

**A SUBMISSION BY THE  
NEW ZEALAND BUSINESS ROUNDTABLE**

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**TERTIARY STUDENTS ASSOCIATION VOLUNTARY  
MEMBERSHIP BILL**

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**AUGUST 1997**

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### **1.0 Introduction**

- 1.1 This submission is made by the New Zealand Business Roundtable (NZBR), an organisation of chief executives of major New Zealand businesses. The purpose of the organisation is to contribute to the development of sound public policies that reflect overall New Zealand interests. The NZBR has had a deep involvement in education issues and our interest in the bill is motivated by its implications for both the welfare of students and the operations of tertiary institutions.
- 1.2 The NZBR believes membership of students associations should be voluntary and supports the general thrust of the bill. We do not wish to comment on its detailed provisions. However, we note that the present bill differs from the one introduced by Mr Michael Laws in 1994 in at least two important respects. First, it allows tertiary institutions to impose a levy for services they consider need to be provided as part of a tertiary education. This was not permitted under the Laws' bill, and could have been regarded as an infringement of institutional autonomy. Secondly, it provides for a transitional period to allow students associations to prepare for voluntary membership. We support both these provisions.

### **2.0 General**

- 2.1 Compulsory students association membership is an anachronism. Students associations are incorporated societies formed by members with common interests and are akin to the Automobile Association, the Consumers' Institute, staff associations and sporting clubs. Like many other associations, they have two basic roles: the provision of services to members and a representational and advocacy function. Similar associations operate without compulsory rules. In recent years there have been moves away from compulsion in the few cases where it has applied e.g. membership of trade unions, Federated Farmers and the former New Zealand Society of Accountants. There have to be exceptional circumstances (e.g. consumer protection in the case of professions such as medicine) to justify compulsory membership of any association. No such circumstances apply with students associations. The states of Victoria and

Western Australia have introduced voluntary students association membership in recent years.

2.2 Whatever the strict legal position (e.g. in relation to United Nations conventions), compulsory membership of students associations does not sit comfortably with the principle of freedom of association in a democratic society. This is especially true of higher education which is - or should be - characterised by an environment of individual and intellectual freedom. Three counter-arguments in defence of compulsion that are sometimes put forward are unconvincing:

- (i) It is sometimes claimed that tertiary institutions (through their councils) should be free to determine whether students association membership should be compulsory or not. To deny them this opportunity is claimed to be a denial of free choice. Given the quasi-monopoly position in higher education enjoyed by state institutions and the unequal basis of competition with the private sector, this claim is spurious. It is quite contrary to democratic principles to vest powers of coercion in non-elected state-controlled institutions. Individual autonomy should prevail over institutional autonomy. Decisions about voluntary or compulsory membership of students associations at institutions in which the vast majority of tertiary students in New Zealand are obliged to enrol in order to gain a degree or diploma should properly be the responsibility of parliament.
- (ii) A variant of this idea is the claim that if a majority of students at an institution support compulsory membership, they should not be prevented from adopting such a rule for their association. Again this is the inverse of normal practice in a free society. Nobody should be compelled to join any association as a result of a 'tyranny of the majority' unless there is an exceptional case for coercion. It is most unlikely, for example, that academic staff would accept such a rule for their associations. For this reason the idea of holding referenda to determine whether membership should be voluntary or compulsory is also undesirable. A further practical problem with it is that it could lead to reversals and mean associations would be unable to plan on a stable basis.

- (iii) It is sometimes claimed that compulsory membership does not breach freedom of association principles because conscientious objection provisions apply. A first response is that gaining exemption on those grounds often involves arduous and time-consuming procedures for no financial benefit (students are not normally refunded their fees). Much more importantly, it would be absurd to argue that all motorists should be forced to join the AA unless they were exempted on grounds of conscientious objection. Attending a tertiary institution is not remotely comparable to being drafted into the military or sent to war.

2.3 In summary, attempts to justify compulsion on the basis of legal and democratic principles rest on very shaky grounds.

### **3.0 Arguments for Compulsory Membership**

3.1 Support for compulsion often arises because a narrow group of students (particularly those involved in student politics) receive disproportionate benefits and lobby vigorously to maintain them, while the costs are diffused among the student body at large. This means there is little incentive for individual students to resist association pressures. To determine whether there are compelling practical arguments for retaining compulsory membership, it is necessary to:

- examine the nature of the services actually provided by students associations;
- consider whether they might improve or deteriorate if membership became voluntary; and
- evaluate the trade-offs (if any) involved.

