

1 of 1 DOCUMENT

**UNITED STATES of America, Libelant, v. An ARTICLE OR DEVICE . . .
"HUBBARD ELECTROMETER" or "Hubbard E-Meter," etc., Founding
Church of Scientology et al., Claimants**

No. D.C. 1-63

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

333 F. Supp. 357; 1971 U.S. Dist. LEXIS 12206

July 30, 1971

CASE SUMMARY:

PROCEDURAL POSTURE: Libelant United States of America brought an action against claimants, the Founding Church of Scientology and various individuals, seeking nationwide condemnation of a gadget known as an E-meter and related writings, by libel of information under the Food, Drug & Cosmetic Act, 21 U.S.C.S. § 301 et seq. The suit was originally tried to a jury before another judge of the court, but the conviction there obtained was reversed on appeal.

OVERVIEW: The United States sought condemnation of the E-meter, a simple galvanometer using two tin cans as electrodes, and related literature. In its suit, the United States alleged misbranding and lack of adequate directions for use. A conviction was obtained, but it was reversed on appeal because of First Amendment problems suggested by the instructions and evidentiary rulings. The court conducted the second trial without a jury after a series of pretrials. The court held that: (1) the E-meter was a device within the meaning of the act; (2) the literature had all the necessary elements of labeling specified in 21 U.S.C.S. § 321(m), since it "accompanied" the device within the meaning of the act; (3) whether the documents were viewed singly or as a whole, many false scientific claims permeated the writings, and these were not even inferentially held out as religious, either in their sponsorship or context; (4) the E-meter was misbranded, and its secular use was condemned along with secular use of the offensive literature as labeling; and (5) the church and others who based their use upon religious belief were allowed to continue auditing practices upon specified conditions.

OUTCOME: The court entered a decree of condemnation but held that the church and others who based their use upon religious belief were allowed to continue auditing practices upon specified conditions, which allowed the Food and Drug Administration as little discretion as possible to interfere in future activities of the religion. In effect, the judgment eliminated further secular use of the E-meter by Scientologists or others.

CORE TERMS: religious, church, auditing, scientific, illness, dianetic, secular, religion, cure, claimant, intelligence, non-religious, labeling, psycho-somatic, exact, disease, condemnation, misbranding, distributed, condemned, seized, processing, counseling, radiation, bona fide, misrepresentation, adherents, pamphlet, purport, harmless

LexisNexis(R) Headnotes

***Criminal Law & Procedure > Criminal Offenses > Controlled Substances > Definitions
Governments > Agriculture & Food > Federal Food, Drug & Cosmetic Act***

[HN1] A device within the meaning of the Food, Drug & Cosmetic Act is statutorily defined as an apparatus or contrivance intended for use in the diagnosis, cure, mitigation or treatment of disease. 21 U.S.C.S. § 321(h).

***Criminal Law & Procedure > Criminal Offenses > Controlled Substances > Definitions
Governments > Agriculture & Food > Federal Food, Drug & Cosmetic Act***

[HN2] An item need not be the only agent in an allegedly curative process to be a device within the definition of the Food, Drug & Cosmetic Act.

Governments > Agriculture & Food > Federal Food, Drug & Cosmetic Act

[HN3] A single false scientific nonreligious label claim is sufficient to support condemnation.

Governments > Agriculture & Food > Federal Food, Drug & Cosmetic Act

[HN4] Accompanying labeling must specify the conditions for which the device is intended and sufficient information under which the device can be used safely and effectively for the purposes for which it is intended to be used.

Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Religion > General Overview

[HN5] A law designed to afford protection to the public against genuine evils may be used to regulate the activities of religion only if the regulation involved is the narrowest possible remedy to achieve the legitimate non-religious end.

***Civil Procedure > Judgments > Preclusion & Effect of Judgments > Res Judicata
Constitutional Law > Bill of Rights > Fundamental Freedoms > Freedom of Religion > General Overview***

[HN6] The Church of Scientology may not be wholly prevented from practicing its faith or from seeking new adherents.

JUDGES: [**1] **Gesell**, District Judge.

OPINION BY: GESELL

OPINION

[*358] MEMORANDUM OPINION

GESELL, District Judge.

