



Neutral Citation Number: [2012] EWHC 3635 (Admin)

Case No: CO/10452/2011

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/12/2012

Before :

MR JUSTICE OUSELEY

Between :

THE QUEEN ON THE APPLICATION OF

(1) LOUISA HODKIN

1st Claimant

**(2) CHURCH OF SCIENTOLOGY RELIGIOUS
EDUCATION COLLEGE INC**

2nd Claimant

- and -

**REGISTRAR GENERAL OF BIRTHS, DEATHS
AND MARRIAGES**

Defendant

Lord Lester of Herne Hill QC and Miss Naina Patel (instructed by **Paul Hewitt, Withers
LLP Solicitors**) for the **Claimants**

Mr James Strachan (instructed by the **Treasury Solicitor**) for the **Defendant**

Hearing dates: 23rd and 24th October 2012

Approved Judgment

MR JUSTICE OUSELEY :

1. Louisa Hodkin is a 23 year old Scientologist who wishes to marry her fiancé, also a Scientologist, at the London Church Chapel, a chapel of the Church of Scientology, in Queen Victoria Street, London. They are both volunteers there. She is the first Claimant. But the chapel is not registered under s2 of the Places of Worship Registration Act 1855 as a “place of meeting for religious worship”. It is therefore not a registered building within s26 of the Marriage Act 1949 and, unless registered under the 1855 Act, no application can be made under the 1949 Act for it to be registered for the solemnisation of marriages. S26 of the Marriage Act 1949 contains no prescription as to the form of service required for a marriage ceremony in a registered place of worship, registered for the solemnisation of marriages.
2. On 13 May 2011, the Church of Scientology Religious Education College Inc, which owns the chapel and is the Second Claimant, applied to the Registrar General of Births, Deaths and Marriages for the registration of the chapel as a place of meeting for religious worship under the 1855 Act. The Registrar General refused the application by a decision dated 29 July 2011 on the grounds that the Chapel was not a place for “religious worship”. She is the Defendant to this challenge to that decision. She points out that the couple can be married in the chapel in whatever form of ceremony they choose, provided that they are also married in a civil ceremony. Scientologists can also apply for their chapels to be approved as places where a civil marriage ceremony can take place. The Claimants point out that if the chapel were in Scotland, their marriage in it would be legally recognised without the need for a separate civil ceremony, albeit under different legislative provisions.
3. The Defendant submits that she was bound to come to her conclusion by virtue of the decision of the Court of Appeal in *R v Registrar General ex parte Segerdal* [1970] 2 QB 697, which upheld her predecessor’s refusal to register another Scientologist chapel as a “place of meeting for religious worship.” Whether that was on the grounds that Scientology was not a religion or on the grounds that no worship was undertaken was a matter of dispute. She submits that I am equally bound to come to the same conclusion, and no change of evidence or circumstance justified a different decision.
4. The Claimants submit that, if *Segerdal* is binding, it does not preclude my finding on the evidence now before me that this London chapel is a place of religious worship. This is because the understanding of Scientology as a religion has developed since 1970; further, better and updated evidence is now available, and a more expansive approach is now required to the meaning of place “for religious worship” in what is now a more obviously multi-faith society. Importantly, the effect of the Human Rights Act 1998 and the Equality Act 2010, precluding discrimination on the grounds of religious belief, mean that the distinction drawn by the Court of Appeal between Buddhism and Scientology can not be upheld to the disadvantage of Scientology, and that the practice of the Registrar General of registering Buddhist temples as places of religious worship, along with Jain temples and others, but not Scientology chapels, also discriminates against Scientologists. This discrimination should be removed by a different and broader approach to the 1855 Act.

5. This application is not concerned with any financial benefit to the Church of Scientology: this chapel is already exempt from rates on the local authority's decision, as a charity. Others may or may not be exempt depending on the decision of the local authorities.

The statutory provisions

6. S2 of the Places of Worship Registration Act 1855 provides so far as material:

“Every place of meeting for religious worship of Protestant Dissenters or other Protestants, and of persons professing the Roman Catholic religion, [...] not heretofore certified and registered or recorded in manner required by law, and every place of meeting for religious worship of persons professing the Jewish religion, not heretofore certified and registered or recorded as aforesaid, and every place of meeting for religious worship of any other body or denomination of persons, may be certified in writing to the Registrar General of Births, Deaths, and Marriages in England,...”

7. Although the remaining words of s2 could suggest that the Registrar General's duty is simply then to register the place so certified, that is not the position. The Registrar General can only register a place which is “a place of meeting for religious worship”. She has no power to do otherwise; *Segerdal*, above. She is also empowered under s8 to cancel the registration of places which cease to be used as places of meeting for religious worship. But by s41 of the Marriage Act 1949, once the 1855 Act registration has been secured, the application for its registration for the solemnisation of marriages has to be granted.
8. As Lord Lester QC for the Claimants pointed out, this Act was not designed to introduce controls on places of religious worship through a system of registration; quite the contrary. It was a liberalising or remedial measure to create a general system of registration of places of religious worship of those Roman Catholics and Jews whose places of worship were not already covered by earlier piecemeal legislation, and of the places of religious worship of Protestants and Protestant Dissenters, and of adherents of “any other body or denomination”.
9. The Act therefore applies to the many religions, whether monotheistic or not, which are now much more common in England and Wales than they were in 1855. The Registrar General treats as religions some beliefs which, on some analyses at least, may not be theistic at all, but are commonly called religions; Buddhism, or at least one major strand of it, is an obvious example.

The decision in *Segerdal*

10. This case concerned an application for registration under the 1855 Act of a Scientologist chapel in East Grinstead. I start briefly with the Divisional Court judgment, [1970] 1 QB 430, given by Ashworth J with whom Lord Parker CJ and Cantley J agreed. Lord Denning MR and Winn LJ in the Court of Appeal specifically agreed with the Divisional Court judgment. The Court first held that the Registrar General could not register a place

which was not a place for religious worship simply because a certificate to that effect had been received. The judicial review of the decision of the Registrar General required the Court to decide for itself whether the place was a place for religious worship, and not simply whether his decision was a reasonable one.

