

Church of the New Faith v Commissioner for Pay-Roll Tax (Vic) (1953) 154 CLR 120

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Facts

- The Church of the New Faith (what are known now as "Scientologists") applied to the High Court of Australia to appeal the decision from the lower courts that the Church was not classified as a "religion" and was therefore not exempt from paying tax.
- If classified as a religion, the Scientologists would be exempt from a pay-roll tax assessment made by the Commissioner.

Issues

- Was the Church a "religion" for the purposes of section 10(b) of the *Pay-roll Tax Act 1971* (Cth)?

Held

- The High Court determined the Church was a "religion".
- No "reasonable man" or majority view test can be used to determine a religion.
- Where a constitutional guarantee such as that provided by section 116 of the Constitution is concerned, it is of particular concern to provide protection for the adherents of minority religions.
- Mason CJ and Brennan J decided that the ambit of the religious freedom guaranteed by section 116 should not be constrained by taking a restrictive view of religious institutions in the context of fiscal and tax legislation.
- Five indicia were isolated by Wilson and Deane JJ as determining a religion:
 - (i) That the collection of ideas and practices involved a belief in the supernatural (being something that could not be perceived by the senses);
 - (ii) That "the ideas relate to man's nature and place in the universe and his relation to things supernatural";
 - (iii) That the adherents accept certain ideas as requiring or encouraging them to observe particular codes of conduct or specific practices having supernatural significance;
 - (iv) The adherents themselves form an identifiable group or groups;
 - (v) The adherents themselves see the collection of ideas, beliefs and practices as constituting a religion.

Quotes

"... To restrict the definition of religion to theistic religions is to exclude Theravada Buddhism, an acknowledged religion, and perhaps other acknowledged religions. It is too narrow a test. We would hold

the test of religious belief to be satisfied by belief in supernatural Things or Principle and not to be limited to belief in God or in a supernatural Being otherwise described..."

(Mason CJ and Brennan J at [17])

Full Text

The full text is available here: <https://jade.io/summary/mnc/1983/HCA/40>

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