This is an action by the United States seeking nationwide condemnation of a gadget known as an E-meter and related writings, by libel of information under the Food, Drug & Cosmetic Act, 21 U.S.C. § 301 et seq. The E-meter is claimed to be a device within the meaning of the [*359] Act. Misbranding and lack of adequate directions for use are alleged. Claimants are the Founding Church of Scientology and various individuals.

This suit was originally tried to a jury before another Judge of this Court and the conviction there obtained was reversed on appeal after a long trial because of certain First Amendment problems suggested by the instructions and evidentiary rulings. *Founding Church of Scientology v. United States*, 133 U.S. App. D.C. 229, 409 F.2d 1146 (1969). The present trial was conducted to the Court without a jury after a series of pre-trials which narrowed the issues. The record consists of the transcript and exhibits taken at the prior trial with some additions and deletions, plus the testimony of one additional witness who testified further on religious aspects of [**2] the case. Many of the background facts are set forth in the opinion of the Court of Appeals and since they were in the main not contested at the second trial they need not all be repeated here.

The E-meter is essentially a simple galvanometer using two tin cans as electrodes. It is crude, battery-powered, and designed to measure electrical skin resistance. It is completely harmless and ineffective in itself. A person using the meter for treatment holds the tin cans in his hands during an interview with the operator who is known as an auditor and who purports to read indicators from the galvanometer needle as it notes reactions to questions. Scientology is a so-called exact science which promotes auditing. When practiced by trained or untrained persons, Scientology auditing is claimed to improve the health, intelligence, ability, behavior, skill and appearance of the individual treated.

L. Ron Hubbard, writing in a science fiction magazine in the 1940's, first advanced the extravagant false claims that various physical and mental illnesses could be cured by auditing. He played a major part in developing Scientology. Thereafter, commencing in the early 1950's numerous Scientology [**3] books and pamphlets were written explaining how various illnesses can be and had been cured through auditing. These materials were widely distributed. Hubbard, who wrote much of the material, is a facile, prolific author and his quackery flourished throughout the United States and in various parts of the world. He was supported by other pamphleteers and adherents who also promoted the practice of Scientology and touted its alleged benefits.

Hubbard and his fellow Scientologists developed the notion of using an E-meter to aid auditing. Substantial fees were charged for the meter and for auditing sessions using the meter. They repeatedly and explicitly represented that such auditing effectuated cures of many physical and mental illnesses. An individual processed with the aid of the E-meter was said to reach the intended goal of "clear" and was led to believe there was reliable scientific proof that once cleared many, indeed most illnesses would automatically be cured. Auditing was guaranteed to be successful. All this was and is false -- in short, a fraud. Contrary to representations made, there is absolutely no scientific or medical basis in fact for the claimed cures attributed [**4] to E-meter auditing.

Unfortunately the Government did not move to stop the practice of Scientology and a related "science" known as Dianetics when these activities first appeared and were gaining public acceptance. Had it done so, this tedious litigation would not have been necessary. The Government did not sue to condemn the E-meter until the early 1960's, by which time a religious cult known as the Founding Church of Scientology had appeared. This religion, formally organized in 1955, existed side-by-side with the secular practice of Scientology. Its adherents embrace many of Hubbard's teachings and widely disseminate his writings. The Church purports to believe that many illnesses may be cured through E-meter auditing by its trained ministers through an appeal to the spirit or soul of a man. As a matter of formal doctrine, the Church professes to have [**360] abandoned any contention that there is a scientific basis for claiming cures resulting from E-meter use. The Church, however, continued widely to circulate Scientology literature such as Government's exhibits 16 and 31, which hold out false scientific and medical promises of certain cure for many types of illnesses. [**5] ¹

¹ The issues have been tried as of January, 1963, the date of the libel. Thus the findings as to Scientology literature and positions of the claimants do not necessarily reflect current conditions.

In 1962, when the Government seized the E-meters involved in the present controversy, it took them from the premises of the Church, confiscating some E-meters which were actually then being used primarily by ministers of the Church to audit adherents or to train auditors for subsequent church activity. Thus the Government put itself in the delicate position of moving against not only secular uses of the E-meter but other uses purporting to be religious, and the Court accordingly confronts the necessity of reconciling the requirements of the Food, Drug & Cosmetic Act prohibiting misbranding and the requirements of the First Amendment protecting religious institutions and religious beliefs from governmental interference under the First Amendment.