11. The mere fact that a place had a religious connection or purpose did not make it a place “for religious worship”. “Worship” required a worshipper and an object of his worship, held the Divisional Court, drawing on the decision in *Henning v Church of Jesus Christ of Latter-day Saints* [1964] AC 420, and a definition of “worship” in the Shorter Oxford Dictionary: “the actions or practices of displaying reverence or veneration to a being regarded as divine by appropriate...rites or ceremonies”. However wide that might be, there had to be an object of worship for worship to occur. “Religious” worship meant that there had to be a religion with which the worship was associated, though it was difficult to conceive of worship without religious connection in this context.
12. Ashworth J found it difficult to hold that Scientology was a religion, rather it was more a “meeting point or clearing house for persons of all religious beliefs through which people may better appreciate their spiritual character.” But if people met to pursue their own religious worship, the place where they did so could still be a place of religious worship. A booklet entitled “Ceremonies of the Founding Church of Scientology” was supplied by the Church of Scientology in 1967 to the Registrar General, who had asked for information on its beliefs, the form of service and whether there was worship of a Supreme Being. Ashworth J treated this as of great importance. There was no reference to its creed being used in a service. However varied might be forms of religious service, a service of religious worship would contain some indication to that effect and an opportunity for worship, but there was none. The creed contained no profession of belief in a deity, nor anything of a “worshipful character” such as the object of the worship.
13. A letter from the Church said:

“Our Knowledge and understanding of the Supreme Being is very profound. Whilst we do not have a litanical form of worship, nevertheless our services are designed for people to acquire for themselves a knowledge of God and thus realise for themselves the profundity of the worship they should undertake which they are free to do on the premises.”
14. None of this persuaded Ashworth J that this was more than a service of instruction.
15. He then turned to the affidavit of the minister, Mr Segerdal. There was a choir at Sunday services, the creed was read aloud by the chaplain, there was a sermon and a short silence for contemplation or prayer. Ashworth J contrasted his evidence with that in the 1967 booklet. He did not find the other ceremonies, namings, weddings, and funerals to be religious. The affidavit contained a passage which referred to the purpose of the services as being to “recognise, worship, honour and express reverence for God” and said that the chapel was “in every sense” a place of religious worship; on the face of it, this showed that religious worship took place there. But in the light of the other evidence, that statement was not accepted. Although there had been no cross-examination, or challenge

except in the “careful and restrained words” of Counsel for the Registrar General, Ashworth J could not accept that description of what happened at the chapel.

16. In the Court of Appeal, the same issue as to the role of the Registrar General and the task of the Court on judicial review arose, with the same conclusion.
17. In an important passage on the meaning of the phrase “place of meeting for religious worship”, taken as a whole, Lord Denning said at p707B:

“It connotes to my mind a place of which the principal use is as a place where people come together as a congregation or assembly to do reverence to God. It need not be the God which the Christians worship. It may be another God, or an unknown God, but it must be reverence to a deity. *There may be exceptions. For instance, Buddhist temples are properly described as places of meeting for religious worship. But, apart from exceptional cases of that kind,* it seems to me the governing idea behind the words “place of meeting for religious worship” is that it should be a place for the worship of God. I am sure that would be the meaning attached by those who framed this legislation in 1855”. (My emphasis)

18. The Church of Scientology had contended that Scientology was similar to Buddhism, which was regarded as a religion, and whose places of worship were registered. Lord Lester questioned the nature of the exception which Lord Denning had in mind, and why the exception did not also cover Scientology. I agree that a useful elaboration of Lord Denning’s thoughts would not have lengthened his judgment unduly.
19. To Lord Denning, Scientology was a philosophy and not a religion: “Religious worship means reverence or veneration of God or of a Supreme Being”. There was none in Scientology; its stress was on the spirit of man. The services were an instruction in philosophy; they believed that the everlasting spirit of man moved from human frame to human frame, but there was no belief in a spirit of God. Lord Denning also relied on the 1967 booklet of Ceremonies: Scientologists did not use prayers, attitudes of piety or threats of damnation, but facts, truths and understandings discovered in the science of Scientology. “Prayer” was not used by Mr Segerdal in the proper sense of intercession to God; the creed did not use “God” in any religious sense; “God” was not venerated; the sample sermon made no reference to God; God did not come in to the Scientology scheme of things at all.
20. Lord Denning MR also held that the Divisional Court had not rejected any statement of fact by Mr Segerdal, and could not have done so since he was not cross-examined, and there were no real grounds for rejecting what he said on any matter of fact. What the Divisional Court had rightly rejected were inferences drawn by Mr Segerdal, but which it was for the Court to draw.
21. Winn LJ, though agreeing with Lord Denning, felt himself rather disqualified to discuss whether Scientology was a religion, either because of observance of a particular religion or because of pre-conditioning by study of pre-Christian religions, or both. He likened the

Thetans of Scientology to Greek Daemons; their Engrams could be removed, and the Thetan thus made safe or improved by “auditing”. He continued at p708G: “But just as the Egyptians and the Buddhists think all the time of the trans-migrating souls, so it seems to me, just superficially examining the doctrines of this particular body, that they are concerned far more with the trans-migration and education and development of Thetans than they are with God, in any shape or form, or any concept of a divine, superhuman, all-powerful and controlling entity”. The next passage suggests that, without deciding whether the philosophy of Scientology was a religion, they did not worship when they met; they did not commune with a deity: “they do not humble themselves in reverence and recognition of the dominant power and control of any entity or being outside their own body and life”; p709A.

22. Buckley LJ held that the service in the booklet of Ceremonies contained no element of worship. “Worship” required at least some of the following characteristics: “submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession.” The ceremonies were of instruction in the tenets of Scientology, and discussion: the minister welcomed the congregation, there was a sermon on aspects of Scientologist belief, there might be a taped lecture from Mr Hubbard, the founder of Scientology, a question and answer period, announcements and a dismissal. Saying the creeds, one with more references to God than the other, was not an act of worship, although an affirmation of faith.
23. The ratio of this judgment, which is what the Registrar General considered binding, was considered by Mason ACJ and Brennan J in the High Court of Australia in *Church of the New Faith v Commissioner of Pay-Roll Tax (Victoria)* [1983] 154 CLR 120, a case concerning whether Scientology was a “religious institution” for the purposes of pay-roll tax. They treated *Segerdal* as deciding that only theistic religions could be religions for the purposes of the Act of 1855. That, for their purposes, was too narrow a test since it would exclude certain non-theistic forms of Buddhism, and would be an inappropriate limitation on the scope of “religion” in modern legislation. The High Court held that Scientology was a religion in Victoria. The judgments are replete with learning, notably Murphy J’s, and contain a full description of Scientology at least as presented to that Court.
24. In 1999, the Charity Commission rejected the application by the Church of Scientology for registration as a charity; it concluded that *Segerdal* had confined the 1855 Act to theistic religions, though it did not apply the same definition of “religion” for its own purposes. But the *Segerdal* criteria applied to “worship” and Scientology services did not meet them.
25. Lord Lester submits that the High Court of Australia and the Charity Commission have correctly understood the ratio of *Segerdal*; it confines “places of meeting for religious worship” to theistic religions. Mr Strachan for the Registrar General submits that *Segerdal* is not confined to theistic religions and permits registration of the places of religious worship of non-theistic religions. But it does decide that what Scientologists did in their services was not “worship”.
26. I accept that there is scope for legitimate debate about the ratio of *Segerdal*. However, the Divisional Court decided the case on the basis that whether Scientology was a religion at all was not the crucial point. Although Ashworth J clearly found it hard to accept

Scientology as a religion, the crucial factor was that what they did was not worship, rather than that they worshipped but outside the scope of a religion. Of course, I accept that the concept of “religious worship” is a single concept, and worship without religion is an odd concept except in figures of speech or hyperbole. But the Divisional Court focus was on whether the nature of the services was “worship” rather than on whether Scientology was a religion; if Scientology were a religion its services were not worship, rather than they were not worship because Scientology was not a religion, or worship of some secular form.

