

Syllabus

ROBERTS, ACTING COMMISSIONER, MINNESOTA
DEPARTMENT OF HUMAN RIGHTS, ET AL.
v. UNITED STATES JAYCEES

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 83-724. Argued April 18, 1984—Decided July 3, 1984

Appellee United States Jaycees is a nonprofit national membership corporation whose objective, as stated in its bylaws, is to pursue such educational and charitable purposes as will promote and foster the growth and development of young men's civic organizations. The bylaws establish several classes of membership, including individual regular and associate members and local chapters. Regular membership is limited to young men between the ages of 18 and 35, while associate membership is available to persons ineligible for regular membership, principally women and older men. An associate member may not vote or hold local or national office. Two local chapters in Minnesota have been violating the bylaws for several years by admitting women as regular members, and, as a result, have had a number of sanctions imposed on them by appellee, including denying their members eligibility for state or national office. When these chapters were notified by appellee that revocation of their charters was to be considered, members of both chapters filed discrimination charges with the Minnesota Department of Human Rights, alleging that the exclusion of women from full membership violated the Minnesota Human Rights Act (Act), which makes it "an unfair discriminatory practice . . . [t]o deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin or sex." Before a hearing took place on the state charges, appellee brought suit against appellant state officials to prevent enforcement of the Act, alleging that, by requiring appellee to accept women as regular members, application of the Act would violate the male members' constitutional rights of free speech and association. Ultimately, a state hearing officer decided against appellee, and the District Court certified to the Minnesota Supreme Court the question whether appellee is "a place of public accommodation" within the meaning of the Act. That court answered the question in the affirmative, and, in the course of its holding, suggested that, unlike appellee, the Kiwanis Club might be sufficiently "private" to be outside the Act's scope. Appellee then amended its federal complaint to claim that the

EXHIBIT 26	Childfam	Document consists of 23 pages
<input type="checkbox"/>	Entire document provided.	
<input checked="" type="checkbox"/>	Due to size limitations, pages 1 through 5 provided.	
A copy of the complete document is available through the Research Library (775-684-6827 or e-mail library@cb.state.nv.us).		Meeting Date 3-20-04

Minnesota Supreme Court's interpretation of the Act rendered it unconstitutionally vague and overbroad. After trial, the District Court entered judgment in appellants' favor. The Court of Appeals reversed, holding that application of the Act to appellee's membership policies would produce a "direct and substantial" interference with appellee's freedom of association guaranteed by the First Amendment, and, in the alternative, that the Act was vague as construed and applied and hence unconstitutional under the Due Process Clause of the Fourteenth Amendment.

Held:

1. Application of the Act to appellee to compel it to accept women as regular members does not abridge either the male members' freedom of intimate association or their freedom of expressive association. Pp. 617-629.

(a) Several features of appellee's organization place it outside the category of highly personal relationships entitled to constitutional protection against unjustified interference by the State. Local chapters are neither small nor selective, no criteria being employed for judging applicants for membership. Moreover, many of the activities central to the formation and maintenance of the association of members with one another involve the participation of strangers to that relationship, numerous nonmembers of both genders regularly participating in a substantial portion of the activities. Accordingly, local chapters lack the distinctive characteristics that might afford constitutional protection to their members' decision to exclude women. Pp. 618-622.

(b) Minnesota's compelling interest in eradicating discrimination against its female citizens, an interest unrelated to the suppression of expression, justifies the impact that application of the Act to appellee may have on its male members' freedom of expressive association. By prohibiting gender discrimination in places of public accommodation, the Act protects the State's citizenry from a number of serious social and personal harms. Assuring women equal access to the goods, privileges, and advantages of a place of public accommodation clearly furthers compelling state interests. In applying the Act to appellee, the State has advanced those interests through the least restrictive means of achieving its ends. There is no basis in the record for concluding that admission of women as full voting members will impede appellee's ability to engage in its constitutionally protected civic, charitable, lobbying, fundraising, and other activities or to disseminate its preferred views. In any event, even if enforcement of the Act causes some incidental abridgment of appellee's protected speech, that effect is not greater than necessary to accomplish the State's legitimate purposes. Pp. 622-629.

2. The Act is not unconstitutionally vague and overbroad. The due process concerns of the void-for-vagueness doctrine are not seriously implicated by the Act, either on its face or as construed in this case. The Minnesota Supreme Court's construction of the Act by use of objective criteria typically employed in determining the applicability of anti-discrimination statutes to the membership policies of assertedly private clubs, ensures that the Act's reach is readily ascertainable. The contrast that court drew between appellee and the Kiwanis Club also disposes of appellee's contention that the Act is unconstitutionally overbroad. That court's articulated willingness to adopt limiting constructions that would exclude private groups from the Act's reach, together with the commonly used and sufficiently precise standards it employed to determine that appellee is not such a group, establishes that the Act, as construed, does not create an unacceptable risk of application to a substantial amount of protected conduct. Pp. 629-631.