The Court of Appeals has ruled that the evidence at the prior trial [**6] and reintroduced at this trial established prima facie that the Founding Church of Scientology, the principal claimant here, is a bona fide religion and that the auditing practice of Scientology and accounts of it are religious doctrine. No evidence to the contrary was offered by the Government on the second trial. Accordingly, for purposes of this particular case only, claimant must be deemed to have met its burden of establishing First Amendment standing for whatever significance the religious practice of Scientology may have on the outcome of this particular litigation.

The Government considers the First Amendment issue wholly irrelevant and extraneous. Claimant, on the other hand, relies heavily on the religious claim. The positions of the parties are so completely different that neither even deigns to recognize any merit in the other. The briefs and findings proposed by each side pass like two ships at night with not even a port or starboard light showing. Yet the truth is not as absolute as either party contends. Religious aspects of this controversy, once tactically conceded, cannot be ignored. On the other hand, it is a gross exaggeration to insist that the energetic, [**7] persistent solicitation of E-meter-

audited cures for a fee has all occurred in a spiritual setting without use of secular appeals and false scientific promises made in a wholly non-religious context.

Turning to the precise issues presented, it must first be determined whether the E-meter is [HN1] a device within the meaning of the Act (21 U.S.C. § 321 (h)). It obviously meets the statutory definition of an apparatus or contrivance intended for use in the diagnosis, cure, mitigation or treatment of disease. Moreover, it is held out as such in the constant promotion of E-meter auditing, a process designed to effectuate cures of mental and physical illnesses. Claimants contend that the E-meter is harmless in itself, cures nothing by itself, and therefore cannot be a device since those who use it appreciate its ineffectiveness and cannot therefore have the requisite intent. This begs the question. The device plays a key part in both the secular and religious auditing process which is used and intended to be used in the cure, mitigation or treatment of disease. [HN2] It need not be the only agent in an allegedly curative process to be a device within the definition. The E-meter is a device **[**8]** within the meaning of the Act.

Over 100 E-meters were seized. At the same time the Government seized some 200 separate pieces of literature containing approximately 20,000 pages, much of which it now contends demonstrates misbranding of the device by misrepresentation **[*361]** and lack of adequate directions for use under 21 U.S.C. §§ 334 and 352.

The writings seized were located in a bookstore, or "Distribution Center," separately incorporated but owned by the Church, with offices in the basement of the Church premises.² The Center advertised and sold for profit a long list of Scientology, Dianetics and other writings concerned with auditing in book, pamphlet, newsletter and other forms.

² Claimants urge that this search and seizure was overly broad and contravenes the Fourth Amendment but this issue was resolved against this position by the Court of Appeals and need not be again considered.

A few of these writings are primarily religious in nature. Others contain medical or scientific claims in a **[**9]** partially religious context. Most of the material, however, explains aspects of Scientology and Dianetics in purely matter-of-fact medical and scientific terms without any apparent religious reference. While the Court of Appeals concluded that literature setting forth the theory of auditing, including the claims for curative efficacy contained therein, is religious doctrine and hence as a matter of law not labeling, it recognized this was so only if the person charged with misrepresentation explicitly held himself out as making religious as opposed to medical, scientific or otherwise secular claims. The bulk of the material is replete with false medical and scientific claims devoid of any religious overlay or reference. Two books which the Church especially recommended to interested participants, "Scientology: The Fundamentals of Thought" (Government Ex. 31), and "The Problems of Work" (Government Ex. 103), are typical examples of books containing false scientific non-religious claims. Examples of such claims found in these and a few other representative documents used in various direct and indirect ways to promote E-meter auditing are listed in Appendix A.

Thus the literature **[**10]** has all the necessary elements of labeling specified in 21 U.S.C. § 321(m) since it "accompanied" the device within the meaning of the Act. See *Kordel v. United States*, 335 U.S. 345, 351, 69 S. Ct. 106, 93 L. Ed. 52 (1948).