27. The judgments of Winn and Buckley LJJ, the former of which expressly agreed with the Divisional Court, seem to me to follow the same approach: the focus is on “worship”. Winn LJ does not decide whether Scientology is a religion or not, but is clear that the services are not “worship”; 708H -709A. “Worship” is the sole subject of Buckley LJ’s judgment, jurisdiction apart. They did not find either way whether Scientology was a religion, or that a religion needed to be theistic. The conclusion that Scientologists did not engage in “worship”, does not mean that it was concluded in effect, though not expressly, that Scientology was not a religion or not a religion because non-theistic. There was therefore no majority conclusion that Scientology was not a religion; the majority view left that issue undecided.
28. Lord Denning’s judgment is more difficult. He rightly treats the phrase as a whole; he deals with worship as “religious worship”. Scientology to him was not a religion nor did Scientologists worship as a religion would require: “the governing idea behind the words ‘a place of meeting for religious worship’ is that it should be a place for the worship of God”; p707C, above cited. The preceding parts of that paragraph say that reverence to a deity is required, but there may be exceptions, and Buddhist temples are the one he names; the reason given is that they are “properly described” as places for religious worship. I can only take from that that whenever he refers to God or a Supreme Being or deity, he must always have been taken to incorporate scope for an exception for non-theistic religions. He must also have included polytheistic religions, which he does not refer to at all otherwise, within those that do reverence to God, to an unknown God or to a deity.
29. It was suggested by Lord Lester that Lord Denning only had in mind those strands of Buddhism which were theistic; the argument on behalf of Mr Segerdal had referred to one of the twelve principles of Buddhism as being that it was a matter of choice whether one believed in God.
30. One can debate, to very little purpose in this context, whether belief in an ultimate principle or law is theistic, and whether a quest to attain spiritual enlightenment is non-theistic. Theravada Buddhism is however clearly non-theistic. But Lord Denning plainly drew no distinction between any strands of Buddhism; all are covered by his simply expressed exception. He may have meant to confine the exception to those non-theistic religions which everyone would say was a religion: a “religion” in popular parlance and impression. He may have had in mind some concept of a “proper” religion, one hallowed by time and number of adherents, to contrast it with some new-fangled set of beliefs trying to make its presence felt.
31. I do not think however that he meant either such inept approaches. It is not uncommon for religions to experience difficult early years before gaining acceptance. It would not

have been his intention either in this sensitive area to cover only that which popular parlance, the reasonable man and his knowledge, would allow as a religion. He cannot have intended to say that an exception to the law should be made. So he must have envisaged that the phrase he was applying was wide enough to cover non-theistic religions; he recognised an exception to religions which believed in a God, Supreme Being, or deity; the exception allowed for must be religions other than those which believe in a deity; the exception cannot help therefore but cover non-theistic religions. He could not define the scope of his exception or name those which it might cover beyond Buddhists, but he recognised that there might be more than one exception, since it was not a Buddhist specific exception. There is nothing in the judgments of Winn and Buckley LJJ to suggest that they took a more limited view of “religion” than I ascribe to Lord Denning.

32. I can understand the theistic view that the High Court of Australia took of *Segerdal*; however, for the reasons I have given I do not think that that is the correct analysis.
33. Accordingly, in my judgment, *Segerdal* holds that a place for religious worship can cover a place for non-theistic religious worship. It does not decide whether Scientology is a religion or not; that issue is left open, though the Court’s doubts are clear. But, religion or no, it decides that Scientology services did not involve acts of worship. The Registrar General did not misunderstand this decision. She applied it. She did not refuse to register the Chapel because Scientology if a religion, was not a theistic religion. She refused to register it and submitted that I was bound by *Segerdal* to uphold that refusal because, religion or not, theistic or otherwise, Scientologists did not “worship”.

Is *Segerdal* binding on “worship” by Scientologists?

34. Lord Lester submits that *Segerdal* is no longer binding. Scientologist beliefs and services have evolved since *Segerdal*. On the further, better and more expert evidence now available, Scientology is a theistic religion and within a narrow view of *Segerdal*. Its services in the Chapel are ones of religious worship. It likened itself to Buddhism and Jainism, which are or include non-theistic branches. Essentially, Lord Lester argued that, even if seen as non-theistic, Scientology is no less a religion and its worship no less worship than that of others whose beliefs qualify their places of religious worship for registration under the 1855 Act.
35. In any event, changing attitudes, decisions in other jurisdictions, the Human Rights Act 1998 and the Equality Act 2010 all mean that the *Segerdal* judgment can be no more ossified than the interpretation of any ever-speaking Act. The Registrar General is correct, *Segerdal* notwithstanding, not to restrict registration to theistic religions, since she registers places of religious worship by Buddhists and Jainists; but she draws an unprincipled and discriminatory distinction between them and Scientology.
36. Mr Strachan contended, and I accept, that the Registrar General had not engaged in any comparative religious exercise, instead treating each case on its own facts. She had not decided that Buddhism and Jainism were non-theistic, nor did she need to do so. Mr Strachan showed me material which could give rise to prolonged debate about that. He also said there was evidence of worship in those religions.

37. Mr Strachan submitted that there was no evidence since *Segerdal* which showed that there was any significant change in the way Scientologist services are conducted, such that a different decision should now be reached. *Segerdal* therefore remains binding. If the Chapel is not a place of religious worship, the ECHR and Equality Act have no bite which could make it one. If places have been registered wrongly, the remedy is to cancel their registration and not to register more places which should not be registered.
38. In my judgment, *Segerdal* would cease to be binding on this Court as much as on the Registrar General if there is evidence, not then available, which shows that the position now has changed significantly from the position in 1970. The Church of Scientology is entitled to make further applications under the 1855 Act whether in relation to this or other chapels, and to support those applications with evidence of changes in beliefs, and services. When the Registrar General examined the application at issue here, I accept that she did examine the further evidence; she did not simply say that the evidence submitted with a Scientology application is irrelevant because of the decision in *Segerdal*. She rejected the application since the material failed in her judgment to show any material change in the fundamental nature of Scientology. That is a perfectly proper approach, so far as it goes. But does that go far enough?
39. No decision was reached in *Segerdal* on whether Scientology was a religion; is it open to the Claimants to give evidence that it is a religion, whether or not there is any change in beliefs since 1967? In my view it is, in principle. A conclusion that it is a religion does not require a conclusion which contradicts any binding decision of the Court of Appeal. Only Lord Denning reached a view on that point. *Winn and Buckley LJJ* explicitly left it open, qualifying thereby their general agreement with Lord Denning. If it is positively found to be a religion, it might make it easier to argue that what it does in its services is its form of worship.
40. It is quite difficult in this statutory context to separate the question of “worship” from whether there is a religion involved. The reasons why a service does not constitute “worship” are closely linked to the reasons why a belief system is not a religion. The phrase really ought to be dealt with as a whole. Mr Strachan’s submissions showed how difficult a line it is to draw between whether activities are acts of “worship” and whether they are done as part of the services of religious adherents; the same issues were often raised under both heads, in particular when it came to the question of the object or nature of worship.
41. However, the Court of Appeal must be taken to have reached its conclusion on “worship” on the basis that it did not matter whether Scientology was a religion or not; its services were not “worship”. Therefore, in practice, it could make no difference to its decision, all of its doubts notwithstanding, if Scientology were found to be a religion, unless a substantial change in worship since 1967 was also found to have occurred. Such a change might show also that Scientology is a religion, given the intermingling of the issues, and that conclusion would not be precluded by the decision of the Court of Appeal since it made no finding on that issue. But it is on the question of a substantial change in “worship” that the Registrar General was right to focus.

