

UNIVERSITIES LEGISLATION AMENDMENT BILL 2016

Second Reading

Resumed from 19 May.

DR A.D. BUTI (Armadale) [1.17 pm]: I am the lead speaker for the opposition on the Universities Legislation Amendment Bill 2016, which seeks to do a number of things. I will briefly mention the opposition's position on this bill. This bill seeks to amend a number of statutes that govern the various universities in Western Australia, such as the University of Western Australia Act 1911, the Curtin University of Technology Act 1966, the Murdoch University Act 1973, the Edith Cowan University Act 1984 and the University of Notre Dame Australia Act 1989. The bill also contains provisions for consequential amendments to 10 associated acts, and the repeal of two acts.

This bill seeks to make common amendments to the various university acts, as well as some amendments specific to various acts. I will briefly mention them, but I will not discuss them in any detail. The University-specific amendments contained in this bill include changing the name of Curtin University of Technology to Curtin University; repealing certain provisions and amending others in the Curtin act related to the university's vocational education and training operations in Kalgoorlie; and amending the Edith Cowan act so that the boards of the south west campus in Bunbury and the Western Australian Academy of Performing Arts become advisory bodies without management functions. The sole substantive amendment to the Notre Dame act is the deletion of a provision that no state moneys be appropriated for the purposes of the university. The opposition is generally supportive of the bill, but we will be moving some amendments on the composition of the governing bodies of the various universities, and we will be opposing the amendment that seeks to reduce the 50 per cent floor on the movement of student amenity fees from the universities to the student guilds.

This is an incredibly important bill, because universities have a very important role in the economy and in our cultural and social systems. Personally, I have a great love of universities, having spent a considerable time in universities as both a student and an academic. I should state that I still remain an honorary fellow at the University of Western Australia, and occasionally engage in intensive teaching, and recently I taught in an intensive course at Murdoch University. However, I do not think that precludes me from speaking on this bill or that it constitutes a conflict of interest. In fact, the University of Western Australia in many respects did not want this bill; it is not as supportive of the need for this bill as are some of the other universities. As I said, universities are very important, and becoming more so as we seek to diversify our economy away from being overly reliant on natural resources. If we are seeking to be innovative and to diversify our economy, our universities become very important. I share an academic history with the Premier himself. Was the Premier involved as a lecturer with UWA or Curtin?

Mr C.J. Barnett: I am a UWA graduate, but I taught at Curtin.

Dr A.D. BUTI: Yes, that is right. I am a UWA graduate, and also a graduate of a couple of other universities, including the Australian National University and an overseas university. I taught at Murdoch University and UWA. I have to say that an academic has a very privileged existence, and I thoroughly enjoyed that job. However, the politics of this place is nothing like university politics. The politics practised by academics can be incredibly vicious at times and very personal. One may say that it is a very good grounding for this place; I think that this place is a bit more civilised at times than the university.

Mr C.J. Barnett: I have a very close friend, an American professor, who used to say to me that there is only one thing more complex in the politics of higher education, and that is the politics of higher religion.

Dr A.D. BUTI: That is right, and I think it was an academic who said that academics were inclined to fight so viciously over so little. I think that is because academics have a lot of time on their hands, and they are very reflective and so forth.

Back to the bill before the house. The amendments with a common function in all the various statutes governing our universities can be basically split up into a number of categories, such as the commercial activities and financial borrowing arrangements of universities; the composition and remuneration of governing bodies of universities; the student services and amenity fees; and the provision for the tabling and disallowance of statutes. I will deal quickly with the last category, which is quite simple. This bill seeks to amend the existing university acts by inserting a provision that, once a university statute has been gazetted, it is subject to the Interpretation Act 1984 as if it were a regulation, and, as such, it is a disallowable instrument. That takes care of that part of the bill, which we will not be opposing.

In dealing with the commercial activities and financial borrowing arrangements of universities, it is interesting to look at the histories of the various universities and their current structures. Our oldest university is the University of Western Australia. It is no doubt the most prestigious university in the Western Australian system

and also the wealthiest. The university was endowed with considerable land grants. For instance, Murdoch University was built on former UWA land, as were the residential colleges and the campus of Corpus Christi College. UWA has had a fairly privileged existence, and has often been referred to as the university of the western suburbs. Compared with the other university law schools, the law school of the University of Western Australia has a higher proportion of students with private educational backgrounds.