Having in mind a jury trial, the Court of Appeals contemplated an item-by-item analysis of the writings alleged to be labeling in order to remove from jury inspection purely religious appeals, reserving a presentation of the other literature for determination under instructions differentiating the secular from the religious. This exercise is, of course, unnecessary on a trial to the Court. [HN3] A single false scientific nonreligious label claim is sufficient to support condemnation, and in fact there are many. Moreover, differentiation of individual documents as a practical matter is of little value when it comes to an overall resolution of the controversy. Realistically, the writings cannot only be viewed separately. They are available and distributed in infinite combinations. Whole books are involved which often ramble, contradict and are constructed to make diversified appeals that are basically secular and directed to varying temperaments, ages and attitudes **[**11]** of potential readers. Much of the material is skillful propaganda designed to make Scientology and E-meter auditing attractive in many varied, often inconsistent wrappings.

The Food and Drug laws are designed to protect the public. The literature disseminated by various Scientology groups is written for popular lay consumption. The words and thrust of the writings must accordingly be so considered. Claims as to the efficacy of the E-meter must be read to mean what they clearly purport to say to ordinary lay readers. The Court notes that the task of determining whether a claim or representation is religious or non-religious, or whether a religious claim is genuine or merely "tacked on" to basically pseudoscientific claims, is hardly less troublesome [*362] than the task of determining whether a religious claim is true or false. The Court has attempted to resolve the difficulty thus presented by the Court of Appeals by refusing to consider the truth or falsity of any claim which, in the understanding of the average reader, could be construed as resting on religious faith. All doubts on this issue have been resolved in favor of the Claimants. But the overall effect of the [***12] many separate writings and the writings as a whole cannot be seriously questioned. Whether the documents are viewed singly or as a whole, the proof showed that many false scientific claims permeate the writings and that these are not even inferentially held out as religious, either in their sponsorship or context.

It should be kept in mind at all times that the Church is but one of several groups engaged in the promotion of Scientology; others include the Hubbard Guidance Center, that offers non-religious processing and auditing to the public for a fee; Hubbard Association of Scientologists International (HASI), a world-wide organization promoting Scientology among members of the organization who receive a monthly magazine ("Ability") and other benefits; and the Distribution Center, Inc., already mentioned. The combined effort of all these activities is to persuade the public to come forward for auditing with an E-meter for a fee, and while some may be motivated or attracted by religious considerations, others who audit or are audited are not.³

3 *Ability*, issue 14 (Ex. 9L, p. 14) states:

Scientology is going all out as a religion. The religious aspect is highly functional, very true and is very -- much -- more successful * * * The public expects to have ministers around. That's us folks.

* * *

* * * If you don't like religion for heaven's sakes call yourself a Dianeticist.

[**13] An individual was not required to be either a Church member or a Scientologist to be audited at cost of \$500 for 25 hours, with state of "clear" guaranteed for \$5,000. The E-meter was available for sale to the public for a fee of \$125. The benefits of auditing were extravagantly advertised. At the time this action was commenced, E-meters perhaps as many as one-third the total supply -- were being used by members of the public without any religious control or supervision.⁴ The writings were distributed to accompany the E-meter and intended to promote its use by members of the public; they were used by laymen for secular purposes; individually a great many contain false unqualified scientific claims without even a religious overlay or suggestion. Viewed as a whole the thrust of the writings is secular, not religious. The writings are labeling within the meaning of the Act. Thus, the E-meter is misbranded and its secular use must be condemned along with secular use of the offensive literature as labeling. The misbranding results not only from misrepresentation by reason of 21 U.S.C. § 352(a) but because the labeling failed to bear adequate directions for use required by 21 [**14] U.S.C. § 352(f)(1).⁵

4 At the time of this action at least half the E-meters in use in the United States were being used by non-ordained lay personnel. Operators franchised by the Church who may or may not subscribe to its doctrines, provide secular auditing, retaining for themselves ninety percent of the fees collected and purport to send only ten percent to the Church. Claimants were unable to show that these franchised services were in any real sense religious missionary work in the sense that auditing was done by members of this group on a religious basis.

5 [HN4] Accompanying labeling must specify the conditions for which the device is intended and sufficient information under which the device can be used safely and effectively for the purposes for which it is intended to be used. *United States v. Shock*, 379 F.2d 29 (8th Cir. 1967). Adequate directions are literally lacking here. It is impossible to write adequate directions for use of the E-meter by laymen. *Cf. United States v. Ellis Research Laboratories*, 300 F.2d 550 (7th Cir. 1962). *The Church of Scientology of California v. Richardson*, 437 F.2d 214 (9th Cir. 1971).