The evidence of change since 1967

42. To put this evidence in context, a brief summary of Scientologist beliefs is necessary.

43. Scientology evolved from Mr Hubbard's development of the concept of "Dianetics" through which he discerned that people not only had a mind but a soul or a spiritual being. Mr Hubbard chose the term "Thetan" for "soul" as he wanted a new term to cover what he had discerned, which was that man was neither his body nor his mind but a spiritual being which was the source of all that was good and decent and creative in the world. The Thetan is the person, rather than the body, name or some physical universe being the person. It is not that one has a Thetan as something apart from oneself; a person is a Thetan. Mr Hubbard concluded that the Thetan can leave the body and exist independently of the flesh. It can move from body to body.
44. Mrs Laura Wilks, a minister in the Church of Scientology since 1995 and the minister at the chapel in question since 2006, provided a statutory declaration in which she said that Scientology held human beings to be basically good and that they themselves were capable of attaining spiritual salvation. She said Scientology was a religion "in the most profound sense of the word as it is concerned with a full rehabilitation of the individuals in a spiritual self - his or her capabilities, awareness, and belief in his or her own immortality." Its goal was to help someone to regain awareness of himself or herself as a spiritual being, to rehabilitate his or her full spiritual potential, and to "achieve a recognition of spiritual existence and one's relationship to the Supreme Being."
45. Spiritual salvation was accomplished through successive stages of enlightenment, achieving ever higher spiritual states. The higher the spiritual state, the closer one becomes to God. The scriptures of Scientology lay out the path to salvation. The eight dynamics are the impulses; in sequence they are the dynamic of self, the urge of survival as an individual, the urge of survival through one's family; the urge of survival through groups; the urge of survival for all mankind; the urge of survival for all life forms. The sixth dynamic is the urge of survival of the physical universe, the seventh the urge of survival for all spiritual beings and it is the eighth which is the urge of existence as infinity, which they also call God, the Supreme Being or Creator.
46. Mrs Wilks describes the role of God in Scientology in this way: "The ultimate spiritual reality is expressed as the eighth dynamic which is Infinity, The Supreme Being, The Creator and God." Scientology is a path to that ultimate spiritual reality, in other words a path to God. "We worship this spiritual reality through acts of profound religious reverence and respect".
47. She also points out, and of course it cannot help any argument for a change in belief or practice after *Segerdal*, that this was a fundamental point which the Court of Appeal had failed to appreciate.
48. Other religions, acknowledging the true spiritual nature of man, contain what adherents perceive to be a fundamental truth which she describes as the Infinite or God. Scientology is a path that anyone can travel towards that ultimate truth. They may or may not, in following the Scientology path, renounce any pre-existing faith but they are not required to do so.
49. God is not described or identified in Scientology whether in anthropomorphic terms or otherwise. The nature of the Supreme Being is understood through spiritual enlightenment. Thus, Scientology is described in its publication "Fundamentals of the

Scientology Religion” as a spiritual journey of carefully marked steps ultimately leading to the discovery of the true nature of God or the Supreme Being or the Creator or Infinity. Scientologists have doctrines which define the origins of the Universe and the spiritual nature of man: through study of their scriptures, they practice their religion in much the same manner as other faiths. What “Fundamentals of the Scientology Religion” regarded as unique to Scientology was auditing and training, applying the technology devised by L Ron Hubbard, so that one’s spiritual freedom could be increased.

50. The Australian *Payroll Tax* case also contains a full and careful analysis of the nature of religion and Scientology to explain the High Court’s conclusion that, under the relevant legislation in Victoria, the beliefs, practices and observances of the Scientologist Church of the New Faith were a religion. The judgment is a valuable legal exposition of what constitutes a religion and whether it applies to Scientology. It is sufficient for these purposes to set out the headnote:

“*Per* Mason A.C.J. and Brennan J. For the purposes of the law, the criteria of religion are twofold: first, belief in a supernatural Being, Thing or Principle; and second, the acceptance of canons of conduct in order to give effect to that belief, though canons of conduct which offend against the ordinary laws are outside the area of any immunity, privilege or right conferred on the grounds of religion.

Per Wilson and Deane JJ. No single characteristic can be laid down as constituting a formularized legal criterion of whether a particular system of ideas and practices constitutes a religion, but the following criteria are helpful: that the particular collection of ideas and/or practices involves belief in the supernatural, i.e. a belief that reality extends beyond that which is capable of perception by the senses; that the ideas relate to man’s nature and place in the universe and his relation to things supernatural; that the ideas are accepted by adherents as requiring or encouraging them to observe particular standards or codes of conduct or to participate in specific practices having supernatural significance; that, however loosely knit and varying in beliefs and practices adherents may be, they constitute an identifiable group or groups; and that the adherents themselves see the collection of ideas and/or practices as constituting a religion.

Per Murphy J. The categories of religion are not closed, but the following bodies are religious: any body which claims to be religious and whose beliefs or practices are a revival of, or resemble, earlier cults; any body which claims to be religious and to believe in a supernatural Being or Beings, whether physical and visible, a physical invisible God or spirit, or an abstract God or entity; any body which claims to be religious and offers a way to find meaning and purpose in life.

Per curiam. The test of religion should not be confined to theistic religions.”

