

Who Can Stand Up?

"Can anyone stand up to the Church of Scientology?"

Such was the plaintive question asked by The St. Petersburg Times in an editorial last week, and with good reason. The great American religious saga of the 1990's may be the rise to power of a church that has successfully brought the Internal Revenue Service, the State Department and much of the American press to heel even as it did an end-run around the courts.

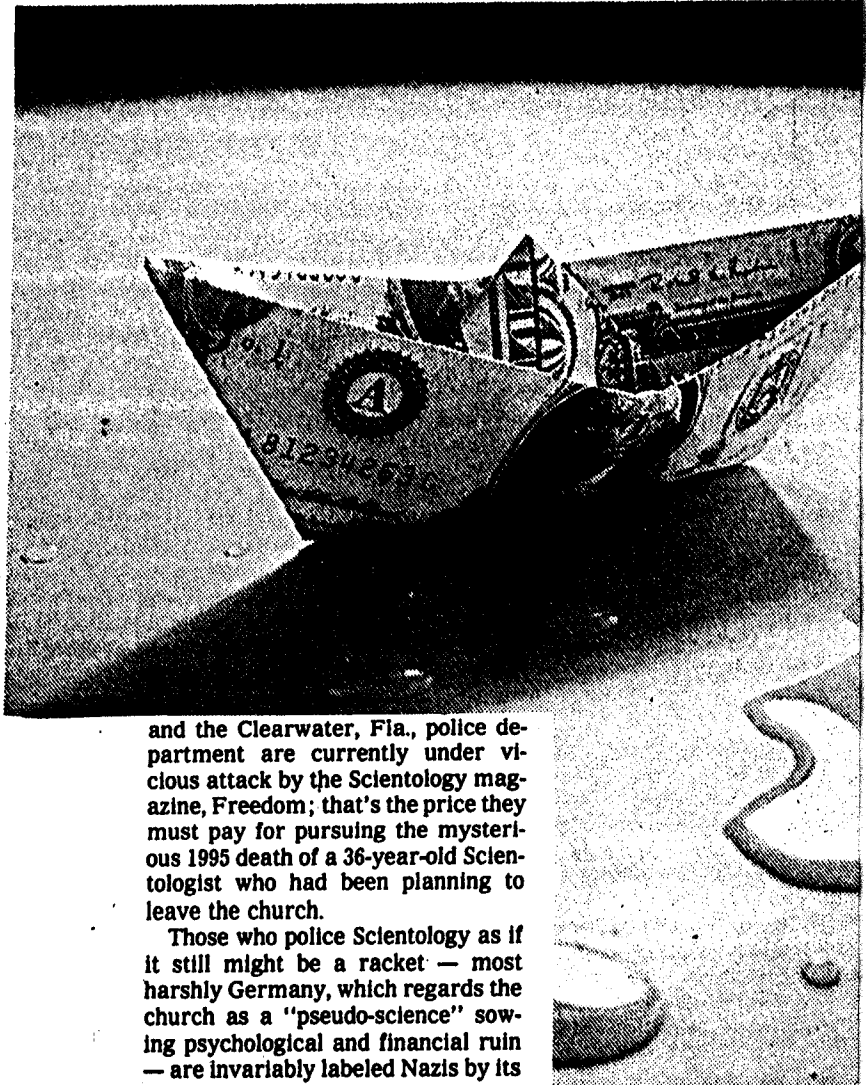
As Douglas Frantz reported in The New York Times a week ago, Scientology in 1993 suddenly metamorphosed from a controversial and highly lucrative organization, with an extensive history of criminal activity in the 1970's, into a bonafide nonprofit religion — at least as far as the U.S. Government was concerned. That's when the I.R.S. turned its back on 25 years of its own rulings and gave Scientology the tax-exempt legitimacy it had long craved. What made this decision startling was not only the I.R.S.'s contradiction of both itself and various court decisions on Scientology's tax status, but also the mysterious circumstances that brought on the about-face. Scientology's victory was set in motion in 1991 when two of its leaders dropped by the I.R.S.'s Washington headquarters unannounced and somehow secured an audience with the agency's then Commissioner, Fred Goldberg Jr.

