the Amenities and Services fee with its general revenue in such a way as to make disentanglement all but impossible. If all that VSU legislation did was to outlaw a separate fee, then it would just force this ‘bundling’ of services to happen. If, on

the other hand, it prevented the universities paying money to student organisations (as the initial 1992 draft bill had proposed), it would mean moving in the wrong direction: students would still be paying fees, which would still go to non-academic services, but the element of democratic input (imperfectly provided by the unions) would be lost. Instead of student control of student affairs, we would have the reverse, ‘taxation without representation’.

But if VSU legislation actually tried to discriminate between different sorts of university expenditure, then not only would it be contrary to the supposed thrust of Coalition policy to increase university autonomy, but it would raise a host of difficult questions. What makes a cafeteria an ‘amenity or service’ but not, for example, a library? What about maintenance of university grounds, or upkeep of central administration—do they relate directly to students’ courses? And what about services like child care that were funded by student unions on some campuses but by the university itself on others?

Campus-based campaigns for VSU could have addressed these questions on a case-by-case basis, but federal legislation could not. Here is how I put the point in 1992 when commenting on the first draft federal legislation:

A tertiary institution ... typically performs a multitude of functions which in varying degrees could be described as ‘non-academic’. To work out precisely where to draw the line would be next to an impossible task, quite apart from the difficulty of embodying it in legislation. ... In the longer term, it is probably desirable that institutions should be encouraged to give up some of their all-embracing nature, and become leaner, more decentralised and more market-based. But this should be part of a general policy direction, not a side effect of a debate about unionism.²

More recently, Andrew Norton summed it up well:

We are getting a long way here from a simple case of freedom of association. In fact, we are proposing a significant restriction on freedom of contract, the right of producers (universities) to offer consumers (students)

goods and services and for the two parties to decide the terms and conditions of their transaction.³

The debate today

The VSU debate entered its most recent stage with the election of the Howard government in 1996. The new government was strongly anti-union, committed to vaguely market-like reforms of the university sector, and uninterested in states' rights, so it is not surprising that it moved to revive VSU. It had the added advantage that it lacked a majority in the Senate, and therefore was unlikely ever to have actually to deliver on it: an ideal position from which to address a totemic but practically difficult issue.

The opponents of VSU responded to the government's moves with two different lines of attack. These too were substantially unchanged since the early 1980s; anti-VSU thinking had ossified as well, since it is difficult (and indeed pointless) to argue against a totem. Each argument contained elements of truth, but they both missed the point in important ways, and if anything gave added fuel to the government position.

(1) The first argument came from student unions and the ALP; they portrayed VSU as an anti-union move on a par with the government's industrial relations policy, as well as an attempt to silence the government's critics. This was a reasonably accurate assessment of the motives of many VSU supporters, but emphasising the political side of the issue just antagonised the government further. The public-good argument for the representative functions of student unions was genuine but was ridiculously overblown. Moreover, the defence of union 'autonomy' suffered from the fatal flaw that the student unions had already sacrificed their independence by relying on university administrations to enforce payment of the fees. Their uncompromising opposition to VSU was in fact a confession of weakness; they had failed to promote the sort of student support that would enable them to survive without compulsory fees.

(2) The second argument came from more moderate critics; they queried why the legislation should go beyond political activities. According to these critics, who showed a sort of benevolent paternalism towards student organisations, the service activities of unions were unobjectionable

and should be protected. This argument ignored, due to either ignorance or deceit, the history of unsuccessful attempts to quarantine political expenditure. It also ignored the fact that waste, as always, was more conspicuous on the services side of student unions.

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Neither sort of opponent came to grips with the practical difficulty of VSU any more than the legislation's supporters had. This did not matter much as long as VSU was ideological shadow-boxing, at most a bargaining chip rather than a serious prospect. But this changed in 2004 when the Howard government won control of Senate.

As I write, in July 2005, there is every indication that the government will press ahead when parliament resumes in August. Brendan Nelson is from his party's left and has no commitment to purist VSU, but this is the right's issue and it has the numbers to push it through. They may not quite be 'practitioners of the politics of schoolboy vengeance [settling] old scores with imaginary enemies',⁴ but they are locked in to an impractical policy that they are no longer capable of questioning. Anecdotal evidence suggests that many ALSF supporters realise the legislation will not work as intended, but they are now identified so closely with the Liberal Party that criticising government policy is not regarded as a serious option.

VSU's status as a shibboleth makes compromise difficult and withdrawal impossible. But its practical problems will not go away.

Endnotes

- ¹ M. Grattan, 'Nelson to Nats: support student union bill', *Age* (10 July 2005).
- ² C. Richardson, 'Draft Federal legislation for Voluntary Student Unionism: Comments', 21 October 1992 (privately circulated), 3.
- ³ A. Norton, 'Sustainable VSU', *Protégé* (December 2004), 16-22, 18.
- ⁴ A. Liston, 'The wrong cure for activism', *Age* letter to the editor, (9 June 1994).