This bill seeks to change the name of Curtin University of Technology to Curtin University. Most of us here are old enough to know that the university was originally the Western Australian Institute of Technology, and then became Curtin University of Technology, and now this bill seeks to change the name to Curtin University. It is an interesting move to delete the technology part of the university's name. Maybe the word "technology" can be seen to degrade the intellectual quality of the university. However, as we all know, one of the greatest universities or learning institutions in the world is MIT—the Massachusetts Institute of Technology. There is no particular reason that, just because an institution has the word "technology" in its name, it is not a higher education establishment of some note.

Murdoch University opened in around 1973, as I said, on land purchased from the University of Western Australia. When Murdoch University commenced, its focus was on veterinary science. That was the driving force behind Murdoch University, and from that it mushroomed out into a number of courses, and now it runs a full range of university courses. Murdoch University was built at a time when there was a view that we should be building universities on the periphery of the metropolitan area to try to stimulate development, residential complexes and commercial activity. Of course, Murdoch is no longer on the periphery of the metropolitan area, but I remember in 1983 or 1984, when I commenced my teaching career at Corpus Christi College, which was just around the corner from Murdoch University, how small the university was. After teaching, I used to go and use the gym at Murdoch University, which was very small at the time, but it has now grown to be a fully-fledged university. Murdoch University has always suffered from that problem. That brings me to the issue of commercial activities. Murdoch University is a very large campus. When it commenced it was a vet science-driven university and it needed large grounds to house animals and so forth. I know Madam Acting Speaker (Ms L.L. Baker) has been very interested in the welfare of the animals at Murdoch University. Overall, one cannot doubt their welfare and the conditions in which they are kept. In the early days Murdoch University had a very small student population on a very large area of land and it was very expensive to maintain the land. It was surrounded by a lot of natural bush. A lot of that land had to be maintained for agricultural and other purposes and very little income was generated from the small student body to cover the cost of maintaining that land. At that time the vice-chancellor, Professor Schwartz, who was not necessarily the most popular vice-chancellor ever, was in many respects an innovator. When I started my academic career at Murdoch University, he was vice-chancellor of the university. Personally, I found him to be very forward looking and quite amenable, although I must admit that I fell asleep when listening to him once when he was only two metres from me. It had been a very hard day and I just could not keep my eyes open. But he never said anything, so I give him full marks for that. His view was that the university needed to develop into a vibrant village. There were not a lot of activities for students at that time and he put in place the process that led to the development of the St Ives retirement village. Since then the Western Australian Cricket Association has set up a training facility at the university and, of course, because it is very near the Fiona Stanley Hospital complex, one would think that there will be natural synergies between Fiona Stanley Hospital and Murdoch University.

Mr C.J. Barnett: The proposal for a petrol station on the campus was a bit of a stretch; that was hard to justify.

Dr A.D. BUTI: That is exactly right. A high school, Murdoch College, was also located on the campus, and the students doing year 11 or 12 at Murdoch College were able to attend lectures at Murdoch University. For some reason that school is now closed and has been re-established in the city. I am not sure what happened there.

I remember that development at the university occurred when I was teaching a course in equity and trusts and it made me think about the *Truman Show*, which starred Jim Carrey and which was all about a make-believe town. I thought that a person could be born across the road from the university at St John of God Hospital—because there was no Fiona Stanley Hospital at the time—go to child care at Murdoch University, then go to Murdoch College, then to Murdoch University and then get a job as an academic at Murdoch University and retire to St Ives retirement village. All that would be needed then would be a cemetery on the grounds and a person would not need to leave the grounds of Murdoch University. People could just stay within that safe complex, surrounded by Murdoch Drive and South Street. In fact, I set an exam question based on that proposition.

That is Murdoch University. Then of course we have Edith Cowan University, which, under the Dawkins reforms, was an amalgamation of a number of teaching colleges and what were known as colleges of advanced education.

Mr S.K. L'Estrange: There was nursing as well.