Why did Mr. Goldberg afford some of the I.R.S.'s most ferocious long-time antagonists the red-carpet treatment John Q. Taxpayer would never receive? He isn't saying, and the fateful meeting was not even recorded in his appointment calendar. Nor do we know what is in the agreement that the I.R.S. and Scientology subsequently negotiated — since the I.R.S. also acceded to the church's demand for secrecy. What we do know, thanks to Mr. Frantz, is that the settlement followed years of costly Scientology litigation against the I.R.S. and an extensive investigation of I.R.S. employees by Scientology-hired gumshoes.

Scientology will stop at little to try to silence its foes. Time magazine had to spend \$7 million to successful-

The rise of the Church of Scientology.

ly defend itself against libel — a decision now under appeal — after its 1991 exposé of Scientology as a "hugely profitable global racket." The Cult Awareness Network, a Chicago-based organization that battled cults, was driven to financial ruin by litigation brought by Scientologists and their associates; now it's in the hands of a Scientologist and proselytizes for the church. The Tampa Tribune, The St. Petersburg Times



and the Clearwater, Fla., police department are currently under vicious attack by the Scientology magazine, Freedom; that's the price they must pay for pursuing the mysterious 1995 death of a 36-year-old Scientologist who had been planning to leave the church.

Those who police Scientology as if it still might be a racket — most harshly Germany, which regards the church as a "pseudo-science" sowing psychological and financial ruin — are invariably labeled Nazis by its leaders. Because of the I.R.S. decision, Scientology complaints about foreign governments are now treated officially as human-rights grievances by the State Department. Madeleine Albright, who has already raised the issue with Germany, may eventually have to take other allies to task as well. The Washington Post reported on Jan. 27 that a Greek judge closed a Scientology church center in Athens for "medical, social and ethical practices that are dangerous and harmful" and that an Italian court ordered jail terms for 29 Scientologists found guilty of "criminal association."

Perhaps these governments are Nazis, too, and the I.R.S., whose senior officials defended the legal merits of the agency's decision in conversations last week, is right: maybe Scientology, which charges its followers tens of thousands of dollars for the mandatory counseling sessions it calls "auditing," is indeed a benign nonprofit organization entitled under tax law to be underwritten by American taxpayers. But given the cost of this decision, shouldn't all the circumstances surrounding it be revealed? And where are the network TV interviews with David Miscavige, the Scientology leader whose casual visit to the I.R.S. in 1991 brought such blessings? No one can say he isn't newsworthy. As the head of an empire that purports to have eight million followers, he is the spiritual ruler of the most successful new religion to be founded in this century. □

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Scientology Denies Account Of Impromptu I.R.S. Meeting

By DOUGLAS FRANTZ

The Church of Scientology has denied that its leader and another official had an unscheduled meeting in October 1991 with Fred T. Goldberg Jr., then the Commissioner of the Internal Revenue Service.

A statement released by the church, which was sharply critical of an article on March 9 in The New York Times, said that its leader, David Miscavige, had not had an impromptu meeting with Mr. Goldberg and that all meetings between church representatives and I.R.S. officials had been attended by many people and had been scheduled. Scientology makes this and other arguments in a full-page advertisement that appears today in The New York Times on page A11.

The church's statement differed from an account of the session presented in an internal Scientology publication in 1994. The publication's version formed part of the basis for a description of the meeting in the Times article.

The article said that after the meeting with Mr. Miscavige and another church official, Mr. Goldberg had formed a special committee to negotiate a settlement with Scientology in its long-running fight to obtain tax-exempt status from the I.R.S. In a ruling that surprised many tax experts and ended the 25-year fight between the church and the I.R.S., every Scientology entity in the United States was granted a tax exemption in 1993.

The I.R.S. has refused to say whether Mr. Goldberg had an unscheduled meeting with Mr. Miscavige. Mr. Goldberg, who left the agency in 1992, has declined to comment.

In its new statement, the church said, "While an internal publication of three years ago does recount Mr. Miscavige approaching the I.R.S., it never states he was granted an unscheduled meeting on demand."

In a separate letter to The Times, Marty Rathbun, a church official, said he and Mr. Miscavige had walked into the reception area at the

I.R.S. building in Washington and requested a meeting with the Commissioner. Mr. Rathbun said they had been put in touch with the appropriate officials and had met with Mr. Goldberg and other I.R.S. officials approximately one month later.

