

Submission to Senate Inquiry regarding **Tax Laws Amendment (Public Benefit Test) Bill 2010**

Dear Secretary,

I am a Scientologist of many years and have been both a staff member and a parishioner.

It is impossible to address the matter of the Bill before the Committee without addressing the subject of Scientology, in view of the fact that the Explanatory Memorandum makes it very clear why Senator Xenophon introduced this Bill in the Senate.

By many it is perceived that my judgment must be unreliable because I am an adherent of this religion, while those who criticize my religion are considered to be, by their very position of being outside of my church, naturally more reasonable.

It is a position from which it is difficult to speak out. If I and my fellow believers defend our church, we are seen as either a deceiver or one of the deceived; if we do not defend, then in the popular opinion we must be guilty of that with which we are accused.

It is against this background that I will put my case for a rejection of this Bill.

In regards to the matters raised by Senator Xenophon both in the Senate and in the media in the months leading up to this Bill, these are still allegations and have not been tested by law. The church itself has requested that such allegations be sent to the correct authorities. Senator Xenophon, not waiting for the outcome of complaints referred to the correct authorities, has continued his campaign against the Church of Scientology by introducing his Bill. This does not appear to conform with natural justice. The church and its members have been declared guilty in the public eye through trial by media and public opinion. It causes great distress and even suffering to those subjected to it and renders moot any justice system founded on the principle of innocent until proven guilty. Of late, staff members of the Canberra Church have been harassed and one even physically assaulted.

One must ask whether what is happening today is so very different from the witch hunts of the dark ages. Wikipedia defines witch hunt as “a search for witches or evidence of witchcraft *often involving moral panic, mass hysteria and lynching*, but in historical instances *also legally sanctioned and involving official witchcraft trials.*” (*Italics Added*) The witches of old were accused of casting an evil eye on people and enchant them, and they were burned at the stake for their ‘crimes’. The trials of the inquisition were always able to call on witnesses - proclaimed victims and others - who would recount stories of the accused’s heinous deeds, while traditionally the accused were not given the same right of public reply.

Scientology is a new religion with a set of beliefs different from the Judeo-Christian faiths; nevertheless it has been recognised as a religion in this country and many

countries around the world. Much of the criticism levelled at the church is generated by former members with a number of unsubstantiated claims. To legislate on the grounds of claims of former members of a particular religious group which will affect all religions and all charities sets a dangerous precedent and one that will potentially lead to the restriction and even eradication of all religion and freedom of conscience in this country.

Religious freedom means the freedom to practice, teach and disseminate one's religion without fear of discrimination, threats, and harassment. As with all human rights, it carries with it a responsibility to do so with regard to the preservation of the rights of others. In regards to the matters raised by Senator Xenophon, sufficient provisions exist at law to investigate and deal with those matters.

It is well known that charities are exempt from taxes due to the relief they bring to society through education, religion, relief of poverty as well as for the public benefit generally.

The proposed Bill before the Australian Senate seeks to apply "for the public benefit" a test to ensure that charities are actually helping the community. This is problematic when it comes to religious groups as well as some other community-based groups. The reason I say problematic is because the "for the public benefit" test applied to religious groups especially early in their existence could stop religions all together.

Public benefits tests applied to some historical examples

A relevant example is the Salvation Army in its formative years. They would have been rejected almost certainly. The Salvation Army were seeking temperance and as a result they were a much hated group in England in the late 19th Century right through to the early 20th Century.

There was even a protest group called the Skeleton Army who would publically demonstrate against them and throw fruit and even dead rats at Salvation Army members. The Salvation Army were not welcome in countries like New Zealand and Australia when they started expanding overseas. But today the Salvation Army is seen as a highly regarded charitable religious group that is allowed to go out in the streets with donation buckets to collect public money for their work.

Another example is the small religious group, the Quakers, who in the 17th Century opposed slavery in England and abroad. Their views were radical and unpopular with the ruling elite as well as many of the populace. In fact they were often mobbed and beaten by their fierce critics. Would the Quakers have been seen as "for the public benefit"? Probably not, and yet how is slavery viewed today?

There are other groups that would not have passed a "for the public benefit" test either. The Spiritualist Church had a very hard time being recognised as a religion in England with its strange and mysterious beginnings, even though it had a few celebrity members in its fold, Sir Arthur Conan Doyle among them. The Spiritualists became a recognised religion in England some time after World War One when a large number of people sought help in the form of contacting the spirits of their dead

sons and husbands who had died during the war. It was Sir Winston Churchill who assisted them in their effort to achieve religious status. If one were to go into any Spiritualist Church today one would find them communicating with the spirits of deceased relatives and friends of people in the congregation. How did that measure as a public benefit then and how does it measure today? Yet it has brought relief and comfort to many thousands.

Scientologists speak out, amongst other things, against abuses in psychiatry, which is often an inconvenience to government mental health policy and the stakeholders in a billion dollar mental health and drug industry. How may this be viewed a century from now?

Intangible benefits

Churches are more than providers of physical and material benefits. They provide spiritual and moral guidance and sustenance to believers. They also traditionally act as a conscience to the broader community.

A public benefits test cannot measure the intangible benefits that flow from religious belief and practice. What of the man who attends a church and now no longer beats his wife and children, stops drinking and performs better at work. He may not have done a special program; it was simply his new found belief and spiritual enlightenment that caused him to change his behaviours.

What of the countless people who reach out in so many small and large ways to help others, give aid and succour to those around them, for no other reason than that it is part of their religious convictions that one should do so. These are not organized activities, but naturally flow from religions.