3.2 The first role that students associations have assumed, as identified above, is the provision of services such as cafeterias, bars, newspapers, recreation centres, creches and campus clubs. All of these services can be directly charged for, and commonly are, in whole or in part. They can also be financed by voluntary club subscriptions. They do not have to be financed through compulsory fees, as non-members can be excluded from benefiting from the services. There are off-campus alternatives to virtually all these services and some on-campus ones as well.

3.3 A move to voluntary students association membership would be likely to see the following changes:

- (i) greater efficiency in the provision of services: some of those provided by students associations have been notoriously badly run and have often lost money. Some may be privatised or contracted out. It is likely in general that costs will go down;
- (ii) more efficient and fairer charging policies. At present many students do not use many of the services for a variety of reasons - they are located on campuses away from the campus at which they are studying; they are caregivers, mature students or part-time students with little time or desire to avail themselves of students association facilities; they prefer off-campus alternatives, and so forth. Yet at present they are obliged to subsidise such services through the association fee. Greater recourse to user charges and voluntary subscriptions would not only be fairer but also encourage those running the services to be more responsive to students' more diverse needs. Associations could continue to subsidise services from membership fees if they wished. One likely strategy would be to apply higher charges for non-members and discounted rates for members as an inducement to membership; and
- (iii) reconsideration of whether some services should be provided at all by the association, for example if they were unprofitable and/or if substitute services were available. However, if services were discontinued and if the institution considered they were an essential part of its package of educational offerings the bill would allow it to finance them from its own resources or from a special levy or a general amenities levy. A number of institutions fund services such as health and counselling through a levy on students which is totally separate from the students association levy. Even a hardship fund could be provided in this way.

3.4 Thus we see no reason to suppose that valuable student services would be curtailed with voluntary membership and every reason to suppose they would be provided on a fairer and more efficient basis. The University of Waikato's experience to date with the scheduled move to voluntary membership bears this out. Voluntary associations and tertiary institutions would between them clearly have means of ensuring students are not denied access to services because of hardship. The services in question are largely private goods and

we believe they would be provided more effectively in a voluntary membership environment.

- 3.5 The second main role of students associations is to provide representational and advocacy services. Many of these are also in the nature of private goods and the benefits can be restricted to association members. Advocacy in the event of a grievance, for example, benefits the student concerned. Advocacy services could be provided by an association and be an inducement to membership. Alternatively, a student might go instead to a relative, a lawyer or another professional. Where the service is more in the nature of a public good, in that the benefits (e.g. of the work of an education officer) accrue to non-members as well, there is no reason why it would not be supported voluntarily by many students who value it. The Waikato Students' Union, for example, plans to maintain a position of education coordinator.
  
- 3.6 It does not follow even in the case of pure public goods that compulsion is necessary. The Business Roundtable, for example, provides no core services that could be charged on a user-pays basis to individual member companies. It is engaged only in research, policy analysis and representation and advocacy functions. The benefits to its members of its contribution to promoting better public policies are indirect and long-term in nature. Yet it has no difficulty attracting membership from the chief executives of most major companies. Only a minority of potential members have shown no interest and, in effect, been 'free-riders' on policy improvements that the NZBR may have helped to bring about. Its purely voluntary nature means that it has to perform effectively to maintain support and that it genuinely represents its membership - anyone who disagrees with its views is free to leave or form an alternative organisation. Thus the so-called 'free rider' problem associated with voluntary organisations producing services of a public goods nature is often overstated. Those who get value from a service have an incentive to contribute to it if they want it to be continued or enhanced.
  
- 3.7 One of the major difficulties with compulsory students association membership is that associations cannot effectively represent student opinion on many topics. Student opinion is often diverse, yet compulsion means students have no means of disassociating themselves from the views of their 'representatives'. This problem has become more troublesome as students associations have become involved in many issues removed from the campus - international affairs, the Treaty of Waitangi, MMP, nuclear issues, marijuana,

and the superannuation referendum being recent examples. The point is not that students associations should keep out of such issues. If membership were voluntary they should be free to do so if their members wished, and in that event they would be clearly accountable to their membership for their stances. Rather, the point is that it is abhorrent that students who may disagree strongly with the positions taken by their association on sensitive political, social or moral issues are forced to contribute resources to it. The problem is compounded by the typically low turnout for students association elections and meetings. This cannot be taken to indicate apathy or acquiescence in association affairs; more likely it is an indication that many students have a different set of priorities. Getting involved in student politics - attending meetings, cultivating allies, organising voters and so forth - is not one of them. Their reasons for enrolling in tertiary institutions are primarily educational.