In 1994, International Scientology News, an internal Scientology publication, said Mr. Miscavige and Mr. Rathbun had been in Washington with a few hours to spare and had decided upon "an impromptu visit"

The New York Times

THE CHURCH OF SCIENTOLOGY'S HARD-WON TAX-EXEMPT RECOGNITION

Imagine if you were part of an organization at war for decades with the Internal Revenue Service. Then one day you just happened to be walking by their national headquarters when you decided to walk in the front door, barge into the Commissioner's office, without an appointment, only to have that Commissioner roll out the red carpet, cater to your every whim and give you the tax exemption you demand.

But that's not all.

This meeting and its particulars are so mysterious, a newspaper reporter decides to file a Freedom of Information Act request and get the Commissioner's appointment book. And when he does, it shows no such meeting!

This then is somehow taken by the reporter as "proof" that the meeting must have taken place, since there is no record of it anywhere.

Certainly, if true, this would be a sensational story. And if you were the prestigious New York Times, you would want to confirm the story was true — that the meeting actually took place — before printing such. Of course you would verify this with the concerned parties.

Well, The New York Times did print this story — last week, about the Church of Scientology's recognition as tax exempt — three years ago.

The only problem: the story is untrue. No such impromptu, unscheduled meeting ever did take place.

THE REAL STORY

In October 1993 the Internal Revenue Service recognized Churches of Scientology as tax-exempt, charitable organizations. IRS recognition of the Churches of Scientology did not happen overnight.

The IRS exemption rulings were issued only after the most rigorous and comprehensive examination of any exemption application in United States history.

The recognition resulted from an unprecedented proceeding in which the IRS had unrestricted access to all records reflecting the policies, structure, operations, and finances of every Scientology Church and organization in the United States and around the world. IRS personnel had carte blanche to examine any and all records at their discretion, including conducting unprecedented on-site inspections at the various Churches of Scientology.

The average exemption application for organizations that are not the Church of Scientology includes:

A) Approximately ten pages of narrative describing an organization and its operations.

B) A review by the local office of the IRS, usually a few hours in length.

By comparison, this is what the Churches of Scientology were subjected to:

A) An application submitted to the IRS.

B) Review by the IRS resulting in *thousands* of questions, requiring thousands of pages of narrative and foot upon foot of financial records.

C) By the time the Churches of Scientology finally received their decisions, over *two years* had passed and the largest administrative record ever for any exempt organization — more than twelve linear feet — had been compiled.

And rather than having just one meeting with the Commissioner, as reported by *The Times*, the Church actually was subjected to *hundreds* of hours of grueling meetings where information had to be provided, over a period of *two years*, and under three *different* Commissioners.

But that's not all. Rather than dealing with low-level bureaucrats at the IRS district office in Los Angeles, home of Church headquarters, the Church was examined by the most senior officials over exempt organizations, at the IRS National Office in Washington, D.C.

In summary, the Church not only did not receive especially favorable treatment, they received especially rigorous treatment, unprecedented in IRS history.

So how did the Churches of Scientology obtain tax exemption?

THEY EARNED IT.

In October 1993 the Internal Revenue Service recognized Churches of Scientology as tax-exempt, charitable organizations.

And on that point, the proof is easy to come by since the administrative records submitted by the various Churches of Scientology are available for inspection at the IRS reading room in Washington, D.C. Indeed, those records have been reviewed by various tax-exempt experts and lawyers and every one of them has come to the same conclusion: The record overwhelmingly establishes qualification for tax-exempt recognition by the Churches of Scientology.

SCIENTOLOGY/IRS BATTLES

The Times makes a very large issue out of the Church/IRS conflicts. What the Church objects to is this being presented as news. Factually, everybody was aware of the Church/IRS conflicts as they were raging in the 1980s and early 1990s. And the reason they knew about those conflicts was because the Church went to great lengths to see that details of such were published. For *The Times* to report them as some "new controversy" is simply not accurate.

While reporting the Church was involved in extensive litigation with the IRS in the late 1980s and early 1990s (was anybody in America unaware of that?), omitted is that the primary thrust of Church litigation against the IRS was under the Freedom of Information Act (FOIA). Namely, the Church was trying to obtain government documents evidencing discriminatory conduct and actions against the Church. The result of such litigation — literally hundreds of cases — was just that. Indeed, one Federal judge credited the Church with reforming IRS procedures which directly benefited "over 1,000 cases involving identical legal issues." It is virtually impossible to read a page in an FOIA casebook today without finding a precedent set by the Church of Scientology.