[15] [**363]** On the basis of these findings, the Government is entitled to some relief. It is only when the Court confronts the question of appropriate remedy that serious difficulties arise.

An initial issue presented is whether the normal Food and Drug remedies, 21 U.S.C. § 334, may under any circumstances be applied to the device when used by some as an "artifact" of a church. [HN5] A law designed to afford protection to the public against genuine evils may be used to regulate the activities of religion only if the regulation involved is the narrowest possible remedy to achieve the legitimate non-religious end, which in this case is only to protect the public against misrepresentation since the E-meter is harmless in itself. See *Sherbert v. Verner*, 374 U.S. 398, 83 S. Ct. 1790, 10 L. Ed. 2d 965 (1963); *Barnett v. Rodgers*, 133 U.S.App. D.C. 296, 410 F.2d 995 (1969).

The Government argues that once a violation of the Act is established, the devices seized may be treated the same as any other misbranded device. Since the bona fides of the religion remains unquestioned on this record, the Government's position is an oversimplification. Here is a pseudo-science that has been adopted **[**16]** and adapted for religious purposes. The literature held to make false representations, while in itself nonreligious, nevertheless comprises for some, part of the writings, teachings, and history of a religion. Those who belong to the Church and accept its beliefs assert that many illnesses may be alleviated by religious counseling designed to free the spirit of encumbrances. They find in the rationale and procedures of Scientology satisfactory early explanations and techniques to implement what is essentially faith healing by use of the E-meter. Thus they purport to read the purely secular writings of Scientology with semantic interpretations fostered by their evolving religious doctrine. Purely scientific statements are given a theological slant by the initiated and the occasional theological indications in the writings are given enthusiastic exaggeration. What the layman reads as straight science fiction becomes to the believer a bit of early imperfect scripture. The result of all this is that what may appear to the layman as a factual scientific representation (clearly false) is not necessarily this at all when read by one who has embraced the doctrine of the Church.

Accordingly, **[**17]** the Government's protestations that it is not interfering with religious practice when it seeks to condemn the E-meter and related literature must be qualified. The Church is a religious institution protected by the First Amendment. The E-meter is used by its ministers as part of the ritual and practice of the Church. Serious interference indeed results if the Church is entirely prohibited from using the E-meter by condemnation or if the Court orders the Food and Drug Administration to oversee a general rewriting of all the writings the Church purveys. Where there is a belief in a scientific fraud there is nonetheless an interference with the religion that entertains that belief if its writings are censored or suppressed. Similarly, if a church uses a machine harmless in itself to aid its ministers in communicating with adherents, the destruction of that machine intrudes on religion. The dilemma cannot be resolved by attempting to isolate purely false scientific claims from claims that have sufficient religious content to be outside the Food and Drug laws. There is a religious substance to everything when seen with the eyes of the believer.

For these reasons, [HN6] the Church may **[**18]** not be wholly prevented from practicing its faith or from seeking new adherents. A decree of condemnation which ordered destruction of the device, with its necessary *res judicata* effect as to all E-meters in the country, would achieve this effect. On the other hand, a condemnation decree which allowed the FDA to reform the writings as is done in the usual commercial drug misbranding case would give a Government agency excessive **[**364]** power to interfere with the exercise of religion, fostering that Government "entanglement" with religion which has been recently condemned by the Supreme Court. See, e.g., *Lemon v. Kurtzman*, 403 U.S. 602, 91 S. Ct. 2105, 29 L. Ed. 2d 745 (1971). Neither of these possible remedies is acceptable to the Court.

Had the Government proceeded in equity to enjoin specific non-religious practices or representations which it believed to violate the Act, the Court could have curtailed the purely commercial use of the E-meter while leaving the Church free to practice its belief under limited circumstances. An action *in rem*, however, acts only upon the device, and the Court cannot fashion a remedy in libel which distinguishes with particularity **[**19]** between religious and non-religious uses. An equity proceeding is clearly the most satisfactory remedy in this and any similar future cases, and may in some instances be the only remedy which the Government may seek consistent with the First Amendment.

