



Casey Hill and the Church of Scientology

Peter Bowal and Michelle Barron

Freedom of speech, like the other fundamental freedoms, is freedom under the law, and over the years the law has maintained a balance between, on the one hand, the right of the individual ... whether he is in public life or not, to his unsullied reputation if he deserves it, and on the other hand ... the right of the public ... to express their views honestly and fearlessly on matters of public interest, even though that involves strong criticism of the conduct of public people.

[Silkin v. Beaverbrook Newspapers Ltd.](#), [1958] 1 W.L.R. 743, per Lord [Diplock](#) at pp. 745-46

Introduction

It has never been easier for anyone to speak to the world than it is today. A single word can tear through the Internet and become publicly accessible. A slower, slightly less global world 30 years ago, however, was the setting for the 1995 case of [Hill v. Church of Scientology](#).

The Backstory

In 1983, the Ontario Provincial Police obtained a search warrant and searched premises occupied by Scientology. Approximately 250,000 documents in 900 boxes – over two million pages of material – were seized. Scientology promptly sought to invalidate the search warrant and secure the return of the seized documents. One and a half years later, a judge ordered 232 of the documents to remain sealed.

At about the same time, Scientology was challenging the Ontario government's denial of a licence to perform marriages to Scientology's president Earl Smith. A government official concluded that her decision would benefit by examining the seized documents. Hill was contacted and he advised her to apply to a judge through the Crown's office. Access to these sealed documents was granted without notice to Scientology.

Upon learning of this, Clayton Ruby, a lawyer for Scientology, wrote letters to the Ontario government and to Hill stating that what had happened was "disgraceful and shocking" and that it had made a "mockery of the courts."

As it turned out, Scientology had Hill in its crosshairs long before 1983. The court found that:

Hill had become a target of Scientology's enmity. Over the years, he had been involved in a number of matters concerning Scientology's affairs. As a result, it kept a file on him. This was only discovered . . . during the course of this action. The file disclosed that from approximately 1977 until at least 1981, Scientology closely monitored and tracked Casey Hill and had labelled him an "Enemy Canada". Casey Hill testified that from his experience, persons viewed by Scientology as its enemies were "subject to being neutralized".

The Defamatory Press Conference

Lawyer Morris Manning, represented the Church of Scientology, and recommended bringing contempt proceedings against Hill without gathering further information on the matter. On September 17, 1984, Manning, wearing his barrister's robes, addressed the press on the steps of the of the main Toronto court house to publicly denounce Crown prosecutor Casey Hill. To an audience of television stations and newspapers, Manning announced new criminal contempt litigation against Hill. He denounced Hill's misleading a judge and wrongfully participating in the "opening and inspection of documents which to his knowledge were sealed."

The Criminal Contempt Motion

Within two months of the courthouse press conference, Manning and Scientology prosecuted the motion to have Hill jailed or fined for his part in a government official obtaining access to the sealed documents. At this point both Manning and Scientology should have been well aware that no sealed documents had actually been breached.

All allegations against Hill were struck out as unfounded.

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The Defamation Action

One week after the Scientology contempt motion was dismissed, Hill sued Manning and Scientology for defamation. It was seven years before the month-long jury trial took place. Hill testified:

I was sick. I was shocked. I understood from reading it that it related to access to the documents. The type of thing that Mr. Ruby and I had been dealing with over many months, and I was just incredulous.

...

I was horrified when I saw it. I had had a long history of dealing with counsel for the Church of Scientology. Small problems, medium-sized problems and very serious problems had been raised between us.

Every effort was made to answer those issues as they came up. When I saw the newscast, I realized that there was really nothing I could do to stop the information from getting out. I thought it was false. I thought it was a very dramatic representation. A well-known lawyer as Mr. Manning was – and he was gowned.

...

And he was standing before the High Court. The indication that I had been involved in opening sealed documents and giving permission was totally false. For me, in seeing it, it was equivalent to saying I was a cheat and that I had obstructed the course of justice. It was an attack on my professional reputation and I had no way of stopping it.

Manning and Scientology were found jointly liable for general damages of \$300,000. Scientology alone was judged liable further for aggravated damages of \$500,000 and punitive damages of \$800,000. The Ontario Court of Appeal affirmed this decision and amount of damages in 1993.

The two main issues at the Supreme Court of Canada two years later were whether the common law of defamation reconciled with the *Charter* freedom of expression and whether the jury's award of damages could stand. The Court answered both issues in the affirmative, thus bringing this 12-year ordeal to an end. At that time, it was the largest damages award for defamation in Canadian legal history. Almost 1000 judicial decisions have referred to the Supreme Court's *Scientology* decision since 1995.

Aftermath

While Canadian courts have made it more difficult to win defamation cases since the *Scientology* case, the damages associated with successful actions have increased. This may be driven by wider publication through the Internet and information technology, and jury sympathy for

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individuals wronged at the hands of more powerful others. There have been larger jury awards for defamation since *Scientology* – for example, an Ottawa jury awarded a SkyService pilot \$3 million for a career-ending defamation by his employer in 2008.

Ironically, defamation may not actually damage one's reputation or career, at least not for long. The Supreme Court noted that “subsequent to the publication of the libel, Casey Hill received promotions, was elected a bencher [a governor of the Law Society of Upper Canada] and eventually appointed a trial judge in the General Division of the Court of Ontario” in Brampton.

Morris Manning continues to work as a lawyer in Toronto, as does Clayton Ruby. The Church of Scientology also continues to be in the news occasionally in connection with a variety of issues.

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