51. I accept that other jurisdictions hold that Scientology is for various purposes a religion, non-theistic or theistic. Dr Wilson, late Reader Emeritus in Sociology at Oxford University, produced reports in 1995 and 2002 on behalf of the Church of Scientology which were influential in that respect. That view of Scientology, of course, varies, and the decision of the ECtHR in *Kimlya v Russia* 78636/01 1 March 2010 notes that there is no consistent view in Europe about whether Scientology is a religion.
52. On what I have read in this case, I would conclude that Scientology was a religion for the purposes of the 1855 Act. Notwithstanding the references to God, I do find it difficult to see it as a theistic religion. The thinking in Scientology seems to have more in common with a non-theistic path to enlightenment, as Scientologists often suggest in likening their beliefs to those of Buddhism or Jainism. Once seen as a non-theistic religion however, and with the purpose of the 1855 Act in mind, a broad view should be taken of what constitutes a religion. The High Court of Australia decision in the *Pay-Roll Tax* case is persuasive on that point. But in the light of *Segerdal* that cannot assist in showing that Scientologists worship.
53. I now turn to the evidence of worship. The application letter of 31 May 2011 contended that the decision in *Segerdal* was based on inadequate and incomplete evidence about Scientology and practices of the Church and how they compared with what were said to be other similar religions.
54. The application letter also said that there had been changes in the ceremonies since 1973. Mrs Laura Wilks, who, as the minister at the Chapel in question since 2006, has conducted many congregational services, described the services. The beliefs had evolved from the late 60s, at least until the death of L Ron Hubbard in 1986. The booklet of Ceremonies in use today entitled “The Background, Ministry, Ceremonies and Sermons of the Scientology Religion” published in 1999 was the second such new book to be used since the 1960s. The application said that the booklet of Ceremonies no longer included the comment that the Church did not use prayers or attitudes of piety or threats of damnation. That had not been the reality even in 1973 when Mrs Wilks first became a Scientologist.
55. She said that congregational services were an important feature in Scientology Churches. Such services in the Chapel in question were occasions where “we commune with the Infinite and reach with reverence and respect towards the Supreme Being. They always include a prayer to the Supreme Being in which the whole congregation joins. There is also a reading of the Creed of the Church of Scientology, in which the pre-eminent position of God is affirmed. These and other services such as weddings are open to the public.”
56. Mrs Wilks explained the purposes of the congregational service: “all Scientology practices bring one closer to complete affinity with the eighth dynamic and it is our congregational services which focus on this. An understanding of the eighth dynamic is the ultimate aim of the Scientologist spiritual journey.

57. Mrs Wilks said in her declaration: “It is in our Sunday services that we come to celebrate and acknowledge God. This is emphasised not only by the simple coming together of many beings in a joint spiritual experience, but also by the express postulation of the pre-eminent position of God in the recitation of our Creed. We show profound religious reverence and respect for the Supreme Being. We engage in auditing as a group. We also join in common prayer which is the way that people directly communicate with the Supreme Being, seeking its intercession.”
58. Congregational services are led by a minister. Although other matters may be added, the elements always present are the recitation of the creed, the reading by the minister of sermons from the works of L Ron Hubbard, group auditing and the Prayer for Total Freedom. Mrs Wilks describes the creed as “central to our religion and its religious beliefs and practices; it includes not only our fundamental beliefs but the God-given rights of every human being.” She exhibited the creed, much of which is an assertion of the belief that all men have certain inalienable rights, which would not be out of place in a universal declaration of rights. But the creed continues “that The Souls of Men have the rights of men...And that no agency less than God has the power to suspend or set aside these rights overtly or covertly”. Later the creed says “and we of the Church believe that the laws of God forbid man” amongst other matters to destroy his own kind. Later it says “and we of The Church believe: That the spirit can be saved and That the Spirit alone may save or heal the body”.
59. Sermons typically address a topic related to an important Scientology principle or practice. Mrs Wilks explained that Scientology held that human beings “determine their spiritual future through the principles and practices contained in our scripture, their actions towards others and observance of the rules of conduct set out in the Creed of the Church of Scientology.” The scripture to which she refers are the writings of L Ron Hubbard from which the sermons are taken along with recordings of his words. She said the aim of the minister was for the congregants to leave the service with greater spiritual awareness.
60. The services also included “group auditing”, where the minister acted as the “auditor” for the group, ministering auditing services, particular suited to the groups, and aligned to the intended sermon of the day. Auditing is intended to free the self from adverse material influences. She exhibited extracts from “Fundamentals of the Scientology Religion”, a chapter in the Claimants’ publication ‘The Background, Ministry, Ceremonies & Sermons of the Scientology Religion’. It explained the central role of auditing and training in this way:
- “Ultimate salvation is dependent on increasing one’s awareness and understanding of his true spiritual identity. Thus, Scientology is composed in equal parts of “training” and “auditing”. As the religion not only expands knowledge of all aspects of life, but also details how and why man lost his spirituality and how to avoid this from recurring, it is vital for Scientologists to study the principle contained in the works of Mr Hubbard. This is *training*, and here one obtains the wisdom to *understand* who he is, what he is, where he comes from and his relationship to the universe. The *application* of that wisdom towards personal spiritual improvement comes through spiritual counselling – *auditing*.”

Auditing is ministered by an *auditor*, a minister of the Church of Scientology. An auditor is defined as *one who listens*, taken from *audire* which means “to hear or listen”.

Auditing is based on the principle that if an individual looks at his own existence, he can improve his ability to confront what he is and where he is, thereby ridding himself of past negative experiences.

Auditing uses *processes* – exact questions asked or directions given by an auditor to help a person locate areas of spiritual distress. There are many, many different auditing processes in Scientology, each one improving the individual’s ability to confront and handle part of his existence and thus increasing his spiritual awareness and abilities across the dynamics. Whilst most auditing is delivered by an auditor to a parishioner on an individual basis, some processes are also suited to groups. In either case, whether ministered to groups or individuals, the benefits are significant.”

61. The application letter says that prayer is an important part of every Sunday service. Mrs Wilks exhibited the Prayer for Total Freedom since it expressed the essence of Scientology, “and seeks God’s help to accomplish our work.” It commences with the following words: “May the author of the Universe enable all men to reach an understanding of their spiritual nature. May awareness and understanding of life expand, so that all may come to know the author of the Universe. And may others also reach this understanding which brings Total Freedom.” Those whose liberty is threatened were brought to mind. The congregants pray that human rights will be preserved so that all people might believe and worship freely. The prayer sought “Freedom to use and understand Man’s potential – a potential which is God-given and God-like. And freedom to achieve that understanding and awareness that is Total Freedom. May God let it be so.” She often quoted L Ron Hubbard to her congregations “You are a spirit. You are your own soul. You are not mortal. You can be free. The arms of God are open to you.”
62. The revised form of wedding ceremony was exhibited in which “upon the solemn and holy occasion” a not unfamiliar structure of ceremony followed. Questions were asked of bride and groom “under the light and glory of God and truth”. There are a number of references to God, such as “here in all the dignity of God before me stand a woman and a man whose lives from this time hence are one...before their God...”. The couple are pronounced man and wife before the witnesses “and God”.
63. Photographs of the Chapel show a large room with the Scientology Cross in the centre of the wall in front of which the minister stands at a lectern; there are few other ornaments but busts of L Ron Hubbard.
64. Mrs Wilks also expressly agreed with the report of the late Dr Wilson in 2002 entitled “The Congregational Services of the Church of Scientology”. He had been asked by the Church to review the way in which services were conducted and to evaluate them in the light of the *Segerdal* decision. For this purpose, he had attended a number of Scientology