Dismissal of this libel after eight years of legal proceedings is not justified on the grounds that the Government has not used the most appropriate remedy. A decree of condemnation will therefore be entered, but the Church and others who base their use upon religious belief will be allowed to continue auditing practices

upon specified conditions which allow the Food and Drug Administration as little discretion as possible to interfere in future activities of the religion. Pursuant to 21 U.S.C. § 334 (d), upon the findings and conclusions contained in this Memorandum Opinion, relief in the following form shall be set out in an implementing order:

All E-meters are condemned together with all writings seized. The Government shall have its costs.

The device and writings condemned shall be returned to the owners, upon execution of an appropriate bond, to be destroyed or brought into compliance with the Food, Drug & Cosmetic Act. **[**20]** An E-meter shall be deemed to comply with the Act if and only if it is used, sold or distributed upon specified conditions.

The device may be used or sold or distributed only for use in bona fide religious counseling. No user, purchaser or distributee (other than the Founding Church of Scientology or an ordained practicing minister of the Church) shall be considered engaged in bona fide religious counseling unless and until such user, purchaser or distributee has filed an affidavit with the Secretary of the Food and Drug Administration stating the basis on which a claim of bona fide religious counseling is made, together with an undertaking to comply with all conditions of the judgment so long as the E-meter is used.

The device should bear a prominent, clearly visible notice warning that any person using it for auditing or counseling of any kind is forbidden by law to represent that there is any medical or scientific basis for believing or asserting that the device is useful in the diagnosis, treatment or prevention of any disease. It should be noted in the warning that the device has been condemned by a United States District Court for misrepresentation and misbranding under **[**21]** the Food and Drug laws, that use is permitted only as part of religious activity, and that the E-meter is not medically or scientifically capable of improving the health or bodily functions of anyone.

Each user, purchaser, and distributee of the E-meter shall sign a written statement that he has read such warning and understands its contents and such statements shall be preserved.

Any and all literature which refers to the E-meter or to auditing, including advertisements, distributed directly or indirectly by the seller or distributor of the E-meter or by anyone utilizing or promoting the use of the E-meter, should bear a prominent notice printed in or permanently affixed to each item or such literature, stating that the device known as a Hubbard Electrometer, or E-meter, used in auditing, has been condemned by **[*365]** a United States District Court on the grounds that the literature of Dianetics and Scientology contains false and misleading claims of a medical or scientific nature and that the E-meter has no proven usefulness in the diagnosis, treatment or prevention of any disease, nor is it medically or scientifically capable of improving any bodily function. Where the notice **[**22]** is printed in or affixed to literature, it should appear either on the outside front cover or on the title page in letters no smaller than 11-point type.

The E-meter should not be sold to any person or used in any counseling of any person except pursuant to a written contract, signed by the purchaser or counselee, which includes, among other things, a prominent notification as specified immediately above.

The effect of this judgment will be to eliminate the E-meter as far as further secular use by Scientologists or others is concerned. E-meter auditing will be permitted only in a religious setting subject to placing explicit warning disclaimers on the meter itself and on all labeling. The Government has requested an opportunity to show that complete forfeiture and destruction of the E-meter is required, but the Court has concluded that however desirable this may be in the public interest, the Court is without power to so order in view of the protections afforded claimant and others similarly situated under the First Amendment.

The foregoing shall constitute the Court's findings of fact and conclusions of law. The parties are directed to submit an appropriate form of order providing **[**23]** the relief indicated on or before September 1, 1971.

APPENDIX A

Representative Documents Found to be Non-Religious, and Samples of False or Misleading Claims Found Therein

1. Eight-page pamphlet, entitled "What is Scientology?"

(Government Exhibit No. 16)

"Scientology is today the only successfully validated psychotherapy in the world. Tens of thousands of completely documented cases exist in the files of the Hubbard Association of Scientologists International.

"The first science to put the cost of psycho-therapy within the range of any person's pocketbook. A complete Freudian analysis costs \$8000 to \$15,000. Better results can be achieved in Scientology for \$25 and, on a group basis for a few dollars."

"The first science to make whole classes of backward children averagely bright using only drills the teacher can do a few minutes each day.

