

MARY BAKER EDDY'S  
CHURCH MANUAL

and

“Church Universal  
and Triumphant”

— Man. p. 19



Helen M. Wright

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Tell the truth concerning the lie.

—MARY BAKER EDDY

A lie left to itself is not so soon destroyed as with the help of truth-telling.

—MARY BAKER EDDY

Error, when found out, is two-thirds destroyed, and the remaining third destroys itself.

—MARY BAKER EDDY

To all who love and revere God's recording angel, Mary Baker Eddy; who long to see her place in scriptural prophecy acknowledged; her name restored to its proper place in world esteem and human history; and

To all who have wondered why she rated her *Church Manual* second only to *Science and Health*; why she said: "Eternity awaits our *Church Manual*."

## ACKNOWLEDGMENTS

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No. 975050 — What Do the Estoppels Really Stop?

No. 976051 — What the Full Bench Actually Said.

Special thanks go to Abbie Bentley for her invaluable contribution, encouragement and support.

Above all, the author's deep gratitude is due Mary Baker Eddy, the Discoverer and Founder of Christian Science, for her unparalleled gift to mankind in this age, the Christian Science textbook, and her other writings, which show humanity its divinity and how to realize scientifically that each one of us is God in action.

## Explanatory Notes

Italics not appearing in the original quotations are sometimes used, not to emphasize, but to identify that portion of the quote directly applicable to the point under discussion.

Capitalization of the term "By-Laws": Mrs. Eddy capitalized the term "By-Laws" because she knew God had dictated those By-Laws: "They were impelled by a power not one's own" (see *Manual*, p. 3).

The title "Science and Health" is not italicized for the same reason that the Bible is not ordinarily italicized, in deference to the status of these books as divine teachers.

*Explanation:* "CHURCH UNIVERSAL AND TRIUMPHANT" as used throughout this book refers to a wholly spiritual state of consciousness to be attained by every individual, wherein man is aware of the omnipresence of present perfection as the fact of being, thus demonstrating the kingdom of heaven on earth. Mrs. Eddy used the terms "universal" and "triumphant" in the first *Church Manual*, copyrighted in 1895, as referring to the Church she founded. She shortly capitalized these terms, and in 1903 changed the early wording to read as we have it in the *Manual* today: "CHURCH UNIVERSAL AND TRIUMPHANT."

## IMPORTANT NOTE TO THE READER

*PATTERN, EG, MODEL*

In 1866 Mary Baker Eddy discovered the Christ Science or the divine laws of Life, Truth, and Love. She named this discovery Christian Science. Mrs. Eddy saw that God is All-in-all and is divine consciousness or divine Mind. In her textbook, *Science and Health*, page 468, she states, "All is infinite Mind and its infinite manifestation, for God is All-in-all." Her Science teaches the omnipresence of present perfection. A great paradigm shift is necessary in order that humanity may come into line with what Mary Baker Eddy saw as the reality of being. This paradigm shift is today coming through "revolutions ecclesiastical and social"<sup>1</sup>—through a consciousness revolution. A vast overturning of standpoints is presently taking place in which a spiritual scientific model of consciousness is supplanting the old model of materiality.

"The only fact concerning any material concept is, that it is neither scientific nor eternal, but subject to change and dissolution."<sup>2</sup> Understanding is the substance of Christian Science. This understanding operates as a solvent within human consciousness, stripping away our ignorantly cherished beliefs, and revealing the eternal facts of being which constitute reality. Mary Baker Eddy fully expected the Science she brought mankind to accomplish exactly what it was divinely commissioned to do: dissolve all material concepts with the introduction into human consciousness of spiritual ideas.

This understanding, active within the consciousness of Christ Jesus, was responsible for the dissolution of every molecule of matter in his ascending evolvment. As an individual, Jesus awakened from the myth of matter and established for all mankind the sublime goal of conscious attainment. It has been said that Jesus gave the laboratory experiment and Mary Baker Eddy wrote the scientific textbook explaining how it was done. She discovered the Science behind Jesus' works. God revealed to her the unity between the absolute letter of Christianity and the spirit of Christianity. She saw that this unity of the absolute letter

and the spirit of Christianity dwells forever in the divine Mind, and so is the Principle of man's being. This Principle reveals itself through the human character, as Mrs. Eddy explains on page 246 of *Miscellany*. Mrs. Eddy reduced this absolute letter and spirit of Christianity to a divinely scientific system. This system works through a calculus of divine ideas, and it is today being taught in classrooms.

Mrs. Eddy's discovery of divine Science ushered in a totally new age—an age in which we will find ourselves “kings and priests unto God.” An understanding of her textbook, *Science and Health with Key to the Scriptures*, gives the student a new Mind, a totally new consciousness in which the heart communes directly with God, good—ultimate reality. Mrs. Eddy taught mankind that finding the kingdom of heaven a present reality rests with the individual and his understanding. The kingdom is within, and it is within consciousness that we find our oneness with divine Principle, just as it is within consciousness that we find our oneness with the principle of mathematics or music. Each must become consciously aware of his individual oneness with divine Principle. This is the crux of Mary Baker Eddy's message to humanity.

Until Mrs. Eddy “learned the vastness of Christian Science, the fixedness of mortal illusions, and the human hatred of Truth, she cherished sanguine hopes that Christian Science would meet with immediate and universal acceptance.”<sup>3</sup> She soon found how subtle and determined were the ways of the carnal mind: “The powers of evil are leagued together in secret conspiracy against the Lord and his Christ, as expressed and operative in Christian Science.”<sup>4</sup> The central point of attack in this “conspiracy” has been Mrs. Eddy herself. Above all else the enemy seeks to destroy the image of Mary Baker Eddy as God's recording angel to this age.

In this book, and in its predecessor, *Mary Baker Eddy: A New Look*, the author sounds a bugle call to reinstate Mary Baker Eddy in her proper place in world esteem and human history and to acquaint all mankind with the fact that Mary Baker Eddy fulfilled Jesus' prophecy to St. John concerning the woman of the Apocalypse. The Science Mary Baker Eddy

brought reveals man's true Mind to be the Mind of God.

That Mrs. Eddy was aware of the enemy's plan to move her out of her God-appointed place as the Leader of the Christian Science Movement can be seen from her two widely published letters:

One was a letter to Edward A. Kimball in which she explained that for the world to understand her in her true light and life would do more for the Cause of Christian Science than anything else could. Mrs. Eddy knew she was the "woman of the Apocalypse, the Revelator to this age, the woman Jesus had revealed to St. John in the Book of Revelation. The enemy, Mrs. Eddy said, tried harder to hide her true identity than to win any other point. She went on to say that Jesus' life and character had been treated in the same way her life and character were being treated (and we might add, are being treated today, in view of the disobedience to her *Manual* estoppels, and the failure to challenge the subtle and open denigration of her character.) Mrs. Eddy regretted to see that loyal students were not more awake to "this great demand" to meet the enemy's tactics.<sup>5</sup>

When Judge Septimus J. Hanna wrote Mrs. Eddy for advice regarding lecturing on Christian Science, she wrote him a similar letter in which she again explained that the united plan of the evil doers was to keep hidden her true identity as having fulfilled the prophecy of Christ Jesus—"to keep her as she is, out of sight." She told Judge Hanna that keeping the truth of her character before the public would help the students, and do more than all else for the Cause. Christianity, she said, lost its purity because of the persecution, defaming, and killing of its defenders. There is no doubt that Mrs. Eddy, when she placed the estoppel clauses in the *Church Manual*, knew that those who urged obedience to those estoppels would be defamed and persecuted, in order to protect the material organization and its continuity; hence her urgent warning: "Do not let this period repeat this mistake." "Tell the truth about your Leader," she said. "That will heal and save." She knew the lie would have just the opposite effect and that the enemy knew this more clearly than do most Christian Scientists.<sup>6</sup>

In *Miscellany* she wrote: "The effort of disloyal students to blacken me and to keep my works from public recognition—students seeking only public notoriety, whom I have assisted pecuniarily and striven to uplift morally—has been made too many times and has failed too often for me to fear it." Then, because she didn't have the time to be continually pursuing a lie, she asked "the help of others in this matter ... A lie left to itself is not so soon destroyed as with the help of truth-telling."<sup>7</sup> The sole purpose of this book is to "tell the truth concerning the lie."

Strive it ever so hard, The Church of Christ, Scientist, can never do for its Leader what its Leader has done for this church; but its members can so protect their own thoughts that they are not unwittingly made to deprive their Leader of her rightful place as the revelator to this age of the immortal truths testified to by Jesus and the prophets [concerning her].<sup>8</sup>

<sup>1</sup>Mary Baker Eddy, S&H. first ed. p. 3 (1875)

<sup>2</sup>S&H. 297:16

<sup>3</sup>S&H. 330:2

<sup>4</sup>Mis. 177:5

<sup>5</sup>*Divinity Course and General Collectanea*, p. 111 & 112. Richard Oakes, Compiler. Publisher, Rare Book Company, Freehold, N.J. 07728

<sup>6</sup>*Divinity Course and General Collectanea*, p. 109

<sup>7</sup>My. 130:7

<sup>8</sup>My vii:3 (Dictated to Lewis Strang by Mrs. Eddy for *Journal*, May, 1906)

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Abbreviations for the titles of Mrs. Eddy's writings are those used in the Concordances to her works as follows:

S & H	Science and Health
Man	Church Manual
Mis	Miscellaneous Writings
Ret	Retrospection and Introspection
My	The First Church of Christ Scientist and Miscellany
Rud	Rudimental Divine Science
Un	Unity of Good
No	No and Yes
'00	Message for 1900
Po	Poems

## PREFACE



IN 1980 a lawsuit was filed by the Christian Science Board of Directors of The First Church of Christ, Scientist, in Boston, Massachusetts, against Independent Christian Science Church of Plainfield, New Jersey, in which the Boston Board of Directors asked the Court to rule that the term "Christian Science" is a trademark, and as such is the property of the Board of Directors in Boston. The issue before the Court can be summarized in one question:

Do five individuals in Boston own the term "Christian Science"?—do the members of Independent Christian Science Church of Plainfield have the right to call themselves Christian Scientists, or can they be deprived of their constitutional right to religious liberty and freedom to practice their religion, in accordance with their interpretation of the teachings of Mary Baker Eddy?

That the Board of Directors is trying legally to prevent non-church affiliated Christian Scientists from using the name "Christian Science," "Christ Science," or "Christian Scientist," should awaken every Christian Scientist to the further implications. Do the Courts of the land have the power to decide who can and who cannot call himself a Baptist, a Methodist, a Quaker, or a Christian Scientist?

This action by the Board of Directors in Boston to debar Christian Scientists from using the words "Christian Science" unless they have obtained the Board of Directors' express permission and approval, seems anomalous, and is entirely contrary to the Christian Science doctrine that "God has endowed man with inalienable rights, among which are self-government, reason, and conscience."<sup>1</sup>

For the Directors to claim ownership of the term *Christian Science* seems an attempt to hold a completely spiritual idea "in the grasp of matter."<sup>2</sup> We might compare this to an institution such as Oxford or Cambridge claiming ownership of the science of mathematics, and only those subscribing to its conclusions and ways of teaching may use mathematics or be called mathematicians. Any such claim to the ownership of the science of mathematics would be considered ridiculous, and the attempt of the Board of Directors in Boston to claim ownership of the term *Christian Science* is no less ludicrous.

The thought of granting exclusive authority to a church body or any other body to control the use of such broad terminology is repugnant to the natural instincts of a Scientist who subscribes to Mrs. Eddy's "Declaration of Independence,"<sup>3</sup> wherein she writes: "God has endowed man with inalienable rights, among which are self-government, reason, and conscience. Man is properly self-governed only when he is guided rightly and governed by his Maker, divine Truth and Love."

This statement by Mary Baker Eddy, and her "Magna Charta," are the key to her *Church Manual*, and the key to the understanding of this book. "The Magna Charta of *Christian Science* means much," says Mrs. Eddy, "... It stands for the inalienable, universal rights of men. Essentially democratic, its government is administered by the common consent of the governed, wherein and whereby man governed by his creator is self-governed. The church is the mouthpiece of *Christian Science*—its law and gospel are according to Christ, Jesus; its rules are health, holiness, and immortality—equal rights and privileges, equality of the sexes, rotation in office."<sup>4</sup>

Mrs. Eddy's *Manual* contains every provision necessary for the immediate establishment of the enlightened government that her Declaration of Independence in Science and Health, as well as her Magna Charta, urge upon us. These two statements epitomize the spirit of the *Manual* when the *Manual* is accepted in its entirety as written by Mary Baker Eddy.

A Court ruling in favor of the Boston Board of Directors would deprive tens of thousands of loyal Christian Scientists of the right to use the name Christian Science to identify themselves and their activities.

The material in this book will prove Mary Baker Eddy planned brilliantly for the future of the Christian Science Movement when she was no longer personally present. Her plans and intentions, however, were thwarted by the self-interest of a disloyal Board of Directors who annulled the By-Laws and disobediently continued in office.

Students of Christian Science who study the *Church Manual* are often puzzled concerning those By-Laws containing an estoppel clause, meaning that an action cannot take place without Mrs. Eddy's consent. Usually the student is told that at the time of Mrs. Eddy's departure the government of the church passed into the hands of the Board of Directors. But eventually one learns that Mrs. Eddy insisted on leaving the estoppels in the *Manual* even though she was repeatedly asked to remove them and advised by her Board of Directors that if she did not remove the estoppels the church would be crippled at the time of her passing. Thus the student is faced with the decision: Do I follow the Board of Directors or do I follow Mary Baker Eddy?

The twenty six or more estoppels in the *Manual* terminated The Mother Church and the offices of her Board of Directors. Every vital activity of The Mother Church required her signature, consent, or approval. When in December, 1910, Mrs. Eddy passed on, the five-member ecclesiastical Board of Directors, in power at that time, decided to ignore the estoppels (as has every Board since) thus violating the *Church Manual* and substituting human for divine guidance.

Four days after Mrs. Eddy's passing the Board of Directors issued a public statement to the press in which they stated:

"The authority given the Board of Directors by the *Church Manual* remains intact and is fully adequate for the government of the organization and all its affairs. The policy of the Board will be the same as under Mrs. Eddy's direction."<sup>5</sup>

Within a month or two of Mrs. Eddy's passing the Board issued a *Manual* of their own, the 89th *Manual*, in which they deleted Mrs. Eddy's name and title as Pastor Emeritus from the list of church officers and extended their control over the branch churches. The Board announced themselves to be Mrs. Eddy's successor, and gradually assumed the position of "the highest ecclesiastical court in the land."

Except for a few brave voices heroically raised in defense of Mary Baker Eddy's plan for spiritual government, the field in general never questioned the ecclesiastical hierarchy that developed as the result of waiving the *Manual's* estoppels.

Recently a number of members have begun to study the history of the *Manual* and the progressive ideas of Mary Baker Eddy. They now realize The Mother Church was dissolved at the Annual Meeting held in June, 1911, when the officers of The Mother Church could not be elected or reelected without the approval of the Pastor Emeritus, Mary Baker Eddy. Continuing The Mother Church government after the Annual Meeting in June of 1911 could only be done by waiving and annulling the estoppel clauses.

Article XXXV, Sections 1 and 3, have been violated since 1911 by those who have assumed a "perpetuity" not granted by the author of the *Church Manual*.

Because the Board of Directors sought a legal interpretation of the *Manual's* sacred By-Laws, the Christian Science Movement has been held in "the grasp of legal power" for the past seventy years. Today, as when Mrs. Eddy wrote in *Miscellaneous Writings* long ago,

The foundation on which our church [is] built [has] to be rescued from the grasp of legal power, and . . . it must be put back into the arms of Love, if we would not be found fighting against God.<sup>6</sup>

In his 1980 booklet, *Science and Health and the Church Manual*, W. Gordon Brown throws light on the deep spiritual meaning of the Christian Science *Manual*. He states: "In its relation to Science and Health, the *Manual* liberates Christian Science from the shackles of organized religion, and so begins to solve for mankind the problems of life seemingly held captive in matter."

Mrs. Eddy's *Manual* "stands alone, uniquely adapted to form the budding thought and hedge it about with divine Love."<sup>7</sup> It contains rules and laws necessary to reach her goal, namely, to establish the Church of Christ, Scientist, as the CHURCH UNIVERSAL AND TRIUMPHANT—"the [eternal] church, built without hands."

Because her followers wanted an outward sign, a material church, Mrs. Eddy allowed it as a concession to the spiritual blindness of that period. The real church, the Church of Christ, Scientist, is a wholly spiritual state of consciousness which will eventually be attained by everyone.

No one knew better than Mrs. Eddy the great danger that lay in the illusion that the material institution was the permanent and ultimate goal. She knew "there was never a religion or philosophy lost to the centuries except by sinking its divine Principle in personality."<sup>8</sup> In an effort to prevent the development of an ecclesiastical hierarchy, and the idolatry of loyalty to Boston rather than to divine Principle, Mrs. Eddy completely dissolved The Mother Church and its activities at her passing.

The theocratic government<sup>9</sup> of Mary Baker Eddy as outlined in the *Church Manual* ceased after her departure. The high standard of government she maintained by strict obedience to God's promptings should never have been replaced by a dictatorial regime of five persons. Had she wished this to happen she surely would not have inserted the twenty-six or more estoppels that abolished their office as Directors and brought all Mother Church activity to a halt; she could have enacted The Mother Church legally as she did the Publishing Society, and the local Boston church which she established through two Deeds of Trust.

 A Science does not need a church. Mrs. Eddy's position on this subject is expressed in her first edition of *Science and Health*, a position she maintained steadfastly to the end:

We have no need of creeds and church organizations to sustain or explain a demonstrable platform that defines itself in healing the sick and casting out error ... The mistake the disciples of Jesus made to found religious

organizations and church rites, if indeed they did this, was one the Master did not make.<sup>10</sup>

In 1910, at the completion of Mary Baker Eddy's mission, the breadth and grandeur of universal truth and Science lay before mankind. Then, through what has become known as the "1910 Coup," the Christian Science Movement began its decline toward a less and less influential world force in the "healing of the nations." Fortunately, however, since the Board of Directors usurped power and authority by ignoring Mrs. Eddy's estoppel clauses, we have witnessed the slow step by step egress of Mrs. Eddy's divine revelation—egress from the limitations, the ignorance, the cruelty, stagnation, and into the joy, grace, and glory of the liberty an understanding of her Science brings.

This book contains important documents; and the explanation of information they contain should hasten acceptance of the divine legacy of freedom bequeathed us by Mrs. Eddy's *Church Manual* estoppel clauses.

This is the first time these documents have appeared in one volume. Until now this information has been scattered. Some of it was available in separate tracts and pamphlets by courageous writers who gave brief, brave helpful accounts; certain legal documents could be found in courts, in various deeds of registry. Few people, however, took the trouble to seek them out. Now it has been brought together in one book. Each reader may now judge, may now decide. Was Mary Baker Eddy right to dissolve The Mother Church at the time of her passing? Or was the Board of Directors right when it continued the material organization in spite of Mrs. Eddy's explicit instructions in the *Church Manual* which terminate The Mother Church and its activities? Waiving the estoppels in the *Manual* instead of obeying them has led inexorably to today's crisis, the lawsuit filed against Independent Christian Science Church of Plainfield, and the Board of Directors' claim to the ownership of the term "Christian Science."

In the hope that the past seventy years have prepared all Christian Scientists to accept total freedom, we commit these pages to honest seekers for truth.

H. M. W.

June, 1981

<sup>1</sup>S&H. 106:7

<sup>2</sup>S&H. 28:7

<sup>3</sup>S&H. 106:6

<sup>4</sup>My. 246:30

<sup>5</sup>Preserved by Carpenter Foundation. (Also preserved in Alice Orgain Library.)

<sup>6</sup>Mis. 140:21

<sup>7</sup>Man. p. 104.

<sup>8</sup>My. 117:22

<sup>9</sup>For explanation of Mary Baker Eddy's "theocratic government" see p. 12.

<sup>10</sup>S&H. 166, first edition

## Chapter I

# HISTORICAL BACKGROUND

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*Who is telling mankind of the foe in ambush? (S&H. 571:11)*

*Many are willing to open the eyes of the people to the power of good resident in divine Mind, but they are not so willing to point out the evil in human thought and expose evil's hidden mental ways of accomplishing iniquity. (S&H. 570:30)*

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GOING to church on Sunday was a deep-rooted custom in the mid-nineteenth century. Mary Baker Eddy's followers longed for a place of worship. They felt lost without the church they had so recently left to join the ranks of Christian Scientists.

Mrs. Eddy had not wanted to form an organization; however, the difficulty of launching her great mission, together with the force of events, led her to conclude that a church organization could be useful *in the beginning* — a "suffer it to be so now" expediency. She saw it as a concession to the lack of spirituality of the age in which she was carrying out her God-appointed work. Thus in 1879 the first church organization was formed.

In 1889 she closed the material organizations she had established — her church and metaphysical college. She felt they had outlived their usefulness and that the time had come to adopt "the purely Christly method of teaching and preaching."<sup>1</sup> At the time she closed her College she said,

"When students have fulfilled all the good ends of organization, and are convinced that by leaving the material forms thereof, a higher spiritual unity is won, then is the time to follow the example of the *Alma Mater*."<sup>2</sup> The swaddling clothes of material forms of worship must be dropped. Though Mrs. Eddy never arbitrarily demanded that Christian Scientists dissolve their organizations, or desist from organizing churches and associations, she *did* persist in her strong warnings that continued organization would retard spiritual growth, blight spirituality, and finally wipe it out totally. She knew that material organization and spiritual organization are two different standpoints. We cannot obey both, for one absolutely destroys the other since one or the other eventually becomes supreme in our affections. It is impossible to work from two standpoints; therefore we shall presently "hold to the one and despise the other."<sup>3</sup> Tens of thousands of dedicated Christian Scientists have come to realize the true meaning of Church, and have left material organization which "wars with Love's spiritual compact."<sup>4</sup>

In the Preface to *Science and Health* Mrs. Eddy wrote, "The time for thinkers has come." In 1891 misguided, misdirected students tried to form a general association for the dispensing of Christian Science literature. Mrs. Eddy was quick to detect in this move the beginnings of an arbitrary control of what students should and should not read. She immediately sent word to the *Christian Science Journal*<sup>5</sup> that she disapproved of such an organization as it tended "to promote monopolies, class legislation, and *unchristian motives* for Christian work." Her instruction, reproduced below, indicates that she would have deplored the present rule of "authorized"<sup>6</sup> and "unauthorized" literature. This policy of "authorized literature" was enacted six years after Mrs. Eddy's departure to prevent Christian Scientists from reading anything that might shake their blind faith in the Board of Directors as Mrs. Eddy's successor. (See opp. pg.)

#### CARD.

Since my attention has been called to the article in the *May Journal*, I think it would have been wiser not to have

organized the General Association for Dispensing Christian Science Literature.

1. Because I disbelieve in the utility of so wide spread an organization. It tends to promote monopolies, class legislation and unchristian motives for Christian work.

2. I consider my students as capable, individually, of selecting their own reading matter and circulating it, as a committee would be which is chosen for this purpose.

I shall have nothing further to say on this subject, but hope my students' conclusion will be wisely drawn, and tend to promote the welfare of those outside, as well as inside this organization.

MARY B. G. EDDY.

Shortly after the "great literature litigation"<sup>7</sup> the page containing this wise and timely warning—so crucial to the success of the Christian Science Movement—was removed from copies of the *Journal* in the Christian Science Reading Rooms throughout the country. To maintain its prestige, power, and authority, the ecclesiastical hierarchy knew it must control what its membership reads or hears.

## THE ARCHIVES

Regarding the archives of The Mother Church, a former high official in The Mother Church writes: "Most Christian Scientists do not know the real purpose of the Archives. Ostensibly they were started to 'preserve' the historical documents and papers of the church. Actually they were intended to bring in and bury all evidence that showed that Mrs. Eddy did not want a highly organized church."

Biographers and historians can testify to the difficulties encountered when seeking admittance to the archives. Professor Braden, wishing to consult the archives, writes that an important official of the church told him that if he would "submit anything he might write concerning Christian Science, they would consult the archives and tell [him] whether or not it was true."<sup>8</sup>

The experience of Gilbert Carpenter, Jr. and Gilbert Carpenter, Sr. illustrates the Boston Board of Directors' determi-

nation to control the reading matter of the church. When Gilbert Carpenter, Jr. established The Carpenter Foundation for the preservation of unpublished documents, articles, letters, private instructions, and other material by and about Mary Baker Eddy, he was harassed by The Mother Church Board of Directors, who felt this material should not be given out to the Field, but should be kept "safe" in the archives of The Mother Church. Their reason, of course, was that the Field *was not ready* for what Mrs. Eddy taught students privately, in person, or via letters, articles, etc.<sup>9</sup>

As an interesting sidenote here, when Gilbert Carpenter, Sr., who had at one time served as Mrs. Eddy's secretary and had lived in her home, felt the need to broadcast the truths he had learned from Mrs. Eddy in her home, the Board of Directors complained that his activities *were not "authorized" by them*. In other words, he hadn't "got a license." Carpenter, Sr., pointed out that Mrs. Eddy had given him his degree of C.S.B. and declared he would continue to make his observations available to the public as he and the public saw fit. The Directors, however, insisted that Mrs. Eddy's having conferred on him the degree of C.S.B. didn't automatically include the right to *teach*.

When the elder Carpenter continued with his teaching activities the Directors removed his practitioner's card from *The Christian Science Journal*, stripping him of a major source of his livelihood. When Gilbert, Jr., who *did* have a Boston-recognized license to teach, expressed support for his father he was suspended from "teaching" for three years (further depriving the Carpenters of their meager means of subsistence). Gilbert was never reinstated; and the local church authorities in Providence, being no more enlightened than those in Boston, followed Boston's lead in ostracizing the Carpenters.

Bravely the Carpenters struggled on. By convincing the Boston authorities that only those who were advanced enough for these publications would be allowed to have them, the Carpenters managed to avoid excommunication and entanglement with Boston's "legal arm." Meanwhile Gilbert, Jr., was widely circulating, privately, these treasures of ines-

## NOTE TO READER

The two letters by Mary Baker Eddy, printed below, came to light after this book had gone to press. They are inserted here because they graphically spell out Mrs. Eddy's feeling that the "authorizing" of Christian Science literature was little short of criminal. There can be no doubt that Mrs. Eddy reserved her severest criticism for the attempt on the part of her students to "authorize" only Mrs. Eddy's writings and "the literature best adapted to the demand [which] will be named by a Committee" (*The C.S. Journal*, May, 1891.)

Mrs. Eddy termed the students' plan to authorize only her own writings "prescriptive and tyrannical, working against justice and love." Further denouncing their plan, she vehemently characterized the *authorizing* of literature as "most wicked, . . . uncharitable," as a "curse," an "offensive," and "obnoxious" measure. She declared that her writings were for the entire world; that what God had dictated to her was for THE WORLD and that she has not given God's Word to just "a privileged MONOPOLY to tyrannize over other writers."

Mrs. Eddy rightly discerned what the outcome of such a scheme would be. Her letters to Mr. Nixon show her deep, heartfelt concern that Christian Scientists remain free of all attempts at mind-control by an ecclesiastical body. The reader can see for himself, from these letters to Mr. Nixon that the *authorizing* of Christian Science literature, which was begun six years after Mrs. Eddy's passing, was the very thing our Leader wished to prevent above all else:

— *Letters to Wm. G. Nixon: \* 1891*

1) [Dated June 24 and signed "Yours, M.B.G. EDDY":]

Dear Mr. Nixon: Did you consent to sell *Science and Health* and my works to those only who would buy and sell my writings, by a vote on this question, of the General Asso. for Dispensing C.S. Literature?