services. He describes them in his report in this way: “The joyous disposition to give thanks that prevails in the Scientology Sunday services and Friday evening meetings must be evident to any observer”. The service was virtually unembellished by imagery, icons or other ancillary adjuncts of worship save for the distinctive eight point cross emblem in church and on ministers’ vestments. He describes the creed written by L Ron Hubbard as the orientation point for the service. The service is dominated by the preaching of the word which he likens to the traditional focus of American Protestantism. The sermons are drawn from the writings and lectures of L Ron Hubbard and its preaching is the central occasion for the exposition of the movement’s teachings. A recording of Mr Hubbard delivering a lecture might also be substituted. The services concluded with a prayer which he described as “a supplication that God might intercede in man’s affairs to bring about freedom from material entrapment”, which makes clear dependence on God and the Supreme Being as the indisputable source of wellbeing and the model for the Scientologist’s aspirations, and in which God is revered as the Author of the Universe.

65. Dr Wilson’s report then examines the nature of worship in a number of religions, expressing the view that the *Segerdal* criteria do not reflect adequately the range of attitudes and practices properly characterised as worship in a number of undoubted religions. This is particularly true for those that may not involve a belief in a Supreme Being. He preferred to define worship as “practices designed to bring a person into communication with the basic spiritual reality”. Nonetheless, he went on to consider how the *Segerdal* criteria applied to present day Scientology.
66. He concluded that whatever may have been the position in 1970, the congregational services, whether weekly religious services or the rites of passage (naming ceremonies for children, marriages and funerals), were services of religious worship according to the *Segerdal* criteria. There was a regular ministry who arranged services and their performance in accordance with the Church’s regulations. Services were decorous and dignified. He said that a superficial reading of the Church’s creed might suggest that it was a declaration of the rights of man alone but on closer reading it was evident that the creed “whilst not formally asserting the existence of God or declaring His supremacy over all other beings, actually takes his existence for granted.” The assertion that “no agency less than God” had the power to set aside these rights “was” an implicit recognition of God’s being and his supremacy to which mankind was subject.” The set prayer called upon God to grant freedom from war, poverty and to permit human rights the fullest expression. This to him was a prayer of intercession since God was asked to intercede to establish righteousness. Scientologists did believe in a Supreme Being and their congregational services included expressions of reverence and respect for that Being, seeking its intercession through prayer.
67. In my judgment, there has been no significant change in the beliefs of Scientologists or in their services since the decision in *Segerdal*. Although the Claimants suggest there has been an evolution in the beliefs of Scientologists, at least up to the death of L Ron Hubbard in 1986, I have not seen any indication as to what that might be or how it could bear on any issue as to the nature of Scientology or the significance of its practices. It may be that there is more reference to God in their services, but there is no evidence of any development in its thinking about the nature of the Scientologist God or Supreme Being, or its relationship to Scientologists. They do not now believe in a God or Supreme Being in a way which is different from what they believed in the 1960s and 1970s. Lord Denning may have been wrong to say that God did not “come into it”, but right or wrong,

that has not changed. Neither Mrs Wilks nor the Wilson reports suggest any change in that respect, which I do not find surprising. Quite the reverse, since Mrs Wilks' point is that the Court of Appeal in 1970 fundamentally failed in its appreciation of whether Scientology was a religion.

68. What has changed is the way in which Scientology describes itself, with a greater emphasis on its being a religion: Mr Segerdal described it as a "system of religious philosophy faith and practice based on the immortality of the human soul and the existence of a Supreme Being (or "God")." That bears some contrast with how Mrs Wilks describes it, but that is a matter of language and not of substance. The change in description from the mid-1960s, when Scientology was not described as a religion at all, to the position by 1983 is outlined by the High Court of Australia in the *Pay-Roll Tax* case, p168-9, Wilson and Deane JJ. The main change in emphasis began in the 1970s. What has also changed, and the *Pay-Roll Tax* case illustrates it, as does the recognition of Scientology as a religion in other jurisdictions, is the perception or greater acceptance of Scientology as a religion. But its nature has not changed.
69. The structure of the main congregational Sunday service is unchanged from that described by Mr Segerdal, and which the Court of Appeal accepted as fact: welcome, recitation of a creed, sermon based on the same scriptures as now, silence for contemplation or prayer, and notices. Mrs Wilks also refers to group auditing but she does not suggest that this is new since *Segerdal*, or that, if new, it assists in showing that what was not worship in 1970, now is. Auditing (and training) were in 1970 (as Dr Wilson's 1995 report confirms) and still are core parts of the congregational service, although they can be undertaken on an individual basis. "Fundamentals of the Scientology Religion" does not suggest that it is new, whether the Court of Appeal took account of it or not. The Court of Appeal's view that Scientologists did not worship would have been reinforced if anything by this practice. There was no suggestion of a change from the careful description of the practices in the 1999 Charity Commission report on charitable status for the Church of Scientology. A reverent and serious atmosphere remains; the expression of joy is not a different practice.
70. The creed exhibited by Mrs Wilks, with its references to God, is not new since *Segerdal*. The sermons are taken from the same sources as then and will therefore be the same sermons, save for any writings which post-dated *Segerdal*. But again no significance was ascribed to any of them in this respect. One of those I was shown mentions God, the other does not and is of an ethical/philosophical nature. I understand those two sermons to be a representative sample of Scientology sermons.
71. The sole change in congregational service is that there is now a prayer, the Prayer for Total Freedom, which was not said in 1970, and which Mrs Wilks describes as an intercessory prayer, seeking God's help that all should achieve its litany of freedoms. The 1967 booklet which says that there are no prayers is not now used, and indeed was not used in 1970. The Court of Appeal accepted Mr Segerdal's description of what words were used, but did not agree with him that that was a prayer. The Prayer for Total Freedom is different in that respect.
72. However, I cannot accept that had this prayer been before the Court of Appeal, it would have made any difference to its judgment. Given the Court's critique of the creed, I cannot see that this prayer would have altered its critique of the nature of the acts in the

services; rather Lord Denning would have made much the same points about this prayer as he did about the creed. Likewise, I see nothing about it which would alter the judgment about whether what Scientologists did was worship, as Winn and Buckley LJ defined it: “humbling themselves in reverence and recognition of a dominant power and control of any entity or being outside their own body and life”, or “submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession”. The simple description of it as a prayer could not suffice, nor the simple recognition of “God-given or Godlike” potential. The hope that the “author of the universe” will enable spiritual understanding, and the ending plea “May God let it be so”, are forms of prayer and intercession, but overall, I cannot see this as a significant change in practice.

