

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE
Inquiry into exceptions and exemptions in the Equal Opportunity Act

Melbourne — 5 August 2009

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Ms A. James, president, and

Mr P. Stratton, general manager, Lyceum Club.

The CHAIR — I declare open the second day of the public hearings of the Scrutiny of Acts and Regulations Committee of the Parliament of Victoria inquiring into the exemptions and exceptions set out in the Equal Opportunity Act 1995. The exceptions and exemptions set out areas of activity where conduct that would otherwise constitute discrimination is nevertheless considered lawful under the Equal Opportunity Act. The committee has received over 1000 written submissions since it released its options paper in May.

The purpose of these hearings is to obtain further evidence from a representative selection of witnesses covering all points of view concerning the question as to whether these provisions should be retained, amended or repealed. Following these hearings the committee will hold a number of deliberative meetings to consider its recommendations as to whether any amendments should be made to the act. The committee intends to table its final report to Parliament in October this year.

The first witnesses today are from the Lyceum Club, Peter Stratton and Annie James. Thank you for attending the public hearings. I advise you that anything you say or publish before the committee today is protected by parliamentary privilege. However, once you leave the hearing, anything you say or publish outside this room is not so protected.

I invite you now to make a brief statement for the committee on the relevant issues that you consider are important to your organisation concerning this inquiry. That will be followed by questions from the committee. Thank you.

Ms JAMES — Thank you, Chair. Thank you all for the opportunity to speak in relation to section 78 exemptions and exceptions to the Equal Opportunity Act in regard to private clubs, and that is all we are discussing today. We believe exemptions and exceptions are integral to the Equal Opportunity Act in that they provide a balance between the rights and freedoms of individuals.

The Lyceum Club strongly supports a no-change option, which is option 1 of the options paper, and I would like to briefly present why. I presume you have all read our submission?

The CHAIR — Yes.

Ms JAMES — Thank you. I begin with a brief history. The Lyceum Club was established in 1912 for women — namely, artists, writers and professional women. It is part of the International Association of Lyceum Clubs and the Australian Association of Lyceum Clubs. There are 70 clubs throughout the world in 16 countries.

In 1957, having rented our premises since the inception of the club, the women of the club purchased land, personally designed our club and then paid for it to be built. In this regard we regard our club as a second home — absolutely. We have guests of any gender welcome at any time to our club, bar two very small occasions. We are a private association with members mixing with people of their own choice and on our own premises.

The reasons for our wishing to maintain the status quo are three, and we have elaborated on them in more detail in our submission. First of all, if we were to not have this exemption, we would forfeit our association with the Australian Association of Lyceum Clubs and the International Association of Lyceum Clubs and the benefits that come with that, which are outlined in our submission. I might say that the association would also be in jeopardy because we are the largest member in that association; we are the largest club, and we are the most active club in the association.

Our second reason for maintaining the status quo is that our primary role is to support women and to foster their interests in arts, literature, science and social concerns. The club promotes friendship, understanding and the pursuit of life-long learning. In fact our club complements the present government's initiatives relating to women. Women are singled out, as you know, because the state government has a Minister for Women's Affairs, and we are supporting the government's recognition for the needs of individuals to at times socialise with people of the same sex. Those initiatives go across both genders because, as you know, the state government is also supporting men's sheds and other institutions which are not private clubs but are still areas that recommend, at times, people of the same gender mixing together.

Our third reason for maintaining the status quo is that members of private clubs have rights to freedom of association as set out by the Victorian Charter of Human Rights and Responsibilities and also the Universal Declaration of Human Rights. The Victorian charter states that no entity should have power to destroy these rights if no harm is done.

That is the end of my reasoning for maintaining the status quo. I might say it has been suggested that we may go to VCAT to apply for an exemption. The Lyceum Club strongly opposes this action. We oppose it because in relation to section 78, to our knowledge there is no evidence before this committee or the Equal Opportunity Commission, in submission or anything that we have seen or heard about, of any harm having been demonstrated to have been done by any single-sex club in Melbourne. Your position is to take what information you have before you, and we certainly at the Lyceum Club have never been made aware of any harm being done. Therefore there is no case to be presented to VCAT, and it is in fact a denial of our right to freedom of association as provided in the Victorian charter.