Additionally, in exposing IRS misconduct in the late 1980s and early 1990s, the Church was at least partially responsible for many reforms that now benefit all Americans:

- The discovery of some IRS agents attending Tax Ethics Seminars at vacation resorts certainly led to reforms.
- The Taxpayer Bill of Rights contains many provisions fought for by the Church of Scientology.

So how did the Churches of Scientology obtain tax-exempt recognition?

THEY EARNED IT.

- We contributed to the discovery and publication of computer abuse that could have resulted in \$1 billion in incorrect assessments.

- We were even commended by the U.S. Supreme Court for having persevered through IRS stonewalling by bringing an issue to the highest court, resulting in the restoration of Federal Court powers over the IRS.

The point is this: Those conflicts reported as "new news" actually took place almost a decade ago and have already been extensively covered in the media.

ONGOING CONTROVERSY

Since the Churches of Scientology were recognized as tax-exempt over three years ago, *The Times* article would seem to be very outdated. Indeed, *The Times* did cover the Church's exemption, thoroughly, when it was announced three years ago. Certainly there must be more to this story? That is, even if based on an honest mistake, maybe there is a deeper reason for the ongoing controversy.

In answer to that, all we can offer is this: Any new religion, any new movement, indeed any new ideas are usually attacked. This is not unique to the Scientology religion. People attack what they do not understand. Scientology is certainly a young religion, unquestionably subjected to more attacks than any new ideas, religion or movement in this century. However, unlike most of the others who have been attacked, Scientology is not only still here, but is visibly larger than ever. Such, by itself, is controversial.

For years, terrible things have been said about Scientology. And if but a fraction of them were true, we could understand people would think no one should be involved with the organization. Frankly, we ourselves would not be involved with an organization that did all the things people say we do. Unfortunately, some people believe everything they read and then, confronted with a new fact, seemingly at odds with their beliefs, they reject it. Maybe that's why the Church's recognition surprised some people.

Unquestioned, however, is this: For years, a great deal of the controversy surrounding Churches of Scientology in other countries of the world have stemmed from U.S. sources. That is, foreign governments would often make the claim that, "Since the

In summary — the Church not only did not receive especially favorable treatment — they received especially vigorous treatment, unprecedented in IRS history.

Church of Scientology's headquarters are in the United States, and since the United States government has not recognized you, then why should we? After all, your policy is set in the United States and so that is where any decision should be made."

It is easy then to see that when the United States government *did* recognize the Church's Mother Church, and all its subsidiary organizations, controversy was in the making. After all, following the same line of thought, those foreign governments would have to follow the U.S. lead. The problem is this: Some of those governments had their own agenda. While we are not attempting in this article to convince all *Times* readers that "we are right" and "they are wrong," everyone can certainly agree that religious freedom has not been one of the highlights of European history. Indeed, the United States would not exist as it does today if religious freedom were part of European heritage.

The primary site of controversy is Germany, where Scientology is even subjected to brutal discrimination. The German press won't even allow us paid advertising to tell our side of the story, even when supported with documentation. Then, unable to interest U.S. newspapers in carrying this story, the Church was forced to take out paid advertising in American newspapers, notably *The Times*.

When Doug Frantz, *The Times* reporter, contacted the Church a few weeks ago, he was asked what the topic of the article was. In general, he responded that, "You're making claims of discrimination by the German government and the U.S. State Department is on your side and it seems that they are on your side because you have tax exemption..." In other words, even he could see that with U.S. recognition, the Germans *should* be treating the Church with a bit more dignity and respect.

Regardless of one's opinion about foreign countries, any American would agree that when it comes to the subject of religious freedom, the United States of America has a much better history, and therefore a superior concept to that of the Germans.

Indeed, a fact most Americans don't realize is: Germany has no separation of church and state. The state churches (Catholic and Lutheran) are supported by government taxes, equaling billions of dollars per year.

The U.S. State Department has issued its fourth consecutive annual report condemning human rights violations against Scientologists in Germany. Condemnation has also come from the United States Congressional Black Caucus, the United States Congressional Arts Caucus and the United States Congressional Hispanic Caucus.

Other independent bodies, including the United Nations Human Rights Committee, the U.N. Human Rights Commission, the Rutherford Institute, a U.K. Ad-Hoc Human Rights Committee and the Helsinki Commission have also all condemned Germany for its human rights violations against minority religions, including the Scientology religion. *None* of these decisions has anything to do with IRS tax-exemption. Neither are any of these decisions contingent upon such IRS recognition. Indeed, the international bodies probably aren't even aware of such. That's because human rights violations are human rights violations, regardless of one's U.S. tax status.

