

FDA Seizure Of E-Meters Is Reversed

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The U.S. Court of Appeals ruled yesterday that since the Scientology organization had made a case—uncontested by the Government—that it was a religion, a 1963 raid on its headquarters was illegal because it violated its constitutional rights.

In a much-publicized raid on Jan. 4, 1963, agents from the Food and Drug Administration seized so-called "E-meters" and stacks of literature from the headquarters of the Founding Church of Scientology here.

The FDA charged at the time that the Scientologists made false claims of curative powers for the seized machines. The Scientologists challenged the seizure in court, but lost in a jury trial.

Constitutional Guarantee

The Appellate Court ruled yesterday that the organization was protected by the Constitutional guarantee of freedom of religion, since it had established a case that it was a religion and the Government failed to challenge that claim.

The Government maintained that it made no difference whether or not Scientology was a religion, saying that the organization's actions were subject nonetheless to FDA controls.

Judge J. Skelly Wright, who wrote the Court's 28-page opinion, said that since the Government chose not to try to disprove the claim, the organization's publications had to be treated as "doctrinal religious literature."

"Literature setting forth religious doctrines," Judge Wright said, "... cannot be subjected to courtroom evaluation" or be considered "labeling" of the implements used in the Founding Church's practices.

Seized the 'E-Meter'

The Founding Church's headquarters are still in the 1800 block of 19th Street nw.

The agents in the raid seized writings of L. Ron Hubbard, the founder of the organization, which the Government said made false claims about the healing powers of a machine called the "Hubbard Electrometer" or "E-meter." They also seized the machines.

After the 1967 jury trial, Judge John J. Sirica signed

an order permitting the government to confiscate the material and destroy it, but granted a stay pending the appeal.

Judge Wright, in his review of the case, said the Founding Church's argument was that the machines were used only in a process known as "auditing," or mental and spiritual diagnosis.

Akin to Confession

"In their view," he said, "auditing or processing is a central practice of their religion, akin to confession in the Catholic church, and hence entirely exempt from regulation or prohibition."

"They have conceded that the E-meter is of no use in the diagnosis or treatment of diseases as such, and have argued that it was never put forward as having such use. Auditing or processing, in their view, treats the spirit of man, not his body, though the healing of the spirit the body can be affected."

The seized literature set forth those beliefs, he said, and therefore was entitled to be regarded as scripture until proved otherwise. Moreover, he said, "The Founding Church of Scientology is incorporated as a church in the District of Columbia, and its ministers are qualified to perform marriages and burials."

No General Exemption

Not all actions of churches are exempt from Government control, Judge Wright said, but "scripture" cannot be used as the basis for exerting that control. He specifically declined to rule that Scientology is a religion for all legal purposes.

He was joined in his opinion by Judge Spottswood E. Robinson III.

Judge Carl McGowan, dissenting, wrote that "this proceeding did not involve an inquisition into the validity of any personal religious beliefs, or the infliction of a punishment upon any person for holding or disseminating such beliefs. It was a proceeding against property under a Congressional statute aimed at protecting the unsophisticated against not only wasting their money but more importantly, endangering their lives by relying on misbranded machines."