Can it be that one who has written to me as you have on *offensive measures* used in our Cause could have done this?

I will rip up all my business relations and take into my hands before this *most wicked, prescriptive, uncharitable measure* shall be carried. I never read the *May Journal* and never knew till now *the curse in this platform* of Stetson's. I never dreamed of such a platform as Stetson's being brought forward by a Christian Scientist! No man or woman has told me of *this obnoxious feature*, but my Father has, and it shall be stopped by His servant who has given His word to the world — not to a *privileged monopoly to tyrannize over other writers*.

N.B. [signed "Affectionately, M.B.G. EDDY":] I cannot blame you if you did this out of a conscientious consent to my request [under the "Seven Fixed Rules,"] but I only marvel that you did not *tell me of this prescriptive tyrannical clause on buying and selling other literature than mine*. It is the "old" made worse than at first.

2) [Dated June 26 and signed "Lovingly, M.B.G. EDDY":]

My dear Mr. Nixon: I *did not* believe you would consent knowingly to anything that *works against justice and love*. Neither would my precious student, Mrs. Stetson. But *neither of you see what God shows me would grow out of this movement. I cannot make you see it. God alone can, and even He cannot until you grow up to it*. Then what can I do — only to speak His word of warning and wait for all the doubts to grow up to understanding His ways, and mine whom God directed?

N.B. Nothing should be published now relative to this organization — [now] that Mrs. S. has stopped the movement, if *indeed* she has. She will see me today. Then I shall know, for this *work is ours to do*. P.2-a

\*(Richard Oakes' *Mary Baker Eddy's Six Days of Revelation*, p. 373)

timable spiritual value to genuine students of Christian Science. Thus, the Field was blessed with an unheralded circulation of items from what became known as the "Carpenter Foundation." These included personal observations about Mrs. Eddy, her teachings and intentions (which, by the way, often revealed far more about the observer than about the Revelator of Christian Science.)

The Directors in Boston tolerated these personal glimpses of Mrs. Eddy, and then virtually endorsed many of them when they gathered them into official biographies—Robert Peel in his books drew heavily on the Carpenter collection. But much of the material has been buried by the church because it contained Mrs. Eddy's written instructions and divine warnings about the unscientific direction *church authorities* were taking. When it was the Board of Directors' own position which was called in question, it was *heresy* which must be suppressed by any means. Bêtes noires that troubled the Directors were the Johnson *History of Christian Science* and the Carpenters' *Mary Baker Eddy, Her Spiritual Precepts*. These books contained documented examples of how Mrs. Eddy kept making it plain to "infants in Christian Science," that *her* church was the manifestation of divine Principle and had nothing to do with material organization and personal decisions; and making plain also the dire consequences of continued organization. The Board felt compelled to suppress these outspoken warnings which evoked dire forecasts of the ruinous effects of continued organization.

"Fear is the weapon in the hand of tyrants,"<sup>10</sup> and Gilbert, Jr., was led to fear legal action if he circulated "private" messages concerning the Board of Directors which might cast doubt on the Board's claim to be worthy as Mrs. Eddy's successor. Gilbert therefore mentioned nothing of copies which were somehow or other in circulation. Accordingly, in God's good time, the Johnson *History* reached the public domain, and *Mary Baker Eddy, Her Spiritual Precepts* (never subjected to copyright) reached and was sold on the open market in 1966 (by the estate of a lady in Texas).

Gilbert Carpenter, Jr., was well aware of what would hap-

pen to his Foundation when he was no longer here. His cry of anguish was heard by one Richard Oakes residing in South Africa. Gilbert arranged for Richard to obtain the material which is now available from Rare Book Company in the "Red and Blue books." The full strength of the legal arm was then invoked against Oakes, the compiler of these "Red and Blue books" (*Essays and Other Footprints*, and *Divinity Course and General Collectanea*). After many years of harassment, all that the legal arm achieved was to rescue Oakes, the compiler, from personal responsibility for the books. When the law was persuaded to stop him putting out the books, Ralph Geradi (Rare Book Company) stepped in as publisher, and the books remained in God's hands. The Court never disputed that the books were in the public domain anyway. The Court also agreed (May 1975) that the uncopyrighted items, acquired without restrictions by a lady in Texas, could not be included in items the Carpenter Foundation usurpers thought they were burying.

No person can decide what God has in store for His own. This is cause for joy and confidence on the part of God's "remnant"—those who look to divine Principle as the only governor of the universe.

### **THE DICKEY "MEMOIRS"**

Before leaving the subject of The Mother Church archives, a word about the "Dickey" book which has just recently been in the limelight, as the Boston Board of Directors' legal arm again reached out and sought to stem its further distribution. This book came to be written because on August 25, 1908, approximately two and a half years before Mrs. Eddy left us, she called Adam Dickey to her side and asked him to promise that if she ever left here, he would write a history of his experiences while living in her home as her secretary.

For sixteen years he neglected to keep his promise, because he was engrossed in the lawsuits (which are a subject of this book; he was one of the Directors being sued by the Publishing Society, and who in turn sued the Publishing Society).

"But when he felt his last illness upon him, he took pen in hand. He did not live to finish his story, but he completed one hundred and forty-one pages which were published in book form by his widow in 1927, the year after his death. The copies were distributed chiefly among the members of an association of Dickey's pupils.

"But when the [Boston Board of] Directors read the book, with its intimate details, their 'astonishment,' they said, 'was great beyond expression.'"

A work of this kind must be suppressed at once! The Board sent a letter to every member of the Dickey association requesting that the copies be returned. In their letter they said:

"We found that a grave mistake was made by Mrs. Dickey in publishing the book without direct instructions from our Leader, for even Mr. Dickey himself does not claim that he was authorized to *publish*, but merely to *write*, a history. . . . In estimating the purport of the request which Mr. Dickey recites . . . it is necessary to consider that she was then contending with an acute physical claim. . . .

"It has been maintained that Mrs. Eddy's request that Mr. Dickey write a "history of his experiences" would have been fully complied with had he deposited his writings, relating to her, for preservation in the files of The Mother Church.'"<sup>11</sup>

Like a flock of sheep, nearly all the recipients of this letter returned their copies to the Boston headquarters where they were promptly destroyed. But there were still the copyright copies in the Library of Congress, and a few photostated copies elsewhere. And it is said that within five years fifty thousand people were reading Adam Dickey's words. It is not so easy to do away with a book; "tradition may be strong, but in the long run Truth is stronger."

This policy of "authorized" literature is in direct opposition to everything Mrs. Eddy taught. Mrs. Eddy freed every Christian Scientist not only to read what God leads him to read, but also to *write* on the subject of Christian Science what God leads him to write. "Christian Science is not copyrighted." She said, "A student can write voluminous works on Science without trespassing, if he writes honestly,

and he cannot dishonestly compose Christian Science.”<sup>12</sup>

Material organization rapidly develops a frozen crust of ritual, rules, regulations and dogmas, arresting the spirit, impeding inspiration, and precluding unfoldment. Many instances could be cited where inspired writing and teaching have been suppressed in the name of “keeping the doctrine ‘pure.’” Under this ecclesiastical policy, writing and teaching, however scientifically true, is branded as “incorrect”<sup>13</sup> if it is not sanctioned by the Board of Directors.

## THE SECOND CHURCH ORGANIZATION

Even though unprecedented spiritual progress was being made after Mrs. Eddy dissolved the first church organization in Boston in 1889, her students began to clamor for a second organization. Letters and documents extant show Mrs. Eddy’s unalterable opposition to reorganizing. In a March 23, 1891 letter Mrs. Eddy warned the Board of Directors<sup>14</sup> that their only danger now lay in the past being repeated. She reminded them that all she had counseled had worked well for the Cause and church. She admonished them to *watch*. The hour is ominous, she said, when a student “goes against my advice and still gives orders in my name.” Then she rebuked them for reporting that she had given orders to organize when she had *not*.

Also she again repeated that they should not change their present materially *disorganized* church, but were to go on in spiritual organization alone.

Much can be learned concerning Mrs. Eddy’s mistrust and opposition to continued organization from letters<sup>15</sup> she had written to her students in 1889 at the time of dissolving the first organization: The students were again called, she wrote, to accept, without a present understanding, the marked providence of God. Quoting Jesus, she said, “What I do thou knowest not now, but thou shalt know hereafter.” She urged her followers to trust God in this “unlooked-for event” and He would sooner or later show them the wisdom of disorganizing. She told them that for the past two years this change had seemed to her the imperative demand of Christian Science in

consonance with the example of Christ Jesus.

Then on November 23, 1889, she wrote her students that this morning had finished her "halting between two opinions," and she had definitely reached the decision that "this Mother Church must disorganize." Now was the time to do it, she said. She counseled them to form no new organization, but to go forward in spiritual organization alone.

She urged them to follow Jesus' example and not the example of his disciples. What the disciples organized has come to naught in Science. She said Christian Science should establish Science, *not* material organization.

Mrs. Eddy saw that the hour had come when the great need was for more of the spirit instead of the letter, and that Science and Health is adapted to work this result. In closing her Metaphysical College she stated "The fundamental principle for growth in Christian Science is spiritual formation, first, last, and always, while in human growth material organization is first." Then she counseled, "Because it is more in accord with Christian Science for you to unite on the basis of Love and meet together in bonds of affection, from unselfish motives and the purpose to benefit each other, and honor the Cause... I strongly recommend this method alone, of continuing without organization."<sup>15A</sup>

Scarcely two years had elapsed since the dissolving of the first organization. It was now 1892 and Mrs. Eddy's students were pressing hard for a *second* organization. Mrs. Eddy strongly warned against reorganizing. She insisted their move to do this was "not of God," and that only harm could come from returning to a position outgrown.

She carefully explained to the clerk of The Mother Church, William B. Johnson, that she hoped "a word to the wise would be sufficient, hence my caution... If you organize again," she said, "it will *ruin* the prosperity of our church." She said she had given full permission, or her poor consent for the church to do anything she chooses. "But I tell you the consequences of reorganization and you will find I am right. Open the eyes of the church to these facts. I have consented to whatever the church pleases to do, for I am not her keeper, and if she again sells her prosperity for a mess of pottage it is not my fault."

At another time she sharply warned the church Directors that while they had her permission to reorganize if they desired to do this, yet she realized it was her duty to say that "our heavenly Father's hand was seen in your disorganizing, and I foresee that if you reorganize you are liable to lose your present prosperity and your form of church government, which so far has proved itself wise and profitable...."

When they continued insisting upon reorganization, Mrs. Eddy trenchantly warned that she heard so plainly the words that told her she had been doing too much for the church in Boston, more than it was her duty to do. So, she said, "Let ... the church reorganize if she thinks best. Perhaps this is the best lesson for her... God tests us all—tries us on our weakest points. Hers has always been to yield to the influence of man and not God. Now let her pass on to her last experience and the sooner the better. When we will not learn in any other way, this is God's order of teaching us. *His rod alone will do it*, and I am at last willing and will struggle no more."<sup>15B</sup>

"It is only a question of time," she wrote, "when God shall reveal his rod and show the plan of battle."<sup>16</sup> God's plan is spiritual organization.

Writing about reorganizing a second time and reflecting on the determined push of her students to do this, Mrs. Eddy first mentions the "new light" that broke in as the result of *dissolving* all material organization, and then added, "After this experience and the divine purpose is fulfilled in these changing scenes, this Church may find it wisdom to organize a second time for the completion of its history [*their* history, the *students'* history]. This, however, is left to the providence of God."<sup>17</sup> All records show Mrs. Eddy was unalterably opposed to the forming of a second organization, but knew she could not legislate freedom and decontrol. When it was clear that her students were not yet ready for a higher step, she accepted it as her "cross," and hoped it would be a step on the road leading to the "Church Universal and Triumphant"—that Church which exists in consciousness alone as the "structure of Truth and Love."

So, trusting in the assurance that divine Love would even-

tually force each one to accept what would best promote his growth,<sup>18</sup> Mrs. Eddy directed twelve of her students to meet on September 23rd, 1892, and form the organization as a "suffer it to be so now" contingency. It is highly significant that Mrs. Eddy herself was *not* present at this meeting, and one of the twelve students (Ellen Clark) was absent. A new book by Richard Oakes<sup>19</sup> gives a comprehensive story of God's dispensation whereby twelve of Mrs. Eddy's students were able to "organize" a church, and yet be told by Mrs. Eddy (in a letter to one of the twelve, dated September 21, 1892): "You organize no special organization by which to obtain a charter, but only for the purpose of having a President of your meeting and Secretary in order to vote on receiving members."

As explained on page 130 of the *Church Manual*, Massachusetts law permitted the Directors to be a body corporate for the purpose of holding church funds without organizing a corporate church. Their duty was to select a pastor who would not deviate from the principles of Christian Science as laid down in *Science and Health*. This requirement was later obviated by the ordination of the Bible and *Science and Health* as the perpetual pastor. The duty of the twelve First members (later increased to forty, later renamed Executive members, later disbanded) was to vote trimestrially on admission of members (who had no say in the church "organization") and annually on the officers to conduct meetings and attend to business matters without any say in the appointment of the pastor, or in the framing of the rules, which developed from seven purely procedural regulations into Mrs. Eddy's *Manual*. Thus the statement that students met to reorganize the church and adopt rules is a palliative for saying they really organized nothing at all, and when this is seen Mrs. Eddy's church is reconveyed "to Mary Baker G. Eddy, her heirs and assigns forever by a proper deed of conveyance."<sup>20</sup>

Mrs. Eddy was determined that any semblance of material organization should last only as long as she was personally with them to guide and control it, which she did with a firm hand. Like Jesus, Mrs. Eddy listened only to the voice of God.

In everything she did she was guided by God. While she personally governed the church it grew in power and stature because of her spirituality. Her whole demonstration showed that she was not acting as a person, but was at all times responding to and demonstrating God's man/woman. Her only successor would be "man in the image and likeness of the Father-Mother God, man the generic term for mankind."<sup>21</sup>

## MRS. EDDY'S THEOCRATIC GOVERNMENT

When the church members and the Board of the newly formed second organization asked Mrs. Eddy to provide them with specific written rules for governing their church, they were in effect acknowledging Mrs. Eddy's supreme authority and were relinquishing their independent democratic status. They adopted a theocratic spiritual government with Mrs. Eddy occupying the unquestioned position of Leader. They "reorganized *under her jurisdiction*" (Man. 18:15, Historical Sketch).

The By-Laws prepared by Mrs. Eddy were adopted. This act constituted the laying down of the essentially democratic government in exchange for a theocratic spiritual government under the jurisdiction of the Christ, manifested by Mary Baker Eddy. Early members, in recognizing Mrs. Eddy's absolute authority in all church matters, began referring to the church as "Mother's Church." Only later was it called The Mother Church.

It cannot be denied that once the church had relinquished its own democratic will and had subordinated itself to the authority of Mrs. Eddy, it did function as a Mother Church, inasmuch as the entire Movement was being loved and nourished by the Christ-mentality of Mary Baker Eddy.<sup>22</sup> The By-Laws in the 88 *Manuals* issued by Mrs. Eddy "were impelled by a power not one's own"—they were impelled by the Christ-Mind she reflected.

In making the By-Laws Mrs. Eddy worked to get the divine leading. She then unhesitatingly followed that leading re-

ardless of what the human reaction to it might be. The Board of Directors sometimes balked at these By-Laws, and after she passed on they resorted to legal measures in order to circumvent and annul her By-Laws.

Mrs. Eddy used estoppel clauses in the *Manual* because she knew that to place enactments of holy inspiration in the hands of groups of individuals, such as her Board of Directors, was to incur the possibility of the divine idea being lost sight of and human wisdom taking its place.

Mrs. Eddy wanted the Movement free to expand and develop infinitely under the spiritual guidance of the one infinite Mind as it reveals itself in our textbook, *Science and Health*.<sup>23</sup> But the Board of Directors in 1910 had not attained this lofty level of spiritual understanding, and they did not see the dangers inherent in material organization.

During the last few years Mrs. Eddy spent on earth, the Board of Directors on several occasions urged her to either delete the estoppel clauses or write a transferral clause in the *Manual* designating the Board of Directors as her successor—assigning and transmitting her authority to them. But Mrs. Eddy yielded to no pressure, firmly insisting the estoppels had been dictated by God and must remain to prohibit eternally all centralized control.<sup>24</sup>

Among the items preserved by the Carpenter Foundation in Providence, R. I., is an account by Mrs. (Warren) Mabel E. Brill, at one time Bicknell Young's secretary. Mrs. Brill states that just a year before Mrs. Eddy left us the Board of Directors realized the precarious situation the estoppel clauses in the *Church Manual* posed for them and their positions when Mrs. Eddy would no longer be present to fulfill the requirements of the By-Laws. Thus, states Mrs. Brill, the Directors made repeated unsuccessful attempts to have Mrs. Eddy delete these estoppels or write an additional By-Law transferring her authority to the Board when she was no longer here. Mrs. Eddy steadfastly maintained that the estoppel clauses were God-impelled and must therefore remain. She told her Directors that she understood God showed her how to write the By-Laws, including the estoppel clauses, and that she had no right and no desire to change what God had dictated to her.

Frustrated by their failure to persuade Mrs. Eddy to change her mind and consequently her *Manual*, the Board arrived at a plan. They knew of Mrs. Eddy's high regard for her trusted friend, General Frank Streeter, an attorney. General Streeter had, through diligent study, acquired a good grasp of the teachings of Christian Science. His great desire was to represent and serve Mrs. Eddy in framing the legal instruments she, from time to time, called upon him to prepare. He earned her trust and confidence not only because he was a capable lawyer, but even more because he was able to catch the spirit of her wishes.

The Directors' plan was to engage General Streeter under a private financial agreement to approach Mrs. Eddy as though acting entirely on his own initiative and volition. He was to impress upon her the perilous state of affairs the Movement would be left in if she refused to write a transferal clause conveying her authority to the Board of Directors. Additionally, he was to offer his assistance in the drafting of this transferral clause which the Directors so eagerly desired.

While on his way to see Mrs. Eddy, General Streeter suddenly became aware of the real motive back of the Directors' plan. When he entered Mrs. Eddy's study, he immediately divulged to her the entire scheme the Directors had tried to involve him in. The following afternoon Mrs. Eddy dictated to Calvin Frye the *Manual By-Law*, p. 70, which reads: "Pastor Emeritus to be Consulted. Sect. 18. The Mother Church shall not make a church By-Law, nor enter into a business transaction with a Christian Scientist in the employ of Rev. Mary Baker Eddy, without first consulting her on said subject and adhering strictly to her advice thereon." This By-Law appeared in the 83rd *Manual*, the last of nine *Manuals* to appear in 1909.

Many in high places in the Christian Science Movement felt the estoppels in the *Manual* should be obeyed. Notable among these was Mr. Frederick Dixon, a Christian Science teacher, who had been summoned from London at Mrs. Eddy's request to become editor-in-chief of *The Christian Science Monitor*. (He later became editor-in-chief of all church periodicals.)

Shortly after Mrs. Eddy's departure Director Archibald McClellan insisted to Dixon that if the Board of Directors had not taken prompt action to ignore the estoppels and proclaim that Mrs. Eddy had left instructions that the Board was to run the Movement, the whole thing would have collapsed. He stated it was their prompt action that "saved" the Movement from being decentralized at Mrs. Eddy's passing.

Mr. Dixon wanted no part of this disobedience to Mrs. Eddy's estoppels. He is reported to have reasoned that Mrs. Eddy established the Publishing Society *legally*, granting it a perpetual Deed of Trust. She also provided *legally* for the continuation of the local Boston Church, The First Church of Christ, Scientist, through her two Deeds of Trust in the *Manual*, pp. 128-138. If she had wanted The Mother Church to continue she could have so provided legally, instead of inserting 26 or more estoppel clauses in the *Manual* to prevent its continuation. When Dixon was unable to persuade the Directors to his point of view, he resigned.<sup>25</sup> In his letter of resignation from The Mother Church he said,

Obedience to Mrs. Eddy can only be achieved by dissolving the material organization of The Mother Church. The *spiritual* reality [of The Mother Church] is, of course, indestructible.

Where many Christian Scientists are under the impression that Mrs. Eddy established a material organization, Dixon saw her real establishment was "the structure of Truth and Love; whatever rests upon and proceeds from divine Principle."<sup>26</sup> This spiritual concept supplants the concept of membership in a material organization and obedience to constituted authority rather than to Principle.

## REPORT OF THE COMMITTEE ON GENERAL WELFARE

Mr. Dixon was joined by a number of other upper-echelon Christian Scientists. And before proceeding with our detailed analysis of the entire situation, let us review briefly

two of the other numerous attempts to point out the dangers of disobedience to Mrs. Eddy's estoppels. We will first review the famous *Report to the Members of The First Church of Christ, Scientist, in Boston, Massachusetts* (sponsored by the Christian Science Board of Directors), and then take up the celebrated case of John W. Doorly of London. The findings and recommendations of the prestigious *Committee on General Welfare* was completed March 3, 1920, and copyrighted by Richard P. Verrall and Martha W. Wilcox.

The Board's failure to accept the Committee's recommendations eventually led to the excommunication of the foremost thinkers in the Christian Science Movement, notably such world-famous leaders as Herbert Eustace, Alice Orgain, John Doorly, Peter Ross, Laurence Sinton, and Hendrik J. DeLange. Bicknell Young somehow escaped excommunication, but his one-time secretary, Margaret Laird, who became world-famous in her own name, particularly as a healer and demonstrator of the Truth she taught, was not spared excommunication.

The Report of the Committee on General Welfare was eagerly awaited. It must be remembered that this was at the time of the "great literature litigation,"<sup>27</sup> and the Board, in authorizing this Committee, no doubt expected a Report favorable to themselves. The Committee was chaired by the highly honored and influential Martha W. Wilcox, CSB, a teacher of Christian Science who had lived in Mrs. Eddy's home, and by Richard P. Verrall, CSB.

Here in essence are some of the findings and recommendations of this Committee:

- The discovery of Christian Science by Mary Baker Eddy in the year 1866, was followed by a new and more spiritual definition of the word "Church" as found in the Glossary, page 583, of *Science and Health*.

- During the first few years after her discovery, Mrs. Eddy herself was the chief visible manifestation of this Church, for, in the words of the definition of Church, Mrs. Eddy, above all others, was "found elevating the race, rousing the dormant understanding from material beliefs to the apprehension of spiritual ideas and the demonstration of divine Sci-

ence, thereby casting out devils, or error, and healing the sick." Mrs. Eddy lived what she taught and this attracted others to Christian Science.

- In the spring of 1879, thirteen years after her discovery, Mrs. Eddy united with a little band to form a church to revive primitive Christian healing. After a ten-year struggle, this *first* church organization was dissolved, in 1889.

- On September 23, 1892, a *second* organization was formed in which Mrs. Eddy retained for herself, during its eighteen-year history, some thirty reservations of authority, which have become known as estoppel clauses. Upon the demise of Mrs. Eddy these estoppels would bring to a halt all centralized control, and begin the ushering in of her only *real* successor, namely, the spiritualized consciousness, or man in the image and likeness of the Father-Mother God.<sup>28</sup> On page 9 of the *Report of the Committee on General Welfare* we read that it is evident "the *Manual* had definitely determined the limitation [through its estoppel clauses] of the Board's powers, and it is generally conceded that no amendments shall be made to the *Church Manual*." Furthermore, nearly ten years before this, Mrs. Eddy had, with characteristic foresight and wisdom, provided for her successor, when she wrote in *Miscellany*, page 346:29:

Science and Health makes it plain to all Christian Scientists that the manhood and womanhood of God have already been revealed in a degree through Christ Jesus and Christian Science, His two witnesses. What remains to lead on the centuries and reveal my successor, is man in the image and likeness of the Father-Mother God, man the generic term for all mankind [the perfect man].

The "perfect man" is that compounded spiritual individuality which reflects God as Father-Mother, as two individual *natures* in one. As we gain this insight of what man really is we lose the sense of corporeal being. Writing of this perfect man on page 577 of *Science and Health*, Mrs. Eddy says, "In this divinely united spiritual consciousness, there is no impediment to eternal bliss,—to the perfectibility of God's creation." On page 57 of *Science and Health* Mrs. Eddy states,

“Union of the masculine and feminine *qualities* constitutes completeness.”

The Committee on General Welfare saw this prophetic utterance as the key to the question of Mrs. Eddy’s rightful and legitimate successor, since it enunciates the Principle upon which the government of The Mother Church could fulfill the Magna Charta of Christian Science, and prove itself “essentially democratic, its government [being] administered by the common consent of the governed, wherein and whereby man governed by his creator is self-governed.”<sup>29</sup>

- The Committee could see that this Magna Charta of Christian Science, like the Declaration of Independence, has been realized in human experience only one step at a time. Thus, during the period of Mrs. Eddy’s personal leadership she promulgated new By-Laws, introduced reforms, and established new agencies only as her followers advanced in understanding sufficiently to be able to obey and support them.

- Mrs. Eddy’s vision extended far beyond the visible organization, and in her “Magna Charta”<sup>30</sup> and her “Declaration of Independence”<sup>31</sup> she depicted her ideal church.

- Every step toward the equalization of the responsibilities and honors in church government is therefore a step nearer to the fulfillment of Mrs. Eddy’s ideal of the Christ Principle:

For this Principle there is no dynasty, no ecclesiastical monopoly. . . . Its only priest is the spiritualized man.

- In this true government each individual has immortal sovereignty.

- On page 9 of the *Report*, we find that what *hinders* the progress of accepting this immortal sovereignty is that element in human nature which cries out: “Nay, but we will have a king over us.” The servile element in human consciousness responds to the suggestion that it is easier to rely on someone else who apparently has greater ability and authority. To think out and work out one’s own salvation requires more effort than many care to make. The dependence upon personal control and the disposition to take ad-

vantage of it, all the way from an individual to an organization, is a form of idolatry insofar as it limits dependence upon divine power. And there are always persons quick to take advantage of this dependency trait and assume "the divine right of kings" rule.

- In proportion as these human negative traits are overcome, will that "man," referred to by Mrs. Eddy, who is to "lead on the centuries and reveal [her] successor,"<sup>32</sup> appear.

- It is the destiny of Christian Science to show to the world that mankind cannot be deprived of its right to think.

- The Committee on General Welfare found considerable sentiment in the Christian Science Field decrying the Directors' assumption that the *Manual By-Laws* placed the direction of the spiritual and business affairs of the Church in the hands of the Christian Science Board of Directors. The Committee found a consensus that the estoppel clauses should be obeyed—in other words that those reservations of authority retained by Mrs. Eddy for herself, through her use of the estoppel clauses, passed legitimately to her *true* successor as named in her statement on page 347:2 of *Miscellany*. There she refers to "man in the image and likeness of the Father-Mother God, man the generic term for mankind" as her only successor.

- The Committee averred that the recognition of Mrs. Eddy's successor (as the God-like man) was of paramount importance because it supplies that potential authority without which neither the spiritual nor the business affairs of the Church can be properly administered. This means that the spiritualizing influence exerted by Mrs. Eddy's teachings upon the general human consciousness constitutes a moral force that can't be measured. What must be individually demonstrated is the true nature of man. This true nature is Mrs. Eddy's successor, and should be recognized as the great impersonal Leader of the Christian Science Movement.

This spiritually unique *Report of the Committee on General Welfare* did not support the position of the Board of Directors, and it was therefore quietly suppressed. Comfortably ensconced in their position of prestige, power, and authority, their inclination was toward more not less, control.