Dr A.D. BUTI: Yes, but were they not originally only teaching colleges? I think so. From memory, ECU was made up of Claremont, Nedlands, Mt Lawley and Churchlands teachers colleges.

There was a lot of debate about the Dawkins reforms and whether they were the right way to go or not, but of course it was all about economies of scale. Many held the view that colleges of advanced education did not deserve to become universities, but that was only intellectual snobbery. The Western Australian Academy of Performing Arts is now one of the top 20 schools in the world. No doubt one of WAAPA'S benefactors Hugh Jackman surely helps give respect to that institution.

The problem with the current legislation that governs universities is the inability of universities to engage in commercial activities. Generally, an educational purpose or university function needs to be attached to a commercial activity within a university. This bill will make it easier for universities to engage in commercial enterprises. Curtin University—that is, Curtin University of Technology, which is to become Curtin University when the bill is passed—and Murdoch University are particularly keen for this legislation to pass, because their proposed master plans are dependent on the engagement of their universities in commercial activities. This is not an issue at all for the University of Western Australia, but it is an important issue for other universities. This bill seeks to streamline the ministerial approval process. I will not go through that at this stage, but it is basically a three-step process: firstly, approval is sought in principle from the minister; secondly, an advanced determination is made by the minister; and, finally, the approval from the minister is granted. The bill will enable universities to skip steps one and two and the minister will be able to vary the terms of the approval.

There is also an issue with universities being able to borrow money. Under the bill, universities will be able to seek from the Minister for Education and the Treasurer a guarantee on borrowings. It is that provision that makes this bill a money bill and is the reason it has been instigated in this chamber first rather than in the other place.

I do not want to make a big issue about this, but it is arguable that some of the commercial ventures Murdoch University has engaged in may be ultra vires, or without authority under the act. The bill is not retrospective, so whether they are ultra vires, this bill makes no difference. However, it will be a lot easier going forward for the universities to plan commercial activities.

Some argue that universities are places of learning and should not be involved in commercial activities, but it is the reality that universities are now receiving less and less commonwealth funding. State funding of universities is minuscule compared with commonwealth funding. Many years ago, 80 to 90 per cent of funding for universities came from the government purse; now it is about 25 to 35 per cent. Therefore, the need for universities to engage in commercial enterprise is greater. I think that as long as that commercial activity is not contrary to the mission or objectives of the university and will have some positive effect on the ability to provide high-quality education, we have no reason to oppose such a move. All one needs to do is visit the USA. Of course they have high tuition fees in the US, but a lot of their great universities engage in commercial enterprise without that affecting education delivery to students. One would argue that greater funding from outside sources is needed to improve the quality of education services to students. There is no doubt that our universities are really struggling at the moment to generate enough revenue to be considered world quality universities. I note that in the recent world rankings, UWA went down the rankings—I am not sure to what number.

Mr C.J. Barnett: I think it is about 96.

Dr A.D. BUTI: Ninety-six, is it?

Mr C.J. Barnett: It is just under 100.

Dr A.D. BUTI: It is just under 100, and that is the highest ranking university in Western Australia. I think the highest ranking university in Australia is the University of Melbourne or the Australian National University.

I think it is important that universities have the ability to obtain revenue outside government sources. Arguably, there is a question about the quality of education being received by students, because one of the ways that universities raise revenue now is by increasing class sizes; they take in more and more students. I remember when I started my university academic career in 1997, I had a core teaching class in law of no more than 80 or 90 students, but by the time I left, there were about 350 or 400 students whom I would only ever see on day one and on exam day. That cannot be good for high-quality education. Then there is the issue about online learning and so forth. I am a traditionalist with university education. I consider myself to be quite a progressive and innovative person, but I believe there is a need for face-to-face education in a university education. I really am concerned about this online emphasis, because it is obviously cheaper, but also students think differently nowadays. They seem to want to have a full-time job and study full-time at the same time. I worry. I lament the way that university education is progressing in Australia, and I do not think it is different anywhere else. At universities such as the University of Oxford, the University of Cambridge or Yale University, it just would not be thought of that a student would not attend class, and the classes are much smaller. It would be fantastic to get back to that, but we probably will not. We need to do what we can to try to stimulate the ability of universities to

obtain greater revenue sources. As I said, we are in agreement on the provisions enabling universities to engage in commercial enterprises and on the borrowing arrangements.

