

Chapter Two

Issues arising from the bill

1.1 Submissions and evidence before the Committee raised a number of issues in relation to the bill. In broad terms, the Committee considered whether public funds to support degree programs were satisfactory; and whether such funds would, if the bill is enacted, be used to support institutions with selection procedures which may have a discriminatory effect. The Committee concluded that the degree programs in the four institutions are satisfactory, and that their selection procedures are not discriminatory.

1.2 Specific issues raised included:

- whether public funds should be used to support private higher education institutions;
- why these four institutions had been selected for PELS eligibility ahead of other, similar institutions;
- whether private, self-accrediting institutions should be treated differently to private institutions which are not self-accrediting;
- whether there are sufficient safeguards to ensure the academic standards of the four institutions;
- whether the four institutions should meet a higher standard of administrative accountability; and
- whether any of the institutions have admission selection procedures which may result in discrimination;

1.3 This chapter deals with the concerns raised in respect of each of these matters.

Public funding of private education providers

1.4 Some evidence before the Committee expressed a view that public funding should not be used to fund private higher education institutions. Some organisations take a consistent philosophical view that the public higher education sector should be primarily state funded, and that no public funding should be extended to private or religious institutions. Those organisations would oppose the purpose of this bill.

1.5 Other evidence argued that the extension of PELS to students at the four institutions does not primarily constitute funding to private institutions. The Christian Heritage College, for instance, stated that ‘PELS is primarily a benefit to the student rather than a subsidy to the institution.’¹ Similarly, Bond University stated that ‘we are not talking about a public

1 *Transcript of Evidence*, Pstr Millis, CHC, 8 August 2002 p.8

subsidy to the university, we are talking about access to loans for the student.’² Finally, the Department of Education, Science and Training stated that ‘the subsidy goes to the students, not the institutions.’³

1.6 The PELS scheme is designed to provide a benefit to the student. It enables some students – those who would otherwise be unable to pay the fees associated with a course – to enrol at the institutions. The institution is then paid fees which, in the absence of PELS, it would not receive. PELS therefore removes a barrier to entry for some students. Dr Bruce Chapman noted that ‘You would expect that the number of students interested in undertaking these courses will go up because they do not need to find the money up front.’⁴ Dr Chapman claims that this is likely to increase demand and therefore deliver two benefits to the institutions: the benefit of increased enrolments and therefore increased revenue from fees; and the capacity to raise prices, because as demand increases, the price at which the education ‘market’ will clear, also increases.

1.7 Put simply, while PELS is a subsidy to the student, it is a subsidy provided for the specific purpose of transacting business with the education provider. The Committee majority agrees that the institution is likely to obtain an economic benefit as a result, but it notes also the response of the Australian Council of Private Education and Training (ACPET) to the implication that private institutions would raise their fees in line with the practice of public universities. ACPET stated that increased access to PELS would help to contain fees by increasing the choices available to students.⁵ The Committee majority takes the view that the philosophy of the religious institutions subject to this bill makes it unlikely that large fee rises would occur. These institutions seek to pursue a religious mission rather than to generate a profit, and are therefore less likely to react to market circumstances by increasing their fees.

1.8 While the Committee understands the philosophical position expressed by CAPA, the Committee majority considers that there is nothing inherently wrong with the provision of public funds for private higher education institutions. The Government’s *Higher Education at the Crossroads* review discusses the issue of public funding of private institutions.⁶

1.9 The Committee majority also notes evidence that these institutions are expected to provide teachers, counsellors, clergy and members of other vocations of public benefit. Providing funding to these private education providers provides:

... the opportunity for the government to expand higher education places at marginal cost. It also addresses areas of need such as teacher and nurse provision. As such, it looks like a very good piece of public policy to encourage private provision, to encourage additional places and free up the pressure on the public sector.⁷

2 *Transcript of Evidence*, Mr Finch, Bond University, 8 August 2002 p.8

3 *Transcript of Evidence*, Mr Burmester, DEST, 8 August 2002 p.52

4 *Transcript of Evidence*, Dr Chapman, 8 August 2002 p.19

5 *Transcript of Evidence*, Mr Smith, ACPET, 8 August 2002 pp.40-41

6 Department of Education, Science and Training, *Higher Education at the Crossroads – An Overview Paper*, Question Qh7, p.40

7 *Transcript of Evidence*, Mr McComb, COPHE, 8 August 2002 p.19

1.10 The Committee majority supports this view, and supports the use of these funds to assist institutions which train teachers and nurses who then spend their careers providing services to the community.