## THE HERESY TRIAL OF JOHN W. DOORLY

John W. Doorly of London, England, was an outstanding Christian Science practitioner, teacher, and lecturer, who had at one time served as President of The Mother Church. He had a natural proclivity for scientific research, and as a result of his forty-year dedicated study of Mary Baker Eddy's writings, he began to comprehend the *system* Mrs. Eddy had embodied in the textbook, and to glimpse the pure Science of Christian Science. Elated with the results of his research, which had culminated in great new insights into the textbook, Doorly began holding regular meetings to communicate his findings to his students and other interested Christian Scientists. When news of this type of independent thinking reached Boston an ordeal of relentless persecution began for Mr. Doorly. He was faced with countless charges, many of them scarcely to be distinguished from gossip.

Mr. Doorly's attempts to explain the "system" and the pure Science he saw in the textbook only brought further charges of improprieties—infractions and violations of *Church Manual* By-Laws. Each letter imperiously implied that the Board of Directors was the final authority in the interpretation of the Christian Science textbook. No ideas were to be advanced that had not been settled upon as correct during Mrs. Eddy's lifetime.

Their persistent harassment led Mr. Doorly to write the Board on November 7, 1946: "Your ... mistaken policy has distorted our Leader's 'mother' government into one of the most despotic oligarchies our world has ever known."<sup>33</sup>

In making the decision to publish and circularize a booklet of his understanding of Mary Baker Eddy's pure Science of Christian Science, and extracts of correspondence exchanged between himself and the Christian Science Board of Directors, entitled *A Statement*, Mr. Doorly said:

I am taking this step because I am convinced ... that unless we make a definite and dignified issue, and a very decided issue of this whole matter, we shall lose a golden opportunity that may not occur again for many years.

Mr. Doorly hoped that circulating his correspondence with the Board of Directors would stimulate, motivate, and impel the Directors to retrace their steps and in the future leave church members alone to develop their own progressive sense of Christian Science. Mr. Doorly was also aware that refusing to submit to the Boston authorities might bring instant excommunication.

No one has contributed more to the step-by-step progress out of ecclesiastical bondage than the great and courageous Mr. Doorly, who was glad to be counted among the many men and women who have been willing to be ostracised and driven out of religious organizations rather than submit to the control and restraint of their spiritual vision.

In a letter dated November 7, 1946, Doorly wrote the Board:

... Mrs. Eddy was, in the purest sense, the 'mother' of her church. She was, moreover, a great spiritual genius who knew the value and the danger of By-Laws, as the Foreword in the *Manual of The Mother Church* indicates. Mrs. Eddy retained for herself the powers of appointment, of dismissal, and in fact the complete control of her church in every way through many specific By-Laws. Shortly before she left us, Mrs. Eddy was asked to amend those By-Laws which gave her complete control, and she absolutely refused to do so. It must be evident to any intelligent individual that a 'mother'<sup>34</sup> government, exercised and controlled by one of the world's greatest thinkers and religionists, could not possibly be the same government when this control is removed, and the government is left to a Board where amateur ecclesiasticism and commercialism might hold sway...

With Mrs. Eddy's passing, her 'mother' government passed also, and became an impossibility for exercise by anyone else. No one could for one moment believe that Mary Baker Eddy, who knew the fallibility of human beings so well, would commit her life work into the hands of five people whom she did not even know. If she had done this it would have been utterly unlike all that she ever

taught. The fact is that Mary Baker Eddy left the future of Christian Science to the spiritual animus and development of her own demonstration and that of mankind. Hence she writes, "What remains to lead on the centuries and reveal my successor, is man in the image and likeness of the Father-Mother God, man the generic term for mankind."

This man is revealed in a spiritual understanding of the Christian Science textbook and the other writings by Mary Baker Eddy. When the Boston Board advised Doorly of the rumors and reports concerning him, the intrepid Doorly wrote Boston, July 4, 1942: Yes, "to put it quite frankly, the wolves of religious persecution are in full bay in London, and the theory on every hand is that your Board—collectively or individually—has unleashed them."

Here was an eminent spiritual thinker of world renown, honored with the respect and friendship of tens of thousands of Christian Scientists, suddenly being faced with excommunication, only because he had seen deeper into the Christian Science textbook and was the *first* of Mary Baker Eddy's dedicated students to divinely fathom and begin to teach the pure Science of her discovery, embodied in the textbook and amplified in her other writings.

On July 30, 1946, in answer to further accusations and threats, Doorly countered:

... If your Board imagines that honest, intelligent, and progressive men and women of today are going to submit to such processes, utterly unworthy of Christian Science and inconsistent with ordinary justice, then your Board is making a mistake. One individual who went to Boston on a matter of this kind wrote me as follows:

'... A group of 37 of us from all over the United States, unable to believe that the Board of Directors would place our teacher on probation on hearsay evidence from one side, went, of our own accord, to see the Board and place the facts before them. We were met in the reception room by their legal representative who asked us, when we told

him our mission, if we were aware that we were approaching "the highest ecclesiastical court in the land." Our reply was that we had come to see our loving Board of Directors....

Continuing his letter, Mr. Doorly again warned the Board that its regressive and false sense of Christian Science was helping the enemy destroy our Leader's lifework.

The foregoing extracts from Mr. Doorly's *Statement* speak with clarity and eloquence. They portray graphically what hundreds of genuine dedicated Christian Scientists have faced when their lives and careers have been temporarily blighted by the shadow of fear cast over them by the Boston Board. But once freed by excommunication, these doughty veterans and eminently distinguished healers rose higher in demonstration and usefulness to the human race. Beyond the restrictions of organization they were free to write, lecture, hold classes and seminars, and continue their healing practice.

The world stands sorely in need of a deeper understanding of the God-inspired writings of Mary Baker Eddy. In the next Chapter we will look at documents which reveal that the *Church Manual* in no way conflicts with the textbook, *Science and Health*, but instead shows the way out of a seeming seventy-year captivity to centralized ecclesiastical control. Gradually it will be seen that the *Church Manual* is the matrix of that spirit of Mrs. Eddy's Declaration of Independence, and her Magna Charta, that lifts man to the point of ascension where organized animate matter is no longer a legitimate state of man's conscious evolvment. Man will realize his divinity, held "forever in the rhythmic round of unfolding [bodiless] bliss, as a living witness to and perpetual idea of inexhaustible good."<sup>35</sup> Because of the deep spiritual significance behind the "stuffy little *Manual*," Mrs. Eddy could say to a student that she considered her *Manual* second in importance only to *Science and Health*. In *Miscellany* she wrote, "Eternity awaits our *Church Manual*." Mrs. Eddy saw material history drawing to a close.<sup>36</sup> As she

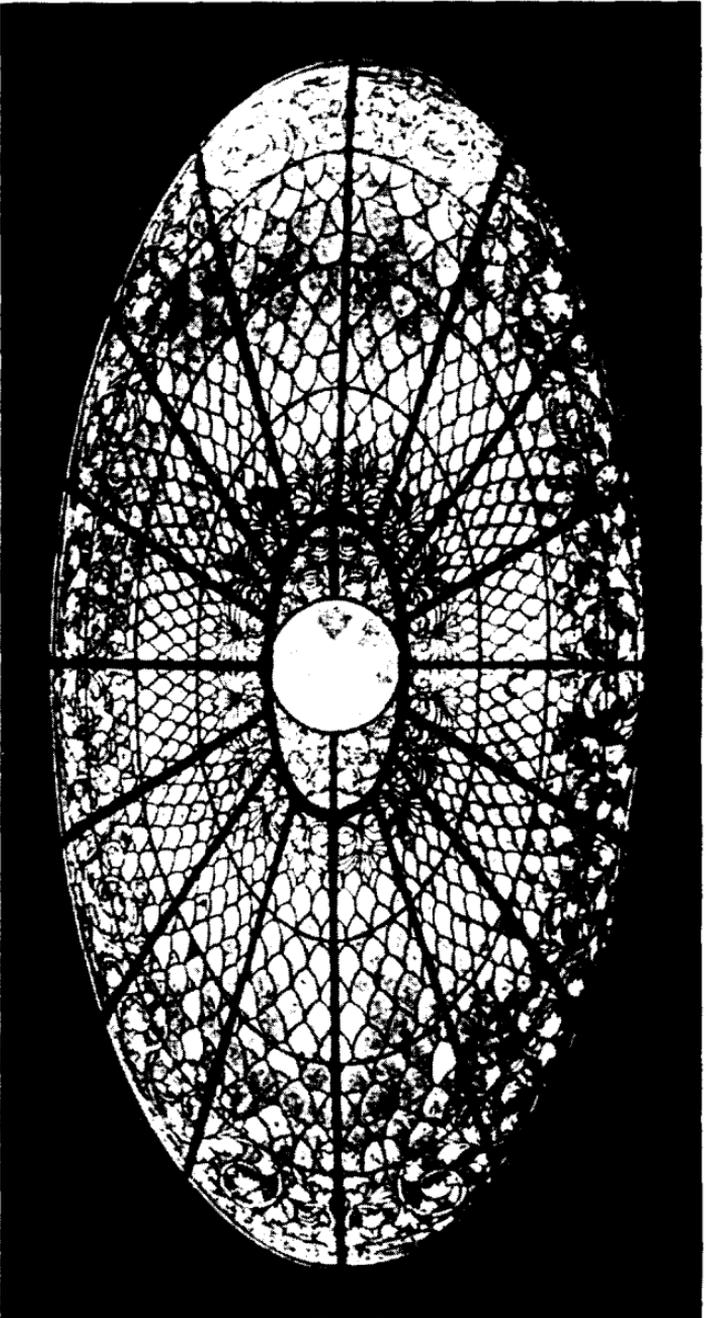
looked out on the dawning twentieth century (which would urge its highest demands on mortals) and sensing "the human hatred of Truth," she wrote of this century's "God-crowned ending—the threshold on which we now stand:



THOU God-crowned, patient century,  
Thine hour hath come! Eternity  
Draws nigh — and, beckoning from  
above,  
One hundred years, aflame with Love,  
Again shall bid old earth good-by —  
And, lo, the light! far heaven is nigh!  
New themes seraphic, Life divine,  
And bliss that wipes the tears of time  
Away, will enter, when they may,  
And bask in one eternal day.

'Tis writ on earth, on leaf and flower:  
Love hath one race, one realm, one power.  
Dear God! how great, how good Thou art  
To heal humanity's sore heart;  
To probe the wound, then pour the balm —  
A life perfected, strong and calm.  
The dark domain of pain and sin  
Surrenders — Love doth enter in,  
And peace is won, and lost is vice:  
Right reigns, and blood was not its price.

Pleasant View, Concord, N. H., *January*, 1901.



THE SUNBURST

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- <sup>1</sup>Mis. 359:3
- <sup>2</sup>Mis. 358:30
- <sup>3</sup>S.&H. 182:9-14
- <sup>4</sup>Ret. 47:2
- <sup>5</sup>This admonition and warning from Mrs. Eddy appears opposite page 135 of the July, 1891, *Christian Science Journal* (Vol. IX).
- <sup>6</sup>The notice "Authorized Literature of The First Church of Christ, Scientist, in Boston, Massachusetts," which began appearing in our study books in 1916 is entirely foreign to anything mandated by Mrs. Eddy.
- <sup>7</sup>See Chapter IV
- <sup>8</sup>Charles S. Braden, *Christian Science Today*, Southern Methodist University Press, Dallas.
- <sup>9</sup>After the death of both Gilbert Carpenter, Sr., CSB, and Gilbert Carpenter, Jr., CSB, the Board of Directors gained control of this vast priceless collection, and it is now buried in The Mother Church archives.
- <sup>10</sup>Mis. 99:10. So great is the fear instilled in church members regarding the reading of Christian Science literature not "authorized" by the Board of Directors that few summon the courage to attempt it. The seven [Reginal] *Kerry Letters* have sparked a great awakening in the Christian Science Field, as have the UCS tapes circulated by David James Nolan.
- <sup>11</sup>Ernest Sutherland Bates, and John V. Dittmore, *Mary Baker Eddy*. (Alfred A. Knopf, New York, 1932)
- <sup>12</sup>Ret. 76:2-7
- <sup>13</sup>The Board of Directors promulgates the conception that literature not authorized by the Board in Boston is "incorrect." This is a rank perversion of Mrs. Eddy's By-Law concerning "No incorrect literature."
- <sup>14</sup>Norman Beasley, *The Cross and Crown* p. 251-252. Duell, Sloan and Pearce, New York; Little, Brown and Company, Boston. 1952
- <sup>15</sup>Beasley, *The Cross and Crown*, pp. 212-213. Also preserved in Carpenter Foundation material, and in the Alice Orgain Library.
- <sup>15A</sup>Ibid 209-210
- <sup>15B</sup>These pungent warnings from Mrs. Eddy about "reorganizing" have been preserved by the Alice Orgain Library, the Shawk Historical Library, and the Carpenter Foundation.
- <sup>16</sup>Mis. 348:12
- <sup>17</sup>Ret. (first ed. p. 58)
- <sup>18</sup>S&H 266:11
- <sup>19</sup>*Mary Baker Eddy's Six Days of Revelation*. Richard Oakes. Available from Rare Book Co., P.O. Box 957, Freehold, N.J. 07728; Bookmark, P.O. Box 4184, Pasadena, Ca. 91106; Books & Things, Box 128, Ahwahnee, Ca. 93601
- <sup>20</sup>Man. 133.
- <sup>21</sup>My. 347:2-5
- <sup>22</sup>Ret. 90:16
- <sup>23</sup>My. 347:2-5
- <sup>24</sup>Mrs. Eddy retained for herself the powers of appointment, of dismissal, and in fact the complete control of her Church in every way through many specific by-laws. Shortly before she left us, Mrs. Eddy was asked to amend those by-laws which gave her complete control, and she absolutely refused to do so. It must be evident to any intelligent individual that a 'mother' government, exercised and controlled by one of the world's greatest thinkers and religionists, could not possibly be the same government when this control is removed, and the government is left to a Board where amateur ecclesiasticism and commercialism might hold sway." (A Statement by John W. Doorly, CSB, of London, England. Nov. 7, 1946 letter to C.S. Board of Directors. Used with permission of Peggy M. Brook, Trustee for the writings of John W. Doorly.

<sup>25</sup>He later returned at Mr. Eustace' request to manage the periodicals.

<sup>26</sup>S&H. 583:12

<sup>27</sup>See Chapter IV.

<sup>28</sup>This "image and likeness" is attained through a scientific understanding of the textbook, *Science and Health*. The textbook reveals man's true spiritual nature and shows man to be the revelation of God. This perpetual revelation of God is Mrs. Eddy's successor.

<sup>29</sup>My. 254:21

<sup>30</sup>My. 246.30

<sup>31</sup>S&H. 106.6

<sup>32</sup>My. 347:2

<sup>33</sup>*A Statement by John W. Doorly*, p. 57. (This and following excerpts from *A Statement*, used by permission of Peggy M. Brook, Trustee for the writings of John W. Doorly. Copies of *A Statement* are obtainable from Peggy Brook, 41 Pelham Court, Fulham Road, London, SW3 6SH, England.

<sup>34</sup>For explanation of Mrs. Eddy's "mother" or theocratic government, see p. 12.

<sup>35</sup>Mis. 83:1

<sup>36</sup>No. 45:27

<sup>37</sup>Poem entitled *The New Century*

## Chapter II

# MARY BAKER EDDY'S THREE DEEDS OF TRUST AND THE ESTOPPEL CLAUSES

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*Ignorance, subtlety, or false charity does not forever conceal error.  
(S&H. 447:12)*

*For they have healed the hurt of the daughter of My people slightly,  
saying, Peace, peace; when there is no peace. (Jeremiah 8:11)*

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NUMBER of documents will be discussed as we “produce our cause and bring forth our strong reasons” why Mrs. Eddy’s *Manual* should be obeyed *as written*. Among these documents are Mrs. Eddy’s Will and two codicils, as well as her Deed of Trust of September 1, 1892, and her Deed of Trust of March 19, 1903<sup>1</sup> which concern the land for the two church edifices. These documents contain information vital to the Christian Science Movement, starting with Mrs. Eddy’s passing on December 3, 1910, up to the present time.

Another vital document is the Deed of Trust of the Christian Science Publishing Society, dated January 25, 1898, which Mrs. Eddy established as an entirely separate and independent operation, with a self-perpetuating Board of Trustees. It was this Deed of Trust that became the center of

conflict between the Board of Directors and the Publishing Society Trustees. The Board was obsessed with taking over the media of the church—the Christian Science Publishing Society. The Board's attempts to dictate to the Trustees of the Publishing Society became intolerable and led to a lawsuit in 1919, when on March 25th, 1919, the Publishing Trustees filed a Bill in Equity<sup>2</sup> against the Christian Science Board of Directors. The presiding Judge granted the Publishing Trustees an interim injunction which called for the Board of Directors to cease and desist from harassing the Publishing Trustees.

The Board of Directors then instituted suit against the Trustees of the Publishing Society. This was the "second Bill in Equity," dated April 10, 1920.<sup>3</sup> These two Bills in Equity culminated in "The Full Bench Decision" of the Supreme Judicial Court of Massachusetts, November 23, 1921.<sup>4</sup> These three documents will be discussed in the following two chapters.

We will also review the Congressional Copyright Relief Act of 1971<sup>5</sup> which resulted in the copyright on all 420 editions of Science and Health being taken out of the name of Mary Baker Eddy and vested in the Christian Science Board of Directors. This tightened the Board's control of Science and Health, making the earlier editions almost impossible to obtain, and the current edition increasingly difficult to purchase. It is now for sale only in Christian Science Reading Rooms, operated by branch churches, and as these branch churches close, one by one, the Reading Rooms also close.

### **MRS. EDDY'S THREE LEGAL DOCUMENTS AND HER FIRST AND SECOND CHURCH ORGANIZATIONS**

In the past the documents just mentioned and the events surrounding them have been discussed only generally. We will investigate details that were decisive, and point out the errors committed during the past seventy years that have contributed to the decline of the Christian Science Movement.

To understand Mrs. Eddy's three Deeds of Trust it is necessary to delve briefly into her first and second church organizations. We will see that by her two land Deeds she sanctioned the continuance of the local church in Boston. This is in sharp contrast to the estoppels she placed in the *Manual* which brought all central control to a halt when she was no longer present. Mrs. Eddy's legal documents containing provisions for a self-perpetuating four-member Board of Directors for the *local* Boston church, and a self-perpetuating Board of Trustees for her Publishing Society Deed of Trust, determined what was to continue after her passing.

A perusal of her March 19, 1903, Deed of Trust shows the land was granted on the condition that the estoppel clauses in the *Church Manual* would be honored. It reads:

This property is conveyed on the further trusts that no new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled....

The first church organization was formed by Mrs. Eddy and a few students in 1879. Its title was: "Church of Christ, Scientist." This first church organization existed until 1889. It was a completely democratic operation. It exercised no autocratic control over other Christian Science churches. The other churches of Christ, Scientist, operated on their own with no interference from Mrs. Eddy's first Boston church.

By the late 1880's Mrs. Eddy had concluded she could do the greatest good to the greatest number by giving her time to a complete revision of Science and Health. When she was no longer able to give the church the great amount of time and attention it obviously needed, the church deteriorated rapidly. Mrs. Eddy saw it was time to go forward in spiritual organization alone. Thus, on December 2, 1889, the church Board met and adopted unanimously the following resolution which dissolved the first little "Mother Church":<sup>6</sup>

(1) That the time has come when this Church should free itself from the thralldom of man-made laws, and rise into

spiritual latitudes where the law of love is the only bond of union.

.....  
(4) The members of this Church hereby declare that this action is taken in order to realize more perfectly the purpose of its institution as an organization, namely, growth in spiritual life and the spread of the "glad tidings"—and that they will continue in a Voluntary Association of Christians knowing no law but the law of Love, and no Master but Christ in the exercise of all the ministrations and activities heretofore performed as a Church of Christ, Scientist....

Mrs. Eddy had reached, beyond cavil, the conviction that the distractions of material organization and ceremony and personal ambition are what keep people from seeing what Christian Science is really presenting. Her whole purpose was to design a Church—a *spiritual* organization—that would aid man to understand God and his relationship to God. Material organization was the antithesis of all Mrs. Eddy hoped and worked to establish.

Knowing there were many who still felt the need of a church to worship in, Mrs. Eddy gave land on which to build a church edifice for those who felt the need of a place to worship. In spite of the great prosperity that followed the dissolution of this first organization, it was not long before Mrs. Eddy's students importuned her to form another organization. People usually dislike being different, of course, but for Christian Scientists to have clung so tenaciously to church-going seems anomalous since Mrs. Eddy discouraged church attendance by her advanced students. She wanted them to realize more fully that God is *omnipresent* and not found only in church services.

Preserved in the Alice Orgain Library is the following instruction from Mrs. Eddy to her household on church attendance.

The thought of the advanced student should be turned away from too much church attendance. It is not to limit but to broaden their viewpoint—to free their thought

from a sense that God is to be found only in church services. To be sure, attending church is a step in the student's progress, but if his concept of church stagnates at that point, and his demonstration of church does not gradually broaden to cover everything, then spiritual growth ceases, even with the most punctilious church attendance.<sup>7</sup>

Mrs. Eddy knew that a Science doesn't need a church. It needs only the willingness to study and learn, and thus grow in spiritual understanding. Jesus did not organize a church, and to the woman of Samaria who insisted she must go to the temple to worship, he said, "The hour cometh and now is, when the true worshippers shall worship the Father in spirit and in truth: for the Father seeketh such to worship him." The Pharisees insisted people should worship in a temple and be governed by certain laws. If the people accepted Jesus teaching, there would be no annual dues or tithes to support the temple and pay the salaries of those who ran it.

Like Jesus, Mrs. Eddy, from the very beginning, saw that "material organization wars with Love's spiritual compact" and in 1889 she irreversibly reached the conclusion that church organization should be "laid off ... in order to gain spiritual freedom and supremacy." In no other way can the "Church Universal and Triumphant" (*Manual* p. 19) be reached.

In *Mary Baker Eddy, Her Spiritual Precepts*, Mr. Carpenter states that Mrs. Eddy had a right to refer to members who had not cast out the old idea of church, as "infants in Christian Science." Infants, she maintained, were those who thought of church as an *edifice* where men go to worship a human sense of God, rather than a state of consciousness that demonstrates a scientific sense of Good. The true sense of Church makes a bridge over which mortals may pass to the infinite, so that mortality is swallowed up in Life.

Today a deeper sense of what Church really is and means is emerging and making itself felt on all levels of society. In great numbers Christian Scientists are freeing themselves from the centralized control of an ecclesiastical hierarchy. They are seeing Church as "the structure of Truth and Love,"

as a state of consciousness that each individual can continually abide in and so find heaven right where he is. When this is spiritually comprehended it will be seen why Mrs. Eddy, through her estoppel clauses, terminated the five-member ecclesiastical Board of Directors and The Mother Church.

## DEEDS OF TRUST OF 1892 AND 1903

In 1892 Mrs. Eddy executed a Deed of Trust granting land for a church edifice. It is crucial that this Deed of Trust, and the second Deed of Trust of 1903, conveying land for an Extension to the first edifice, not be confused with the *second organization*.<sup>8</sup>

The Deed of Trust of 1892<sup>9</sup> merely granted land on which a church edifice was to be built. The Deed contained eleven provisions, such as:

- The four grantees were to be known as the Christian Science Board of Directors; the Deed *names* the four Directors.

- These four Directors were to be a self-perpetuating body.

- Within five years they were to build a suitable and convenient church edifice, elect a pastor, maintain public worship in accordance with the doctrines of Christian Science, etc.

- The *congregation* worshipping in the edifice was to be called The First Church of Christ, Scientist.

- Whenever the Directors determined it was inexpedient to maintain public worship in this building, the lot of land and the building were to be reconveyed to Mary Baker G. Eddy, her heirs, etc., by a proper deed of conveyance. The church could be dissolved at any time.

- The Deed was perpetual and irrevocable.

- This Deed (1892) says nothing about an organization or about a "Mother Church"; it says nothing about becoming "members" of anything; it simply says that the *people* who worship in that edifice—the people who walk in the door and sit in the edifice, namely the "*congregation*," shall be known as "The First Church of Christ, Scientist."

## DIFFERENCE BETWEEN 1892 DEED OF TRUST AND SECOND CHURCH ORGANIZATION

The duties of the four-member Board under the 1892 Deed were *very limited*. This Deed was Mrs. Eddy's vehicle for providing the residents of Boston with an edifice in which to hold church services. The four Directors *could continue* to provide church services as long as there was any need for them; they did not require Mrs. Eddy's consent, approval, presence, or her signature in her own handwriting to carry on indefinitely. This was in sharp contrast to the second church *organization*, which in 1892, at the insistent urging of her students, Mrs. Eddy permitted to be formed, against her better judgment. Mrs. Eddy kept this second church organization entirely under her control through means of her *Church Manual*. Its operation depended on the availability of her consent, approval, presence, or her signature in her own handwriting. The Board of Directors of this second church organization (eventually to become five (5) in number) was *not* a self-perpetuating body as was the Board under the Deed of Trust of 1892. The second organization was first called "Mother's Church," and eventually it became known as The Mother Church. It is absolutely essential to understand the difference between The Mother Church and what was formed by the Deed of Trust of 1892 which established a Board of four Directors to maintain a place of worship for the convenience of the people in Boston, for as long a time as that Board deemed necessary. The same four men constituting the Board under the Deed of Trust of 1892 became the Board of Directors of the second church organization. Eventually a fifth member was added. Thus they became a *five-member* Board, an *ecclesiastical* Board, *wearing quite a different hat* from the *four-member* Board—a legal Board under the 1892 Deed of Trust.

We saw earlier Mrs. Eddy vigorously opposed and sharply warned of the dangers inherent in organizing a second time, but she was also aware of the lack of wisdom in trying to force higher views on students before the founding work had been done in human consciousness. Divine Mind and thought

(idea) comprise the whole of God expressed in the universe and man, but an understanding of this great fact cannot be legislated. She knew that "whatever needs to be done which cannot be done now, God prepares the way for doing."<sup>10</sup> Perhaps she saw these early followers must learn the evils of continued organization through sad experience, so she helped them, and in the ensuing eighteen years it was to throw a tremendous burden on her.

At the start, this second organization had just a few rules. The first *Church Manual* appeared in 1895, three years after the forming of the second church organization. It was a democratic document. Every officer of the church and every function of the church could operate under the Board of Directors without any reference to Mrs. Eddy. (The only procedure requiring her approval was the election of a Reader in The Mother Church. The Board of Directors, however, could remove the Reader.) But with the passing years Mrs. Eddy assumed supreme control.

Subsequent to this first *Manual*, Mrs. Eddy issued eighty-seven additional *Manuals* as the occasion required them. Each *Manual* contained changes. The 89th *Manual*, currently in use, was not published by Mrs. Eddy. It was hurriedly published immediately after her passing; it deleted the name of Mary Baker Eddy, Pastor Emeritus, as an officer in the church, and her name and office remained out of the *Manual* for fifteen years, until in 1925 pressure from the Field forced its restoration.

Among other changes, the Board of Directors, in order to extend their *Manual*-prohibited control over the branch churches, changed Mrs. Eddy's wording on page 120 of the *Manual* to read: "Present Order of Services in The Mother Church and Branch Churches" instead of merely: "Present Order of Services in The Mother Church." They also added the words: "and Branch Churches" on page 127, to Mrs. Eddy's wording: "Order of Exercises for the Sunday School of the Mother Church." In their haste to make these changes they neglected to change the wording in the Table of Contents which still continued to read: "Present order of Services in The Mother Church," and "Order of Exercises for the

Sunday School of The Mother Church." Mrs. Eddy kept the branch churches separate from The Mother Church since the estoppels would terminate The Mother Church at her passing.