“Churches also led the fight to end child labor, promote women’s suffrage, and were instrumental in ending slavery. Let’s not forget pastors like Henry Ward Beecher who spoke with great influence against slavery from his pulpit at Plymouth Church in Brooklyn. And, of course, it was a pastor, the Rev. Martin Luther King, Jr., with the support of churches, who helped to end segregation.

“And, as history demonstrates, churches have thrived and have benefitted society in many ways as a result of the freedom that flows from tax exemption. ***It is a mythical caricature that most churches want to be tax exempt simply so they can unfairly hold on to more money than anyone else. This is a falsehood promoted by those who simply do not understand the facts.***”

(“Alliance Defense Fund, http://www.answerbag.com/debates/churches-tax-exempt_1855555”
Italics added)

Separation of Church and State

The separation of church and state is implied in the Australian Constitution, Article 116: “The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.”

It is not very different from the First Amendment of the American Constitution: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

The US High Court in *Walz v. Tax Commission* stated that a tax exemption for churches "creates only a minimal and remote involvement between church and state and far less than taxation of churches, restricts the fiscal relationship between church and state, and tends to complement and reinforce the desired separation insulating each from the other."

As Chief Justice Marshall of the US Supreme Court said in his decision in the case of *McCulloch V, Maryland* 1819, "the power to tax involves the power to destroy."

The separation of church and state is essential in a modern pluralistic society. Taxation implies sovereignty over another. For the state to have sovereignty over churches religious freedom.

The independence of churches from the state guarantees freedom of conscience. If a church's taxation status were subject to state approval, it could then be forced to comply with government policy. There is a very real danger that churches and religious leaders would be muzzled who would otherwise speak out against government policy, be it on immigration, human rights, or military involvement in trouble spots.

In 1986, Jeffrey Warren Scott expressed this well when he wrote in the *Christian Century*: "First, tax exemption for churches has helped a pluralistic society in which a broad spectrum of religious perspectives -- including irreligion -- can flourish. Such pluralism safeguards against extremism and should be maintained.

"Second, taxing church property and income would destroy the free exercise of religion that the Bill of Rights seeks to protect. The old principle that the power to tax is the power to destroy is still valid. In regard to taxing door-to-door religious solicitation, the court held in *Murdock v. Pennsylvania* in 1943:

The power to tax the exercise of a privilege is the power to control or suppress its enjoyment. . . . Those who can tax the exercise of this religious practice can make its exercise so costly as to deprive it of the resources necessary for its maintenance.

"The power to tax religious institutions must be construed as the power to limit the free exercise of religion.

"Of course, with government intervention comes government regulation, which could extend into many aspects of church life. Such entanglement must be viewed as unconstitutional."

(Taxing Church Property: An Imminent Possibility? by Jeffrey Warren Scott, *Christian Century*, April 2, 1986, p. 327)

An example of abuse of government power

“An example of how the government can abuse its power against churches in this area is in the passage of the Johnson Amendment, which prohibits churches and other non-profits from directly or indirectly supporting or opposing political candidates for office. A church’s tax exemption has been conditioned on obedience to this mandate since 1954 when Lyndon Johnson was instrumental in adding this prohibition to the tax code. **Scholars agree that the Johnson Amendment was a revenge piece of legislation directed at two non-profit foundations opposing Johnson for Senate.** Johnson did not target churches, yet for 55 years, churches have been prohibited from preaching about candidates for office. The Johnson Amendment perpetuates a system requiring government agents to monitor and parse the words of a pastor’s sermon to determine whether that sermon violates the law and punishment should be meted out. That system is an excessive and unreasonable government entanglement with religion.

“The Johnson Amendment provides a stark example of the power of the government to destroy the free exercise of religion. The surest way to protect the free exercise of religion is to continue the healthy separation between church and state fostered by tax exemptions for churches.”

(Should Churches be Tax Exempt? http://www.answerbag.com/debates/churches-tax-exempt_185555 – ***Italics Added***)

Christian Persecution – a historical endnote

“As Christianity gained a foothold in the consciousness of the ancient world, the Roman authorities initially reacted slowly. As Jewish Christian migrations, and certainly the work of Peter, brought the new cult to Rome, it became largely identified with the Jews. As the Jews, with their one god concept, and refusal to adopt the Roman Caesar worship ideology, were so largely associated with the early Christians, the new cult got off to a very inauspicious start. This refusal of typical Roman religious custom wasn't just an issue of a damaged ego for the Roman elite, but a serious undermining of the religious tradition incorporating the ideas of many cultures and practices. The Romans had little concern over either Jewish or Christian practices on their own; it was their steadfast dedication to their own gods that would eventually lead to problems.

“The relationship of early Christianity to the Jewish faith, and the foundation of the cult deeply rooted in a people accustomed to religious intolerance actually helped it take hold initially. The Jews were accustomed to resisting political authority in order to practice their religion, and the transition to Christianity among these people helped foster the sense of Imperial resistance. To the Romans, Christians were a strange and subversive group, meeting in catacombs, sewers and dark alleys, done only for their own safety, **but perpetuating the idea that the religion was odd, shameful and secretive. Rumors of sexual depravity, child sacrifice and other disturbing behavior, left a stigma on the early Christians. Perhaps worst of all was the idea of cannibalism.** The concept of breaking bread originating with the last supper, partaking of the blood and body of Christ, which later came to be known as Communion, was taken literally. To the Romans, where religious custom dictated following ancient practices in a literal sense, the idea of performing such a ritual as a

representation was misunderstood, and the early cult had to deal with many such misperceptions.”

(<http://www.unrv.com/culture/christian-persecution.php> - *Italics added*)