Selection of the four institutions

1.11 The Committee notes that there are at least 89 private higher education institutions in Australia. A small number of these are already included under the *Higher Education Funding Act 1988*, but the majority are not. This bill proposes to extend PELS to students of just four of the remaining private education institutions. The Department of Education, Science and Training gave the following rationale for this limitation:

The government made that commitment in response to some anomalies and priorities that had been brought to their attention. The need for self-accrediting universities or institutions to be on a level playing field was one aspect. To provide access to teaching for the Christian school sector was another one. They were the priorities that the government settled on and committed to in their election platform.⁸

1.12 MCD and Bond University are the only two self-accrediting institutions not recognised by Commonwealth legislation. CHC and Tabor College are providers of Christian teacher education and training. This bill, if enacted, would address some anomalies in this sector while assisting to assure the supply of suitably qualified teachers in schools with a religious mission.

1.13 The relevant element of the government's election platform, to which the Department referred, was the following statement by then Education Minister, Dr David Kemp MP, prior to the 2001 federal election:

In addition, the Coalition is announcing two new initiatives. We will [...] provide the same arrangements as apply currently to the University of Notre Dame to Bond University, the Melbourne College of Divinity, Christian Heritage College and Tabor College by including them within the framework of the Higher Education Funding Act 1988 (HEFA) while maintaining their ability to have fee paying students.⁹

1.14 The Committee noted that the Government responded to the strong case put, prior to the election, for supporting the work of these institutions. The Committee noted evidence that other private higher education institutions may also wish to obtain access to PELS. For instance, the Australian Council for Private Education and Training stated:

We see [the extension of PELS to the four institutions] not as the end of the process but as the establishment of a very important principle, because we think that all students enrolled or who wish to enrol in higher education private providers should have the opportunity of accessing such schemes.¹⁰

8 *Transcript of Evidence*, Mr Burmester, DEST, 8 August 2002 p.52

9 The Hon. Dr David Kemp MP, Media Release *Expanding Opportunities in Higher Education*, 31 October 2002

10 *Transcript of Evidence*, Mr Smith, ACPET, 8 August 2002 p.37

1.15 The Australian College of Theology, in its submission, called for PELS to be extended to its students in the same manner as for students at the four institutions:

We believe that the extension of the scheme represents an incremental change to funding of higher education in Australia that in time should be extended to the other duly accredited higher education providers in the private sector like the Australian College of Theology.¹¹

1.16 The Committee recognises that the terms of this bill relate specifically to the promise made by Dr Kemp prior to the last election. The Committee notes that any extension of PELS to students of other institutions would require further amendment of the *Higher Education Funding Act 1988* and would therefore be likely to be subject to close consideration by the Senate, and by this Committee. These matters are being debated in the *Crossroads* review.

1.17 Finally, the Committee notes the progress of the Government's *Crossroads* review. While the Committee hopes that the evidence which this inquiry has placed on the public record will be useful to the *Crossroads* review, the Committee does not intend that its recommendations should be regarded as precedents for the *Crossroads* review. In this report, the Committee has considered the current bill on its merits. This report relates to the four institutions listed in the bill, and not the funding of private higher education institutions generally.

Institutional categories

1.18 Two of the institutions named in this bill, Bond University and the Melbourne College of Divinity, are self-accrediting institutions. That is, they are established under Acts of Parliament (the *Bond University Act 1988 (Qld)* and the *Melbourne College of Divinity Act 1910 (Vic)* respectively), are able to accredit their own degree programs and other courses, and are audited by the Australian Universities Quality Agency (AUQA) in the same way that public universities are audited.

1.19 The other two institutions, Tabor College (South Australia) and the Christian Heritage College, are not self-accrediting institutions. Their courses are accredited by the relevant state authority under protocols established by the Ministerial Council on Employment, Education, Training and Youth Affairs (MCEETYA).