Mrs. Eddy never placed the Cross and Crown insignia on the *Church Manual*. This first appeared in 1916.

These bold and illegal appropriations of authority by the Directors had far-reaching disastrous consequences for the Christian Science Movement, initiating a policy entirely contrary to her "Declaration of Independence," in Science and Health, and her "Magna Charta" in Miscellany. In the eighty-eight editions of the *Manual* issued by Mrs. Eddy, one of her primary objectives was to protect the branches and individual Christian Scientists from any type of ecclesiastical control, as well as to "maintain the dignity and defense of our Cause."<sup>11</sup> Through the *Manual's* estoppel clauses Mrs. Eddy drew an ever tighter rein on her five-member Board of Directors and gradually established complete control over them.

## **PUBLISHING SOCIETY DEED OF TRUST<sup>12</sup>**

Mrs. Eddy executed the Publishing Society Deed of Trust on January 25, 1898. It established three people as Trustees of the Christian Science Publishing Society. It was a legal document, perpetual and irrevocable, with the three Trustees to fill vacancies on their own initiative without reference to Mrs. Eddy or anyone else. Mrs. Eddy's Deed granted the Publishing Trustees all necessary powers to carry on the publishing business after she was no longer present and The Mother Church had been dissolved by the estoppels.

Gaining control of the means of communication was very important to the five-member ecclesiastical Board of Directors as they sought to extend their authority over both the branch churches and the individual church members. Soon

after Mrs. Eddy's passing the Board endeavored to seize control of the Publishing Society by harassing the Trustees. The Board demanded that the Trustees acknowledge in writing the Board's authority over them as the price the Trustees must pay to continue in office. For details of this harassment, see Appendix, March 25, 1919, Bill in Equity. The following three rules in Mrs. Eddy's own handwriting,<sup>13</sup> and sent by special messenger to the three Trustees of the newly formed Publishing Society, leave little doubt that Mrs. Eddy foresaw the ambitious designs of the Directors to secure control of the communications arm of the Movement:

1. When mother foils a demon scheme, do not mar her success. The hardest battle is the *last* one.
2. Never act on first thoughts unless they be of Good, God, but watch and separate the tares from the wheat. Learn by experience and careful comparison to know *whence* cometh your conclusions. "Try the spirits" before acting, look over the purposes that the enemy might be trying to accomplish and so avoid the snare.
3. Have the bird in your hand before disturbing the bush he hangs on.

There is also further evidence that Mrs. Eddy knew what her Board of Directors and others in high places were planning to do when she was no longer here. Her letters to the Board show Mrs. Eddy's desperate attempts to win them over to seeing that humility and patience gather blessings lost to the vainly aspiring. In the *Dr. Baker Notes* is a statement by Mrs. Eddy which reads: "All the trouble I have is with my students."<sup>14</sup> Laura Sargent, a faithful worker in Mrs. Eddy's home, told Adelaide Still that on Mrs. Eddy's last carriage ride, two days before she left us, Mrs. Eddy was silent, lost in deep thought, then almost as though talking to herself, said, "Oh, if only the students had done what I told them, I should have lived and carried the Cause."<sup>15</sup> Five or six days before

this, Mrs. Eddy had dictated and signed a note which read: "It took a combination of sinners that was fast to harm me." (See facsimile p. 37)

(Many years ago when this signed statement was first widely circulated a Christian Science lecturer, who had known some of the early workers and those close to Mrs. Eddy, was asked privately, "What do you think she meant?" Without hesitation he answered, "Why, she knew those whom she trusted—those running the Movement—were planning to betray her. She knew they had sought legal advice on how to break the estoppel clauses. When the full import of the certainty of this betrayal broke upon her, it seemingly had the ability to harm her."

The men who were running the Movement were *good* men, but their materiality clogged their vision. They had fallen so in love with the *material organization* and all its trappings that they simply could not bring themselves to destroy it. The nature of their predicament is symbolized in the book, *Bridge Over the River Kwai*, depicting a World War II captured British colonel and his battalion forced by the Japanese to build a strategic bridge essential to the Japanese war effort. The colonel was at first reluctant. But as he got into solving the difficult construction problems, the bridge became his idol. He fell so in love with the bridge, that when a group of British commandos infiltrated with intent to destroy the bridge, the colonel resisted to the point of killing his own countrymen rather than seeing the bridge destroyed.

In a similar way, the Board of Directors could not bring themselves to destroy "their" great material organization when the estoppels went into operation. No doubt they rationalized that due to her advancing age, etc., Mrs. Eddy had made a terrible mistake in not removing the estoppels so that the material organization could continue legitimately. They forgot Mrs. Eddy had trenchantly warned them in 1892 that if they organized again it would ruin the prosperity of the church.

Mrs. Eddy's ideas of church government differed radically even from those of her students in high places, and of course

It took a combination of sinners  
that was fast  
to harm me.  
Mary Baker Eddy

Nov. 28 1910.

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A REPRODUCTION OF A SIGNED STATEMENT DICTATED BY MRS. EDDY  
TO LAURA SARGENT. IT WAS RECORDED BUT FIVE DAYS  
BEFORE MRS. EDDY PASSED FROM OUR SIGHT.

from mankind generally, causing great antagonism from almost every quarter. Mrs. Eddy's Church was established entirely by divine direction. In order to be perpetuated it must necessarily follow divine inspiration and not be the product of legal enactments or worldly-wise evolutions.

Regarding the By-Laws and her estoppels she said: "I have no right or desire to change what God has directed me to do, and *it remains for the church to obey it*" (preserved by Carpenter Foundation; also preserved in Adam Dickey's *Memoirs*).

When Mrs. Eddy asked Adam Dickey to write a history of what had transpired while he had lived in her home, she extracted a promise from him to tell the students, if she should ever leave here, that she had been "mentally murdered." Mrs. Eddy wanted to shock the students into an awareness of the power of wrong thinking to harm, to kill. Mental murder results from believing the evidence of the physical senses. The students were seeing Mrs. Eddy as aging and dying, and were concerned with how the *Manual's* estoppels would affect their positions when she was no longer present to fulfill the By-Law requirements. They were not supporting her by seeing her as the perfect reflection of ageless, endless, eternal Life. Mrs. Eddy was endeavoring to shock her students into seeing that this whole mortal picture is merely hypnotic suggestion with no more reality than the dream we have in sleep. Mental murder results from accepting the illusions presented by the physical senses as realities, when all the while "all is infinite Mind infinitely manifested." There is no reality in the testimony of the five physical senses.

Mrs. Eddy was well aware that some of her most trusted students, occupying the highest positions, were not supporting her spiritually, but were actually waiting for her to die, readying their affairs to take over at the moment of her death. This she considered "mental murder."

Calvin Frye, Mrs. Eddy's faithful secretary from 1882 until her death in December, 1910, made a most revealing entry in his *Diary* under date of December 7, 1900:

Judge Clarkson dined with Mrs. Eddy today and after dinner tried to convince her *again* that she was mistaken

and the cause was going to ruin and the men were essential to take the lead of the cause of Christian Science and to assert their rights *without her dictation*.”<sup>15A</sup>

While many men in the ranks of Christian Science were faithful to Mrs. Eddy's teaching, others were ready to resist to the hilt the new idea of WOMAN which Mrs. Eddy's teaching was ushering in (with Christian Science) as she step by step fulfilled Jesus' prophecy to St. John concerning the woman of the Apocalypse. Jeremiah too had prophesied:

The Lord hath created a new thing in the earth,  
A woman shall compass a man. (Jeremiah 31:22)

This “new thing”—WOMAN—this new order of the ages, was “the stone which the builders [had always] rejected.” It was the gift of Love, the spiritual understanding revealed in Mary Baker Eddy's writings. It was the capstone that would crown the manhood of God with womanhood and reveal the man of God's creating—generic man.

But in their total materiality, this “new thing,” WOMAN, was viewed by certain men in the church organization as a threat to the age-old belief of male supremacy. Thus they again “rejected the stone which the builders [had always] rejected,” namely, the supremacy of Love, and equality of the sexes, resulting from the Christian Science teaching that each individual reflects *all* the qualities of the *Father-Mother* God. The Board in power at that time opted to keep alive “material organization which wars with Love's [WOMAN'S] spiritual compact.” Since 1910 the Board of Directors has made no attempt to defend Mrs. Eddy against the subtle insinuations of “mental incompetency for not having removed the estoppel clauses.” Earlier we saw their attempt to rid themselves of her supervision when they omitted her name and office from the new *Manual* they hastily published after her departure.

In a letter to Augusta Stetson (see facsimile, p. 40) dated December 11, 1898, Mrs. Eddy first wrote that her trials were not confined to one person or one thing as their source, but “take in all earthly things and mortals.” Then she speaks of the “antagonism” she is met with by *all*, in a certain sense. (*Italics* are in the original, and transcript follows):

2.

person, or one thing,  
as their savior, but  
look on all earthly things  
as no mortals.

I am alone, absolutely,  
here! No one can touch  
me really, or can see  
what I have to meet  
on my own for me.

All are far from  
seeing or understand-  
ing what I am at  
work all the time,  
and in every direction  
to destroy; and so I am  
met by all in a certain  
sense, with antagonism.

It is the errors that  
my students do not see  
(over)

neither in themselves nor  
 others that I am con-  
 stantly confronting and  
 at times with. If they  
 could <sup>in the world</sup> see these  
 errors which I do  
 they would take  
 of James against  
 them, and I could  
 lay down mine.

But to open the  
 eyes of the blind from  
 paralyzed optic nerves  
 is nothing, compared  
 with opening them to  
 the tendencies of their  
 own human natures  
<sup>even</sup> at the very best.

(Which tendencies  
 I trust be subdued to be-  
 come a true Christian Scientist)

Yours Obediently,  
 M. B. Eddy

I am *alone, absolutely*, here! No one can know me, really, or can see what I have to meet, or meet it for me.

All are far from seeing or understanding what I am at work all the time, and in every direction, to destroy; and so I am met by all in a certain sense, with antagonism. [Does this not parallel Jesus' words when he spoke of the antagonism with which he was met? "The world cannot hate you; but me it hateth, because I testify of it, that the works thereof are evil." (John 7:7)]

It is the errors that my students *do not see*, neither in themselves or in others, that I am constantly confronting and at war with. If they and the world did see these errors, which I see, they would take up arms against them and I could lay down mine.

But, to open the eyes of the blind from paralyzed optic nerve, is *nothing*, compared with opening them to see the tendencies of their own human natures, even at the *very best*. Which tendencies must be subdued to become a true Christian Scientist.

Thine own,  
M.B.G.Eddy.

## ESTOPPEL CLAUSES IN THE MANUAL

We return now to the Publishing Society Trustees. They were not only under oath, but equally under Mrs. Eddy's express admonition to follow the Deed of Trust. Thus when the Trust's provisions, as interpreted by its sworn executors, the Trustees, were challenged,<sup>16</sup> and the Directors ordered the Publishing Trustees to break Mary Baker Eddy's Deed of Trust, the Publishing Trustees felt there was no road open to them other than the Court. In the following Chapters we will learn of the great mistake the counsel for the Trustees made when they inadvertently sued the wrong party and what occurred in the wake of this tragic error—error to human mortal sense.

Lastly we will discuss the Full Bench decision in this historic case. Most Christian Scientists will be surprised to learn what the Full Bench of the Supreme Judicial Court of Massachusetts actually said, and how it was grossly misinterpreted to the Field.

But before we go into the five-member ecclesiastical Board's struggle for power and authority, we will take a look at the estoppel clauses God led Mrs. Eddy to place in her *Church Manual* to prevent the grasp of legalism and ecclesiastical power.

The Supreme Judicial Court of Massachusetts in the Full Bench Decision of November 23rd, 1921, recognized and admitted that the *Church Manual* by its terms could not be changed after Mrs. Eddy's passing. The Chief Justice cited Article XXXV, Section 1, as binding, namely: "This *Manual* shall not be revised without the written consent of its author."

The Chief Justice further stated that under the principles of interpretation, the same words used elsewhere in the same instrument [meaning throughout the *Manual*] must have the same meaning. The Court thus recognized the validity of *all* the estoppel clauses.<sup>17</sup>

Continuing this train of thought, we are led back to the second Deed of Trust shown on pages 136-138 of the *Manual*, where at the top of page 136 we read:

This property is conveyed on the further trusts that no new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled by the grantees unless *the written consent of said Mary Baker G. Eddy, the author of the textbook "Science and Health with Key to the Scriptures," be given therefor*, or unless at the written request of Mrs. Eddy the Executive Members of The First Church of Christ, Scientist, (formerly called the "First Members") by a two-thirds vote of all their number, decide so to do.

It is important to understand that this additional trust in the Deed of March 19th, 1903 (covering the Extension), bound the fiduciary<sup>18</sup> Board of Directors to act in a certain way: the land was granted *on the condition* that there would

be no annulling of the By-Laws. This made the *Manual* a part of the legal Deed of Trust. The ecclesiastical Board under the *Church Manual* and the polity of the Church was also prohibited from changing the *Manual*.

Because the estoppels appear to be the essence of the *Manual*, and in view of the Court's assessment of their importance, we will review these estoppel clauses after examining the Articles and Sections in which these estoppel clauses occur which require Mrs. Eddy's presence, approval, consent, or signature in her own handwriting:

Church Officers

Art. I	Sect. 1. Church Officers	Presence
	2. President	Approval
	3. Clerk, Treasurer, etc.	Written Consent
	4. Readers	Presence
	5. Directors	Approval
	8. Trusteeships and Syndicates	Approval
	9. Replacing Directors	Presence
Art. II	Sect. 3. Removal of Reader	Consent
Meetings		
Art. XIII	Sect. 3. Clerk Calling Special Meetings	Consent
Reading Rooms		
Art. XXI	Sect. 2. Librarian and Staff	Approval
Relation and Duties of Members to Pastor Emeritus		
Art. XXII	Sect. 3. Filling vacancies for disobedience	Approval
	Sect. 8. Private Communications of Pastor Emeritus not to be made public without	Written Consent
Guardianship of Church Funds		
Art. XXIV	Sect. 4. Finance Committee	Consent
	7. Giving Donations	Written Consent
	Important Movements of Manager of Committees on Publication	Approval
	9. Committee on Business	Written Approval
Christian Science Publishing Society		
Art. XXV	Sect. 3. Vacancies in Trusteeship	Approval
	4. Editors and Manager	Written Consent
	8. Books to be Published	Written Consent
Board of Education		
Art. XXVIII	Sect. 1. Officers	Auspices
	2. Vice President and Teacher	Approval
	4. Vacancy of President	Signature & Approval
Art. XXX	Sect. 3. Board of Education's Certificates To Teach	Personal Signature

Board of Lectureship		
Art. XXXI	Sect. 1. Election of Lecturers	Approval
Committee on Publication		
Art. XXXIII	Sect. 1. Appointment of Manager of Committees on Publication	Written Consent
	Sect. 6. Appointment of Assistant Manager	Approval
Church Building		
Art. XXXIV	Sect. 3. Demolition or Removal of 1894 Mother Church Building	Written Consent
Church Manual		
Art. XXXV	Sect. 1. Revision of Manual	Written Consent
	3. Amendment or Annulment of By-laws	Written Consent

These estoppels are the very heart of the *Church Manual*.  
Let us now see what each estoppel clause actually says.

Turning to page 25 of the *Church Manual* we read under  
Article I, Section 2:

The President shall be elected, *subject to the approval of  
the Pastor Emeritus, . . .*"

On page 26, Article 1, Section 3, concerning the Clerk and  
the Treasurer, we read:

Incumbents who have served one year or more, may be  
reelected, or new officers elected, at the annual meeting  
held for this purpose, by a unanimous vote of the Chris-  
tian Science Board of Directors *and the consent of the  
Pastor Emeritus given in her own handwriting.*

On this same page we come to Article 1, Section 4:

Every third year Readers shall be elected in The Mother  
Church by the Board of Directors, which shall *inform the  
Pastor Emeritus of the names of its candidates before they  
are elected; and if she objects, said candidates shall not be  
chosen.*

Further, on page 26, we come to Article 1, Section 5: This  
concerns an election to fill a vacancy on the Board of Di-  
rectors of The Mother Church. We read:

They shall fill a vacancy occurring on that Board *after the  
candidate is approved by the Pastor Emeritus.*

Next we go to the bottom of page 27, Trusteeships and Syndicates, Article 1, Section 8:

Boards of Trustees and Syndicates may be formed by The Mother Church, *subject to the approval of the Pastor Emeritus.*

Now we go to page 30, Article II, Section 3:

If a Reader in The Mother Church be found at any time inadequate or unworthy, he or she shall be removed from office by a majority vote of the Board of Directors *and the consent of the Pastor Emeritus....*

We now go to page 57, Article XIII, Section 3. This refers to calling a special meeting of The Mother Church:

The Clerk must have the *consent* of this Board and *of the Pastor Emeritus* before he can call said meeting

We go to page 63, Article XXI, Section 2, concerning the Librarian:

The individuals who take charge of the Reading Rooms of The Mother Church shall be elected by The Christian Science Board of Directors, *subject to the approval of Mary Baker Eddy.*

On page 65, Article XXII, Section 3, in reference to *obedience required to a written order from Mary Baker Eddy*: disobedience is cause for removal. If removal of an officer is required, we read:

The vacancy shall be supplied by a majority vote of the Christian Science Board of Directors, and *the candidate shall be subject to the approval of Mary Baker Eddy.*

The By-Law just quoted *applies to* officers of The Mother Church, Editors of the Christian Science Journal, Sentinel, Der Herold, Committees on Publication, Trustees of the Christian Science Publishing Society, and the Board of Education.

The next estoppel clause occurs on page 67, Article XXII, Section 8:

A strictly private communication from the Pastor Emeritus to a member of *her Church* shall not be made public without *her written consent*.

Her prohibition of “unauthorized legal action” on page 67, Article XXII, Section 9, reads:

A member of this Church shall not employ an attorney, nor take legal action on a case not provided for in its By-Laws—if said case relates to the person or to the property of Mary Baker Eddy—*without having personally conferred with her on said subject*.

Our next estoppel clause occurs on page 70 of Article XXII, Section 18, concerning “Pastor Emeritus to be consulted”:

The Mother Church shall not make a church By-Law, nor enter into a business transaction with a Christian Scientist in the employ of Reverend Mary Baker Eddy, *without first consulting her on said subject and adhering strictly to her advice thereon*.<sup>19</sup>

In this connection, it is important to also refer to pages 104 and 105 of the *Manual*, Article XXXV, sections 1 and 3, and to the Deed of Trust of March 19, 1903 (see *Manual* p. 137:1-11).

Now we go to page 71, Article XXIII, Section 4:

Branch churches shall not write the Tenets of The Mother Church in their church books, except they give the name of their author and *her permission* to publish them as Tenets of The Mother Church, copyrighted in Science and Health with Key to the Scriptures.

Next we go to page 76, Article XXIV, Section 4, concerning the Finance Committee:

There shall be a Committee on Finance, which shall consist of three members of this Church in good standing. Its

members shall be appointed annually by the Christian Science Board of Directors *with the consent of the Pastor Emeritus*.

Article XXIV, Section 7 on "Debt and Duty" (page 78) states:

Donations from this Church shall not be made without *the written consent of the Pastor Emeritus*.

Also important movements of the manager of the Committee on Publication shall be sanctioned by the Board of Directors and *the approval of Mary Baker Eddy*.

In the estoppel concerning the Committee on Business, page 79, Article XXIV, Section 9, we read:

Before being eligible for office the names of the persons nominated for said office shall be presented to Mrs. Eddy *for her written approval*.

We come next to "Vacancies in Trusteeship," on page 80, Article XXV, Section 3, which reads:

Whenever a vacancy shall occur, the Pastor Emeritus reserves the right to fill the same by appointment; but if she does not elect to exercise this right, the remaining trustees shall fill the vacancy, *subject to her approval*.

Concerning "Editors and Manager" we go to page 81, Article XXV, Section 4:

The term of office for the editors and the manager of The Christian Science Publishing Society is one year each, dating from the time of election to the office. Incumbents who have served one year or more can be reelected, by a unanimous vote of the Christian Science Board of Directors, and *the consent of the Pastor Emeritus given in her own handwriting*. [It is important to remember that when the estoppel clauses dissolved The Mother Church, the Board of Directors here mentioned were also dissolved and no longer had any connections with the Christian Science Publishing Society. (Art. I, Sec. 5)]

On page 81, Article XXV, Section 5, reads:

A person who is not *accepted by the Pastor Emeritus* and the Christian Science Board of Directors as suitable, shall in no manner be connected with publishing her books....

On page 82, still on Article XXV, we now go to Section 8, regarding the "Books to be Published":

A book or an article of which Mrs. Eddy is the author shall not be published nor republished without her knowledge or *written consent*.

Concerning the "Board of Education" and the teacher on the Board, we go to page 88 of the *Manual*, Article XXVIII, Section 1, which reads:

Beginning with 1907, the teacher shall be elected every third year by said Board, and the candidate shall be *subject to the approval of the Pastor Emeritus*.<sup>20</sup>

On page 89, we come to the estoppel concerning the "Presidency of College," Article XXVIII, Section 4:

Should the President resign over her own signature or vacate her office of President of the Massachusetts Metaphysical College, a meeting of the Christian Science Board of Directors shall immediately be called, and the vice-president of the Board of Education being found worthy, *on receiving her approval* shall be elected to fill the vacancy.

Going to page 93, Article XXXI, Section 1, we come to the estoppel covering the "Board of Lectureship":

This Church shall maintain a Board of Lectureship, the members of which shall be elected annually on Monday preceding the Annual Meeting, *subject to the approval of the Pastor Emeritus*.

On page 94, Article XXXI, Section 5, we have an estoppel concerning a "Circuit Lecturer":

*Upon the written request of Mrs. Eddy*, The Mother Church shall appoint a Circuit Lecturer ... [to] lecture in the United States, in Canada, in Great Britain and Ire-

land. [His term of office was to be for not less than three years.]

Now we go to page 97, Article XXXIII, Section 1, which deals with the "Committee on Publication" of The Mother Church:

He shall be elected annually by a unanimous vote of the Christian Science Board of Directors *and the consent of the Pastor Emeritus given in her own handwriting.*

On page 101, Article XXXIII, Section 6, we come to a "Case of Necessity," concerning an "assistant" Committee on Publication:

If at any time the Christian Science Board of Directors shall determine that the manager of the general Committee on Publication needs an assistant, the Board shall, *with the approval of the Pastor Emeritus*, appoint an assistant manager.

On page 103, Article XXXIV, Section 3, concerns "The Mother Church Building":

The edifice erected in 1894 for The First Church of Christ, Scientist, in Boston, Mass., shall neither be demolished, nor removed from the site where it was built, *without the written consent of the Pastor Emeritus, Mary Baker Eddy.* [Note: When the estoppel clauses operate and dissolve The Mother Church no conflict will exist between this By-Law and the provision in the Deed of Trust of Sept. 1, 1892 providing for the removal of the building under certain conditions.]

We come now to an estoppel which precludes revision of the *Church Manual*, page 104, Article XXXV, Section 1, entitled: "For The Mother Church Only":

The *Church Manual* of The First Church of Christ, Scientist, in Boston, Mass., written by Mary Baker Eddy and copyrighted, is adapted to The Mother Church only. It stands alone, uniquely adapted to form the budding thought and hedge it about with divine Love. *This Manual shall not be revised without the written consent of its author.*

[This was the point quoted by the Chief Justice in his opinion in the Decision of November 23, 1921.]

Now we go to page 105, Article XXXV, Section 3:

*No new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled, without the written consent of Mary Baker Eddy, the author of our textbook, Science and Health.*

This completes the list of estoppels in the *Church Manual* that dissolve The Mother Church and terminate all ecclesiastical control. The foregoing estoppel clauses indicate how Mrs. Eddy gradually drew all activities of The Mother Church under the jurisdiction of the five-member ecclesiastical Board of Directors. This made it a simple matter to terminate all central control, through the estoppels, when she was no longer personally present to hold a tight rein. By requiring her approval in one form or another the whole operation would come to a halt when such approval could not be obtained.

The transfer of Mrs. Eddy's authority to someone else was nowhere stated, nor has it come to light since her departure. The Trustees under the Will of Mary Baker Eddy only have the power of handling the residual estate under her Will and two codicils. Nothing in her Will indicates that the Board of Directors was to assume her place or position.<sup>21</sup>

The purpose of the estoppels is plain, and if we are to be true to Mary Baker Eddy then we must honor them and abide by them. Ignoring the estoppel clauses is a de facto "annulment" of the By-Laws and is a violation of Article XXXV, Section 3, of these By-Laws.

It is crucial to understand that The Mother Church and The First Church of Christ, Scientist, in Boston are two *separate entities*. The Mother Church and its five Directors are governed by the By-Laws found between pages 25 and 105 in the *Church Manual*, whereas ~~The First Church of Christ, Scientist, with its four-member Board of Directors, is established and governed by the Deed of Trust found on page 123 of the Manual, which shows The First Church of Christ, Scientist, to be a local church.~~ This can be learned from reading the conditions in the Deed of Trust.

## SUPREME JUDICIAL COURT RECOGNIZED ESTOPPELS

Since the reader may still be undecided as to the control of these estoppel clauses, it might be well to refer to the Full Bench of the Supreme Judicial Court of Massachusetts and the opinions set forth in the decision dated November 23rd, 1921. Early in this decision by the Supreme Judicial Court we find the following:

The last several editions [of the *Manual*] issued during the life of Mrs. Eddy contained provisions that "this *Manual* shall not be revised without the written consent of the author." Since the *Church Manual* on its face purports to be the work of Mrs. Eddy as author, and the Master has found it to be proved that substantially all of its provisions were suggested or proposed by her, it is apparent that there can now, since the decease of Mrs. Eddy, be no change in the provisions of the *Church Manual*, in accordance with its terms.

The Court thus recognizes that **the estoppel so stated in the By-Laws is effective and thus the *Manual* cannot be changed without her approval.**

You may ask whether this recognition of the Court applies to the estoppel clauses operating elsewhere in the By-Laws. Yes, it does. In the third paragraph following the above quotation, the Court says:

Every instrument in writing, although it cannot be varied or controlled by extrinsic evidence, must be interpreted with a view to all the material circumstances of the parties at the time of its execution in the light of the pertinent facts within the knowledge of those who signed it, and in such manner as to give effect to the main end designed to be accomplished by the instrument.

Subsequently the Court made the following observation:

It is a well-recognized principle of interpretation that the same words used in different places in the same instrument commonly have the same meaning and effect, unless another meaning is demanded by the context.

The Court's opinion is that the estoppel requiring Mrs. Eddy's approval for revising the Manual and its By-Laws is effective and controlling. Therefore, by the principles of interpretation set forth by the Court, this would mean that the estoppels control wherever they occur. If the estoppels are ignored, they are thereby annulled, and this is a direct violation of the *Church Manual*.<sup>22</sup> The Court's recognition that the estoppels were a controlling factor makes it obvious that the ecclesiastical movement—~~The Mother Church and all its activities~~—came to a halt with Mrs. Eddy's demise.

### WHY DID NOT MRS. EDDY BLUNTLY STATE HER INTENTIONS?

Why didn't Mrs. Eddy publish her intention that The Mother Church cease when she was no longer here? A point often argued by attorneys is that Mrs. Eddy could have made her intentions clear through appropriate messages in the *Manual* or in the periodicals. But can anyone arbitrarily legislate religious liberty for everyone? Jesus couldn't, (nor could Moses). Those familiar with the Scriptures will recall that Jesus wanted to free humanity (John 8:32), but they sought the more to kill him (John 5:18); for whom [God] hath sent, ye believe not (John 5:38); many of his disciples murmured, "This is an hard saying; who can hear it?" They were offended (John 6:60, 61). Jesus knew from the beginning who were they that believed not and who should betray him (John 6:64). From that time many of his disciples went back and walked no more with him (John 6:66). "He deceiveth the people" (John 7:12). Then they reviled him (John 9:28), and took up stones to cast at him (John 8:59). Later they crucified him—all because they did not understand that he had been sent by God to set them free.