CONCLUSION

Let there be no doubt — the Church of Scientology and the Internal Revenue Service were at war in earlier years. That does not result in one getting red carpet treatment from the government.

In approaching the IRS with our exemption application, one IRS official commented, "If you really think you're entitled to exemption, you'd better be prepared to bend over backwards and prove it. Because we're going to know all about you by the time this is over, since everybody in the IRS knows that giving tax exemption to Scientology is at the top of the political suicide list for career advancement."

They were true to their word.

And we passed the test.

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REVIEW & OUTLOOK

The Scientology Problem

As no doubt befits a society founded by Pilgrims, America has a long tradition of controversial movements maturing to success, whether Mormons or Christian Scientists or Jehovah's Witnesses. Today, the latest cult forcing itself to our attention is the Church of Scientology.

Scientology was founded in the early 1950s by L. Ron Hubbard, a science fiction writer. He fashioned a creation myth around Xenu, who froze and transported thetan souls to volcanoes in Teegeek, now earth. The creed holds that humans have repressed memories of thetan life, or "engrams" and need to be "cleared" through "auditing," with the help of an "e-meter," a primitive lie detector. Adherents, including movie celebrities Tom Cruise and John Travolta, find this helps their personal lives and engenders religious conviction.

Scientology is currently demanding acceptance throughout the world, mostly on the basis of a 1993 Internal Revenue Service ruling extending it 501(c)3 tax-exempt status. The State Department's human rights report, an ad by Hollywood figures and others have berated Germany over persecution of Scientologists. Other sects have also started with odd theology and behavior; is Scientology now traveling the road to respectability?

* * *

Conceivably so, though the Scientologists have more history than most to live down, most of it written in court decisions here and abroad. Scientology performs its "auditing" and "clearing" according to a schedule of set fees. Those who are "cleared" at one level go on to the next with further training and further fees. To many authorities, not to mention alienated former Scientologists, Mr. Hubbard's creation looks a lot like the business of personal counseling or psychiatry (to which Scientology also raises theological objection). There have been repeated reports that Mr. Hubbard told his science-fiction colleagues that the way to get rich is to found a religion.

In *Church of Scientology of California v. Commissioner* (1984), indeed, the U.S. Tax Court found that for the tax years 1970 to 1972 the California "mother church" was not tax-exempt "because it operated for a substantial commercial purpose and because its net earnings benefit L. Ron Hubbard, his family, and OTC, a private non-charitable corporation controlled by key Scientology officials." Millions of dollars were held in "trust" in Swiss bank accounts, and the court found, "The circumstances of this trust are just too bizarre to credit its validity."

The tax court also found that for eight years prior to a 1977 FBI raid on the church's offices, it perpetrated a conspiracy involving "manufacturing and falsifying records to present to the IRS, burglarizing IRS offices and stealing Government documents, and subverting Government processes for unlawful purposes." Mary Sue Hubbard, the founder's wife, and ten other Scientologists served jail terms after conviction of a conspiracy involving break-ins and electronic eavesdropping at IRS offices.

A long legal struggle between the Scientologists and the IRS started in 1967, when tax authorities revoked a previous tax exemption on the grounds that the organization operated for the benefit of Mr. Hubbard. The U.S. Supreme Court refused to consider appeal of revocation of tax exemption in 1988, but evidentiary and procedural issues involving the IRS and Scientology reached the High Court in 1987, 1989 and 1992.

The Supreme Court did rule on a basic issue in *Hernandez v. Commissioner of Internal Revenue*, (1989). It held 5-2 that payments for auditing sessions were not charitable contributions or otherwise tax-deductible. Two dissenters observed that in this case IRS litigation strategy was not to contest the issue of whether Scientology was a religion or commercial enterprise. They found the auditing payments similar to tithing or pew rents; the five majority Justices did not.

* * *

Scientology also had poor luck with libel suits. "In reality the church is a hugely profitable global racket that survives by intimidating members and critics in a Mafia-like manner," concluded an article by Richard Behar in *Time* magazine. In 1996, a judge threw out the last count of the church's libel suit against *Time*, saying "no reasonable jury could find that [the statements] were published with actual malice"—that is, the intent to harm required when a libel plaintiff is a public figure.