1.20 Evidence before the Committee suggested that a number of organisations are relatively satisfied with the extension of PELS to the two self-accrediting institutions, but have reservations about the extension of PELS to the two non-self-accrediting institutions. The Australian Vice-Chancellor's Committee, for instance, stated that 'The AVCC believe that the ability to accredit an institution's own qualifications is the most important criteria.'¹²

1.21 The National Union of Students did not support the extension of PELS to Bond University and MCD, but indicated that this was because of the precedent this might establish, rather than because of direct concerns about self-accrediting institutions. The NUS stated:

11 *Submission 6*, Australian College of Theology, p.1

12 *Submission 13*, Australian Vice-Chancellor's Committee, pp.1-2

With MCD, though, it is an autonomous self-accrediting institution which has a close link with the University of Melbourne and with Monash as well. However, we are concerned that with the extension of PELS to MCD this might pave the way for not only the extension of PELS to other private institutions but the ability of private providers to form relationships with universities to enable access to PELS or to enable access to the benefits that universities enjoy under the public arena. So it is those two precedents that we are concerned about.¹³

1.22 The Committee noted the concerns of the NUS with regard to the potential for other private institutions to establish links with public universities in order to build a case for funding. However the Committee also noted that the Victorian Parliament viewed the Melbourne College of Divinity as an adjunct of the University of Melbourne. The *Melbourne College of Divinity Act 1910* makes it quite clear that as the University of Melbourne did not offer courses in Divinity, Parliament established a complementary institution to offer those courses. Although this relationship was formalised in 1993, it has been implicit since the commencement of the MCD. It is unlikely that these circumstances are replicated elsewhere.

1.23 The Committee majority considers that students of Bond University and the Melbourne College of Divinity, as self-accrediting institutions, should be able to access PELS, and therefore supports their inclusion in the bill.

1.24 In establishing its view of the institutional structures of Tabor College and the CHC, the Committee majority is guided by the protocols established by MCEETYA, which clearly provide a secure base for Commonwealth funding arrangements affecting these institutions. The Committee majority has seen no evidence which suggests that the course accreditation of these institutions by State authorities is in any way deficient.

Academic standards

1.25 Two issues were raised in evidence and submissions before the Committee which related to academic standards at the four institutions. The first of these related directly to the quality of teaching programs, and the second related to the importance of research activities within universities, and the relationship between high-quality teaching and high-quality research.

1.26 Schedule 1, Item 10 of the bill, and subsection 98A(1) of the *Higher Education Funding Act 1988* contain the provisions designed to ensure the quality of degree programs for which students can obtain PELS.

1.27 Under these provisions, if the bill is enacted, an eligible course of study in a self-accrediting institution would be any postgraduate course of study, approved by the institution, for which fees must be paid, and which is not a research award course of study.

1.28 In an institution which is not self-accrediting (that is, CHC or Tabor College), the above provisions would apply, and in addition, the course would need to be 'a course that is accredited by a State or Territory Accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications.'¹⁴

13 *Transcript of Evidence*, Ms Watts, NUS, 8 August 2002 p.27

14 Higher Education Funding Amendment Bill 2002, Schedule 1, Part 2, item 10

1.29 Under these provisions, PELS would not be available for any course which is not appropriately accredited under the MCEETYA protocols, to which the Commonwealth is a party.

1.30 The Committee noted the statement by the Council of Australian Postgraduate Associations that ‘the quality of the postgraduate course-work degrees at Bond University, Melbourne College of Divinity, Christian Heritage College and Tabor College to which PELS is to be extended cannot be guaranteed.’¹⁵ However, the Committee majority takes the view that if a course is duly accredited under the MCEETYA protocols, it would be inappropriate for the Commonwealth to conclude that it is not of an acceptable academic standard.

1.31 The Committee notes that, under the MCEETYA protocols, the State and Territory accrediting agencies accredit courses rather than institutions. The Australian Universities Quality Agency (AUQA), on the other hand, accredits institutions rather than courses. During hearings for this inquiry, the Committee Chair asked CHC and Tabor college whether, if the bill were enacted, they would be prepared to undergo auditing by the AUQA. Neither institution held concerns about meeting this requirement.¹⁶

1.32 On the issue of research, the Committee acknowledged the quality and relevance of the research activities of Bond University and the Melbourne College of Divinity, and sought the views of Tabor College and CHC as to how research fits into their programs. The CHC described its research strategy, noting that research had to be conducted within the available resources. Tabor college stated:

The College’s academics are keenly interested in research; however until appropriate funding becomes available to the College it is impossible for the College to compete with funded universities in the research dimension. With full-time bachelor students paying only \$3,920 to \$4,880, and full-time graduate diploma and masters students paying only \$4,400 to \$6,950 per annum, and no source of funding other than student fees and donations, despite the extreme dedication and commitment of staff, extension of the College’s research activities is seriously constrained. The College reiterates its earlier point that it seems illogical to withhold support from an institution because of the lack of a strong research profile when the very lack of funding precludes the development of such a profile.¹⁷

