

October 27, 1983

Australia

The Australian High Court's decision regarding the Scientology religion in *Church of the New Faith v. Commissioner of Payroll Tax* (1983) is recognized as a landmark legal decision, establishing *the standard* for the definition of *religion* and *religious charities* in both Australia and New Zealand, and, indeed, throughout the Commonwealth of Nations.*

The High Court determined the following:

The Church of Scientology has easily discharged the onus of showing that it is religious.
The conclusion that it is a religious institution entitled to tax exemption is irresistible.

The High Court not only ruled that Scientology is a religion; it did so on the basis of a definition of *religion* that encompassed the teachings of all faiths accorded religious status. The Australian High Court adopted the following definition of religion:

Belief in a supernatural being, thing or principle; and acceptance and observance of canons of conduct in order to give effect to that belief.

In October of 1983, the Australian High Court ruled that Scientology is a religion and “[t]he conclusion that [the Church] is a religious institution entitled to tax exemption is irresistible.”

This ruling is internationally acclaimed. Today the Australian High Court decision regarding Scientology forms the basis for determining what a religion is for purposes of Australian charity law. The Australian Government's Inquiry into the Definition of Charities and Related Organizations, published in 2001, eighteen years after the High Court decision, cites this case as follows:

The most significant Australian authority on the question of what constitutes a religion.... The High Court found Scientology to be a religion. On the question of the current approach to the meaning of religion, the Scientology case provides the best elucidation.

COMMONWEALTH ACCEPTANCE FOR THE HIGH COURT DECISION

The Australian High Court decision has rightfully been afforded great weight by Commonwealth countries. In a case that was heard and decided shortly after the Australian High Court ruling (*Centrepont Community Growth Trust v. Commissioner*, 1985), the High Court of New Zealand adopted the same test for religion. New Zealand Inland Revenue also followed the rationale of the Australian High Court to determine that the Church of Scientology “meets the requirement of being exclusively charitable in nature by advancing religion” and “meets the requirement of being for the benefit of the public.”

New Zealand Inland Revenue, in its June 2001 report of the Policy Advice Division on *Tax and Charities: A Government Discussion Document on Taxation Issues Relating to Charities and Non-Profit Bodies*, stated:

With respect to the advancement of religion, there is no distinction in case law between one religion and another or one sect and another, so the advancement of any religious doctrine could be considered charitable.... For purposes of the law, the criteria of religion are the belief in a supernatural being, thing or principle and the acceptance of certain canons of conduct in order to give effect to that belief. (2001 Report, Chapter 3.15)

Similarly, in February 2005, the English Lords of Appeal in *Secretary of State for Education and Employment and others (Respondents) ex parte Williamson (Appellant) and others* relied on the Australian Scientology decision as an “illuminating” case on the definition of religion:

*Courts in different jurisdictions have on several occasions had to attempt the task [of reaching a definition of religion], often in the context of exemptions or reliefs from rates and taxes, and have almost always remarked on its difficulty. Two illuminating cases are the decisions of Dillon J in *In re South Place Ethical Society* [1980] 1 WLR 1565 and that of the High Court of Australia in *Church of the New Faith v. Commissioner of Pay-Roll Tax (Victoria)* (1983) 154 CLR 120, both of which contain valuable reviews of earlier authority. The trend of authority (unsurprisingly in an age of increasingly multi-cultural societies and increasing respect for human rights) is towards a ‘newer, more expansive, reading’ of religion. (Wilson and Deane JJ in the *Church of the New Faith* case at p174, commenting on a similar trend in United States jurisprudence.)*

Numerous experts and scholars in the field of religion have endorsed the definition of *religion* in the Scientology Australia High Court case because it is broad enough to include all religions in

accordance with international standards and international law. [See [*Scientology A True World Religion: Experts Agree.*](#)]



VIDEO

Dr. David Bennett AC, QC and former
Solicitor General of Australia

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UNITED NATIONS HUMAN RIGHTS STANDARDS

Such a broad definition of *religion* complies with the standards articulated by the United Nations Human Rights Committee. In its General Comment No. 22 on Article 18 of the International Covenant on Civil and Political Rights, which guarantees freedom of thought, conscience and religion, the Human Rights Committee found as follows:

The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community.

The Australian High Court's recognition of Scientology is especially significant in light of the religious persecution Scientologists suffered in Australia in the 1960s and early 1970s.

THE ANDERSON INQUIRY: REPRESSION OF RELIGIOUS FREEDOM IN AUSTRALIA

The High Court's ruling is significant not only because of its precedential value throughout the world of religion and the law, but also because less than two decades before its pronouncement, official harassment of the Scientology religion was rampant throughout Australian states.

In 1963, following receipt of fabricated information from sources abroad, the government of the state of Victoria initiated a two-year inquiry (known as the Anderson Inquiry) into Scientology. Despite calling 151 witnesses and collecting more than nine thousand documents, no evidence was obtained to prove any wrongdoing. Still, the government was committed and would not let the facts get in the way of its agenda. Thus at the end of 1965, a State law was passed that severely restricted the religious

freedom of Scientologists in the state of Victoria. Such a bill was then also introduced and enacted into law in South Australia and Western Australia.

Once these draconian laws went into effect, the Church of Scientology in Australia and Scientologists in that country were targeted for harsh, repressive government actions constituting severe religious persecution. Scientologists' homes were raided and Scientology religious Scriptures and artifacts were seized.

Both the inquiry and the ensuing legislation became major embarrassments to the government so much so that former Australian Senator and Deputy Premier of Western Australia Herbert Graham traveled to the United States in 1976 to use the occasion of the Church's International Prayer Day to apologize to all members of the Church, stating that the ban on Scientology had been the "blackest day in the political history of Western Australia."

Absent any evidence to support the measures, the Church was able to reverse the negative edicts over the next two decades: First the Church's ministers obtained the right to officiate marriages under the Australian Federal Marriage Act in 1973 and one decade later, in 1982, the Victorian Government abandoned its untenable law and repealed the 1965 measure, thus restoring religious freedom and fundamental human rights to Scientologists.

With the 1983 High Court ruling, the Church's rightful place in Australian society has been fully legitimized.

CHURCH OF SCIENTOLOGY IN AUSTRALIA TODAY: A GROWING RELIGION

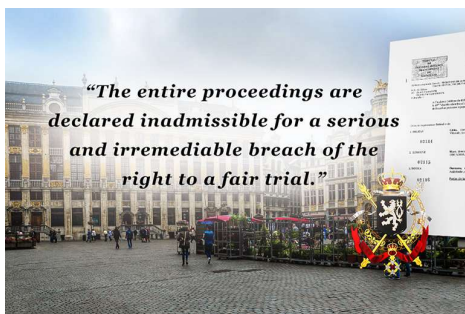


Advanced Organization & Saint Hill Australia, New

Today the Scientology religion is thriving in Australia, with thousands upon thousands of Scientologists, and Scientology Churches, missions and groups in every state throughout the country.

* The Commonwealth of Nations—formerly the British Commonwealth—is a voluntary association of 53 independent sovereign States, most of which were once part of the British Empire.

RELATED DECISIONS



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Scientology Religion

Officially Recognized as
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