

AUSTRALIAN INSTITUTE OF TERTIARY EDUCATIONAL ADMINISTRATORS

NATIONAL CONFERENCE, FRIDAY 30 AUGUST 1985

UNION COLLEGE, UNIVERSITY OF QUEENSLAND

THE LAST OF THE FIEFDOMS?



AUSTRALIAN INSTITUTE OF TERTIARY EDUCATIONAL ADMINISTRATORS

NATIONAL CONFERENCE FRIDAY, 30 AUGUST, 1985

UNION COLLEGE, UNIVERSITY OF QUEENSLAND

THE LAST OF THE FIEFDOMS?

The Hon. Justice M.D. Kirby, CMG\*  
Chancellor of Macquarie University

AGENDA FOR CHANGE

I want to take this opportunity to put forward a number of propositions for your consideration. Many of them, I suspect, will seem shocking at first blush. First, I predict major changes in the administration of universities and colleges in Australia. The days when universities could be seen as extensions of the private schools, places for the privileged and wealthy, and as independent fiefdoms of opinionated academics are drawing to a close. Secondly, for good or bad, the price of huge public funding of Australian universities will be demands for greater openness of administration, accountability of officials and sensitivity to community needs and wishes. Thirdly, the challenge before us will be to keep academic excellence and the unorthodoxy that often breeds originality, whilst adjusting to the new financial environment.

Universities and other publicly funded tertiary institutions will have to confront an agenda of change in the years ahead. The changes have already begun. But more is to come and flexibility in administration will be imperative. Listing the

agenda for change, the following need to be considered:

- \* Introduction of open meetings of university councils and other governing bodies.
- \* Introduction of rights of access by staff to most personnel files.
- \* Increased opportunities of students to scrutinise examiners' reports.
- \* Rights to reasons for administrative and academic decisions.
- \* Impact of freedom of information legislation and the powers of the ombudsman to investigate complaints about universities.
- \* Provision of more than lip service to the principles of equal opportunity.
- \* Provision for appeals against non promotion of academic staff.
- \* Federal participation in governing councils, now predominantly appointed by State Governments.

EQUAL OPPORTUNITY: REAR GUARD RESISTANCE

As publicly funded bodies, educational institutions can not expect to escape the obligations of equal opportunity laws. Universities in Australia are probably only rivalled by the judiciary and the priesthood as the last bastions of male dominance. Only 2.4% of Australia's professors are women (8% if you include Associate Professors). This is utterly unacceptable, given the generations of distinguished women graduates.

I used to think that this ill balance would be redressed by attention to the appointments of selection committees. But

recently I had a rude shock. In offering a reference for promotion of a distinguished woman academic in one of our oldest universities, I spoke of her fine intellectual and teaching qualities. But I also had the temerity to suggest that, if, after considering the candidates, other things were equal, the committee might opt for her because she was an impressive, articulate woman, in a field of men. I received a letter and a telephone call of protest by a senior university academic (male). He accused me of interfering in the processes of his university. His extravagant accusation and outrageous language demonstrated how deeply resistant are some highly educated people to the notions of equal opportunity. I rebuked him. I told him that just as he claimed a right to his foolish views, I was obliged to express mine, when asked for an opinion. Needless to say my candidate was not promoted. I warned her this year that she should look elsewhere for a referee for plainly I did her cause no good. It is a mark of her character and courage - some would say defiant cussedness - that she asked me once again to referee her application. If such attitudes exist in universities, fueled sometimes by prejudice that clings to the right to do wrong, it does not offer much encouragement for the rest of the community.

Equal opportunity can not be used to diminish academic excellence. Nor is it confined to appointment of a few token women professors. The essential idea is the avoidance of stereotyping and appointment and promotion on merit.

CONFIDENTIALITY AND REFERENCES

A number of recent applications had been made for access to university records under the Freedom of Information Act. So far, such legislation governs only the Australian National

University and institutions in the ACT and Victoria. But freedom of information legislation will be enacted elsewhere in Australia and universities and other institutions should prepare for it.

Reports of decisions of the Administrative Appeals Tribunal concerning claims for access to referee's reports and examiner's reports in the ANU had indicated that the Tribunal would not abjectly accept University claims that all such records should always be kept confidential in the public interest.<sup>1</sup>

Universities, like business in Australia, are rather secret places. Their officers are all in favour of freedom of information - so long as it is someone else's information: particularly the Government's. What they fail to consider is that universities and other tertiary institutions in Australia are now over-whelmingly funded by the public purse. When you take Federal gold, you must comply with Federal standards of accountability. I have no doubt that we will see increased demands for access to personnel files, examiner's reports and the processes of appointment of academics, especially to senior positions. Whilst it is important to respect information supplied in confidence under the present rules, the point I am making is that those rules are likely to change. People's careers can be mortally wounded by an unfair, prejudicial or inaccurate reference that follows them around, unknown to them. There must be checks against this risk.

#### CHANGES ALREADY EVIDENT

In the twenty years I have served on University Councils of Sydney University, University of Newcastle and Macquarie University I have noticed considerable changes. However, I predict that more will come.

I have seen changes that would have been considered unthinkable under Sir Stephen Roberts at Sydney University in the 1950s. At Newcastle, the University Council meets, for the most part open to members of the University. So we do at Macquarie University. But this is still the exception for the governing bodies of Australia's tertiary education institutions. At Newcastle, a system for appeals against non promotion was introduced and in one case was successful. Because of the log jam in appointments I believe we should be more willing to consider reviews of this kind. We should also be more generous with personal chairs and titles, where they are deserved by academic contribution. Equal opportunity officers have been appointed in many institutions; but this is just the start. Students are now more aware of their legal rights. Exclusions of students on the grounds of blanket rules which limit the exercise of discretion stand the risk of being challenged in the courts. These developments simply reflect a better educated, less accepting community which is, partly, the product of the educational institutions themselves.

#### FEDERAL MEMBERS OF COUNCILS

It is surprising to me that university and college governing bodies still tended, over whelmingly, to be designed and appointed by State Ministers.

Nowadays, the new force in education in Australia is the Federal Parliament and Government. This will have many beneficial consequences. It will permit a national approach to the basic problem of under-educated Australia. But whether good or bad, it is now a permanent feature of funding of tertiary institutions today. There is an element of antiquity and irresponsibility in

the absence of Federal influence on all but a few of the tertiary institutions of our country. The statutes establishing universities and colleges have simply not caught up with the realities of today's educational funding. They remain the province of the States. There is surely, by now, room for recognising the realities and encouraging accountability by the facility of Federal appointments to governing Councils. This might also lead to "feedback" to the Federal Minister and Federal officials and promote a better understanding in Canberra of some of the problems of the daily administration of educational institutions. It could also help to make those institutions more responsive to national needs because more aware of the views on those needs held by the elected representatives of the people.

\*Personal views only. President of the Court of Appeal, Supreme Court, Sydney 1984- ; Judge of the Federal Court of Australia 1983-4; Chairman of the Australian Law Reform Commission 1975-1984.

1. See eg Healy and the Australian National University AAT, 23 May 1985, unreported (Mr. Deputy President, I.R. Thompson, Sir Ernest Coates and Mrs. H.E. Hallows), No N84/445.