"The first science to determine the basic cause of disease.

"The first science to contain exact technology to routinely alleviate physical illnesses with complete predictable success.

"The first science of mind to prove conclusively that physical illness can stem from mental disturbance, a fact which Freud held only as a theory, [**24] and only seldom demonstrated.

2. Twenty-four page pamphlet, entitled "Ability Issue 71: Being Clear and How to Get There," by L. Ron Hubbard

(Government Exhibit No. 9BA)

"Scientologically, the optimum individual is called the *clear*. One will hear much of that word, both as a noun and a verb, so it is well to spend time here at the outset setting forth exactly what can be called a *clear*, the goal of Scientology processing.

"A *clear* can be tested for any and all psychoses, neuroses, compulsions and repressions (all aberrations) and can be examined for any autogenic (self-generated) diseases referred to as psychosomatic ills. These tests confirm the *clear* to be entirely without such ills or aberrations. Additional tests of his intelligence indicate it to be high above the current norm. Observation of [**366] his activity demonstrates that he pursues existence with vigor and satisfaction.

"Further, these results can be obtained on a comparative basis. A neurotic individual, possessed also of psychosomatic ills, can be tested for those aberrations and illnesses demonstrating that they exist. He can then be given Scientology processing to the end of clearing [**25] these neuroses and ills. Finally, he can be examined, with the above results. This, in passing, is an experiment which has been performed many times with invariable results. It is a matter of laboratory test that all individuals who have organically complete nervous systems respond in this fashion to Scientology clearing."

(3) Hard back book, 452 pages, entitled "Dianetics: The Modern Science of Mental Health," by L. Ron Hubbard.

"Simple though it is, dianetics does and is these things:

1. It is an organized science of thought built on definite axioms: statements of natural laws on the order of those of the physical sciences.
2. It contains a therapeutic technique with which can be treated all inorganic mental ills and all organic psychosomatic ills, with assurance of complete cure in unselected cases.
3. It produces a condition of ability and rationality for Man well in advance of the current norm, enhancing rather than destroying his vigor and personality.
4. Dianetics gives a complete insight into the full potentialities of the mind, discovering them to be well in excess of past supposition.
5. The basic nature of man is discovered in dianetics rather than hazarded or [**26] postulated, since that basic nature can be brought into action in any individual completely. And that basic nature is discovered to be *good*.
6. The single source of mental derangement is discovered and demonstrated, on a clinical or laboratory basis, by dianetics.

7. The extent, storage capacity and recallability of the human memory is finally established by dianetics.
8. The full recording abilities of the mind are discovered by dianetics with the conclusion that they are quite dissimilar to former suppositions.
9. Dianetics brings forth the nongerm theory of disease, complementing bio-chemistry and Pasteur's work on the germ theory to embrace the field.
10. With dianetics ends the "necessity" of destroying the brain by shock or surgery to effect "tractability" in mental patients and "adjust" them.
11. A workable explanation of the physiological effects of drugs and endocrine substances exists in dianetics and many problems posed by endocrinology are answered."

"Chapter V

PSYCHO-SOMATIC ILLNESS"

"Psycho-somatic illnesses are those which have a mental origin but which are nevertheless organic. Despite the fact that there existed no precise scientific proof of this before **[**27]** dianetics, an opinion as to their existence has been strong since the days of Greece, and in recent times various drug preparations have been concocted and sold which were supposed to overcome these sicknesses. Some success was experienced, sufficient to warrant a great deal of work on the part of researchers. Peptic ulcers, for instance, have yielded to persuasion and environmental change. A recent drug called ACTH has had astonishing but wildly unpredictable results. Allergies have been found to yield more or less to things which depressed histamine in the body.

"The problem of psycho-somatic illness is entirely embraced by dianetics, and by dianetic technique such illness has been eradicated entirely in every case."

