

9 JUNE 1984

Sect trial ordered to continue

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TORONTO—The Church of Scientology of Toronto was commanded Friday to move ahead with its case in Ontario Supreme Court proceedings unprecedented in Canadian history.

The sect's reason for being in court—a civil motion questioning the legality of a police search warrant—has been usurped by arguments about religion and parishioner/priest confidentiality.

Originally, the sect requested the hearing before Justice John Osler asking that he quash the March 4, 1983, Ontario Provincial Police warrant because, the sect said, the document was based on misinformation and hearsay.

But after a week of legal arguments, the issue has become whether Scientology priest and parishioner communications should be afforded the privilege of confidentiality given to lawyers and their clients.

"That question has never been established (in Canada)," said sect attorney Clayton Ruby, a leading Canadian civil rights lawyer. "We'll have, for the first time, an opportunity to prove there is a (parishioner/priest) privilege. And I think that is very important."

The issue of the search warrant's validity will also be raised, but not until after the religious question has been addressed, Osler said.

□ Closing arguments begin in Armstrong trial, 2B

Consequently, the sect may face an uphill battle since it must first establish the legal existence of parishioner/priest privilege before arguing that Scientology is a religion.

"I am not prepared to hear evidence or argument about the so-called religiosity of the Church of Scientology or to decide whether it is or is not a religion unless and until the existence of such a privilege is established," Osler ruled Friday.

"In the absence of such a privilege, the character of Scientology is irrelevant."

The sect contends that 750 "PC" or "pre-clear" files under seal and in police custody are protected by the yet to be established parishioner/priest privilege.

(Scientologists believe every human is immortal and has lived before. But experiences from previous lives trigger bad memories causing emotional distress and physical ailments. In order to become "clear," a pre-clear undergoes "auditing" by a sect official using an E-meter, which is similar to a lie detector, to identify emotional feelings of guilt. The

(Please see * SECT, next page)

* Sect

(from page 1B)

information gleaned from auditing is contained in a sect member's PC file.)

Osler will also hear arguments about 6,000 documents the sect says fall under lawyer-client privilege. He will then entertain arguments about the contested legality of the search warrant, which resulted in the police seizure of 250,000 sect documents.

The Church of Scientology is demanding the return of all seized documents.

The case resumes in Ontario Supreme Court on Monday morning.