It has been suggested that the onus of proof of reasons for exemption should be with the defence, but there is nothing to defend. The government is presently increasing rights. As you know, we have men's sheds, lesbian clubs, a range of activities, but it is at the same time suggesting a diminution of our rights. We are on private land with private membership and with no interaction with the public.

Finally, I would say that your brief, according to the information I have been given, states that in consideration of a bill you must consider whether the bill, firstly, trespasses unduly upon rights and freedoms; and, secondly, is incompatible with the Charter of Human Rights and Responsibilities. We say — that is, the Lyceum Club, but I am speaking in defence of private clubs — that anything other than option 1, maintaining the status quo in relation to section 78, would contravene both of those parts to your brief.

Freedom of association and assembly is enshrined in the Victorian charter if no harm is done, and your committee has not received any evidence, to our knowledge, of this occurring. Thank you, that is my submission.

The CHAIR — Thanks for that. We actually asked a series of questions yesterday at the hearings about the private clubs.

Ms JAMES — Yes, we were here.

The CHAIR — I suppose one of the issues we are trying to grapple with is the argument around freedom of association. No-one actually put that argument to us a such yesterday. Part of that is to do with membership and why women join your club. As an example of a private club, how big is it, what are the rules around your association, and how important is it for you to be able to choose and have that freedom of association? We do recognise that it is protected both by international covenants and the Victorian charter.

Ms JAMES — To start with, we have about 1200 members — 1187, to be precise.

Mr STRATTON — Yes.

Ms JAMES — Our charter is that we are women who belong to the worldwide Lyceum network and who are interested in the arts, literature, sciences and social concerns, as I said. We have criteria for membership, that reflect these beginnings. The club was begun by women who were artists, writers and university graduates, and we really reflect our membership today along those lines. But I would say to you it is a private club with private members inviting into their club whom they so wish. One of the main criteria really is like-minded women who they know will enjoy and contribute to the club.

The CHAIR — The other question I want to ask is: as we know, human rights are international and you are an international organisation?

Ms JAMES — Yes.

The CHAIR — Have there been similar issues in any other Lyceum club that you know of?

Ms JAMES — No, absolutely not. We have investigated this. One club in Madrid chose to have both sexes, and it then automatically forfeited its right to be a member of the association. It then misses out on a lot of the cultural exchange which we feel is very beneficial, but that was its prerogative, as it is also any private club's prerogative to change as they see fit.

The CHAIR — You are not aware of any antidiscrimination laws in other countries that influence — —

Ms JAMES — No, absolutely not.

The CHAIR — How many countries, did you say; 16?

Ms JAMES — Sixteen countries, 70 clubs.

Mr SMITH — If you did have to appear before VCAT and justify an exemption, what is your level of comfort that you would receive that exemption?

Ms JAMES — Sorry, I did not hear the question.

Mr SMITH — If the current exemptions were scrapped and you had to apply to VCAT to obtain an exemption, what level of comfort would you have that you would obtain that exemption through that process?

Ms JAMES — I categorically feel we should not have to do that. I think it would be an abrogation of our human rights and of freedom of association. But if we were forced to do so — and we would not go quietly — I believe we would gain an exemption, and I think we have every right to be exempt. But I do not believe, as private citizens, we should have to do that.

Mr O'DONOHUE — Ms James, there is often a lot of press around this issue, and often one or two clubs are identified. But your presence here and submissions we have received from other clubs demonstrate that the club scene is perhaps more diverse than what is often portrayed in the media. Would you like to make some observations about the club scene and whether it is for single — —

Ms JAMES — I certainly would.

Mr O'DONOHUE — Or whether it is available for men and women?