- 3.8 Our conclusion on representational and advocacy services is that they would be supported by many students on a voluntary basis if associations were effective and responsive to their needs and views. While membership might fall, the 'representative' quality of associations would rise - politicised elements of the student body would find it harder to impose their views on others. If the main association did not reflect student views it would suffer membership losses and alternative associations could be established. The discipline of membership losses, however, would be more likely to lead to adjustments in the association's stance than to fragmentation of representation because of the economies associated with running a larger body.

#### **4.0 Other issues in the Debate**

- 4.1 Claims have been made that without compulsory membership tertiary institutions would have difficulty knowing how to obtain student representation or input - on councils, academic boards, faculty committees and the like. Similar claims were made by some employers in the debate over labour market deregulation - they wanted the government to legislate to ensure they only had to deal with one bargaining agent. The government wisely told employers that it was their job to get on and manage such relationships - which in practice they have done without difficulty. There are many formal and informal ways in which institutions can obtain student input. The University of Waikato has agreed to recognise and support the students association and the University of Otago formally recognises both the Otago University Students' Association and the Maori students' association. If student representation on councils is continued,

one simple option would be to hold an election to select the student representative(s), as the bill envisages. There is no difficulty obtaining staff representation on councils without membership of staff associations being compulsory. Like good employers, tertiary institutions should make a point of having good communications with their clients/staff in a variety of ways; they should not consider the task is fulfilled simply by dealing with a 'representative' elected group.

- 4.2 Some have argued that the performance of students associations would not improve under voluntary membership - that costs would go up with a fall in membership. However, choice and competition typically force organisations to improve their performance, and there is no reason to think that students associations are an exception. Waikato is now a practical example which does not bear out the argument that costs increase in the absence of compulsion. The association has reduced its fees by 22 percent, making it the cheapest university students association in the country at \$70. The fee is expected to drop to \$30 *without* a reduction in services. The services will still exist, but be provided more efficiently and in a student-focused manner.
- 4.3 A final important argument for the introduction of voluntary membership is to help preserve freedom of thought and debate on campuses. As associations have become more politicised they have frequently attempted to suppress expressions of view that run counter to official association thinking. An example is the issue of voluntary membership itself. In 1994 the presidents of the New Zealand university and polytechnic associations sought to ban Mr Laws from discussing his bill on campuses. They instructed their member associations as follows:

Students are quite able to debate the issue without the promoter of the Bill putting his obviously biased point of view. The simplest way of dealing with this invitation is to decide that you have no need for him to 'explain' his Bill.<sup>1</sup>

Voluntary membership would be likely to foster a more open and tolerant culture on campuses, and one less prone to excesses of 'political correctness' which are inimical to free thinking and expression.

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<sup>1</sup>

*Salient* 3, April 1994.



## 5.0 Conclusion

- 5.1 We have no doubt that students associations would survive and flourish in a voluntary environment. Claims that were made about the demise of trade unions if their monopoly privileges were removed have been shown to be unfounded. The unions that quickly accepted the need to adjust and to tailor their services to their members' needs have been the most successful. Membership of students associations might well fall, like membership of trade unions, but in both cases membership in a voluntary environment would consist of those who obtained genuine benefits from their fees - there would no longer be 'forced riders'.
- 5.2 Despite the fact that polls have shown majority support by students for voluntary membership (as did former polls of trade union members), and that one university has abolished compulsion, we expect students associations and the councils of universities and other tertiary institutions will oppose the present bill. As one study of the issue concluded:

University councils are extremely conservative, if not reactionary, bodies. Like public monopolies, they seek "modest profits and a quiet and comfortable life" and aim to foster peace and stability in the affairs of the university - even at the expense of human rights. This means not upsetting vested interests like student unions which will create such an uproar should their compulsorily-extracted income be replaced by an income dependent on their actual appeal to students.<sup>2</sup>

Similarly, Peter Costello, the deputy leader of the Liberal Party in Australia and himself a former students association president, has written:

Although universities jealously guard their independence, their rights to free enquiry, and their rights to free speech, it seems they are all too willing to compromise their students' rights to freedom of association. ... University administrators (including vice-chancellors) have been all too willing to play bag-men in this enterprise.<sup>3</sup>

The NZBR submits that a move to voluntary students association membership should be seen as part of a strategy for changing this culture, and for modernising and upgrading the environment in which tertiary institutions operate. We hope the government will pursue such a strategy as part of its current tertiary review.

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<sup>2</sup> Stephen Kirchner, 'Implementing Voluntary Student Unionism', *Compulsory Student Unions: Australia's Forgotten Closed Shop*, p. 58.

<sup>3</sup> *Ibid.*, p. vii.