There is an issue about whether the governing bodies of universities are called councils or senates. There was always a concern about whether people who sat on the senates or councils could be paid. This bill makes it quite clear that they will be eligible for remuneration, as the Salaries and Allowances Tribunal will have responsibility for the remuneration of the people on these governing bodies.

Mr C.J. Barnett: Do you think they should be paid?

Dr A.D. BUTI: I do not personally think there is a need for them to be paid, but the issue then is that if they are paid, will that improve the quality. They will not get a lot of money anyway. People will sit on university bodies because they want to sit on university bodies; they see it as something that they want to engage in.

Mr C.J. Barnett: I see a university as a bit like a very sophisticated not-for-profit.

Dr A.D. BUTI: Yes; it is an interesting one.

We have received representation from the National Tertiary Education Union, the various guilds and some universities about the composition of the governing bodies. This bill seeks to reduce the maximum size of governing bodies to 17 members. I think that is a good idea. That is the size of cabinet, which runs the state.

Mr C.J. Barnett: And that's hard enough to run!

Dr A.D. BUTI: These governing bodies will be the size of cabinet. At the moment, they are much larger than that. Some of the governing bodies have up to 22 members. We have received representation on, and have some concerns about, the issue of the composition and we will move some amendments in that regard. Briefly, the University of Western Australia Student Guild is concerned about the proposed composition under the bill because its numbers will be reduced from three to two members and it wants to maintain its three members. Interestingly, under the bill, there will be an undergraduate student and a graduate student or postgraduate student. Of course, under the UWA model, which is based on the Melbourne model, which is the United States model, a student must have an undergraduate degree before they can do law, education, engineering et cetera. There will be a lot more graduates, so the composition may change depending on the number of graduates and undergraduates. We are very supportive of the need for the student representation to be maintained on these governing bodies, so although the overall size will be reduced from 22 in some cases to 17, there will still be two students on the governing body, which means that the proportion will remain the same. However, we will move some amendments about the academic or staff representation.

Of course, as I stated before, Australian and Western Australian universities are incredibly important institutions in our higher education system, but also for our economy, community services and international relations. It is very important that the staff representation on these governing bodies not be diluted. The bill proposes that we reduce the current number of 19 to 22 members to 17 members. At the moment, the UWA senate and Murdoch University council each have three elected academic staff members, and the Edith Cowan University and Curtin University councils each have two elected academic staff members. At UWA, there will be a reduction from the current four members to two, and the fact that the student representation also will be reduced means that there will basically be a 75 per cent reduction in the elected staff and student representation on the governing body, and that is quite significant. We do not propose to change the bill's proposal on student representation; we think that is incredibly important. In the main, the student proportion will not increase. However, we are concerned about the staff representation reduction and we will move an amendment in that regard. We believe that for the proper governance and the democratic process of the universities, it is necessary to move these amendments.

I should say, though, that it can be quite difficult being a manager in a university situation. A dean of a law school, for instance—it has changed now—often had privilege but no power. I do not know the other divisions that well, but a collaborative consensus model is sought in the management structure in law schools. The dean often has to reach consensus with the staff, which I think is the right way to go, but often, of course, when they seek to engage in some reform, it can be quite difficult. For the governing structure of the overall university, it is incredibly important that the staff representation not be unduly diluted; therefore, we believe it is necessary to move an amendment to seek to preserve that representation.

Another area of the bill that is probably the most contentious as far as the opposition and all student guilds that have corresponded with the shadow Minister for Education are concerned is the student services and amenities fee. This is a rather complex area. At least one National Party member is in the house. I would be interested to know the National Party's position on the student services and amenities fee. As country members would know, students from the country who are living away from home rely on the services and facilities provided by guilds to a greater degree than metropolitan students. We hope that the National Party supports our opposition to that part of the bill. I am not sure whether the National Party has a position on this but, if not, it should seek to

formalise one. A debate has always gone on at a national level between the Labor Party and the conservatives about whether we should have compulsory student union fees. They were abolished under, I think, John Howard. The Gillard government brought back non-compulsory student guild fees but also a student services and amenities fee. However, we have stripped the parameters on how those fees can be spent by the guild. That is quite an important matter that raises possible constitutional issues that we will talk about briefly.