Ms JAMES — I think there has been a huge misconception about what goes on in clubs. I have to tell you that in clubs of any sort — I mean, we are private clubs, but there are sporting clubs, there are clubs of all sorts — people choose to mix with people with whom they feel at ease and with whom they would like to spend some time. As a women's club we do a lot of activities with some of the other men's clubs and the other women's clubs in Melbourne. There is absolute freedom of mixing, as there would be in our homes. I think the press sometimes goes off half-baked with insufficient knowledge.

Not the Lyceum Club, but some of the men's clubs come to the focus because they have been in existence for over 100 years; a couple of them have been there for 150 years. They are part of the fabric of Melbourne society. Really I think we are almost owed something because we keep the press alive in January and February when there is no other news.

Ms PULFORD — I would appreciate it if you could make some comments, please, on the prevalence of opportunities to join a club such as yours. For example, if I wanted to join your club, how would that happen? At the moment that is somewhat mysterious to me. And are there similar numbers of clubs for women as there are for men? And to the best of your knowledge — I know this is not specific to the Lyceum Club — what is the prevalence of clubs for women in different parts of Victoria?

Ms JAMES — To answer your first question, if you were to be a member it would really be like wangling an invitation to my home. So I would meet you and find that I found you to be very pleasant company, so I would invite you to come and see the club. If you showed some interest in joining and you satisfied our criteria, I would then introduce you to other members. Because it is a private club, we tend to find that we would like a couple of people to know you and feel that you would fit into the situation, into our environment, and then you would be invited to join. That would be proposed and seconded, it would come through our membership committee, and then you would become a member.

Mrs PEULICH — It sounds like freemasonry.

Ms JAMES — Absolutely. It is a bit more elite, but do not tell them. It is, because it is the same as you coming to my home. That is how all of us believe the clubs to be.

In relation to the second question, there are two women's clubs and four men's clubs within the city, and they are the ones with whom we associate most. I think our membership numbers are about the same in each club. I think that just reflects how society has changed over the years. I think originally, 150 years ago, there were mainly blokes in the city who wanted to get away from home or do whatever they were doing. Now there are the two women's clubs. The Alexandra Club is older than we are; we are almost 100 years old.

Ms PULFORD — Your point about no harm was an interesting one. There are many areas in public life where women are not representative of their proportion as half of our population — here in the Victorian Parliament is but one example. Obviously our representation on boards and in many of our powerful institutions in the state is not quite near half. If I were to dial directory assistance, call the Lyceum Club and say, 'I work in Melbourne. I have just been appointed to', say, 'an executive position with a company. I have moved here; I don't know anybody. I would like to do some networking with some powerful and influential people. I would like to join the club; is there a form I can fill in and a subscription to pay?', what would be the answer to that question?

Ms JAMES — There are two answers. First of all, we would say that you are not associating with powerful and influential people. None of the clubs — well, you may be, but that is not — —

Ms PULFORD — Would you refer me somewhere else?

Ms JAMES — No, that is not the purpose of the club. There may in fact be many powerful and influential members in our club, as in fact there are. But the purpose of the club, as with the purpose of the men's clubs, is not for power and influence.

This is what is totally misunderstood. To answer your other question, though, you would be referred to our manager, Peter Stratton. He would say, 'Yes, Ms Pulford, I would like to suggest you come in, meet with the president and a couple of members of the board. They will show you the club, discuss with you what our aims and objectives are. If you still think you would like to join, we have a provisional membership category for such women — and women in positions often do not know someone if they come from interstate. People who are in those positions, who have come from interstate or overseas, would not know anyone necessarily. They stay a couple of years and in that time they get to know members, and then they go through the normal channels of membership'

Mr LANGUILLER — Ms James, thank you for your submission. I read from point 2:

The Lyceum Club Melbourne was established by women for women. Its role is to support women.

How do you reconcile that your manager is a man? Evidently you have been able to reconcile that and incorporate a man as your manager. You are a lucky man, if I may say, with respect.