Similarly, Mitchell Daniels, an executive of Eli Lilly & Co., prevailed in a libel action. Following its anti-psychiatry theology, the church had supported lawsuits against Lilly contending that its anti-depressant drug Prozac induced patients into suicide and other aberrant behavior. Mr. Daniels was quoted as telling the editorial board of *USA Today*: "One thing we want you to understand is that the Church of Scientology is no church. It's a commercial enterprise. Every judge and every investigative journal-

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The Scientology Problem

ist who has ever looked at it has come away with that conclusion. It is organized for only one purpose, which is to make money." The court held that this statement may not be strictly accurate as a matter of law, but that under the standard of actual malice, "it is impossible to conclude that Daniels entertained serious doubts as to the truth of his statement or spoke with a high degree of provable falsity."

* * *

In October of 1993, however, the IRS reversed the position it had defended for a quarter-century, issuing 30 tax-exemption letters covering more than 150 Scientology enterprises. David Miscavige, chairman of the church's Religious Technology Center, led a rally at the Los Angeles Sports Arena declaring, "The war is over!" And, "Our road to infinite expansion is now wide open." The IRS has refused to explain its change of heart, claiming tax confidentiality. In an attempt to elucidate the tax law, Tax Analysts, publishers of Tax Notes, filed a still-pending Freedom of Information action three years ago.

While the tax exemption ruling came in the first year of the Clinton administration, the process had started two years earlier. An exhaustive investigation by Douglas Frantz of the New York Times found that a special committee had been chartered in the Bush administration by Commissioner Fred Goldberg. The ultimate settlement also ended the Scientologists' litigation against the IRS and its individual agents. IRS Whistleblowers, a Scientology-backed organization, had also succeeded in exposing IRS abuses.

* * *

Mr. Hubbard died in 1986, transferring copyrights to his work and thus the principal assets of the religion to Mr. Miscavige's Religious Technology Center. The Scientologists promote anti-drug and anti-crime efforts, but even in the post-Hubbard era have been a magnet for controversy.

For one thing, they are confronting the Internet, using copyright and other laws to inhibit their critics, who gather in a discussion group called alt.religion.scientology. Scientologists have succeeded with U.S. copyright suits against the posting of secret Hubbard texts, but have angered the Internet community. The texts keep appearing, for example on a Norwegian site calling itself Operation Clambake. Further litigation is currently under way in San Jose and Denver, with the patience of presiding jurists being tested by both Scientologists and "netizens." Internet defendants are now challenging the validity of the copyrights, and seeking to depose the secretive Mr. Miscavige about the circumstances of their transfer.

The Scientologists have had more success in their battle with the Cult Awareness Network. A lawyer who is a Scientologist represented a group that bought the key assets of the CAN from a bankruptcy trustee. The CAN declared bankruptcy following a damage award to Jason Scott, an unwilling deprogramming subject. Though Mr. Scott is not a Scientologist, he was represented at the time by an attorney who is a Scientologist. Mr. Scott now has another lawyer, however, who complains that his interests were not served by the bankruptcy because his prospects of collection would have been better if it had remained in business.

Finally, Scientology is also in a controversy over the death of one of its members in Clearwater, Florida, in 1995. Lisa McPherson, 36, was detained by paramedics after she took off her clothes following a minor traffic accident. In lieu of psychiatric treatment, doctors released her to fellow Scientologists; 17 days later she died en route to another hospital where the staff included a Scientologist physician.

Joan Wood, the medical examiner for Pinellas and Pasco counties, found that Ms. McPherson died of a blood clot induced by "severe dehydration and bed rest," and Ms. McPherson's estate has filed a wrongful death suit in Tampa. Scientologists say that the death is an innocent tragedy, and charge that the issue is being exploited by local officials angry over the church's presence in Clearwater. The McPherson story, first reported by Cheryl Waldrip of the Tampa Tribune and quickly picked up by the St. Petersburg Times, has become a local cause celebre.

* * *

We certainly hope that the Scientologists finally win the respectability they seek, though we note that the Mormons did abandon polygamy and the Jehovah's Witnesses no longer beseech potential converts by setting up loudspeakers on their lawns. In the meantime, we wonder why the State Department is so exercised over German statements that would be protected by U.S. libel law, indeed, over a German position that was the U.S. position until the current administration. And we certainly think the IRS should share with the rest of us whatever persuaded it that money from the disturbed seeking solace is no longer being siphoned off into bank accounts in Switzerland.