709 F. 2d 1560, reversed.

BRENNAN, J., delivered the opinion of the Court, in which WHITE, MARSHALL, POWELL, and STEVENS, JJ., joined, and in Parts I and III of which O'CONNOR, J., joined. O'CONNOR, J., filed an opinion concurring in part and concurring in the judgment, *post*, p. 631. REHNQUIST, J., concurred in the judgment. BURGER, C. J., and BLACKMUN, J., took no part in the decision of the case.

Richard L. Varco, Jr., Special Assistant Attorney General of Minnesota, argued the cause for appellants. With him on the briefs were *Hubert H. Humphrey III*, Attorney General, *Kent G. Harbison*, Chief Deputy Attorney General, *Thomas R. Muck*, Deputy Attorney General, and *Richard S. Slowes*, Assistant Attorney General.

Carl D. Hall, Jr., argued the cause for appellee. With him on the brief was *Clay R. Moore*.*

*Briefs of *amici curiae* urging reversal were filed for the State of New York et al. by *Robert Abrams*, Attorney General of New York, *Lawrence S. Kahn*, *Rosemarie Rhodes*, *Shelley B. Mayer* and *Kim E. Greene*, Assistant Attorneys General, *John K. Van De Kamp*, Attorney General of California, *Andrea Sheridan Ordin*, Chief Assistant Attorney General, and *Marian M. Johnston*, Deputy Attorney General; for the Alliance for Women Membership by *Danielle E. deBenedictis*; for the American Civil Liberties Union et al. by *Laurence H. Tribe*, *Burt Neuborne*, *Isabelle Katz*

JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to address a conflict between a State's efforts to eliminate gender-based discrimination against its citizens and the constitutional freedom of association asserted by members of a private organization. In the decision under review, the Court of Appeals for the Eighth Circuit concluded that, by requiring the United States Jaycees to admit women as full voting members, the Minnesota Human Rights Act violates the First and Fourteenth Amendment rights of the organization's members. We noted probable jurisdiction, *Gomez-Bethke v. United States Jaycees*, 464 U. S. 1037 (1984), and now reverse.

I

A

The United States Jaycees (Jaycees), founded in 1920 as the Junior Chamber of Commerce, is a nonprofit membership corporation, incorporated in Missouri with national headquarters in Tulsa, Okla. The objective of the Jaycees, as set out in its bylaws, is to pursue

“such educational and charitable purposes as will promote and foster the growth and development of young men's civic organizations in the United States, designed to inculcate in the individual membership of such organization a spirit of genuine Americanism and civic inter-

Pinzler, E. Richard Larson, and Charles S. Sims; for Community Business Leaders by Eldon J. Spencer, Jr.; for the NAACP Legal Defense and Educational Fund, Inc., by Jack Greenberg, Beth J. Lief, and Judith Reed; for the National League of Cities et al. by Lawrence R. Velvel and Elaine D. Kaplan; for the National Organization for Women et al. by Judith I. Avner and Charlotte M. Fischman; and for Women's Issues Network, Inc., by Neil H. Cogan.

Briefs of *amici curiae* urging affirmance were filed for the Boy Scouts of America by Philip A. Lacovara, Malcolm E. Wheeler, George A. Davidson, and David K. Park; for the Conference of Private Organizations by Leonard J. Henzke, Jr.; and for Rotary International by William P. Sutter and Wm. John Kennedy.

est, and as a supplementary education institution to provide them with opportunity for personal development and achievement and an avenue for intelligent participation by young men in the affairs of their community, state and nation, and to develop true friendship and understanding among young men of all nations." Quoted in Brief for Appellee 2.

The organization's bylaws establish seven classes of membership, including individual or regular members, associate individual members, and local chapters. Regular membership is limited to young men between the ages of 18 and 35, while associate membership is available to individuals or groups ineligible for regular membership, principally women and older men. An associate member, whose dues are somewhat lower than those charged regular members, may not vote, hold local or national office, or participate in certain leadership training and awards programs. The bylaws define a local chapter as "[a]ny young men's organization of good repute existing in any community within the United States, organized for purposes similar to and consistent with those" of the national organization. App. to Juris. Statement A98. The ultimate policymaking authority of the Jaycees rests with an annual national convention, consisting of delegates from each local chapter, with a national president and board of directors. At the time of trial in August 1981, the Jaycees had approximately 295,000 members in 7,400 local chapters affiliated with 51 state organizations. There were at that time about 11,915 associate members. The national organization's executive vice president estimated at trial that women associate members make up about two percent of the Jaycees' total membership. Tr. 56.

New members are recruited to the Jaycees through the local chapters, although the state and national organizations are also actively involved in recruitment through a variety of promotional activities. A new regular member pays an initial fee followed by annual dues; in exchange, he is entitled