Mrs. Eddy's experience paralleled the experience of Jesus.<sup>23</sup>

Through hard experience she learned that freedom is something each must choose for himself. The estoppels, if obeyed, dissolve The Mother Church and all central control; they set the Christian Scientist free. Mrs. Eddy's way was always to leave the movement as far as possible to do things

by demonstration. ~~She had thought to have definite instructions regarding her intentions, the Movement would have followed them blindly like a flock of sheep, but of what spiritual value would that have been?~~ Instead of giving specific instructions about dissolving The Mother Church, she left Christian Scientists to work out the question proportionately as they overcame ~~fear and their sense of limitation which resisted progressive abandonment of organization.~~ Obedience to the estoppel clauses must come through spiritual growth; obedience when the heart is not ready is of little value. The great need, Mrs. Eddy saw, was:

Learn to obey; but learn first what obedience is. When God speaks to you through one of His little ones, and you obey the mandate but retain the desire to follow your own inclinations, that is not obedience. I sometimes advise students not to do certain things which I know it were best not to do, and they comply with my counsel; but watching them, I discern that this obedience is contrary to their inclination. Then I sometimes withdraw that advice and say: "You may do it if you desire." But I say this not because it is the best thing to do, but because the student is not willing, therefore not ready—to obey.<sup>24</sup>

Mrs. Eddy saw danger and lack of wisdom in trying to force higher views on people before the human consciousness was prepared for a higher step through proper founding work. She also knew that suffering is often the divine agent through which students learn Truth. It is a well established fact that Mrs. Eddy made it perfectly clear to the Board of Directors that the estoppels were to remain in the *Manual* and terminate all central control when she was no longer personally present. The Board had on several occasions attempted to persuade her to remove the estoppels or write a clause transferring her authority to them.<sup>25</sup> It is also well-established that the Board consulted legal firms during Mrs. Eddy's last years about this issue. That Mrs. Eddy was not much impressed with legal interpretations, but was primarily concerned with obedience to her *Manual By-Laws as written* is evident from her letter to the Christian Science

Board of Directors. Facsimile of her handwritten reply is preserved in Lyman P. Powell's book *Mary Baker Eddy* in which after lightly tossing aside their legal presentations, saying that she was not a lawyer and didn't sufficiently comprehend the legal trend of the copy they sent her, to make any comment, she informed them that she *did* feel confident to advise them *never to abandon the By-Laws*. She told them that if she is not personally with them the Word of God and her instructions in the By-Laws — and there can be no doubt that by this she was especially directing their attention to the estoppel clauses — would remain to guide them safely on.

Then she speaks of the teachings of St. Paul being as useful today as when they were first written. Paul speaks much of being in bondage only to Christ.

She speaks of obedience to the By-Laws being essential to the *future prosperity* of The First Church of Christ, Scientist, in Boston. None but herself, she says, can know as she knows, the great importance of the combined sentiment of the Church remaining steadfast in supporting its present By-Laws. She indicates the By-Laws will continue to master and forestall any contingency that may arise.

In a postscript she asks the Directors to "put this letter upon our church records."<sup>26</sup>

In this letter she has specifically appealed to them to heed the By-Laws. She didn't say she wanted the Directors to give the Field *their interpretation* of her By-Laws. She wanted them obeyed *as written*.

When Mrs. Eddy spoke of the "future" prosperity of the church, she was, of course, speaking of The First Church of Christ, Scientist, and not of The Mother Church, since **The Mother Church, according to the estoppel clauses, would ~~continue to exist~~ after the June, 1911, Annual Meeting, following her passing, as no officer of The Mother Church could be elected without her consent.**

## HOW THE ESTOPPELS WORK

In forty different points, the *Manual* clearly shows that the Directors are *not* Mrs. Eddy's successor. Mrs. Eddy issued

eighty-eight *Manuals* to protect her church from the evils inherent in a hierarchy or any form of autocracy. "Church" in Christian Science is not an organization, it is the "structure of Truth and Love." Mrs. Eddy definitely has a successor. She named this successor in *Miscellany*, when the *Herald* reporter asked her bluntly, unequivocally, "Will there be a hierarchy, or will it be directed by a single earthly ruler?" In clarification of her much misunderstood reply that her successor would be "a man," Mrs. Eddy's explanation given to the Associated Press, **May 16, 1901,**<sup>27</sup> stated in part:

**What remains to lead on the centuries and reveal my successor is man in the image and likeness of the Father-Mother God, man the generic term for mankind."**

But so wedded is the human mind to a *material* sense of government that many Christian Scientists have not accepted the liberty with which Mrs. Eddy endowed them through her estoppel clauses in the *Church Manual* and her declaration of independence in "The Magna Charta of Christian Science" wherein and whereby man governed by his creator is self-governed.

In a letter to the Field, George Lincoln Putnam, C.S., of San Francisco, California, stated:

Forty times [Mrs. Eddy] has named the Directors in connection with the most vital and essential functions of government, then cautiously worded the By-Law so as to render them incapable of performing those functions legally, or morally, *without the sanction* of a higher power within the Church. Forty times she has thus defined the powers that do *NOT* belong to the Directors under the general authority to them to "transact business" (Art. I, Sec. 6). For over eight years before her passing, Art. I, Section 6, read as it now reads: "The business of The Mother Church shall be transacted by its Christian Science Board of Directors." Take your *Manual* and underscore . . . the forty vital functions the Directors could *not* perform under Art. I, Sec. 6 *or any other By-Law* during her lifetime.

Practitioner Putnam's research into the *Manuals* revealed that prior to February, 1901, and the issuance of the twentieth *Manual*, Mrs. Eddy had made only seven (7) positive checks, meaning places in the *Manual* where she had definitely named or indicated the Directors in connection with a specific act, and then so worded the By-Law as to render them absolutely powerless to legally perform that act without the sanction of the Pastor Emeritus.

Year after year, however, she increased the number and scope of these positive checks upon the Directors. As she watched these Directors and comprehended their limitations, she step by step hedged them in, restricted their power, curtailed the range of their independent action, until in 1910 there were forty positive checks on the Directors. And she left them *all* in the *Manual* "for eternity," so that when the time came for her departure the Directors would be powerless to carry on in their own independent right as a hierarchy.

She once wrote, "Rules are necessary, and I made a code of by-laws, but each one was the fruit of experience and the result of prayer. Entrusting their enforcement to *others*. ~~I~~ ~~What a~~ ~~was~~ ~~time~~ ~~that~~ ~~they~~ ~~had~~ ~~five~~ ~~churches~~ ~~under~~ ~~disci-~~ ~~pline.~~ ~~I~~ ~~intervened.~~ Dissensions are dangerous in an infant church. I wrote to each church in tenderness, in exhortation, and in rebuke, and so brought all back to union and love again."

Putnam further stated that in 1903 Mrs. Eddy was led to make profound and fundamental changes in the form of The Mother Church government after she had carefully watched the Directors in their new capacity for two years and had observed how they "transacted the business of The Mother Church." These two years enabled her to become fully conscious of the Board's limitations. "These radical changes first appeared in the ~~twenty-ninth~~ ~~edition~~ of the *Manual* and were adopted July 30, 1903.

~~The Directors were so reluctant to publish and give this~~ ~~Manual to the Field that Mrs. Eddy had to write and give~~ ~~such~~ ~~direct~~ ~~orders~~ ~~to~~ ~~bring~~ ~~out~~ ~~[her]~~ ~~Manual~~ and not to delay one more day!" She insisted she knew the *Manual* was

right. She told them she had been divinely directed to have it published as she had written it; they had adopted the By-Laws; now they were to delay no longer in putting those By-Laws into book form. (Mrs. Eddy's letter to the Board is preserved in the Alice Orgain Library, and in **Putnam's 1922 Letter to the Field.**)

What were the great changes in the twenty-ninth edition that made this *Manual* such a bitter pill to some of the Directors?

(1) She forbade the Directors to make new by-laws, or to amend [her God-impelled] By-Laws. (Art. XXXV, and Deed of Trust, page 136.)

(2) She compelled the Directors, Clerk, Treasurer, and Committees to report to the *members* at "The annual church meeting."

(3) She placed the supreme power in The Mother Church in the hands of the members, by giving them in Art. I, Sec. 9, the final power of removal over the entire Board of Directors, giving them this power *co-equally with the Pastor Emeritus.*

"During Mrs. Eddy's lifetime," says Putnam, "it was plainly her purpose that the **Directors of The Mother Church should be responsible, or accountable, to the members.** [At her departure the estoppel clauses dissolved The Mother Church and the five-member ecclesiastical Board.]

"Having waived the estoppel clauses, the Board . . . in their correspondence with the Trustees between October, 1918, and February, 1919 [magisterially] maintain that because the *Manual* gave to the Directors the power to remove the Trustees from office, it thereby automatically—and without need of further verbiage—gave the Directors certain other vast and compelling powers, namely,

"(a) The power of interpreting the *Manual* in order to ascertain whether or not the [Publishing] Trustees had violated the [*Manual's*] provisions.

"(b) The power to dictate all important matters of policy.<sup>28</sup>

"(c) That none of these powers belonged to the [Publishing] Trustees under the general head of the "transac-

tion of business." [But the fact here was the Publishing Deed Mrs. Eddy granted the Publishing Trustees was a legal irrevocable Deed entirely complete in itself. It didn't require Mrs. Eddy's consent or anyone else's to operate. Any connection it had with The Mother Church was dissolved by the estoppels in the *Church Manual*.]

Along with these forty (40) positive checks on the powers of the Directors, and before this By-Law (Art. I, Sec. 9) was framed, Mrs. Eddy was given elsewhere in the *Manual* all the power she needed to enable her to cause the removal of any and all officers of the church. Art. I, Sec. 9, was added for the express purpose of endowing the *members* with this final power, that they might possess it when she would no longer be here in case her estoppel clauses were waived and annulled. This By-Law, says Putnam, was framed in 1899, the year in which she executed her final Will. She was setting her house in order for the change that came December 3, 1910.

The demand for the assent of "The Pastor Emeritus" before a Board's act could be legally or morally completed was worded in several ways, but the effect was always the same; it left no loop-hole for the Directors alone to act. In Art. I, Sec. 9, she gives to the *members* — the beneficiaries — in the person of "[any] member of this Church or the Pastor Emeritus" the same final power she had reserved to herself, making them co-equal in power at this *supreme* point: the power of removal over the entire Board of Directors. Here is the provision in the *Manual* whereby the mantle of the Pastor Emeritus descends upon the members. Here also is a clear coincidence between the Magna Charta of Christian Science, by Mary Baker Eddy, and the *Manual* by Mary Baker Eddy.

It must also be remembered that when The Mother Church was dissolved by action of the estoppel clauses in June of 1911, there were no longer any "*members* of The Mother Church." Only the *local* Boston church, governed by the Deed of Trust of 1892, continued to exist as The First Church of Christ, Scientist, in Boston, Massachusetts. This is the way

it would have been had Mary Baker Eddy's divinely impelled estoppels in the *Church Manual* not been waived.

When practitioner Putnam wrote the Board of Directors about these forty positive checks on their authority and the estoppel clauses in the *Manual*, and asked searching, intelligent questions, he states that the Board imperiously replied:

Your letter indicates that fundamentally you are not right in your thought about the Church government and our Leader's plan and purpose for the extending of the Christian Science Movement. Until your thought as to these important points is right any discussion with you on the questions raised in your letter would be futile.

The key to the situation lies in the first and last By-Laws. The last By-Law provides that the *Manual* shall not be altered. The first By-Law provides that the officers shall consist of the Pastor Emeritus, a Board of Directors, etc. Since Mrs. Eddy's passing, the attempt has been made to carry on The Mother Church without its chief officer, Mary Baker Eddy, to whom the By-Laws give the supervision over all its other officers. Mary Baker Eddy, the Pastor Emeritus, is an officer who cannot be replaced. This makes it clear that the world-wide organization—The Mother Church—ceased on Mrs. Eddy's departure. From then on Christian Scientists were left to demonstrate their membership in the true Church, governed solely by divine Principle.

On the other hand, Mrs. Eddy established the Christian Science Publishing Society to continue indefinitely under its own "perpetual and irrevocable Deed." As long as Mrs. Eddy was alive and the Directors had the privilege of electing editors and the general manager, *subject to her consent*, the Publishing Society was the Publishing Society of *The Mother Church*, and the periodicals published by it were the organs of The Mother Church. After Mrs. Eddy's passing and the dissolution of The Mother Church due to the *Manual's* estoppels, the periodicals could scarcely any longer be described as organs of The Mother Church. The Publishing Society would then have to ensure that the periodicals were excellent, or at least so good that Christian Scientists and others would *want* to subscribe for them.

The Publishing Society was apparently to be the only "teaching" institution when Mrs. Eddy was no longer here, to approve teachers, and to sign the teaching certificates issued.<sup>30</sup> Mrs. Eddy carefully arranged for the cessation of all "teaching" under the official sanction of headquarters, except by the Publishing Society, which would, of course, be subject to the criticism of all Christian Scientists. An example of this criticism descended in 1922, shortly after the Directors wrested the Publishing Society from the Trustees and published an editorial in the *Monitor*, which the Field thought of as spiritualistic teaching, and poured an avalanche of criticism on the editors.

Regarding teaching, Mrs. Eddy said, "My published works are teachers and healers,<sup>31</sup> and "you can well afford to give me up since you have in my last revised edition of *Science and Health* your teacher and guide."<sup>32</sup> Mrs. Eddy implied that all Christian Science practitioners should teach when she wrote that "the practitioner . . . should teach his students to defend themselves from all evil and heal the sick by recognizing the supremacy and allness of good."<sup>33</sup> The best teacher is described by Mrs. Eddy as "the student who heals by teaching and teaches by healing; [this student] will graduate under divine honors, which are the only appropriate seals for Christian Science."<sup>34</sup>

No further "official" lecturers would be appointed since the required approval of the Pastor Emeritus was no longer obtainable (Art. XXXI, Sec. 1), and the existing official lecturers would have terminated their duties at the end of the year for which they were appointed.

After the departure of Mrs. Eddy the editors and the manager of the Christian Science Publishing Society (Art. I, Sec. 3) could not be elected by the five-member Board of Directors since their office had been terminated by the estoppel clauses in the *Manual*, and the four-member Board of Directors, under the 1892 Deed of Trust had never had any connection with the Publishing Society.<sup>35</sup> The editors and manager of the Publishing Society would therefore be appointed by the Publishing Trustees under paragraph 6 of the Publishing Society Deed of Trust. Had the *Manual's* estoppel clauses been obeyed, the Board of Directors would have been the

Board of the local Boston church only, The First Church of Christ, Scientist, in accordance with their 1892 Deed of Trust which clearly spelled out the limits of their authority. The Director who died in 1912 would not have been replaced, leaving a legitimate Board of *four* under the 1892 Deed. Actually, a 5th Director was illegal after June, 1911.

Regarding "discipline," the *Manual*, Article XI, Sec. 13, states: **"Each church shall separately and independently discipline its own members — if this sad necessity occurs."**

In summary, the question each individual Christian Scientist must decide for himself is:

Do I follow what Mrs. Eddy wrote in her *Church Manual*, or do I follow the Board of Directors' *interpretation* of what Mary Baker Eddy wrote?

What was the dominant intent and purpose of our Leader as set forth in her *Manual*? Was it not to insure eternal freedom in consonance with her "Declaration of Independence" and her "Magna Charta"?

The estoppels confirm and bear eloquent testimony to Mrs. Eddy's statements: **"Christian Science is not copyrighted!"**<sup>36</sup> **"Truth cannot be stereotyped; it unfoldeth forever."**<sup>37</sup> Official Boston's attempts to freeze Christian Science at the level of understanding the Field had attained by 1910, is a denial of the dictionary's definition of **"science,"** as **that which "includes trustworthy methods for the discovery of new truth within its own domain"** (Oxford dictionary). When Mrs. Eddy's Science is understood in its pure Science and in its structural relationships, we will understand the **trustworthy method for discovery** because a discovery is simply the **bringing to light of new relationships, which have always existed but have not previously been perceived.** This is why Mrs. Eddy could state that Christian Science is neither copyrighted nor stereotyped, but that it unfolds forever.

Frozen dogma, ritual, and creed should have been forever melted away by the fire of love that came down from divine Principle to dictate the *Manual's* estoppel clauses which freed **each Christian Scientist to teach, preach, read, speak, or write as God inspired him,** undeterred by lack of "official" approval. For the past seventy years the waiving and annul-

ling of Mrs. Eddy's estoppels has held the Christian Science Movement in the grasp of legalism and ecclesiastical power and it is to the exposure and correction of this legalism and ecclesiasticism that we now turn.

<sup>1</sup>See Appendix, p. 185 or *Church Manual* pp. 128-138.

<sup>2</sup>See Appendix, p. 193.

<sup>3</sup>See Appendix, p. 212.

<sup>4</sup>See Appendix, p. 223.

<sup>5</sup>See Appendix, p. 255.

<sup>6</sup>Preserved in Alice Orgain Library, and in Carpenter Foundation material.

<sup>7</sup>Also preserved in Rare Book Room of Library of Congress, Wash., D.C.

<sup>8</sup>The second "organization" resulted in The Mother Church for which Mrs. Eddy's estoppel clauses in the *Manual* provided the dissolution at her passing.

<sup>9</sup>See Appendix or *Church Manual* pp. 128-135 for complete text of Deed.

<sup>10</sup>My. 12:22

<sup>11</sup>Man. p. 3

<sup>12</sup>See Appendix for full text of Publishing Society Deed of Trust, p. 187.

<sup>13</sup>Herbert W. Eustace, "*Christian Science, Its Clear Correct Teaching*," p. xxv.

<sup>14</sup>*Mary Baker Eddy: Her Spiritual Precepts* is well-stocked with rebukes to her Board of Directors, as are certain other documents extant.

<sup>15</sup>Adelaide Still's Memoirs

<sup>15A</sup>Following Judge Clarkson's visit Mrs. Eddy wrote the priceless, inestimable article found on pp. 44-47 of "Essays and Other Footprints," which was copyrighted December 19, 1900.

<sup>16</sup>See Mar. 25, 1919 Bill in Equity for nature of this challenge. Appendix, p. 193.

<sup>17</sup>The Court *recognized* the estoppels but did not actually grasp their full meaning; the Court apparently did not see that the estoppels terminated The Mother Church and all central control.

<sup>18</sup>Fiduciary means to hold something in trust; founded in "trust and confidence."

<sup>19</sup>See testimony of Mrs. Mable E. Brill, p. 13.

<sup>20</sup>No teacher's certificate was valid following Mary Baker Eddy's passing. The proper signature is missing on all certificates issued after December 3, 1910. The Christian Science Publishing Society survived as the only "official" teaching institution according to the *Manual's* estoppel clauses. See Mis. 358:4.

<sup>21</sup>See Appendix for Mrs. Eddy's Will and two codicils.

<sup>22</sup>Article XXXV, Section 1 and 3.

<sup>23</sup>Page 48 of Science and Health delineates Mrs. Eddy's experience on earth as well as Jesus'.

<sup>24</sup>Message for 1900, p. 8:26

<sup>25</sup>Verified in *A Statement by John W. Doorly*. See Footnote p. 24-A. Refer also to p. 13, testimony of Mabel E. Brill.

<sup>26</sup>Preserved in Alice Orgain Library; also found in Lyman P. Powell's *Mary Baker Eddy*, The MacMillan Co. 1930.

<sup>27</sup>My. 346:18 - 347:5

<sup>27A</sup>My. 343:23

<sup>28</sup>The fact, of course, was that the Directors had been shorn of all power through the action of the estoppels.

<sup>29</sup>**George Lincoln Putnam's Letter to the Field**. San Francisco, 1922. (Available from Bookmark, P.O. Box 4184, Pasadena, Calif. 91106.)

<sup>30</sup>See Art. XXVII, Sec. 2; Art. XXVIII, Sec. 4; Art. XXX, Sec. 3.

<sup>31</sup>My. 218:24

<sup>32</sup>Mis. 136:18

<sup>33</sup>My. 364.13

<sup>34</sup>Mis. 358:4. See also Mis. 315:9.

<sup>35</sup>See Man. pp. 128-138.

<sup>36</sup>Ret. 76:2.

<sup>37</sup>No. 45:27

## Chapter III

# LEGALISM'S CHALLENGE TO MRS. EDDY'S CHURCH MANUAL

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**Repeating is necessary to ensure the avoidance of evil. (S&H. 571:4)**

**Continuing iniquity will prevent prosperity and the ultimate triumph of any cause (S&H. 446:30)**

**Resisting evil, you overcome it. (S&H. 446:24)**

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UR church must “be rescued from the grasp of legal power and now it must be put back into the arms of Love, if we would not be found fighting against God”—Mary Baker Eddy.<sup>1</sup>

This chapter will discuss the nature of the permanency or impermanency of The Mother Church, and will further consider the *Church Manual of The First Church of Christ, Scientist, in Boston, Massachusetts*, and how the Boston hierarchy’s legal interpretation of the *Church Manual*—declaring the material organization to be permanent—has all but destroyed the great prosperity the Christian Science Movement enjoyed at the beginning of this century.

There had always been those who felt Mrs. Eddy’s *Manual* should be obeyed as written—that the estoppels should be obeyed *as written*. After the “great literature litigation” of 1919-1922 an increasing number of Christian Scientists raised the question of obedience to the estoppels. These continuing expostulations from the Field resulted in the publi-

cation of a series of tracts by the Boston authorities, stressing the "permanency of The Mother Church and its *Manual*."

These pamphlets—especially a pamphlet entitled, *The Permanency of The Mother Church and Its Manual*, for sale in Christian Science Reading Rooms, raised questions in members' minds: If Mary Baker Eddy formed a church and *intended* it to continue forever, why is it necessary to print pamphlets presenting opinions and interpretations from legal groups to justify its continued existence? On the other hand if Mrs. Eddy *did not* intend the church organization to continue forever, why is there such a concerted effort by the Boston church authorities to continue the organization through legal means in the face of Mrs. Eddy's instructions?

**Mrs. Eddy found that when she could no longer devote most of her time to the church organization it quickly deteriorated.** This convinced her that it was time to go forward in spiritual organization alone, and that she must spend the next few years in **revising the textbook to make it the teacher of the future.** In 1889 she therefore asked her students to disorganize. And while the second organization was not yet even contemplated we already see in the following statement, though faintly delineated, the certain coming of the estoppels:

When students have fulfilled all the good ends of organization, and are convinced that by leaving the material forms thereof a higher spiritual unity is won, then is the time to follow the example of the *Alma Mater*. Material organization is requisite in the beginning; but when it has done its work, the purely Christly method of teaching and preaching must be adopted.<sup>2</sup>

Here is clear evidence that Mary Baker Eddy did not intend the material church organization to continue forever. In dissolving The Mother Church through her estoppel clauses she was again setting an example as she had previously done in dissolving the first organization in 1889, at which time she urged them on to *spiritual* organization alone, saying: "I am still with you on the field of battle,

taking forward marches, broader and higher views, and with the *hope* that you will follow.”<sup>3</sup>

Further testimony indicating Mrs. Eddy’s fundamental distrust of continued material organization is found in the following:

The apprehension of what has been, and must be, the final outcome of *material organization, which wars with Love’s spiritual compact*, caused me to dread the unprecedented popularity of my College...<sup>4</sup>

Despite the prosperity of my church, it was learned that material organization has its value and peril, and that organization is requisite *only* in the earliest period in Christian history. After this material form of cohesion and fellowship has accomplished its end, *continued organization retards spiritual growth*, and should be laid off,—even as the corporeal organization deemed requisite in the first stages of mortal existence is finally laid off, in order to gain spiritual freedom and supremacy.<sup>5</sup>

That Mrs. Eddy hoped her students would follow her example there is ample evidence. But, ~~as Jesus, Moses, and other great spiritual leaders found, she could not legislate or~~ ~~take~~ ~~spiritual~~ ~~freedom~~ ~~on~~ ~~her~~ ~~students.~~

In *Permanency of The Mother Church*, Judge Smith writes:

From the time she founded The Mother Church, all that she did and said evinced the intention that it should be permanent.

The continued policy of the Board of Directors of The Mother Church, since 1910, to lean on, promote, and emphasize material organization in their reach for power and authority, has all been done despite the estoppel clauses in the *Manual* which definitely unfrocked the five-member ecclesiastical Board at the June, 1911, Annual Meeting when these church officers could not be reelected without the consent and approval of the Pastor Emeritus, Mary Baker Eddy.

## FIRST CHURCH ORGANIZATION—1879-1889

The first organization (1879-1889) existed with only slight central control from Boston. Mrs. Eddy sent out teachers and practitioners to various parts of the Field to found churches, to teach students, and to bring a healing activity to the local communities. The Boston church was under a civil charter just as the churches elsewhere were under civil charter. There was *no central organization* since its officers were concerned only with the Boston church.

## SECOND CHURCH ORGANIZATION— FIRST MANUAL

The first *Manual* appeared in 1895, three years after the second organization was formed, and it left most functions of the church administration to the then four members of the Board of Directors, although their duties were not specifically mentioned in the *Manual* until several years later.

## SECOND MANUAL

In the second *Manual*, also issued in 1895, Mrs. Eddy began a gradual process of delegating duties to the Board of Directors, but making their actions always subject to her approval in one form or another. Legally this is what is called "to estop," and in legal instruments an estoppel clause means a clause which stops, prevents, or bars an action.

After Mrs. Eddy's departure the Boston rulers of the Movement challenged the legality of the *Manual's* estoppel clauses, maintaining that since it was impossible to obtain her approval in those numerous instances in the *Church Manual* where such approval was mandatory, the estoppels should be waived. Thus **the Board of Directors fell back on human law, for guidance, in which an impossible condition is rejected. BUT the *Church Manual* is ecclesiastical and hence not subject to interpretation by civil law criteria as the Chief Justice pointed out in the "great literature litigation."**

In a previous chapter we saw that within a month after

Mrs. Eddy's passing the Board of Directors issued their own *Manual*, the 89th, currently in use, from which they deleted Mrs. Eddy's name and office as Pastor Emeritus.<sup>6</sup> But Mary Baker Eddy, Pastor Emeritus, is an officer who cannot be replaced and the attempt to carry on The Mother Church without its chief officer, Mary Baker Eddy, to whom the By-Laws give the supervision over all the other officers, should never have been made.

In Article XXXV, Sections 1 and 3 (pp. 104 and 105) of the *Church Manual*, Mrs. Eddy wrote:

Article XXXV, Section 1:

This *Manual* shall not be revised without the written consent of its author [Mary Baker Eddy].

Section 3:

No new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled, without the written consent of Mary Baker Eddy, the author of our textbook, *Science and Health*.

In Article XXXV, Section 3, Mrs. Eddy says that the By-Laws shall not be "annulled" without her written consent. Yet this is what the Board has done since our Leader's passing, through legally challenging the estoppels in the *Manual*. The words remain—no amendment or revision has been made to remove the estoppels—but the estoppels are quietly ignored to insure the permanency of The Mother Church and its officers, the five-member ecclesiastical Board which usurped power at Mrs. Eddy's passing.

According to Parliamentary law, one of the oldest methods of amending is to "strike out" certain phrases or clauses or portions of a document. It is self-evident that the waiving or disregarding of the *Manual* estoppels was, in effect, none other than the well-known Parliamentary law method of amending by "striking out."