Ms JAMES — We are a very lucky club to have him, I might say. But it is a very easy reconciliation. We do not discriminate in any ways other than in our membership. Even within our membership we have guests of any gender at all times, other than at our annual general meeting — and I am sure you are all desperate to come and listen to that — or to our members-only Christmas dinner, which is not really high-flying and influential. We like at some stage, though, to be able to have the company of just women, or at least to have issues which relate to women that we would like to pursue that probably some of the other private clubs or other institutions do not want to pursue.

Mr LANGUILLER — If I may, through the chair, put a supplementary question — you talked about meeting the criteria. Presumably there is a criteria for the purpose of joining members. Do you have a copy of that criteria or are you able to tell us what that contains?

Ms JAMES — We do have a copy which we could give, but we are a private club. We would certainly give it, but I do not think we should need to. I think it is enough to say that our club was set up, as I said, by artists,

writers and university graduates, and our membership reflects these beginnings. We do have a range of criteria, but I would think you would say that every club of whatever sort has criteria for membership, and those are normally used as guidelines, and there are always discretionary powers that go with that.

Mrs PEULICH — And would those criteria be comparable across other countries, other nations?

Ms JAMES — Actually they are not. Some of the clubs have slightly different ones, but they still just have guidelines. The main thing is that they are like-minded women who we know and invite to the club who would contribute to the club and enjoy what our club has to offer. It is as simple as that.

Mr LANGUILLER — Can I put an example to you: I represent the western suburbs of Melbourne. Would a woman from a non-English-speaking background who worked in a textile factory be able to join your club if she wanted?

Ms JAMES — Absolutely. There is no discrimination on any part in terms of that. In fact, we have in our employ our accountant who has an accent, if I may say — a fairly strong accent. She comes from Bosnia. Now, I do not ever hear anyone saying, ‘Excuse me, I can’t understand you’. People understand. We are a multicultural — —

Mr LANGUILLER — I get told that all the time by my parliamentary colleagues.

Ms JAMES — I was about to say ‘your accent’, but I was — —

Mr LANGUILLER — Thank you.

Mrs PEULICH — As a Bosnian born, without an accent, you obviously see this as an attack on your freedom of association, and I would agree it is a backdoor way. Would you have confidence that indeed that would erode over time if you were required to justify exemptions, and would you have confidence that indeed other similar clubs would be entitled to those types of exemptions, or do you think this is a progressive erosion of that freedom of association via the back door?

Ms JAMES — I think it is categorically a progressive erosion. I would say that there might be changes in some of the clubs over time. I frankly cannot see the Lyceum Club ever becoming a mixed gender club for all the reasons we have outlined in our submission.

Some of the other clubs may change and take people over time, but truly we are private clubs. The change should come from within. It is like if I changed the make-up of my home — the members of my family home. That may happen over time, too, but it is my decision. It is not something to come from the government because it is our fundamental right for freedom of association and assembly, and we have not had in any way any demonstration of harm being done. There is just gossip sometimes, which I think is very ill founded. I think all of you should come and have a look at a couple of the clubs.

Mr BROOKS — I just wanted to ask what you might see as some of the main differences — if there are any — between a club like yours which is exclusively for women and a couple of the men’s exclusive clubs, if I can put it that way. What do you see as the differences in terms of their purpose, objectives and the role they play?

Ms JAMES — I think the only difference that I can see is that we have more specific requirements — not requirements, but listed interests of arts, science, continued learning. Fundamentally, we are all similar clubs in that we are fundamentally social clubs where we can meet with like-minded people. Actually they are not always like-minded, but people with whom we feel that we would get on, either to be able to have a very relaxed discussion or an argument about something. That is really fundamentally what we are there for. As you well know, no business can be discussed, no business cards exchanged, no deals done in any of these clubs. It is against the charter of all the clubs.

The CHAIR — I would like to thank you for coming to provide evidence and also for what has been a very entertaining and informative contribution.

Witnesses withdrew.