"On the physical therapy level anything as violent as surgery or exodontistry in the psycho-somatic plane is utter barbarism in the light of dianetics. "Toothache" is normally psycho-somatic. **[*367]** Organic illnesses enough to fill several catalogues are psycho-somatic. No recourse to surgery of any kind should be had until it is certain that the ailment is not psycho-somatic or that the illness will not diminish by itself if the potency of the reactive **[**28]** mind is reduced. * **"

(4) Twelve-page pamphlet, entitled "Ability Issue 72"

(Government Exhibit No. 114)

[SEE ILLUSTRATION IN ORIGINAL]

[*368] (5) Sixty-four page booklet, entitled "Scientology: The Fundamentals of Thought," by L. Ron Hubbard. Subtitle: "The Basic Book of the Theory & Practice of Scientology for Beginners"

(Government Exhibit No. 31)

Scientology is that branch of psychology which treats of (embraces) human ability. It is an extension of DIANETICS * * * Scientology is actually a new but very basic psychology in the most exact meaning of the word. It can and does change behaviour and intelligence and it can and does assist people to study life.

Scientology, used by the trained and untrained person improves the health, intelligence, ability, behaviour, skill and appearance of people.

It is a precise and exact science, designed for an age of exact sciences.

Scientology is employed by an Auditor (one who listens and commands) as a set of drills (exercises, processes) upon the individual, and small or large groups. It is also employed as an educational (teaching) subject. It has been found that persons can be processed (drilled) in Scientology with **[**29]** Scientology exercises and can be made well of many, many illnesses and can become brighter, more alert and more competent. BUT if they are only processed they have a tendency to be overwhelmed or startled and although they may be brighter and more competent they are still held down by an ignorance of life. Therefore it is far better to teach AND process (audit, drill) a person than only to process him. In other words the best use of Scientology is through processing and education in Scientology. In this way there is no imbalance. It is interesting

that people only need to study Scientology to have some small rise in their own intelligence, behaviour and competence. The study itself is therapeutic (good medicine) by actual testing.

Tens of thousands of case histories (reports on patients, individual records) all sworn to (attested before public officials) are in the possession of the organizations of Scientology. No other subject on earth except physics and chemistry has had such grueling testing (proofs, exact findings). Scientology in the hands of an expert (Auditor) can cure some 70% of Man's illnesses (sicknesses). Scientology is used by some of the largest companies (business **[**30]** organizations) on Earth. It is valid. It has been tested. It is the only thoroughly tested system of improving human relations, intelligence and character and is the only one which does.

(6) Seventy-one page booklet, entitled "The Problems of Work," by L. Ron Hubbard.

(Government Exhibit No. 103)

"Scientology is the first American science of Man. It is the technical knowhow of the American applied to himself. In contrast to the metaphysical thinking of Europe that has formed the basis of our concepts of ourselves, Scientology is a technology as factual and as exact as the technologies that base the development of the atom bomb . . . and it has a like source -- the first class in nuclear physics, taught at George Washington University.

"Scientology can and does change human behavior for the better. It puts the individual under the control of himself -- where he belongs. Scientology can and does increase human intelligence. By the most exact tests known it has been proven that Scientology can greatly increase intelligence in an individual. And Scientology can do other things. It can reduce reaction time and it can pull the years off one's appearance. But there **[*369]** **[**31]** is no intention here to give a list of all it can do. It is a science of life and it works. It adequately handles the basic rules of life and it brings order into chaos.

"The mysteries of life are not today, with Scientology, very mysterious. Mystery is not a needful ingredient. Only the very aberrated man desires to have vast secrets held away from him. Scientology has slashed through many of the complexities which have been erected for men and has bared the core of these problems. Scientology for the first time in man's history can predictably raise intelligence, increase ability, bring about a return of the ability to play a game, and permits man to escape from the dwindling spiral of his own disabilities. Therefore work itself can become a game, a pleasant and happy thing.:

(7) Hard cover book, 112 pages, entitled "All About Radiation, by a Nuclear Physicist and a Medical Doctor"

(Government Exhibit No. 116)

We care very little about whether there is radiation in the atmosphere because a person who is in excellent physical condition does not particularly suffer mentally and thus physically from the effects of radiation. When a person is at a level where his general physical **[**32]** health is good, then this worry is not capable of depressing him into ill-health. Radiation is more of a mental than a physical problem and Scientology handles that."

"The reaction to radiation in persons who have been given Scientology processing is by actual tests much lower than those who have not received it. We have conducted many experiments in that direction. But even we would find it very difficult and even antipathetic to get everybody together and give them the amount of group processing needed as safeguard against radiation."