



Presbyterian Church of Victoria
General Assembly
156 Collins Street
Melbourne 3000

18th April 2008

The Exceptions Review
c/- Department of Justice
Level 24, 121 Exhibition Street
Melbourne Victoria 3000

Dear Sir/Madam,

We are responding to your call for submissions to the Exceptions Review being undertaken by Department of Justice in relation to the exceptions and exemptions contained in the Equal Opportunity Act 1995, to determine their compatibility with the Charter of Rights and Responsibilities Act 2006 (the Charter).

The Presbyterian Church of Victoria is made up of congregations throughout Victoria and has a theological college, associated schools and social service activities.

We have carefully considered both the material contained in the Exceptions Review Consultation Paper and the relevant clauses of the Charter dealing with religious institutions and religious persons, namely Sections 14, 19(1) and 38(4,5).

The Presbyterian Church of Victoria has been present in Victoria from the earliest days of European settlement, and is strongly committed to its religious and cultural heritage established in the Bible, in the person of Jesus Christ, in the ecumenical creeds (Apostles Creed and Nicene Creed) acknowledged by all branches of the Christian Church, the Westminster Confession of Faith and associated Catechisms from AD 1647/8 and in the various decisions of a doctrinal nature formally agreed by the General Assemblies of the Presbyterian Church from time to time.

We understand that the historic Christian religious beliefs and world view, and indeed milieu that we both espouse and demonstrate is not always in every detail identical with the wider dominant views currently prevalent in Australian society.

So, for example our Church in recent times has taken positions of a historic doctrinal nature derived from the Bible on the ordination of men only as ministers and the ineligibility of persons engaging in homosexual acts to hold office in the Church and its institutions.

It is true that for a short period in the latter half of the twentieth century we ordained women but in 1991, the Presbyterian Church of Australia decided to return to the historic practice of the Church over twenty centuries of ordaining and appointing men only as Ministers and Home Missionaries¹.

Earlier, in 1987, in similar fashion, the Presbyterian Church of Victoria declared, on the basis of the teaching of the Bible, and again in conformity with the historic practice of the Church, that persons engaging in homosexual acts were ineligible for holding office in the Church and its institutions².

These, and other doctrines and practices held by our Church and its members stem from our genuine religious beliefs based upon the Bible which we hold to be God's Word.

Responding purely as an advocate on behalf of the Presbyterian Church of Victoria, I wish to advise that we desire that the following exceptions to discrimination in the Equal Opportunity Act 1995 be retained:

Section 17 – Exception – genuine occupational requirements

Section 24 – Exception – standards of dress and behaviour

Section 25 – Exception – care of children

Section 38 – Exception – educational institutions for particular groups

Section 40 – Exception – standards of dress and behaviour

Section 45 – Exception – supervision of children

Section 48 – Exception – disposal by will or by gift

Section 56 – Exception – accommodation for students

Section 74 – Exception – Charities

Section 75 – Exception – Religious bodies

Section 76 – Exception – Religious schools

Section 77 – Exception – Religious beliefs or principles

The Church of course would support the retention of a number of other exceptions which do not directly impact on the Church. Thus, section 57 – Exception – accommodation for commercial sexual services is one such example.

In nominating the above list of exceptions that we wish to see retained, we find the Charter provides ample support for their retention.

¹ At the 1991 General Assembly of the Presbyterian Church of Australia, it was resolved to delete words from Article 8 of the Articles of Agreement that referred to women being eligible for admission to the Ministry in the PCA ... and subsequently moved to declare that: "Only men shall be eligible for admission to the Ministry of Word and Sacraments in the Presbyterian Church of Australia" (GAA minute # 75)

² The General Assembly of the Presbyterian Church of Australia In 1987 resolved: "Declare, as a motion of its ecclesiastical law, that persons who practice homosexual acts are ineligible for Office within the Church and its institutions." (GAV minute # 79)

Section 14 – Freedom of thought, conscience, religion and belief

The Presbyterian Church of Victoria is composed not just of Assemblies, Presbyteries, Congregations, Schools, Social Service activities, but of individuals who have banded together on the basis of their common allegiance to Jesus Christ and the teachings of the Bible which we affirm to be the authoritative Word of God, defining the course of our life as individuals, as members of the Church and citizens of our nation.

We value our freedom of thought, conscience, religion and belief, and will as individuals seek to live in accordance with our conscience as informed by the Word of God.

We would say, even if it brings us into conflict with the State, we will always be ruled by our consciences. However we see that this clause in guaranteeing our right as individuals to demonstrate our religion in worship, observance, practice and teaching whether in public or privately, individually or as members of the Presbyterian Church and its various organisations, means that the exceptions should be preserved thus avoiding any future conflict.

Section 19, subsection (1) – Cultural Rights

Nothing could be clearer than this Section in guaranteeing the right to enjoy our cultural heritage and to declare and practice our religion.

Presbyterians form a community within the broader Australian (Victorian) community that is broader than one race, indeed we have people of many differing racial backgrounds within our Presbyterian community (Indigenous, British, European, Arabic, Sudanese, Indian, Sri Lankan, Chinese, Korean, Japanese, Samoan and other Pacific Islanders). What unites us is our common confession of faith and commitment to Jesus Christ, within the Presbyterian tradition.

Our tradition as noted earlier by way of two quoted examples is not necessarily always identical to dominant societal views but we will always seek to follow them in accordance with our religion and individual consciences. Preserving the exceptions already existing and as indicated above will give us our desired cultural and religious rights.

Section 38, subsections (4) and (5) Conduct of Public Authorities

Clearly the Presbyterian Church of Victoria is a body established for a religious purpose. There is an Act of Parliament establishing a permanent corporate body to hold all property belonging to the Church, the Presbyterian Trusts Act 1890.

The Church clearly establishes, directs controls and administers various educational institutions (a theological college run under the direct control of the Church and five primary/secondary schools separately established but operating according to principles established by the Church including the Church's right of appointment of members to individual school councils), as well as other charitable entities including a retirement village with high and low level care facilities.

We value the commitment of subsection (4) that “does not require a public authority to act in a way, or make a decision, that has the effect of impeding or preventing a religious body from acting in conformity with the religious doctrines, beliefs or principles in accordance with which the religious body operates”.

Retention of the 12 nominated exceptions listed above will ensue that the commitment of Section 38 (4) will be met in the case of the Presbyterian Church of Victoria.

Conclusion

To remove, or in any way restrict the operation of the nominated exceptions would seriously impede the Presbyterian Church's freedom of thought, conscience, religion and belief. We therefore consider that the exceptions are essential to uphold the principles contained in the Charter and recommend that they be retained.

I would like to thank the Department of Justice for this opportunity to make a submission to the Exceptions Review. I would value any further opportunity for consultation that the Department might consider appropriate.

Yours sincerely

John P Wilson

Rev John P Wilson
Clerk
General Assembly of the Presbyterian Church of Victoria