73. There is also now a form of Wedding Ceremony, which states that it is taking place “under the light and glory of God and truth”; that too is a change. But neither by content or tone is that a real change to “worship” from what the Court of Appeal considered.
74. I have considered the expert evidence of Dr Wilson in his second report on this point, applying the *Segerdal* criteria. With respect to his expertise, he does not really acknowledge that the Court of Appeal also found certain practices not to constitute worship. The question which I have to address, and which Dr Wilson does not really address, is what is now so different between what the Court of Appeal considered and the current practices, applying *Segerdal*. Dr Wilson disagrees with the Court’s approach to the creed, and concludes that the Prayer of Total Freedom is a prayer of intercession. With no change to the substance of the beliefs of Scientology, the characterisation of this as not being “worship” cannot change. They are no more or less prayers to God than the creed is about belief in one.
75. One of the difficulties in the Court of Appeal’s analysis is that whether what Scientologists do in their services is worship or not is inevitably conditioned by whether Scientology is a religion or not, since if it is, it is easier to see that their services are the acts of worship of that religion and vice versa. However, as I have said, I have to approach this on the basis that the Court of Appeal, through Winn and Buckley LJ, and so taken at its most favourable to Scientology, assumed that it was a religion but concluded Scientologists did not worship.

Other submissions as to why *Segerdal* was not binding

76. I am unable to accept that the other bases upon which Lord Lester invited me not to be bound by this decision permit me so to find.
77. The Claimant argued that *Segerdal* was not binding because the Court of Appeal had wrongly treated the booklet of Ceremonies as a reliable account of Scientology practices, despite the evidence of Mr Segerdal as to how ceremonies were conducted, and the submission of Counsel that the booklet had been superseded or was inaccurate. I cannot treat the decision of the Court of Appeal as not binding on such a basis. Lord Denning and Buckley LJ specifically referred to Mr Segerdal’s affidavit; Lord Denning accepted it as a statement of fact save for the last two sentences of paragraph 7; they deal with the conflict about prayers on the basis that the prayers do not amount to “prayers” in the true sense. I have to treat the basis for that, as found by the Court of Appeal, to be the factual material contained in Mr Segerdal’s affidavit, as well as in the booklet of Ceremonies, as between which I have to assume that there is not a significant difference.

78. I admit to some sympathy with the argument that the Divisional Court did more than merely refuse to accept impermissible inferences; the language on p710 is of a barely concealed rejection of them as crucial facts. But the Court of Appeal decision on that is clear, although, it is a narrow view which wholly discounts the minister's characterisation of his services as drawing an inference which it was only for the Court to draw.
79. The Claimant also contended that the Court of Appeal was wrong in its approach to "worship", notably in the judgment of Buckley LJ, since those tests would not permit Buddhist services to be classified as worship, yet they are so classified for the 1855 Act by the Registrar General. It was submitted that many others whose places for religious worship were registered did not "worship" in the *Segerdal* sense. These included Buddhists, Jains, Quakers, Theosophists, and some Unitarians and Christian Scientists. This contention was deployed under a number of heads. Expert evidence from Dr Wilson, in his two papers of 1995 and 2002, criticised the cultural bias, in the mind formed by traditional mono-theistic religions, towards non-theistic religions and towards what acts constituted "worship" for them.
80. I found the expert reports of Dr Wilson interesting as a critique of the Court of Appeal's judgment and informative on the practices of Scientology and religions with which comparisons can be drawn, but of themselves not greatly persuasive. I do not think that the 1855 Act was intended to require quite so academic and comparative an analysis for the decision on registration to be made. I agree with Lord Lester's submission that the 1855 Act could not have envisioned a detailed examination of beliefs and practices, drawing what may be fine distinctions between them, referable perhaps more to cultural outlook or lack of understanding, and unnecessary for the purposes of the Act.
81. The evidence from the Claimants on the practices of a number of denominations and bodies which have had places for religious worship registered, and the evidence from Dr Wilson, point strongly to the difficulties created by the rejection by the Court of Appeal of registration for Scientology chapels, and its acceptance that Buddhist and non-theistic religions were covered by the Act, and that their practices were worship, all without the differences between their religious practices and those of Scientology being defined - or even hinted at. The evidence of comparative "worship" practices for those who have no God to worship, but have a religion with a spiritual path and some form of belief in an external power or source of enlightenment, which Dr Wilson produced, makes the definition in *Segerdal* quite difficult to sustain if applied other than to theistic religions. However, I am satisfied that the Court did not mean only to cover those Buddhists who are theistic; such a distinction would surely have been referred to. Rather it treated all Buddhists as having a religion in which they worshipped.
82. Mr Strachan submitted, to my mind correctly, that the *Segerdal* criteria required an object of veneration, whether Being, principle or law. Belief in a principle, or aspiration to achieve an end, was not enough; veneration was required. This meant that prayers, whether or not intercessionary and a sermon could not of themselves be acts of worship, nor could a service of itself, nor a meeting to participate in core actions. Studying how to achieve enlightenment, and instruction in the tenets of a religion, were not acts of worship. That approach, I accept, remains binding as does its application to the practices of Scientology.

83. I regard the definition of “worship” in *Segerdal* as being problematic. Not merely is it difficult to separate the concept of “worship” from the tenets of the religion, but the definition seems inapt to cover the non-theistic religions which the Court accepted are religions and which must be taken to “worship” for the purposes of the 1855 Act. Their “worship” is closer to a definition of worship as ceremonies, acts or prayers of a formal nature revering a power or principle regarded as supernatural or divine.
84. It may be that now a different approach to “religious worship” from that in *Segerdal* would and should be adopted. The purpose or at least one of the purposes of the Act is to permit registration of the places for religious worship, because the premises and their services will be treated by those who attend with reverence, rather than just respect, and will therefore be places where the civil part of marriage ceremonies can be performed and registered openly, voluntarily and lawfully. A “place for religious worship of any other body or denomination” might focus more on the significance for their religious beliefs which the adherents vested in the place and in their services there. However, the decision of the Court of Appeal in that respect binds me.
85. I would say that the phrase “place of meeting for religious worship” in this context, when those of any “body or denomination” are allowed for, means the place set aside by the body in question for its adherents in congregation to undertake its formal services, affirming its religious beliefs, and their commitment and devotion to its guiding spiritual power, principle or Being. It does not cover places of instruction or meditation alone or in which worship is an incidental use. It is important that the Act is not interpreted in a way which gives a traditional religion greater legitimacy than a new one, or which requires a traditional form of worship, when the purpose of the Act can be met without such restrictions, and in a way which reflects the variety of religious beliefs now practised in England and Wales. Nonetheless the *Segerdal* definition of “worship” binds me.
86. The fact that I have had further, better and expert evidence is not to the point, unless I can regard myself as freed by it from the binding force of *Segerdal*. I do not see that it can have that effect, even though the Church of Scientology is entitled to make further applications for the registration of the same or different places. The Church can put forward better evidence each time, but unless that evidence shows that there is a significant change from the circumstances which the Court of Appeal considered, that decision must still bind this Court on what is required for a service to involve “worship”, and on the lack of worship by Scientologists.
87. But this cannot avail the Claimants. I may believe that the Court of Appeal would now come to a different decision on better and more expert comparative evidence and an understanding of the sorts of bodies and denominations applying for registration of places of worship and the practices they undertake in them. But I do not see that I can say that the Court of Appeal may have gone wrong, or did go wrong, and therefore a different decision is called for. Nor can I slip free on the basis of better evidence. Its decision remains binding until overturned by a Court competent to do so, or one better placed to distinguish it.
88. Both sides referred me to the examination of the beliefs and practices of Scientology by the Charity Commission in 1999, which rejected the application of the Church of Scientology for registration as a charity established for the advancement of religion. It was a religion, since it believed in a Supreme Being, the nature of which was not fully