With regard to the student services and amenities fee, at the commonwealth level, the Howard government banned compulsory student union fees with legislation that prevented a university requiring a student to be a member of a student association, union or guild. It also prevented a compulsory fee from being charged for facilities, amenities or services that were not of an academic nature. We can debate compulsory unionism all day. At the university level the problem is that students are loath to hand over money, but they want the facilities and services, so it has created a bit of a problem. In 2011, the Gillard government brought in the Higher Education Legislation Amendment (Student Services Amenities) Act. Under this commonwealth legislation, universities can charge students the student services and amenities fee for student services and amenities of a non-academic nature such as sporting and recreational facilities—which is why I mentioned this to the National Party—employment and career advice, child care, financial advice and food services. The fees set out the maximum that can be charged by the university. In 2016 it was \$290 per student, and students studying on a part-time basis could not be charged more than 75 per cent of the maximum. It is important to note that at the commonwealth level, the fees that are collected can be used for only certain prescribed activities as set out in the legislation. They cannot be used for political purposes such as funding political parties or individuals seeking to run a political campaign. However, they can be used to provide food and drink for students on campus and care for the children of students. They can also be used to promote the health and welfare of students and to help students to secure accommodation. I am sure that the National Party would understand that students from the country, unlike students from the city who often live at home with their parents, have to live away from home and seek accommodation. The guild can assist to provide accommodation or a rent subsidy for these students through the student amenities fee. The guild can support the artistic activity of students and it can help students to develop the skills for study et cetera. The universities can choose to deliver the services and amenities themselves or to contract them out to a third party. At a state level, this bill does not limit how those student services and amenities fees can be utilised. The commonwealth legislation limits it to 19 activities but the bill before us does not provide any limitation on how those services and amenities fees can be utilised. The current legislation provides that 50 per cent of the student services and amenities fees collected by universities must be redistributed to the student guilds. However, this bill will remove that 50 per cent threshold, and we have major concerns about that.

Before I tell the house about some of the concerns relayed to us by the various student guilds, I will outline some of the incredible activities that student guilds provide for their students. For instance, Curtin Student Guild provides an amazing array of services to its students. It has built some fantastic facilities on campus including a number of cafes, and the fees have also been utilised to help country students. The UWA Student Guild provides funding for the Albany Students' Association. Curtin University's guild also assists with the Kalgoorlie students' association. It is good that we now have three National Party members in the house. It is really important and incumbent upon the National Party to support the opposition in opposing the bill's removal of the 50 per cent threshold limit on services and amenities fees being directed from the university to the student guild. If the National Party does not support the opposition's view on this, it will need to explain to its constituents and students why it does not support the opposition's refusal to allow the 50 per cent limit to be abolished. How could the National Party, which argues that it represents country people, not adopt the opposition's views on this and support country students? It has only to go to any student guild to see the number of activities and support that they provide for country students. For instance, Curtin University's guild assists with the Kalgoorlie student representation at the guild by providing an honorarium. It also provides a Kalgoorlie student assistance officer. The member for Kalgoorlie is not in the chamber, but I am sure she will support our opposition to the reduction of that 50 per cent limit. We have received correspondence from various student guilds such as UWA Student Guild. The UWA Student Guild has been very disappointed with the consultation it has had with the Minister for Education on its concerns with this bill. In its correspondence it states —

Section 28A removes the 50% minimum amount of the SSAF fee being paid to the Student Guild. In its place, the University has total discretion over funding allocations.

Members can see the problem here. If we remove the 50 per cent minimum amount that has to be allocated to student guilds and universities have complete discretion over funding allocations, that will allow them to offload those fees for any purpose they see fit. The UWA Student Guild stated —

This is an extremely concerning amendment given that the SSAF is a student fee levied to pay for crucial student support services and initiatives that complete the student experience and allow students to graduate as well-rounded individuals.

It continues —

At the UWA Student Guild, the SSAF is spent on a range of student-facing initiatives including:

- Electing and training student representatives.

Debate interrupted, pursuant to standing orders.

[Continued on page 5578.]