At this point it is important to remember that the legal *Deed of Trust of March 19, 1903*, conveyed the land for the Extension "on the further trust that no new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled by the grantees unless the written consent of said

Mary Baker G. Eddy... be given therefor." Her incorporation of this "estoppel" in her *legal* document absolutely bound the Board of Directors to obey *all* the estoppels in the *Church Manual*.

## EIGHTH MANUAL

The eighth *Manual* formalized the ecclesiastical Board of Directors, establishing that it could *not* fill vacancies on its own responsibility, and thus we see that *two* Boards of Directors have been established: one fiduciary<sup>8</sup> and self-perpetuating; the other ecclesiastical and *not* self-perpetuating. Additional changes deprived the Board of electing Readers. The Board could now only *nominate* Readers for The Mother Church and Mrs. Eddy had to approve them. Similarly, candidates for "First Members" had to be approved by Mrs. Eddy and then elected by a unanimous vote of First Members whereas, under previous By-Law provisions, this could all have been done by the Board of Directors. This curtailing and chipping away at the authority of the Directors, by Mrs. Eddy, was all done to prevent an ecclesiastical hierarchy from developing at her departure, and to keep her church from again falling into "the grasp of legal power."

## TENTH MANUAL

In the tenth *Manual*, issued in 1899, the Board was mentioned for the first time—four years after the first *Manual*, and seven years after the ecclesiastical church was formed. (This was the four-member Board wearing ecclesiastical hats, as it were.)

In this *Manual* Mrs. Eddy's approval was required for the election of a President, by the Board. (See current *Manual* p. 25:5, Article I, Section 2.)

## TWELFTH MANUAL

In the twelfth *Manual* a new By-Law stated it was the duty of the *church* to see that the periodicals were ably edited and

managed, but in a later *Manual* this was changed to read that it was the duty of the *Board of Directors* to see that the periodicals were ably edited and managed. We can see how Mrs. Eddy was simplifying her plan to terminate The Mother Church at her passing, because an estoppel clause would preclude the reelection of the five-member ecclesiastical Board.

In the summer of 1908, after the Church By-Laws had practically reached their present state of completeness, and all of the discipline and executive management of the church had passed into the hands of the Board of Directors, Mrs. Eddy **repealed the By-Law providing for "Executive Members** (formerly known as "First Members"). This **left the Board of Directors—subject to Mrs. Eddy's supervision and control—in full charge of the business of The Mother Church.** This was the situation the Directors found themselves in at the time of Mrs. Eddy's passing, December 3, 1910. The only thing that then stood in the way of dissolving the material organization and all centralized control was the willingness of the Directors *to obey the Church Manual* containing estoppel clauses.

When the Board of Directors returned the church to "the grasp of legal power" Mrs. Eddy's plan was temporarily defeated; nevertheless "it is only a question of time when God shall reveal His rod, and show the plan of battle."<sup>9</sup>

## EIGHTEENTH MANUAL

The eighteenth *Manual* was issued in 1900. In this *Manual* the Librarian of The Mother Church was to be elected by the Board of Directors subject to the approval of the Pastor Emeritus. The Librarian had previously been elected by the Trustees of the Publishing Society, so the change was necessary because had the Librarian been under the control of the Publishing Society when The Mother Church was dissolved, it would have worked against the Deed of Trust of the Publishing Society.

## TWENTIETH MANUAL

In the twentieth *Manual*, issued in 1901, the business affairs of the Church were shifted from the First Members to the Board of Directors. Mrs. Eddy foresaw that the First Members would shortly be disbanded and that the business affairs of the church would have to rest with the Board of Directors so that the whole operation, as we just saw, could be dissolved by authority of the estoppels when she passed on.

## THE TWENTY-EIGHTH MANUAL

In the twenty-eighth *Manual*, issued in **February of 1903**, an important change was made; the number of Directors (ecclesiastical) was changed from **four members to five members**. The Deed of Trust of September 1, 1892, was irrevocable and had *four* Directors, so this change in the *Manual* had nothing to do with the number of Directors under that Deed. Further, the Deed of Trust of *March 19th, 1903*, covering land for the Extension, which Mrs. Eddy executed a month later, again named *four* Directors, and so confirmed the four Directors in the Deed of September 1, 1892. This makes it clear that Mrs. Eddy had two Boards, one ecclesiastical and temporary, under the *Manual*, to be terminated when she was no longer present to consent and approve. The other Board was a self-perpetuating Board, affirmed and reaffirmed *after* the *Manual* change to *five* Directors. Archibald McClellan took office as the fifth Director in February of 1903.

Thus we see that **the four Directors in the irrevocable Deed of Trust remained four** in number regardless of the change in the ecclesiastical Board of Directors governed by the *Church Manual*.

## THE TWENTY-NINTH MANUAL

In the twenty-ninth *Manual*, issued in 1903, the Board was authorized to see that the officers of the church faithfully performed their duties.

In the twelfth *Manual* "the church" had been entrusted with the obligation to ~~see that the periodicals were ably edited and managed.~~ In the twenty-ninth *Manual* this is changed, and the Board of Directors is charged with this responsibility. ~~When The Mother Church and its officers were dissolved by the estoppels, this obligation was the sole responsibility of the Publishing Society Trustees under their Deed of Trust.~~

This is the *Manual* that George Lincoln Putnam referred to as "such a bitter pill for the Directors" because it forbade the Directors to make new by-laws; compelled the Directors, Clerk, Treasurer, and Committees to report to the members at the annual church meeting; and placed the supreme power in The Mother Church in the hands of the members. A two-thirds vote of the Executive Members (who had succeeded the First Members by a By-Law change in this same twenty-ninth *Manual*) with the consent of the Pastor Emeritus, ~~could now remove all of the Board of Directors—~~ meaning of course the *five-member ecclesiastical Board*. Therefore, both the Finance Committee and the Executive Members had the opportunity to remove the five-member ecclesiastical Board which operated under the *Church Manual*.

It is of interest to note in connection with the legal church under the Deed of Trust of September 1, 1892, and the ecclesiastical church under the *Manual*, that the present Article XXIII, Section 1, titled "Local Self-government," originally read: "The First Church of Christ, Scientist, in Boston, Mass." This was now changed to read: "The Mother Church of Christ, Scientist ..." as in our present *Manual*. This accomplished two things, says ~~Dr. Shaw~~ in his recorded talks on the *Church Manual*: ~~it removed the fiduciary church, under the legal Deed of Trust, from the ecclesiastical Manual; and at the same time placed a ban on The Mother Church's interference with the branches in any way.~~ We see again how carefully Mrs. Eddy planned to prevent her church falling prey to legalism's challenge.

The ~~importance~~ of The Mother Church and its auxiliary activities ~~is most~~ **apparent** in the two legal Deeds of

Trust Mrs. Eddy placed in the *Church Manual*, and which we will take up next.

## FIRST AND SECOND DEED OF TRUST<sup>10</sup>

In the *Church Manual*, pp. 128-135, there is a legal Deed of Trust dated September 1, 1892, naming ~~four~~ **four** Directors: Ira O. Knapp, William B. Johnson, Joseph S. Eastaman, and Stephen A. Chase, "and to their legitimate successors in office forever."

The Deed provides, among other things, that "said grantees shall be known as the 'Christian Science Board of Directors,'" and shall constitute a *perpetual* body or corporation.

Paragraph six says that "the *congregation* which shall worship in said church shall be styled 'The First Church of Christ, Scientist.'"

Paragraph ten states: "Whenever said Directors shall determine that it is inexpedient to maintain preaching, reading, or speaking in said church in accordance with this deed, they are authorized and required to reconvey forthwith said lot of land with the buildings thereon to Mary Baker G. Eddy, her heirs and assigns forever by a proper deed of conveyance."

The ~~second document~~, dated **March 19, 1903** (see *Manual* p. 136) is a Deed of Trust conveying land for a church edifice. Early in the Deed we find the following statement: "that the land conveyed by said deed was conveyed to the grantees therein, as they are the Christian Science Board of Directors, upon the trusts, but ~~not subject to the conditions mentioned in the deed creating said Board~~ [Ira O. Knapp, William B. Johnson, Stephen A. Chase and Joseph Armstrong who had replaced Eastaman during those eleven years] given by Mary Baker G. Eddy to Ira O. Knapp and others, dated September 1, 1892. . . . In addition to the trusts contained in said deed of September 1, 1892, from Mary Baker G. Eddy, this property is conveyed *on the further trusts that no new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled by the grantees. . . .*"

We can see that in the *first* of the two deeds:

(1) The Board of Directors was formed, and provision made for its continuity as long as required.

(2) The edifice was authorized and its use outlined.

(3) The CONGREGATION to worship in the (little) Mother Church was named "The First Church of Christ, Scientist." (It is the little, original church, at first called "Mother's church" that is referred to here.)

(4) The deed is irrevocable and perpetual.

(5) Provision is made for the dissolution of this trust and all of its conditions.

We can likewise see that in the *second* of the two deeds:

(1) ~~All trusts in the first deed are included in the second deed.~~

(2) ~~None of the conditions of the first deed are included in the second deed.~~

(3) ~~An additional trust is included covering Tenets and By-Laws.~~

(4) ~~The number of Directors established in the first Deed is reaffirmed in the second Deed. There are still four.~~ They are specifically named.

## IMPORTANT CHANGE IN CHURCH MANUAL

In between the execution of the two Deeds of Trust, as we have already seen, Mrs. Eddy, in the 28th *Manual* in February, 1903, changed the number of Directors, creating a *five-member* Board. A month later she reaffirmed a legal Board of *four* members in her March 19, 1903 Deed of Trust.

The dates are significant because the change from four to five Directors in the *Church Manual*, and the reaffirmation a month or so later, in the second Deed, of the *four-member* Board established in the 1892 Deed, shows that Mrs. Eddy made the *five-member* Board an *ecclesiastical body* under the *Manual*, and retained the four Directors in the Trust Deeds as *self-perpetuating* fiduciary members.

In the next chapter we will see how this matter of the two different Boards relates to civil law.

## TWO BOARDS OF DIRECTORS ESTABLISHED— ONE FIDUCIARY, ONE ECCLESIASTICAL

We have now seen how Mrs. Eddy established and identified two Boards of Directors. The first under the Deed of Trust of September 1, 1892, consisted of *four* members authorized to fill vacancies in their own ranks on their own responsibility. Under the conditions of that Deed they could dissolve all operations when it was deemed inexpedient to maintain preaching, etc. (Paragraph 10; see also paragraphs 9 and 11 of Deed.)

Since this Deed was a *legal*, civil document, the Board of Directors was responsible first to the law of the land.

Thus we have seen that eleven years later (and *after* she had named an ecclesiastical Board of *five* Directors) Mrs. Eddy on March 19, 1903, executed a second Deed of Trust in which she affirmed and reaffirmed the establishment of the "Christian Science Board of Directors" under the 1892 Deed, and again identified this group as being composed of FOUR named individuals. Further, while they were governed by all of the *trusts* of the earlier Deed, none of the *conditions* of the first Deed extended to the second Deed (See Manual pp. 136-138, or Appendix, p. 185). However a very important stipulation was contained in the second Deed, namely that no new Tenet could be adopted, nor any changes be made in the existing Tenets or By-Laws. The wording is almost identical with that found in Article XXXV, Sections 1 and 3, of the *Manual*.

Then we saw that in the 28th *Manual* of February, 1903, Mrs. Eddy had changed the number of members constituting the Board of Directors under the *Church Manual* (Art. 1, Sec. 5) from four to five members. This change in the By-Laws established a second Board of Directors whose authority and duties flowed from the *ecclesiastical* document governing The Mother Church, meaning the *Manual of The First Church of Christ, Scientist, in Boston, Massachusetts*. This Board is ecclesiastical. Its members cannot be elected unless the candidate is approved by the Pastor Emeritus (see Article I, Sec. 5, p. 26, lines 21-25 of the current *Manual*). Provi-

sion for the removal of one or all of the five-member ecclesiastical Board was made by Mary Baker Eddy in Art. 1, Sec. 5, p. 26, and Sec. 9, p. 29; and Art XXIV, Sec. 6, p. 77.

Compare these regulations for the ecclesiastical Board with those for the fiduciary Board, and it becomes apparent that (a) the two Boards are not the same; (b) the ecclesiastical Board could be removed at any time; the fiduciary Board could not. The ecclesiastical Board is controlled by the estoppel clauses requiring the *approval of Mrs. Eddy (or Pastor Emeritus)* in one form or another (and this ecclesiastical Board would be *dissolved* at the passing of Mrs. Eddy); and (c) the *fiduciary* Board, while it could terminate itself by its own decision, did not need Mrs. Eddy to give personal approval as is required in the *Church Manual* for the ecclesiastical Board.

This is all relevant to the question of the "permanency" of The Mother Church, the tract mentioned earlier, entitled, *Permanency of The Mother Church and Its Manual*, by Clifford P. Smith, with Foreword by the Board of Directors.

In this tract Judge Smith also implies that with no Mother Church there can be no branches. But the fact is that at the time Mrs. Eddy dissolved her first Boston organization in 1889 there were 98 churches in the country (see February *Journal* of 1890); and just prior to the formation of the second organization on September 23, 1892, there were 210 churches (see September *Journal*, 1892). Thus in the interim, when there was *NO* Boston organization (no Mother Church) in being, 112 churches were established.

Then he states: "Later she established the present worldwide organization, The Mother Church, The First Church of Christ, Scientist, in Boston, Massachusetts, and its branches. ..." This is not correct, because by the Deed of Trust of September 1, 1892, Mrs. Eddy only provided a place where a "congregation" could worship, and "the *congregation* which shall worship in said church shall be styled "the First Church of Christ, Scientist," (Man. p. 132:4). Nothing is mentioned about "The Mother Church," or a "worldwide organization."

Additionally, Article XXIII, Section 2, "Titles," states:

“ ‘The First Church of Christ, Scientist,’ is the legal title of The Mother Church.” The Mother Church itself, being *ecclesiastical*, has no *legal* status. The Board of Directors’ statement indicates that The Mother Church embraces The First Church of Christ, Scientist, “and this,” states Dr. Shawk, is thus *incorrect*. The Mother Church does not embrace The First Church of Christ, Scientist in Boston. Through the estoppel clauses in the *Manual* The Mother Church was dissolved completely at Mrs. Eddy’s passing and so could embrace no Church of Christ, Scientist. The First Church of Christ, Scientist, could embrace a *spiritual concept* of The Mother Church but not the reverse.

Further, on the second page of the Board of Directors’ Foreword to Smith’s tract, we read: “Under the jurisdiction of this Church, through provisions written by Mrs. Eddy in the *Church Manual*, she established the many needful activities of the Christian Science movement.”

Let us see what Mrs. Eddy *did* provide temporarily while she was still here to govern and supervise, and what the *Manual* actually provides: Article I, Section 8, “Trusteeships and Syndicates,” states, “Boards of Trustees and Syndicates may be formed by The Mother Church, *subject to the approval of the Pastor Emeritus.*” Thus the *Manual PROHIBITS* the formation of what the Board of Directors in their “Foreword” refer to as “the many needful activities of the Christian Science Movement,” initiated by The Mother Church, since Mrs. Eddy’s passing in 1910.

In the Foreword to *Permanency of The Mother Church*, the Board of Directors also indicate that the Christian Science Publishing Society was created by the *Manual*.

This is not correct.

Mrs. Eddy formed the publishing Society by a Deed of Trust executed January 25th, 1898, and the 8th *Manual* of 1898<sup>11</sup> carried a portion of the provisions of the Publishing Society Deed of Trust. As long as Mrs. Eddy remained with us the Publishing Society had a relation to The Mother Church, but it had *no* relation at *any* time to The First Church of Christ, Scientist, under the Deed of Trust of September 1, 1892.

Continuing in their "Foreword" to *Permanency of The Mother Church*, the Board of Directors refer to the provision for the proper training of teachers of C.S. and for the conduct of their classes and the annual meeting of their students, etc. But under Article XXVIII, Section 2, we again find an estoppel clause which brings to a halt "official" teaching when Mrs. Eddy's approval is no longer available. But, as we have already seen, this does not prevent teaching. Mrs. Eddy opened the door to all genuine teaching when she wrote: "The student who heals by teaching and teaches by healing will graduate under divine honors which are the only appropriate seals for Christian Science..."<sup>12</sup> Qualifications for membership in Mrs. Eddy's spiritual church are: "The Bible, together with Science and Health and other works by Mary Baker Eddy, shall be his only textbooks for...teaching and practising metaphysical healing."<sup>13</sup> Nothing about being "officially" taught.

Through the estoppels Mrs. Eddy terminated all centralized control, insisting individuals are entitled to freedom of thought and action in religion and Science, "Let us serve instead of rule...and allow to each and every one the same rights and privileges we claim for ourselves."<sup>14</sup> Yet, as Professor Braden states:

...there is nowhere now any more centrally *controlled* religious organization than the church she founded. As a matter of fact, it is the rigidity of the organizational structure with its extraordinary *controls* over its branch churches, its members, and particularly over its teachers, readers, lecturers, practitioners, and other responsible leaders, that has been the occasion for most of the conflict that has been aroused.<sup>15</sup>

This "control" is particularly noticeable in the teaching field. Within the Movement today there are many excellent spiritually-minded teachers, but once they have been made an "official" teacher they have signed away all rights to speak, write or publish freely. Everything must be "approved" by the Board of Directors. This bondage to a Board-of-Director mind-control system is the antithesis of all Mary

Baker Eddy taught. Our cause can only be carried forward as her admonition is heeded: "Let the Word have free course and be glorified."<sup>16</sup> The present sad condition of our branch churches is the result of the control the Boston organization maintains over them, even to the point of having it written into their by-laws that when they close and are sold, the proceeds are to go to The Mother Church. This is currently a much discussed subject.

Earlier we spoke of Mrs. Eddy's letters of warning to the church and to William B. Johnson, clerk of The Mother Church, apprising them of the dire consequences of organizing a second time, predicting it would "ruin the prosperity of the church." To ward off the impending danger she foresaw, she allowed a "Mother Church" to exist *only* so long as she was personally there to govern it. Once it was decided to reorganize, she would not permit her Board of Directors or other immediate students to set up their *own* church organization, as can be inferred from the following news item [circa 1892]:

... When they met in Miss Bartlett's rooms for the purpose agreed upon, Dr. Foster Eddy was there to present ... Mrs. Eddy's plan for founding the church. ... Later Mrs. Eddy was to point out that this was *not* the Board of Directors' church, or anybody else's church, but definitely "my church" [Stetson, Sermons, pp. 218-220]. Eventually she stipulated that all ... deeds must include the phrase "Mary Baker Eddy's Church" (Man. p. 102:16, Article XXXIV, Section 2). Plainly the church was to be hers and not theirs.<sup>17</sup> [See facsimile of letter to Augusta Stetson, p. 82]

When inquiries came from the Field as to whether the *Manual* also governed the branch churches, a representative was sent to ask Mrs. Eddy about this. She replied, "Anyone should be able to see that the *Manual* is only for a church that *I* control."<sup>18</sup> While Mrs. Eddy was with us it may have appeared to the Field that the Board of Directors was in control, but the real control was always with Mrs. Eddy. The Directors did whatever Mrs. Eddy directed them to do. She held

the reins at all times, and could at any moment dismiss a Board member or the entire Board.

## RECOGNITION OF ESTOPPEL CLAUSES BY SUPREME JUDICIAL COURT

In their decision dated November 23, 1921, the Supreme Judicial Court of Massachusetts recognized that there were two Boards of Directors. (The Court, of course, did not recognize this fact in the sense of making a correct differentiation.) They saw that one Board was ecclesiastical, deriving its powers from the *Church Manual* and composed of five members.

The second Board of Directors derived its power from the 1892 Deed of Trust, and was a self-perpetuating *legal* body. Its functions are defined in the *Manual* (pp. 128-135), none of which extend beyond the local Boston church.

It was to the advantage of the five-member ecclesiastical Board of Directors to confuse church members regarding the five-member Board and the four-member Board. An article by George Wendell Adams, a former Director of The Mother Church, reveals this confusion, resulting from the Directors' attempts to hold a completely spiritual organization in the grasp of material organization.

### GEORGE WENDELL ADAMS ARTICLE

In his article, George Wendell Adams states, "Another significant fact is that the Deed of Trust which was the nucleus of The Mother Church organization...."

This is not correct. Neither the Deed of Trust of September 1, 1892, nor the Deed of Trust of March 19, 1903, had anything to do with The Mother Church organization, nor did it have anything to do with the *Manual* or any other ecclesiastical matter. It did relate to the *Manual* in that the 1903 Deed of Trust granted land for the extension *on the condition* that the By-Laws in the *Manual* would be obeyed as *written with its estoppel clauses*.

(The *Manual*, p. 132, paragraph 6, says: "The congregation

SERMONS AND OTHER WRITINGS

One thing  
in my haste was  
forgotten, namely,  
the designation  
of ~~The First Church~~  
of Christ Scientist  
as my church.

[1]

Facsimile excerpt from Mrs. Eddy's letter pointing out that The First Church of Christ, Scientist was *her* church and not the Board of Directors' church.

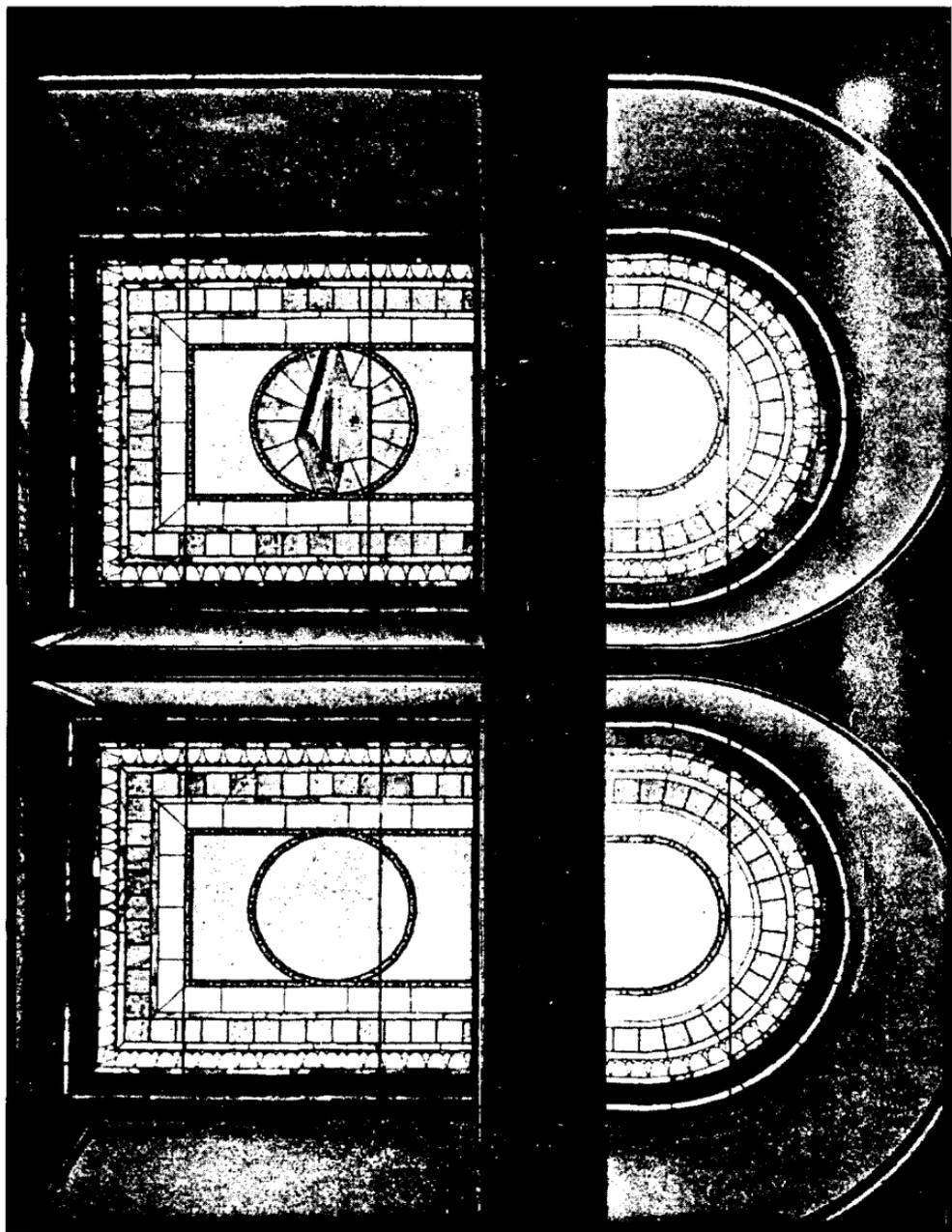
## DEFENSE OF SPIRITUAL FACTS

The question will be,  
is, asked whose church  
is it? We cannot  
say it is Mr. Herring's  
or the Board of Directors  
of Directors church  
for it surely is not.

[Beloved Student:] [P.S. to letter dated Mar. 21, 1905] One thing in my haste was forgotten, namely, the designation of The First Church of Christ, Scientist, as *my church*. The question will be, is, asked, whose church is it? We cannot say it is Mr. Herring's or the Board of Directors' church, for it surely is not. It was my church in the beginning, as much as Mrs. Stetson's church is hers. We must be orderly in these things or it will lead into difficulties that you do not see, but I do see them. (Emphases are Mrs. Eddy's.) (Stetson, *Sermons* page 197) G. P. Putnam & Sons, 1924.

SERMONS AND OTHER WRITINGS

It was my church  
in the beginning as  
much as Mrs. Stet-  
son's church is  
now. You must be  
orderly in these  
things or it will  
lead into difficulties  
that you do not see  
but I do see them



which shall worship in said church shall be styled 'The First Church of Christ, Scientist.' ") Adams' article further states that the Deed of Trust "does not call for Mrs. Eddy's approval in writing or otherwise . . ." This is correct, *but it has nothing to do with the ecclesiastical Board of five Directors* under the By-Laws of the *Manual* who *do* require Mrs. Eddy's consent and approval.

On page 3 Adams states: "This deed, dated September 1, 1892 . . . created the Board of Directors and provided for their successors in office, . . ." which is correct, but he adds, ". . . and for certain other important administrative offices and functions of fundamental importance." This again is *incorrect*, as can readily be seen by reading Mrs. Eddy's provisions in the Deed of Trust in the *Manual*, paragraphs 1 through 11, on pp. 130-133, where the actual functions of the Board of Directors are defined. They are limited to keeping a preacher or reader in the pulpit, keeping the building in repair, etc. The building was to be maintained as a local branch church for the people of Boston who wished to worship in that edifice. Nothing is mentioned about "other important administrative offices and functions of fundamental importance."

In his article, Adams refers to the letter Mrs. Eddy wrote the Board of Directors in response to their letter pertaining to legal matters (which we noted in Chapter II, p. 55). There we noted Mrs. Eddy's primary concern was not with "legal" matters but with strict obedience to her By-Laws *as written*.

In this letter Mrs. Eddy wrote that if she was not personally with them her instructions in the By-Laws would remain to guide them safely on; and the teachings of St. Paul, she said, are as useful today as when they were first written.

In commenting on this letter from Mrs. Eddy, Dr. Shawk says that one of St. Paul's teaching was, "Dare any of you, having a matter against another, go to law before the unjust, and not before the saints?" (I Cor. 6:1).

Thus, we come to "the law" implied in Mrs. Eddy's reference to the teachings of St. Paul. In this matter of *law*, various versions of George Wendell Adams' church tract have appeared over the years and in each version one or more letters from prominent Boston legal firms are quoted in full,

indicating the Board's need to justify its position legally.