developed; but its services including auditing and training, which the Commission likened to counselling and education in the techniques and practices of Scientology, did not constitute worship according to the *Segerdal* criteria. Mr Strachan added that nothing of substance had changed since then. All that may be so, but it is for the Court to reach its judgment in the framework set for this decision by *Segerdal* itself. And the crucial point on which the Court of Appeal held against the registration of Scientology chapels concerned “worship” not “religion”. The Charity Commission report does not advance either side’s case, beyond the factual material it contains.

89. Lord Lester suggested that if, thus far he were to fail, the 1855 Act needed to be interpreted, not according to its natural or hitherto accepted meaning, but in the light of s3 Human Rights Act 1998 so as to make it compatible with the ECHR. Otherwise, there was a clear interference with Articles 9, 12 and 14. No clear justification for any interference had been shown for the difference in treatment in the enjoyment of the right to marry in accordance with one’s religious beliefs.
90. The Human Rights Act 1998 does not provide a basis upon which I can read the 1855 Act differently; it is not incompatible with the human rights of the Claimant. There is no interference with the right to marry according to national laws. There is no interference with the right of Scientologists to practise their religion, if such it is. There is no discrimination on the grounds of religion, assuming that Scientology is a religion.
91. Mr Strachan submitted that the 1855 Act draws a distinction between places for religious worship and other places. This involved no discrimination on the grounds of religion, but discrimination only between those places where a religion which involved worship actually undertook that worship and other places. That involves no discrimination in the enjoyment of the right to freedom of worship, practice and observance. I agree.
92. I did not find the many ECtHR decisions, to which I was referred, of assistance. They contain no indicia for identifying worship or even religion.
93. Likewise, I see no route to freedom from *Segerdal* in the Equality Act 2010.
94. Lord Lester contended that the Registrar General, in registering places of religious worship, was providing a service or facility to the public within s29(2) and s31(3), or was at least exercising a public function within s29(6) of the Act. The 2010 Act removed a limitation in the Equality Act 2006 on discrimination in the provision of facilities or services by those exercising a public function. The Registrar General discriminated against Scientologists on the grounds of their religious beliefs by refusing to register their places of religious worship, but registering those of Buddhists, Jains and other similar religions. No material difference between them had been asserted and proved by the Registrar General. The cause of the discrimination was the adoption of the inherently discriminatory *Segerdal* criteria.
95. Mr Strachan submitted that the Registrar General was duty bound to apply the provisions of the 1855 Act. Its application involved no discrimination, or at least none that was not required by the 1855 Act. The Act could not be read as requiring a place of secular worship, if such a concept has practical meaning, to be registered, or a place of secular meeting. Nor could it be read as requiring a place of religious meeting without worship to be registered.

96. If there were discrimination, it was in any event required by the 1855 Act and so could not contravene the 2010 Act, by virtue of s191 and paragraph 1 of Schedule 22. I agree with Mr Strachan's submissions. I do not need to decide which side is right over whether services or facilities were provided in the registration of places of worship.
97. It is also not necessary to do more than note that the Registrar General did not accept, and illustrated in submissions why, that the services of Buddhists, Jains and others were similar to those of Scientology.
98. Lord Lester contended that the Registrar General had applied discriminatory criteria or reached inconsistent decisions in breach of a common law duty of consistency. I disagree. The Registrar General does not operate discretionary criteria; she makes a decision on the facts. The common law duty to treat like cases alike is no more here than a duty to reach correct decisions. She may make a wrong decision but that is no more than a wrong application of the statutory test; it is not a breach of some other duty in public law. If one body uses a meeting place for religious worship and the other does not, she is obliged by the Act to register the one and not to register the other. That cannot amount to unlawful inconsistency in public law.
99. She may make inconsistent decisions, but she is bound to apply *Segerdal* to them all. Scientology is the most obviously bound into its straitjacket. But if she has made inconsistent decisions, perhaps trying to respect the thinking of the Court of Appeal on Buddhist temples, and at the same time its decision on the requirements of worship as applied to Scientology, a task which would not have been straightforward, the answer is to make only lawful decisions and not to add to the unlawful ones. Those should be dealt with in some other way, if they exist. It is not sufficient, in order to show legal error or some breach of statutory or other duty in this statutory context, to put before the court evidence which suggests that there may be imperfection in the consistency of decision-making as to what is a religion and whether its practices amount to worship.
100. All of these arguments found a place in the submission that the 1855 Act should be treated as ever-speaking, that it could be given an interpretation fitted to the multi-faith society of the 2010s, enhanced by greater understanding of Scientology and its services, and of the nature of non-theistic religions and their practices. The 1998 and 2010 Acts were grist to that mill. While I can accept that the 1855 Act should be given an interpretation which reflects the way in which religions are regarded at the present, and not how they would have been regarded in 1855, and that what constitutes worship should be treated in the same way, the words still have to be given effect. The words a "place of meeting for religious worship" must still be applied. I cannot thereby evade the decision in *Segerdal*. On the evidence, the acts of worship have not changed significantly, and so it remains binding.
101. The definition of worship in *Segerdal*, inadequate though it may be for non-theistic and similar beliefs, nonetheless applies to them. Without *Segerdal*, an updating interpretation might have been possible. But *Segerdal*, in the absence of a significant change in the way Scientologists worship, still binds me to hold that they do not worship. Even if in principle, an updating interpretation can be applied to an otherwise binding decision on the statutory interpretation and application of the Act, I do not think that times have moved on to the extent required to make *Segerdal* no longer binding.

Conclusion

102. Accordingly, I do not feel that I can hold that *Segerdal* is not binding on me. This claim must therefore be dismissed. Forty years on from *Segerdal*, the Court of Appeal may find the route at least to reconsider its decision in *Segerdal*, with the fuller material now available.