1.33 Neither CHC nor Tabor College agreed that there was necessarily a relationship between high quality research and high quality teaching within a higher education institution. CHC stated that ‘we would argue that we are primarily a teaching institution and we would contest the view that there is necessarily a nexus between a particular kind of scholarly activity, which is generally called research, and standard setting in relation to our teaching.’¹⁸ Similarly, Tabor College argued that ‘active researchers are not necessarily the best teachers and vice versa.’¹⁹

15 *Submission 14*, CAPA, p.2

16 *Transcript of Evidence*, 8 August 2002, p.7

17 Tabled Document 1, *Tabor College Presentation Document*, p.15

18 *Transcript of Evidence*, Pstr Millis, CHC, 8 August 2002 p.14

19 *Submission 1A*, Tabor College, p.9

1.34 While the Committee majority agrees that research is an important part of any higher education institution, and is critical to the provision of high quality postgraduate degrees, it accepts the view that coursework-based research is more relevant to the needs of students likely to be attracted to Tabor College and CHC, whose focus is primarily vocational. For this reason the Committee majority takes seriously the assurances that the quality of teaching programs in Tabor College and CHC is of paramount importance.

Administrative accountability

1.35 The Committee received evidence and submissions in relation to the administration and governance of private education institutions. In particular, the committee considered whether the private higher education institutions which are included in the bill should be subject to similar scrutiny as the public institutions whose students are eligible to receive PELS.

1.36 At a level of general principle, three of the four institutions – Tabor College, CHC and MCD – acknowledged that if they were to receive public funding, they should be subject to the same processes of accountability as apply to public universities in receipt of similar funding.²⁰ On the basis of their evidence, the Committee majority was satisfied that Tabor College, CHC and MCD were aware of their accountability obligations. Bond University is already subject to stringent accountability measures.

1.37 The Committee notes that there are a number of processes by which universities are accountable to government. One of these is the process of discussing ‘Educational Profiles,’ where universities and the Department of Education, Science and Training consider the university’s performance according to six general themes:

- A statistical return covering teaching and the number of student places;
- A research and research training management report;
- A quality assurance and improvement plan;
- An equity plan;
- An indigenous education strategy; and
- A capital management plan.²¹

1.38 For universities, the outcome of its profile discussion assists in the determination of funding for the institution. While the four institutions subject to this bill are ineligible for much of this funding, the Committee considers that development of a profile, and participation in a profiles discussion with the Department, could have significant benefits for the institutions, while also providing a measure of accountability for the government. Successive profiles which indicated progress in the areas of research and equity, for instance, would allay some of the principal concerns noted elsewhere in this report.

20 *Transcript of Evidence*, 8 August 2002, pp6-7, various places.

21 Department of Education, Science and Training, www.dest.gov.au

1.39 In addition, the institutions may also benefit from audits by the Australian Universities Quality Agency (AUQA), whose role is to audit the accreditation processes of all self-accrediting institutions (including Bond University and MCD). The Committee considers that extension of AUQA's role to include audits of Tabor College and CHC may have benefits for the institutions and for Government.

1.40 The Committee considers that this profiling process need not be an instrument to control or direct the institutions, but rather an annual opportunity for reflection on the institutions' performance, and an avenue for accountability in the expenditure of public funds.

1.41 Finally, the Committee noted the suggestion of the NTEU that institutions receiving Government funding should have 'transparent governance structures, including external representation which is representative of the broad public interest.'²² The Committee majority notes that Bond University's Council contains provisions for significant outside representation. Tabor College, in evidence, stated that it 'would not have any problems' with the inclusion of community representatives and prominent citizens on its Board.²³

1.42 The Committee considers that both the institution and the community benefit from the inclusion on governing councils of prominent citizens who can represent the community's interest in a strong and diverse education sector.

Admission Procedures

1.43 The Senate Selection of Bills Committee has suggested that this Committee consider 'public support of discriminatory selection criteria.'²⁴ Three of the four institutions subject to this bill (Melbourne College of Divinity, Christian Heritage College and Tabor College) clearly have a religious mission. Theology and related studies are core elements in their curriculum, and a number of their courses, for instance, the Master of Ministry program, or the Bachelor of Divinity Program, are unlikely to appeal to those who do not share Christian beliefs.