In an early version, copyright 1927 by the Christian Science Publishing Society, three such letters from legal firms were included. The first was from

Choate, Hall & Stewart  
Counsellors at Law  
30 State St. Boston  
(June 30, 1926)

The second letter is from

John L. Bates  
Counsellor at Law  
73 Tremont St. Boston  
(Sept. 3, 1926)

The third letter is from

Abbot, Dane, Buffum & Sanderson  
Counsellors at Law  
73 Tremont Street, Boston  
(March 21, 1927)

On the other hand, the Honorable Charles Evans Hughes—who later became Chief Justice of the United States Supreme Court—saw the issue clearly, and in his summary argument for the Publishing Trustees, said:

There are two conceptions of harmony. One is the harmony produced by despotic power; the other is the harmony that results from the unity of ideas and common views of a religious truth. It seems to us most unjust to Mrs. Eddy, most contrary to her teachings, to assume for a moment that she relied upon the exercise of the despotic power which these Directors have arrogated to themselves.

...The unity which these [Directors] wish, the unity of despotic power, the control absolutely of this entire government of Christian Science in the church and in the publications and everywhere else, that is the unity which might well destroy the very faith of the organization for

the propagation of the faith to which they profess to be devoted.

Returning to Judge Clifford P. Smith's article contained in the George Wendell Adams church tract, and entitled, "Mrs. Eddy's Expressed Intention" (p. 10), he states:

As distinguished from earlier forms of Christian Science organization, The Mother Church, The First Church of Christ, Scientist, in Boston, Massachusetts, was founded and organized by a Deed of Trust, dated September 1, 1892, and a meeting of First Members held on September 23, 1892.

This is not true as can be seen by a perusal of pp. 128-135 of the *Manual*, or Appendix, p. 182. The Deed of Trust of September 1, 1892, named the *congregation* which would worship in the edifice to be built as "The First Church of Christ, Scientist;" in other words, the *people* who worshipped in the edifice were named "The First Church of Christ, Scientist." On the other hand, the meeting of First Members on September 23rd, 1892 (three weeks later) formed a church which at first was called "*Mother's Church*" and which was eventually to be known as The Mother Church. The two churches were not identical. The Mother Church with its *five* Directors is governed by the By-Laws found between pages 25 and 105 in the *Church Manual*, while The First Church of Christ, Scientist, with its *four* Directors was established by the Deed of Trust of 1892, and is governed by that Deed, found on page 128 of the *Manual*. The Mother Church was terminated with Mrs. Eddy's passing.

Officialdom's statements, such as the one just quoted from Judge Smith's article, contribute to the Field's misunderstanding regarding the difference between the fiduciary and the ecclesiastical bodies. Judge Smith concludes his initial paragraph with the sentence: "From the time she founded The Mother Church, all that she did and said evinced the intention that it should be permanent." Let's look closely at this statement. It encompasses the period from September 23, 1892, until December 3, 1910. During these

eighteen years Mrs. Eddy added twenty-six or *more* estoppel clauses which at Mrs. Eddy's departure would terminate The Mother Church, its officers, its various offices and functions. Mrs. Eddy refers to her "*instructions*," as we saw earlier, in the letter dated February 27, 1903 (see Chapter II, p. 55) and which Judge Smith reproduced in his article. These "instructions" mandate the dissolution of The Mother Church when Mrs. Eddy was no longer here.

Does this evince "the intention that [The Mother Church] should be permanent"?

Judge Smith, the Board of Directors, and the legal firms retained by the Board (in the late 1920's) to confirm their assumption of control of the church government, were of course acting in accordance with their interpretation of the By-Laws which, in effect, was "legalism's challenge" to Mary Baker Eddy's divinely inspired *Manual*. These legal opinions are without value, however, since they are *civil law* interpretations of a *spiritual law* instrument.

Both Judge Smith and the lawyers emphasized the Deed of Trust statements regarding the Directors: "and to their legitimate successors in office *forever*..."<sup>19</sup>

Why so much attention to this?

Under the Deed of Trust of September 1, 1892, these Directors could fill their own vacancies without reference to anyone, and since the Deed was "perpetual," the legal phrase: "and to their legitimate successors in office forever" was never questioned. But trying to grant perpetuity to the ecclesiastical Board of Directors by making them identical with the legally established Board under the Trust Deed of September 1, 1892, is an effort to annul the clause in Article I, Section 5, p. 26 which does not provide for a self-perpetuating Board. Rather, it states:

The Christian Science Board of Directors shall consist of five members. They shall fill a vacancy occurring on that Board, *after the candidate is approved by the Pastor Emeritus.*"

The ecclesiastical Board has always attempted to make the two Boards appear identical and to operate under the Deed of Trust provision whereby the fiduciary (the legal)

Board was “perpetual.” This is a violation of Article XXXV, Sections 1 and 3 of the *Church Manual* which states:

This *Manual* shall not be revised without the written consent of its author [the Pastor Emeritus, Mary Baker Eddy].

No new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled, without the written consent of Mary Baker Eddy, the author of our textbook, Science and Health.

By not defrocking themselves at the June, 1911, Annual Meeting when the Directors’ terms of office expired the Board was, in effect, revising the *Manual*, and annulling its By-Laws.<sup>20</sup>

We have already seen that “eternity awaits our *Church Manual*” and the *Church Manual* calls for the impermanence of The Mother Church. The *Manual*, however, is perpetual and “eternal” because it is the *Manual* of “The First Church of Christ, Scientist,” the “perpetual” church under civil law, having been established by the Deed of Trust of September 1, 1892. The *Manual*, through its estoppel clauses, eternally guards the freedom of every Christian Scientist.

The *Church Manual* controlled the ecclesiastical body, The Mother Church, and thus it controlled the members of that church, who were also ecclesiastical.

The *Church Manual* also has provision for the protection of the branches of the Church of Christ, Scientist. These branches are chartered under civil law and are subject to civil law.

The contents of the *Church Manual* itself are not under civil law. But the legal Board of four Directors is not free to disregard the *Church Manual*’s provisions because the land in the second Deed of Trust of March 19, 1903, was “conveyed on the further trusts that NO NEW TENET OR BY-LAW SHALL BE ADOPTED, NOR ANY TENET OR BY-LAW AMENDED OR ANNULLED by the grantees.” Since, in this legal Deed of Trust, this additional trust was imposed on the grantees it makes the adherence to this trust a matter of *civil law*.

## THE EXTENSION IS BRANCH NOT MOTHER

It is interesting to note that the Boston congregation which met in the little Mother Church was given the capitalized "The," as we saw—"The First Church . . ." to distinguish it from the other churches of Christ, Scientist, existing in Boston and elsewhere.

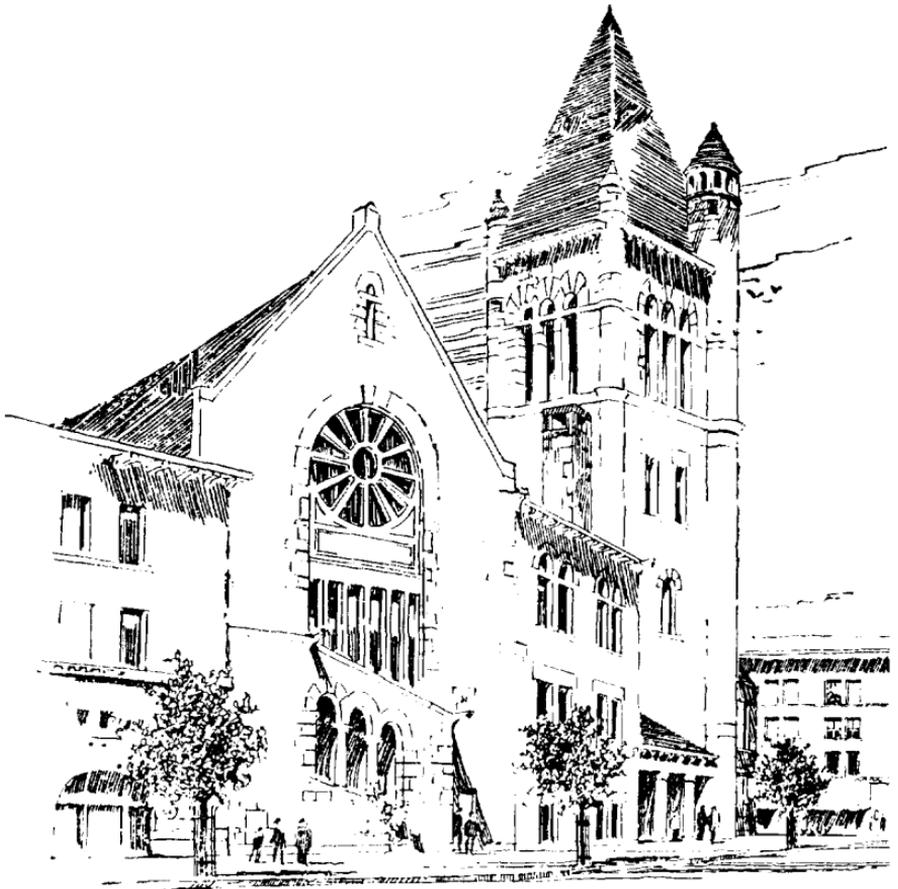
Now, turning to the second Deed of Trust of March 19, 1903, (page 136 of the *Church Manual*) we see that this condition in regard to the name of the congregation using the *first* edifice does not apply to the congregation using the second edifice, the Extension. The Extension is *branch*, not Mother.

This raises an interesting question, comments Dr. Shawk. Since the Extension is branch and not "Mother," why does it appear prominently in sketches and photographs put out by the Boston Headquarters indicating the Extension is *The Mother Church*? This is a misrepresentation, because the Extension is a branch like any other branch in the U.S.A. or worldwide. It is inaccurate to picture it as *The Mother Church*.<sup>21</sup>

## SECOND DEED OF TRUST NOT SUPPLEMENTARY

At this point let us briefly review the highly damaging statement in the two "BILLS in EQUITY" that the second Deed of Trust in the Manual (pages 136-138) was "supplementary to and in amendment of" the Deed of September 1, 1892. The second Deed, written a month *after* Mrs. Eddy created the five-member ecclesiastical Board, confirmed—reaffirmed—a Board of *four* Directors as the only *legal and self-perpetuating Board*. This second Deed was complete and self-contained. So the statement that it was "supplementary to and in amendment of" the Deed of 1892 is utterly false and it is hard to understand how Counsel for the Publishing Society Trustees could have made such an error. But they did! and it was to cost the Publishing Trustees the victory.

The second Deed of Trust didn't add anything to the first Deed. The second Deed was complete in itself and its trusts were taken verbatim from the first Deed. The second Deed



• VIEW FROM THE SOUTH •

*Architectural drawing of The First Church of Christ, Scientist, completed in 1894. Expressing the outpouring gratitude of her students, it stands as an enduring recognition of her labors and achievements. In 1906 the magnificent Extension, sometimes erroneously referred to as The Mother Church, was completed.*

being self-contained it could not "amend" anything in the first Deed. The effort seems to have been directed, mistakenly, towards combining the (little) Mother Church with the Extension. This should never have been done by the legal counsel for the Publishing Society, since the Publishing Society had nothing to gain by this effort.

This was the point on which the Publishing Trustees could have won their suit, says Dr. Shawk, had they recognized it and taken advantage of it. But, as we saw earlier, while it seems inconceivable that counsel for the Publishing Trustees could have made an error of this magnitude, "God works in mysterious ways His wonders to perform,"<sup>22</sup> and one cannot doubt that the decision of the Massachusetts Supreme Judicial Court was a right decision under the circumstances. It was not up to the Court to legislate freedom of religious choice onto people who had barely begun to grow toward it. We don't see much progress by "a man convinced against his will."

The legal counsel for the Board of Directors recognized this phraseology—"supplementary to and in amendment of the Deed of September 1, 1892"—as being what they needed, even though it was an error. The shrewd and astute lawyers for the Board of Directors seized on this point and used the identical phraseology in their Bill in Equity, dated April 10th, 1920. They had everything to gain through this error by the Publishing Society's lawyers, namely:

(a) The five-member ecclesiastical Board of Directors was not a self-perpetuating body since they needed Mrs. Eddy's approval to fill a vacancy in their ranks. They therefore needed to somehow tie themselves to, or get themselves confused with, the self-perpetuating legal *four*-member Board of Directors Mrs. Eddy established in her 1892 Deed of Trust.

(b) When Counsel for the Publishing Society Trustees erroneously characterized the 1903 self-contained (second) Deed of Trust as "supplemental to and in amendment of" the [first] Deed of September 1, 1892, they gave the lawyers for the *five*-member ecclesiastical Board of Directors what they needed to support *their* case.

(c) If the second Deed of Trust could be characterized as

merely being "supplemental to, and in amendment of" the first Deed of Trust of September 1, 1892, then it could be made to appear that the (actually temporary) *five*-member ecclesiastical Board that Mrs. Eddy established under the *Manual* in February, 1903, took precedence over the 1892 Deed of Trust. But the March 19, 1903 Deed actually confirmed the *four*-member legal Board a month *after* the five-member ecclesiastical Board was established in the *Manual*.

The question might be asked, "Why did Mrs. Eddy include the two Deeds of Trust covering land for the two church edifices in the *Church Manual*?" Surely Mrs. Eddy wanted to have on record for eternity that there was a great difference between The Mother Church (ecclesiastical) and The First Church of Christ, Scientist (fiduciary), and that there was also a great difference between the five-member *ecclesiastical* Board of The Mother Church and the *four*-member *legal* Board of The First Church of Christ, Scientist, Boston.

It is very fortunate that these two Deeds of Trust are in the *Church Manual*, otherwise they could easily have disappeared, comments Dr. Shawk, and the Field would have remained ignorant of very important fundamental facts. As an illustration of this: Mrs. Eddy's card regarding her disapproval of "authorized" literature was removed from Reading Room copies of Volume IX of the *Christian Science Journal*. This card contained vital information concerning her opinion that rather than have an official ecclesiastical Committee select reading material for Christian Scientists, she considered each of her students capable of selecting his or her own reading material. Had her instruction on this absolutely crucial point been preserved in the *Manual* the policy of "authorized literature" could not have been imposed on the Field over these many years. The fear that has been instilled in Church members regarding the reading of Christian Science literature not "authorized" by the Board of Directors in Boston is completely incomprehensible to those outside official church circles. The Board's chief weapon is fear. Veiled threats of excommunication with its resultant disgrace, and ostracism by fellow Christian Scientists, keep dissenters in line.

## THE FIRST CHURCH OF CHRIST, SCIENTIST, IS BRANCH

The four-member legal Board of Directors, under their Deed of Trust, had authority only over the local Boston church. Both the little Mother Church and The First Church of Christ, Scientist, became, in effect, branch churches at Mrs. Eddy's passing. If branch churches were in fact branches of The Mother Church then dissolution of The Mother Church at Mrs. Eddy's passing would also have dissolved the branches then existing. But Article XXIII, Section 6, provides for the continuity of those branches after her passing.

Here again we come to the important question: Did Mrs. Eddy intend for the human organization, *including the branch churches*, to go on *forever* after she was no longer here to control it?

At this point Dr. Shawk calls special attention to page 72:19 of the *Manual* which reads:

If the Pastor Emeritus, Mrs. Eddy, should relinquish her place as the head or Leader of The Mother Church of Christ, Scientist, each branch church shall continue its present form of government in consonance with *The Mother Church Manual*.

Shawk says: "Read this again, and note that 'each branch church shall continue its *present* form of government . . .'" This means that no more branches could be formed after her passing since a church formed after her passing could not '*continue its present* form of government.' It had not yet been created, and thus could not 'continue.' This again testifies that Mrs. Eddy did not intend for the material organization to continue when she was no longer here to control it."<sup>23</sup>

On the basis of the above-quoted By-Law the thousand or so branches became fixed at the June, 1911, Annual Meeting when the estoppels dissolved The Mother Church, and no more branches were to be formed. Only the branches that existed at that time could be called branches.

## MISSION OF THE PUBLISHING SOCIETY

Through the entirely separate establishment of the Publishing Society, Mrs. Eddy hoped to protect Christian Science from an ecclesiastical hierarchy, and to give Christian Science to the entire world. She did not copyright her last fourteen editions of Science and Health even though they contained vital and far-reaching "changes"—momentous scientific changes—which consummated the teachings of the Christian Science textbook. Here it must be remembered that Mrs. Eddy said, "I have revised Science and Health only to give a clearer and fuller expression of its original meaning. Spiritual ideas unfold as we advance."<sup>24</sup> A Science doesn't need to be copyrighted. "Christian Science is not copyrighted,"<sup>25</sup> and a Science doesn't need a church. A church can only hinder a Science. Religion binds thought back to outgrown modes. Science eternally unfolds new, higher, light. Mrs. Eddy was concerned with spiritual development, not with becoming more "religious" or more bound back into outgrown forms of worship. Mrs. Eddy taught that all is infinite Mind, infinitely manifested, and that existence separate from divinity is illusion since all that really exists is the omnipresence of present perfection, forever unfolding new and higher views.

Sooner or later every Scientist must learn to prefer the divine facts of reality to his dearest illusions.

Having a divine outlook, Mrs. Eddy hoped to establish Christian Science through spiritual means alone. Each individual must learn for himself the Science of the Christ which she discovered. Living in a religious age, her followers, clogged by their materiality, clamored for a "church," and a church was formed as a concession to the spiritual benightedness of that period, with the hope that it would be a step in the way of leading humanity to an understanding of the "CHURCH UNIVERSAL AND TRIUMPHANT," which is found in the Christian Science textbook and not in a material church organization. Succinctly Mrs. Eddy defines Church on page 583 of Science and Health as:

The structure of Truth and Love; whatever rests upon and proceeds from divine Principle.

The Church is that institution which affords proof of its utility and is found elevating the race, rousing the dormant understanding from material beliefs to the apprehension of spiritual ideas and the demonstration of divine Science, thereby casting out devils, or error, and healing the sick.

Correctly seen, the *Manual* and the Christian Science textbook complement each other. The *Manual* liberates Christian Science from the shackles of organized religion and so frees us from the materiality that would try to "hold Spirit in the grasp of matter."

The various documents we are examining in this book bear on "Church" and are an aid to seeing that Church (meaning the CHURCH UNIVERSAL AND TRIUMPHANT) is not to be found in material organization but in the textbook, Science and Health with Key to the Scriptures. Through its teaching we find ourselves to be the image and likeness of the Father-Mother God, or man, the generic term for mankind. Because Mrs. Eddy knew that this state of consciousness cannot be attained within organizational fetters, i.e. by material ways and means, she inserted in the *Church Manual* estoppel clauses designed to terminate the material organization at her passing. But when legalism challenged Mary Baker Eddy's *Manual* as written, and the estoppels were waived, the harmonious church government she had planned did not materialize. Instead conflict ensued and led to the great literature litigation which we will discuss next.

- <sup>1</sup>Mis. 140:22
- <sup>2</sup>Mis. 358:30
- <sup>3</sup>Mis. 136:5 Letter read at Massachusetts Metaphysical College Association June 3, 1891.
- <sup>4</sup>Ret. 47:1
- <sup>5</sup>Ret. 45:5
- <sup>6</sup>In 1925 pressure from the Field caused the restoration of Mrs. Eddy's name to the list of Church officers on p. 21 of the *Manual*.
- <sup>7</sup>Man. p. 137
- <sup>8</sup>The fiduciary Board acted under the 1892 Deed of Trust in which Mrs. Eddy granted property to *four* Directors in whom she had "trust and confidence" that they would carry out her desires.
- <sup>9</sup>Mis. 348:12
- <sup>10</sup>See Appendix, p. 182 or *Manual*, pp. 128-138.
- <sup>11</sup>Current *Manual*, Art. 25, Sect. 1, p. 79
- <sup>12</sup>Mis. 358:4
- <sup>13</sup>Man. 34
- <sup>14</sup>Mis. 303:13
- <sup>15</sup>Charles S. Braden, *Christian Science Today*, p. 43. Southern Methodist University.
- <sup>16</sup>No. 45:24
- <sup>17</sup>Braden, *Christian Science Today*, p. 52.
- <sup>18</sup>Carpenter Foundation (Microfilm recording)
- <sup>19</sup>See Man. pp. 128-129
- <sup>20</sup>The five-member ecclesiastical Board needed Mrs. Eddy's approval in order to be reelected or to fill a vacancy in their ranks (Article I, Section 5, page 25, of *Church Manual*.)
- <sup>21</sup>From Dr. Shawk's copyrighted cassettes on the *Manual*. (Used by permission.)
- <sup>22</sup>The one Mind sees all angles at one go. "To attempt the calculation of His mighty ways, from the evidence before the senses is fatuous" (Un. 10).
- <sup>23</sup>From Dr. Harry R. Shawk's copyrighted cassettes. (See also Mis. 358:30; Ret. pp. 44, 45 and 47:1-3)
- <sup>24</sup>S&H. 361:21
- <sup>25</sup>Ret. 76:2

## Chapter IV

# THE GREAT LITERATURE LITIGATION and WHAT THE FULL BENCH ACTUALLY SAID

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*To put down the claim of sin, you must detect it, remove the mask, point out the illusion, and thus get the victory over sin . . . It is Christian Science to do right, and nothing short of right-doing has any claim to the name. (S&H.)*

*We should not be error's advocate (S&H.)*

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**T**HIS Chapter concerns the great literature litigation of 1919 to 1922. This unfortunate episode in Christian Science history would never have occurred if Mrs. Eddy's estoppels had been honored. But the Board's illegal assumption of power was nowhere more apparent than in its struggle to gain control of the Publishing Society which Mrs. Eddy had set up as a complete and independent body under her Deed of Trust of 1898. The first thing a dictator must control is the communications arm, the news media.

While Mrs. Eddy remained with us, the *Manual* provided that the Board of Directors should see that "these periodicals are ably edited and kept abreast of the times."<sup>1</sup> She also stipulated, "The Christian Science Board of Directors shall have the power to declare vacancies in said trusteeship . . ." They had this power to oversee and to declare vacancies *only* so long as Mrs. Eddy was present to authorize it. The estoppels in the *Church Manual* dissolved the five-member

ecclesiastical Board at her passing. The *four*-member Board under the legal Deed of Trust of 1892 was never given such powers, as can readily be seen by reading the two Deeds of Trust.

Soon after Mrs. Eddy's departure, the Board of Directors began a harassment of the Publishing Trustees which continued unabated. In October 1918, the Directors made a formal demand to the Publishing Trustees that hereafter they should not act independently but in conformity with the objectives and aims of the Board of Directors; they also demanded that the Trustees agree in writing to accept the Directors' claim of supreme authority, and to thereafter discharge their duties in accordance with the Directors' interpretation of the *Manual*.

According to the Bill in Equity filed by the Publishing Trustees, the Board of Directors had threatened to either obtain control of the Publishing Society or destroy it by making it just "an empty shell."<sup>2</sup> The Board demanded that the Publishing Trustees sign the following statement:

It is mutually understood by the Trustees and the Board of Directors that the Board has final authority in regard to the editorial policy and final authority in regard to all matters affecting the policy of The Mother Church or the cause of Christian Science.

The Board also required the signing of this agreement as the price for allowing the Publishing Trustees to continue in office.

The issue was sharply drawn. A decision must be rendered by the Court as there seemed to be no agreement between the two Boards. When the Directors insisted that the Publishing Society Trustees break their Trust Deed on occasions when the Directors' interpretation of the *Manual* did not agree with Mary Baker Eddy's Publishing Society Deed of Trust, the Publishing Society Trustees sought legal counsel, and the Bill in Equity dated March 25, 1919, was drawn up.

The plaintiffs in this Bill in Equity were Herbert W. Eustace, David Ogden, and Lamont Rowlands, Trustees of the Christian Science Publishing Society. The defendants, the

Board of Directors, were at first listed as: Adam Dickey, James A. Neal, Edward A. Merritt (who had replaced Director Archibald McClellan who died in 1917), and William R. Rathvon. Later in the preamble the Directors added a fifth defendant.

## FOUR ERRORS IN BILL IN EQUITY

Dr. Harry Shawk<sup>3</sup> tells us there are four errors in the Bill in Equity. The first error is that the Publishing Society lawyers refer to the Board of Directors under the *Deed of Trust of 1892*. This Deed stipulated *four* Directors, and the defendants (the Board of Directors) are actually going to name *five* persons. This is therefore an error, and we can see from this that the Publishing Trustees are going to sue the wrong party. They should be suing the five-member ecclesiastical Board instead of the *four*-member Board under the Deed of Trust of 1892 which had nothing to do with the case.

The second error made by counsel for the Publishing Trustees was in calling Mrs. Eddy's second Deed of Trust "supplementary to and in amendment of" the first Deed of Trust. This was not correct.

The third error occurs in the wording: "dated March 19, 1903, and as they are also Directors of The First Church of Christ, Scientist, in Boston, Massachusetts ...". This is an error because the Board of five Directors is the Board of The Mother Church. It is *not* the Board of *four* Directors named in the September 1, 1892, Deed of Trust establishing The First Church of Christ, Scientist.

The fourth error occurs in the wording: "... And John V. Dittmore and Annie Knott, both claiming to hold the position and office of Trustee and Director in accordance with the other claimants." This is an error. It recognizes *six* persons.

In summary, the defendants (named in the Bill in Equity) were the legal or fiduciary Board named by Mrs. Eddy in the September 1st, 1892, Deed of Trust. This *four*-member Board had absolutely nothing to do with the Publishing Society as

can be seen by reading Mrs. Eddy's two Deeds of Trust on pages 128-138 of the *Church Manual*, or Appendix, p. 182. Thus we see that the Publishing Trustees' lawyers made the tragic error of suing the wrong party. No doubt this error occurred because counsel for the Publishing Trustees knew that an *ecclesiastical* body cannot be sued in a court of law.

## SECOND BILL IN EQUITY

A second Bill in Equity was filed on April 10, 1920, approximately a year after the first Bill. This Bill was filed by the Board of Directors against the Publishing Society to try to acquire funds which the Publishing Society had been earning and were holding. The plaintiffs in this second Bill in Equity were *five* Directors: Dickey, Neal, Rathvon, Merritt, and Knott.

## ERRORS IN SECOND BILL IN EQUITY

Again Dr. Shawk points out the errors in this second Bill in Equity which reads: "As they are the Christian Science Board of Directors of said 'The First Church of Christ, Scientist, in Boston, Massachusetts' . . ." This is an error because they have named *five* (5) Directors, and there are only *four* Directors provided in the Deed of Trust of September 1, 1892, in connection with the above-mentioned church.

Continuing: "*and* Edward Ripley, as he is Treasurer of said 'First Church of Christ, Scientist, in Boston, Massachusetts' . . ." This is an error because Ripley was the Treasurer of *The Mother Church* not of The First Church of Christ, Scientist.

Continuing: "and for purposes of this suit is a corporation by virtue of Revised Laws, Chap. 37, Sec. 12, and Chap. 132 of the Special Acts of 1917, and is otherwise known and referred to hereinafter as 'The Mother Church,' and said 'The First Church of Christ, Scientist'<sup>4</sup> is the sole financial beneficiary under the trust deed hereinafter mentioned . . ."

These statements are not true. The beneficiary is the First Members of The Mother Church, later changed to Board of Directors of The Mother Church—the Board of *five* Directors—which ceased to exist at Mrs. Eddy's passing.

(See *Manual* p. 26, Art. 1, Sec. 5.) The disposition of funds was provided for in the Publishing Deed of Trust Mrs. Eddy executed in 1898.

The Bill of Complaint came up for a hearing before the court on June 3, 1919. As we have seen, the Publishing Trustees sued the *legal* four-member Board of Directors, who operated under the Trust Deed of 1892, and had absolutely nothing to do with the case.