1.44 The Committee found that two of the four institutions, the Melbourne College of Divinity and Bond University, have explicit non-discriminatory practices written into their foundation Acts.

1.45 The Committee noted that Tabor College and the Christian Heritage College retain policies which may, according to some interpretations, have in a discriminatory result. In its submission, CHC described a process of 'informed self-selection' where the College 'seeks to assist students to come to a decision as to whether CHC is the appropriate institution in which to undertake their studies.'²⁵ Implicit in this process of 'informed self-selection' is the probability that non-Christian applicants will look elsewhere for their education. The Committee majority views this as no more discriminatory than, for instance, the Royal Military College refusing to admit a candidate on the grounds of their declared pacifism.

22 *Transcript of Evidence*, Mr Simon Kent, NTEU, 8 August 2002 p.21

23 *Transcript of Evidence*, Rev. Dennis Slape, Tabor College (South Australia), 8 August 2002 p.12

24 Report No. 4 of 2002

25 *Submission 8*, Christian Heritage College, p.10

Should non-Christian applicants undertake this process of ‘informed self-selection’ and still proceed with their application, the CHC would apply the following provisions:

In its Business and Social Science programs, and in its postgraduate Education programs, the College might give preference, all other factors being equal, to applicants who provide evidence of their Christian convictions, but the College does not exclude from consideration applicants who do not provide such evidence.

[...] In relation to undergraduate teacher education programs and to ministry programs, the College considers that this process of informed self-selection is generally effective in informing potential applicants about the institution and its courses, and assisting in decision-making. However the College would assert both a right and a responsibility to differentiate more actively; that is, not to accept an applicant on religious grounds in certain circumstances.²⁶

1.46 If the circumstances included a demonstrated antipathy towards Christianity, or towards the philosophy of the institution as manifested in the course content or the course objectives, exclusion would not appear to be unreasonable.

1.47 In its response to a question on notice from the Committee, CHC stated that this discrimination is not unlawful under Queensland law. The Committee agrees that the Queensland *Anti-Discrimination Act 1991* provides:

An educational authority that operates ... an educational institution wholly or mainly for students of a particular ... religion ... may exclude ... applicants who are not of the particular ... religion.²⁷

1.48 Tabor College includes, in the *Tabor College Australia Handbook*, the following admissions policy:

For entry into a Tabor College course, an applicant is normally required to have:

- at least twelve months' experience as a committed Christian;
- a satisfactory interview with a faculty member; and
- a minister's reference endorsing the entry application.

However, the Faculty Committee reserves the right to waive any of the above entry requirements when it is satisfied that the ability, experience and spiritual standing of an applicant are sufficient to give the applicant a good chance of completing the desired course successfully.²⁸

1.49 In evidence, Tabor College suggested that ‘if we had non-Christian persons wanting to come into one of our programs, depending on the nature of the program, we would be

26 *ibid*

27 *Anti-Discrimination Act 1991* (Qld) s.41. The words omitted from this quotation refer to exemptions on the grounds of sex and impairment. These were removed for ease of reference.

28 Online, http://www.tabor.edu.au/handbook/handbook_general_course_information.html#entry

prepared to look at those situations on an individual case basis ... We have taken in a handful of students over the years who were not, as you would term it, Christians ...'²⁹

1.50 The Committee also noted the evidence of Dr Geoffrey Madigan, President of Avondale College, an institution already funded under the *Higher Education Funding Act 1988*, in regard to discrimination on the basis of religion:

In regard to some of the selection criteria you have been suggesting this morning, for instance a religious test or a religious ethos of an institution, if for some reason a whole lot of people who did not share that ethos chose to enrol in it, that could change the nature of the institution such that it was not what it had been set up to be.³⁰

The Committee majority respects the desire of religious institutions to retain their faith-based character. Further, the Committee respects the contribution which various religious bodies have made, and continue to make, in all levels of education in Australia. The Committee notes that the admission procedures of the institutions have not resulted in the emergence of discrimination as an issue for applicants. The Committee also notes the continuing obligation upon institutions to comply with all relevant State and Commonwealth equal opportunity legislation following the enactment of this bill.

Recommendation

The Committee recommends that the bill should proceed.

Senator John Tierney
Chair

29 *Transcript of Evidence*, Rev Dennis Slape, Tabor College (South Australia), 8 August 2002 p.13

30 *Transcript of Evidence*, Dr Madigan, COPHE, 8 August 2002 p.43