In spite of this error, however, a decision favorable to the Publishing Trustees was handed down by the Master, Judge Dodge. The Board of Directors then appealed to the Full Bench which stated that the Master's findings of fact *were undisputed*, but it reversed the rulings of law handed down by Judge Dodge. The Full Bench, however, ruled on *only one* point.

Before continuing with the trial let us delve briefly into the background—the factors contributing to the dispute which ended in “the great literature litigation.”

In order to understand the situation correctly it is necessary to go back to early 1898, when on January 25, 1898, Mrs. Eddy, through a Deed of Trust, established the CHRISTIAN SCIENCE PUBLISHING SOCIETY. This Publishing Society was stated to be: “... for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me ...” She named three Trustees: Edward P. Bates, James A. Neal, and William P. McKenzie.

In mid-year, 1898, to set up a system of checks and balances, Mrs. Eddy instituted new By-Laws which brought the Christian Science Publishing Society under the *Church Manual*. It is important to note that not all of the conditions of the Deed of Trust of January 25, 1898, were recited in the *Church Manual*. And the *Church Manual* contained material about the Publishing Society that was not contained in the Publishing Society Deed of Trust. At first glance this would appear to cause disputes after Mrs. Eddy's passing, but no disputes would have occurred if, after Mrs. Eddy's leaving, the *Church Manual* had been obeyed as she intended. The estoppels terminated the five-member ecclesiastical Board. The quarrel arose because the five-member Board disobeyed the estoppel clauses and usurped control of the church or-

ganization. In this suit the Board of Directors was attempting to wrest the Publishing Society from its legitimate and legally appointed Trustees. The Directors' attempts to make the Publishing Trustees break Mrs. Eddy's 1898 Deed of Trust is detailed in the March 25, 1919, Bill in Equity. See Appendix, p. 193.

Mrs. Eddy's legal Publishing Society Deed of Trust was "irrevocable and perpetual," and was so judged by the Court. The three Trustees signed the Deed indicating their acceptance, and every succeeding Trustee signed and dated his acceptance. The last three Trustees served until their resignation, effective January 30, 1922.

The estoppels in the *Manual* had terminated all Board of Director control over the Publishing Trustees, but when the Directors waived the *Manual's* estoppel clauses, a dispute came about as a result of two *Manual* changes and the By-Law under "Discipline," which read: "it shall be the duty of the Directors to see that these periodicals are ably edited and kept abreast of the times."<sup>5</sup> This provision to see that the periodicals were "ably edited" was naturally directly related to the provision in Article XXV, Section 4, p. 80, of the current *Church Manual*, under which the editors and the manager of the Christian Science Publishing Society were to be elected by "the Christian Science Board of Directors *and the consent of the Pastor Emeritus in her own handwriting.*"

It is important to understand that the above duty of the Directors was nowhere mentioned in the Deed of Trust of January 25th, 1898, which created the Christian Science Publishing Society. This Deed contained *all* of the provisions necessary for the operation of editors and manager under the *sole* responsibility of its Publishing Society Trustees.<sup>6</sup>

Now, states Dr. Shawk, if the Publishing Society Deed of Trust *had been* filed with the Courts, there would have been an immediate conflict between the fiduciary Board of Directors under the legal Deed of Trust of September 1, 1892, and the five-member ecclesiastical Board of Directors, acting

under Mrs. Eddy's *Manual* provisions. But when Mrs. Eddy left us, the relationship of the Publishing Society to the ecclesiastical Mother Church was terminated. At that point, had the By-Laws containing the estoppels not been annulled, the Publishing Society would have become a completely independent operation.

The Publishing Society would have been entirely dependent upon producing articles of merit, since with The Mother Church terminated, there would no longer have been any pressure from the By-Law stating: "It shall be the ... *duty* of every member...to subscribe for the periodicals which are the organs of this Church." With The Mother Church terminated, the periodicals would no longer be "the organs of [The Mother Church]." Henceforth the articles would have had to be of the caliber people in or out of the Christian Science Movement would *want* to subscribe for, and be willing to pay for.

The struggle between the ecclesiastical Directors and the Trustees of the Christian Science Publishing Society came to a head in 1919 when the Publishing Society Trustees filed a Bill in Equity on March 25th,<sup>7</sup> which requested the Court to enjoin the Board of Directors from:

- (1) removing Lamont Rowlands as a Trustee
- (2) requiring the Trustees of the Publishing Society to comply with the Board of Directors' demand that the Publishing Society Trustees agree in writing that the Directors had absolute control over the Publishing Society.

Now, the first of these requests to the Court was based upon the premise that both the Publishing Society Deed of Trust and the Church Manual (in 1898) provided that the First Members together with the Board of Directors could declare a vacancy in the ranks of the Trustees of the Publishing Society, and that since the First Members had been

abolished, the Board of Directors alone had no right to declare a vacancy.

We will see later that this position regarding First Members, while it was supported by Judge Dodge, the Master, in his interim injunction, was not accepted by the Chief Justice, and was one of the reasons for reversing Judge Dodge's findings. (The matter of the estoppels seems to have been overlooked entirely.)

Judge Dodge also found for the plaintiffs against their having to agree in writing to the demand of the Board of Directors that the latter was in supreme control of all activities of the Publishing Society. Judge Dodge included this in the interim injunction.

The Chief Justice, on the other hand, stated that the Court had no basis for making a ruling on an *ecclesiastical* matter. Thus both findings of the Master were reversed.

## INTERIM BILL IN EQUITY APRIL 10, 1920

After the interim injunction was given by Judge Dodge, and before the Full Bench met for its final decision, the Board of Directors filed an interim Bill in Equity on April 10, 1920.

One of the items in the Publishing Deed of Trust of January 25th, 1898, and also in the *Church Manual* (Article XXV, Section 2, page 80) pertains to the disposal of the net profits of the Publishing Society. This is a very important point: Under the Deed of Trust of January 25th, 1898, establishing the Publishing Society, we read:

Once every six months the Trustees shall account for and pay over to the treasurer of "*The First Church of Christ, Scientist, in Boston, Massachusetts,*" the entire profits of said business.

Now, the *Manual* states in Article XXV, Section 2, page 80, the following:

The net profits of the business shall be paid over, semi-annually, to the Treasurer of *The Mother Church*.

This means that the directions in the *Manual* ordering payment to the Treasurer of *The Mother Church* would disappear after Mrs. Eddy's passing since her estoppels had dissolved The Mother Church. But the Publishing Society Deed of Trust of January 25th, 1898, provides that these funds be paid over to the Treasurer of *The First Church of Christ, Scientist*, the fiduciary church, and the fiduciary body.

The Board of Directors filed their interim Bill in Equity because the Trustees of the Publishing Society had withheld payment since the initiation of the first Bill in Equity, dated March 19, 1919.

You will remember that counsel for the Publishing Society unfortunately and erroneously viewed the two Boards of Directors (fiduciary and ecclesiastical) as being identical. So *now* the plaintiffs (the Board of Directors) in *their* Bill in Equity are described as follows:

The First Church of Christ, Scientist, in Boston, Mass., Adam H. Dickey, James A. Neal, Edward A. Merritt, William R. Rathvon, and Annie M. Knott, as they are the Christian Science Board of Directors of said The First Church of Christ, Scientist, in Boston, Mass. [They also include Edward L. Ripley, who was identified as the Treasurer of the said The First Church of Christ, Scientist, in Boston, Mass.]

The Bill also states:

The plaintiffs, Dickey, Neal, Merritt, Rathvon, and Knott are the Directors of The First Church of Christ, Scientist, and are charged with the transaction of the business of said church by virtue of the By-Laws thereof, contained in the *Church Manual*.

Now, the Church Manual, Article I, Section 6, on page 27, states:

CHURCH BUSINESS. Sect. 6. The business of *The Mother Church* shall be transacted by the Christian Science Board of Directors.

Note that the Board of Directors, while citing the *Manual* as its authority for conducting the business of the Church,

incorrectly identifies its powers with The First Church of Christ, Scientist. This five-member ecclesiastical Board of Directors was only identified with *The Mother Church* which disappeared at Mrs. Eddy's passing; it was *never* in any way identified with The First Church of Christ, Scientist, as they here state in their Bill in Equity. Commenting on these allegations, Dr. Shawk says, "This false identification did not confuse the Chief Justice of the Supreme Judicial Court of Massachusetts as we will see later; and the credibility, honesty, and integrity of that Board of Directors is certainly compromised by their official assertions."<sup>8</sup>

The Board of Directors' chief petition to the Court in their Bill in Equity was the release of the Publishing Society profits since *the church* needed them to carry on its functions. The Chief Justice pointed out that the net profits were intended for the "promotion and extension of the religion of Christian Science" as taught by Mrs. Eddy, and *not* as a money-making operation to pay to the church for its normal operation. The Publishing Society Trustees had been sending these net profits—which the Court found to be nearly one million dollars (\$1,000,000) a year (in 1919 dollars!)—to the Board of Directors of The Mother Church.

Eustace reports the final settlement of the Publishing Society in his book, *Christian Science, Its Clear Correct Teaching*," p. xxix:<sup>9</sup>

On March 6th, 1920, Judge Dodge handed down his final report, finding for the trustees in all essential facts and making his rulings of law in conformity with those facts.

Then on page XXX, we read:

...a new decision was handed down on November 23rd, 1921. The Master's findings were undisputed...but the Supreme Court of Massachusetts reversed the rulings of law as handed down by Judge Dodge...

When the Supreme Court handed down its decision reversing the Master's findings of law, the trustees were glad to resign their offices and elect new trustees in subordination to the directors, and to turn over to them, immediately, the business of the Publishing Society.

A verbatim report of the entire case of the *Trustees vs. the Directors* was first published in extenso and without comment during each day of the trial (1919 through 1921) in the *Christian Science Monitor* by mutual agreement of the Board of Trustees and the Board of Directors. But upon orders from the Board of Directors these issues of the *Christian Science Monitor* containing this material were soon removed from the *Christian Science Reading Rooms*. (The Court record was not one the Directors could afford to have the Field see.<sup>9A</sup>) At the conclusion of the litigation the Publishing Society Trustees published the Court record in book form as a limited subscription edition (1922). This volume is still to be found in some of the larger libraries in the United States. It is entitled: *Proceedings in Equity*, and contains 1,360 pages with a supplement of 204 pages. ✱

Why did the Court rule as it did?

Professor Braden, realizing the judges were practical men and believers in institutional religion, points out that the court seems to have proceeded upon the premise that any church is the church it is because people want it that way. The court seemed to feel that the general membership had acquiesced, because they had not opposed the Board of Directors' moves.

True, the Field generally had become conditioned to looking for direction from the Board during the eighteen years the Board had acted as Mrs. Eddy's agent; so there was little sign of revolt when, at Mrs. Eddy's passing, the Board proclaimed itself as her successor. In a syndicated press release they falsely stated:

The adequate written instructions and directions of Mrs. Eddy, under which the *Christian Science* movement has grown and prospered, including the by-laws which place the direction of the spiritual and business affairs of the Church entirely in the hands of the *Christian Science Board of Directors*, will continue to guide their actions.  
(*Chicago Tribune*, December 10, 1910)

During the trial the great majority supported the Directors, and it came as a shock to the "Field" when Judge Dodge, the Master, before whom the first hearings were held,

sustained the Publishing Trustees in all three of their major contentions. Those who supported the Board of Directors had thought it a foregone conclusion that the Court would decide in favor of the Board. "Instead, the Directors were branded as guilty of illegal action in violating the injunction and required to pay a fine or go to jail."<sup>10</sup>

Shortly after the Master's decision on February 20, 1920, the Directors sent all the members a letter saying that while the Court's decision was unfavorable, it was subject to review by the Supreme Judicial Court of Massachusetts.

Those who were loyal to the Directors were caught up in a strong wave of emotion. No longer so sure the Directors would be victorious, they flew into action. The Board itself was restrained by the court's injunction so that it was unable to launch a boycott of the publications by the Trustees. But since the authority of the Massachusetts Court only covered the state of Massachusetts, other states quickly united in an attempt to destroy the Publishing Society. Groups were formed throughout the United States, urging members to cancel their subscriptions to the periodicals.

"A group calling itself 'The Executive Committee of the Christian Science Delegates of New York State' issued bulletins purporting to keep the Field informed of what was going on in Boston. They definitely urged the boycott of the official church periodicals.... This and other such efforts were augmented by certain of the Christian Science lecturers who undertook in their travels to spread the word throughout America and abroad through private conferences with local leaders everywhere."<sup>11</sup>

As a result of this propaganda against the Publishing Society, 70 percent of the *Sentinel* and 80 percent of the *Journal* and *Monitor* subscriptions were cancelled.<sup>12</sup> Churches and practitioners withdrew their advertisements from the *Journal* registry.

After the trial finally ended with the Directors, this time, victorious, the Directors charged the Publishing Trustees with gross mismanagement because of the heavy loss of sales.

Replying to the charge of misconduct of the Publishing business, Eustace wrote the Board:<sup>13</sup>

... You know in your hearts, and every Christian Scientist knows that the injury to the periodicals was caused by the insidious propaganda which you have wholly inspired and approved. If you will appoint a fair and disinterested tribunal, we will lay before it such proof as will convince the Christian Science world of the insincerity of this charge, and the duplicity of your conduct. I challenge you to such a hearing.

Other charges were also answered one by one, but the one as to expenses for bringing in an accountant to put the books in proper shape is particularly interesting:

...practically our entire accounting department [being under the Board's influence] suddenly and without a moment's notice left their appointed tasks. Our books were left in a condition positively disgraceful; pages were torn and mutilated; footings were inaccurately cast; and in general there had been interposed difficulties to prevent a correct accounting. This occurrence—which from facts within our knowledge had the approval of the Directors if it was not directly inspired by them—caused the remainder of the expenditure of which you complain.

Concerning conduct of this character, Professor Braden comments: "The outsider might find it harder to believe this kind of charge if he had not come upon the same thing so often in other cases in the Movement. Over and over again, loyalty to the Board of Directors ... has led people to behave in a way difficult to justify.

"Nowhere is there a more centrally controlled religious institution than the Boston organization with its extraordinary controls over branch churches, teachers, lecturers, practitioners, and other responsible leaders. Yet Mrs. Eddy time and time again reiterated her basic precept that every individual is entitled to freedom of thought and action in religion or Science. She counseled serving instead of ruling, allowing to each and every one "the same rights and privileges we claim for ourselves."<sup>14</sup> But ignorance of the facts concerning our freedom is the foundation of continued

bondage, and this ignorance, Mrs. Eddy says, must be seen and corrected before we can attain harmony.”

## FINDINGS OF THE FULL BENCH

We will now consider the findings of the Full Bench of the Supreme Judicial Court of Massachusetts, dated November 23, 1921, prepared by Chief Justice Rugg. As you will see, the Court merely reversed the interim injunction granted by Judge Dodge, and dismissed the suit brought by the Trustees of the Publishing Society.

As we examine the Full Bench decision in detail, the following points should be kept in mind :

- the “plaintiffs” are the three Trustees of the Christian Science Publishing Society who have brought the matter to Court.

- the plaintiffs ask the Court to rule in their favor, thus preventing the Board from declaring a vacancy in the Trustees of the Publishing Society,

- the plaintiffs also ask the Court to enjoin the Board from taking actions which will impede carrying out the business of the Publishing Society,

- an interim injunction in favor of the Publishing Society was issued by the Court,

- the court can rule only on matters brought before it, although important opinions may be expressed by the justices of the Court,

- a counter suit by the five-member ecclesiastical Board of Directors was filed and pending, awaiting the action of the Full Bench.

## INTERIM INJUNCTION

It is important to know what the Master, Judge Dodge, set forth in the interim injunction since it is frequently referred to by the Chief Justice in the decision of the Full Bench, dated November 23, 1921. The injunction reads:

## INJUNCTION ISSUED

On this bill on March 25, 1919, an ad interim injunction by the Supreme Judicial Court was issued restraining all the defendants [Board of Directors] as follows:

Until said hearing, you, the said defendant Directors, your agents, attorneys and counsellors, and each and every one of them are commanded to desist and refrain from taking any further action intended directly or indirectly to impede or to interfere with the plaintiff, Rowlands, or either of the other plaintiffs, in the discharge of his or their respective duties as trustees, under the trust instrument of January 25, 1898, and from carrying out of any purpose or plan by either direct or indirect means to compel the plaintiffs or any of them to resign their offices as trustees; to impair, destroy, or in any way injure the business of the Christian Science Publishing Society as conducted by the plaintiff trustees; or in any way to carry out any threat or purpose to injure the business of said Publishing Society either by creating or maintaining a publishing Society to conduct a business in competition therewith, or otherwise; and from taking any action to defeat or tending to defeat the purposes of Mrs. Mary Baker G. Eddy, the Donor, as set forth and declared in the Trust Deed of January 25, 1898.

Thus the scene was set for the five-member ecclesiastical Board of Directors to declare a victory when this interim injunction was reversed by Chief Justice Rugg. It made it very simple for the Board of Directors to declare, falsely, of course, that the Supreme Court had ruled that the Board of Directors was to rule the Christian Science Movement absolutely and forever.

*But the Court had not done this at all!*

It merely dismissed the suit and reversed the Master's injunction on the grounds that a civil law court cannot enter into purely ecclesiastical matters. Also by overlooking Mary

Baker Eddy's divinely impelled estoppels, the Court mistakenly ruled that the Board of Directors had the power to remove a Publishing Society Trustee.

So, in 1922 the five-member ecclesiastical Board of Directors succeeded in seizing the Publishing Society, the communications arm of the Movement, and in deluding the Field into believing that the Court had ruled that the five-member ecclesiastical Board of Directors was perpetual.

## THE COURT'S DECISION

In discussing the Court's decision, we must remember, says Dr. Shawk, that the Court can render a decision only on what has been brought to the bench. The Court may, in its analysis, set forth its opinions, which can often be of greater importance than the finding itself. This importance is apparent in Chief Justice Rugg's opinions on the estoppels. These opinions of the Chief Justice of the Supreme Judicial Court of Massachusetts have been ignored by the Boston authorities and overlooked by the Field since the Court's decision.

The following are the major points in the Full Bench decision:

The opening paragraph reads:

Rugg, C.J. [i.e. Chief Justice]. This is a suit in equity. *The plaintiffs* are three persons who, by succession, are trustees under a Deed of Trust, executed by Mary Baker G. Eddy, the founder of "Christian Science," so called, as Donor, on January 25, 1898, to three persons therein named as Trustees.

*The defendants* are four persons alleged to be trustees under another deed of trust executed by Mrs. Eddy, dated September 1, 1892, and also to be Directors of The Mother Church of Christ, Scientist, in Boston, Massachusetts, and two other persons, each alleged to be claiming to be a trustee and director in association with the other four.

Keep in mind that the Board under the Deed of Trust of September 1, 1892, consisted of only *four* persons and here

five are claiming to be legitimate as the four. The Chief Justice concludes the first paragraph as follows:

The basic question is whether the directors have power to remove one of the plaintiffs from the position of trustee.

Rugg [C. J.] makes it clear that the only point for the Court to consider is whether the Board has the right to declare a vacancy in the Trustees of the Publishing Society. This is the *only* question that is before the Court.

The Chief Justice continues:

The answer to that question depends upon the true interpretation of these deeds of trust executed by Mrs. Eddy and whatever other matters rightly may be considered in ascertaining their meaning.

Note that the Chief Justice is to take both Deeds into his consideration (the one dated September 1, 1892, establishing, among other things, the "Christian Science Board of Directors" as a four-member fiduciary body; and the second Deed of January 25, 1898, establishing the three Trustees of the Publishing Society).

The Chief Justice continues:

The deed of Mrs. Eddy of January 25, 1898, whereby were created the trusts hereto administered by the plaintiffs [the Publishing Society Trustees], hereinafter called the first deed, related wholly to personal property. The declared object of that trust recited in the early part of the trust deed is "for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me." ... The grantees were three individuals who accepted the transfer upon the trusts set forth in the deed. These are stated in paragraphs numbered from 1 to 14, both inclusive.

The Chief Justice also noted that the Trustees of the Christian Science Publishing Society were to carry on the business:

upon their own responsibility and without consulting me (Mary Baker Eddy) about the details, subject only to my

supervision, if I shall at any time elect to advise or direct them.

This provision applied only to Mrs. Eddy and was not transferable to others. The Board of Directors, having seized the Movement at Mrs. Eddy's departure, considered that they had taken over her position as well, and were thus endeavoring to supervise and manage the business of the Publishing Society.

A few paragraphs later the Chief Justice brings out another point in the Publishing Society Deed of Trust concerning conduct of the business, as follows:

Clause 8 of the trust deed is in these words: Said trustees shall have the direction and supervision of the publication of said Quarterly and also of all pamphlets, tracts, and other literature pertaining to said business, using their best judgment as to the means of preparing and issuing the same so as to promote the best interests of the Cause, reserving the right to make such changes as I may think important.

Note that the three Trustees of the Publishing Society have the *sole responsibility* to prepare and issue the items coming under the Publishing Society's sphere.

Then the Chief Justice quotes the contents of Clause 10 about vacancies in the ranks of the Trustees of the Publishing Society:

Clause 10 of the trust deed provides that "vacancies among the trustees should be filled by the donor, if she so elected. Otherwise by the remaining trustees, and that the First Members together with the directors of said church shall have the power to declare vacancies in said trusteeship for such reasons as to them may seem expedient."

Looking at page 80 of the *Church Manual*, Article XXV, Section 3, we read:

**VACANCIES IN TRUSTEESHIP:** The Christian Science Board of Directors shall have the power to declare vacan-

cies in said trusteeship for such reasons as to the Board may seem expedient.

Whenever a vacancy shall occur, the Pastor Emeritus reserves the right to fill the same by appointment; but if she does not elect to exercise this right, the remaining trustees shall fill the vacancy, subject to her approval.

The provision for declaring a vacancy is identical in the Trust Deed and in the *Church Manual*. However, bear in mind that the Deed of Trust of January 25th, 1898, given to the Publishing Society was an irrevocable Deed of Trust, while, on the other hand, the *Church Manual* had been altered in 1903 (29th *Manual*) changing the First Members to Executive Members. Then, in 1908 (73rd *Manual*) the Executive Members had been disbanded and all their functions vested in the Board of Directors, that is, in the *five* ecclesiastical members who were in authority *only* while Mrs. Eddy remained to give her consent and approval.

This is the heart of the Bill in Equity raised by the Trustees of the Publishing Society, and the decision of the Full Bench.

While the Court recognized the estoppel clauses as binding, they somehow completely failed to see that an estoppel terminated the five-member ecclesiastical Board of Directors at the June, 1911, Annual Meeting when Mrs. Eddy's consent and approval for filling a vacancy on this five-member ecclesiastical Board of Directors was not available, nor could a Board member be reelected without Mrs. Eddy's approval.

The Chief Justice next pointed out an important fact concerning the fiduciary Board of Directors under the Deed of September 1, 1892. He says:

... under the date of the first of September, 1892, she conveyed to *four* persons as trustees [Board of Directors] as hereinafter provided and to their legitimate successors in office forever, land in Boston upon which, within five years, they were required to build a church edifice. It was provided that the grantees shall be known as "Christian

Science Board of Directors." Thus that Board was first constituted.

The First Church of Christ, Scientist, [note] was not organized until September 23, 1892.

The Deed [of September 1, 1892] declared that the grantees should constitute a perpetual body or corporation under and in accordance with Section one, Chapter 39 of the Public statutes. The Master has found that the grantees never organized themselves as a corporation, and *never* became such by virtue of their duties of similarity to deacons and wardens. The mere declaration of the grantor could not make them a corporation.

This finding of the Court should be noted because on page 25 of the *Church Manual* there is a footnote frequently cited by the Board. It reads: "See under 'Deed of Trust' for incorporation of the 'Christian Science Board of Directors.' "

The ecclesiastical Board of Directors endeavored to identify themselves with the fiduciary Board under the legal Deed of Trust of September 1, 1892, so that this ecclesiastical Board of Directors and The Mother Church would be granted perpetuity. This is an effort to evade the control of the estopels over the ecclesiastical Board of Directors and The Mother Church. The Chief Justice points out that they were never incorporated and that Mrs. Eddy's statement alone could not render them to be so. The fact here was that they never incorporated as a "church" but only as a "group who could hold church funds."

The Chief Justice, in the Full Bench decision, then recites a number of the duties of the Board of Directors as stated in the Deed of September 1, 1892.

Then he continues:

The number of directors named in the deed of September 1, 1892 was *four*. In addition to the duties imposed on them by that deed, they have executed further powers, and performed additional functions assigned to them by the *Church Manual*, all of a highly important nature and covering a wide field. There was no rule fixing their number until February, 1903, when a By-Law was adopted, which has since continued in force establishing

their number at *five*. By the name "Christian Science Board of Directors" originally the *four* persons named as Trustees by the deed of September 1, 1892, were described. As often, if not universally used thereafter in the *Church Manual*, that name designates the Board of *five* exercising powers and performing functions *not* derived from the deed *but from the Church Manual*.

Thus the Chief Justice has found two different Board-of-Director functions and powers: one fiduciary, and the other ecclesiastical. This is an important opinion of the Court for it is contrary to the Directors' interpretation that the fiduciary and ecclesiastical Boards are one and the same.

Several paragraphs later the Chief Justice gives another significant opinion:

The last several editions [of the *Church Manual*] issued during the life of Mrs. Eddy contained the provision that 'This *Manual* shall not be revised without the written consent of its author.' Since the *Church Manual*, on its face, purports to be the work of Mrs. Eddy as author, and the Master has found it to be proved that substantially all its provisions were suggested or proposed by her, it is apparent that there can now, since the decease of Mrs. Eddy, be no change in the provisions of the *Church Manual* in accordance with its terms.

Here the Chief Justice specifies that the authorship of the *Manual* is vested in Mrs. Eddy. He then brings in the statements contained in Article XXXV of the *Manual*, Section 1, p. 104, which read:

FOR THE MOTHER CHURCH ONLY. The *Church Manual of The First Church of Christ, Scientist, in Boston, Massachusetts*, written by Mary Baker Eddy, and copyrighted, is adapted to The Mother Church only. It stands alone, uniquely adapted to form the budding thought and hedge it about with divine Love. This *Manual* shall not be revised without the written consent of its author.

This indicates that the Chief Justice has recognized and acknowledged the presence of, and the control exercised by,

the estoppel clause in this Article and Section of the By-Laws.

Human law, we are told by the Directors and their legal counsel does not recognize an impossible condition, and hence the estoppel clauses must be ignored or the ecclesiastical Board of Directors would have no power to govern. But is there an "impossible condition" here, or is it merely an unwillingness to surrender the enormous power and prestige their positions offered? The decision of the Full Bench of the Supreme Judicial Court of Massachusetts indicates this estoppel *does* govern.

You will see later how the Chief Justice extends the control of this particular estoppel to the estoppels found elsewhere in the *Manual*.

Then the Chief Justice again apprises the Court of the issue before it:

The precise question to be decided is whether, under these circumstances, one of the trustees [of the Publishing Society] can be removed by the Board of Directors since the First Members have been deprived of all ecclesiastical power and have been disbanded in accordance with the polity of the Church.

This refers to the phrase in the Deed of Trust of January 25th, 1898, and those in the *Manuals* of that period, that removal was a concurrent action of "First Members together with the Board of Directors." The decision of the Chief Justice in this matter indicates to the Court that this action had been charged to the Board of Directors only, since the First Members had become Executive Members, and in 1908 had been disbanded entirely, leaving all their functions to the Board.

The Chief Justice—by overlooking the fact that the five-member ecclesiastical Board had been dissolved at Mrs. Eddy's passing—naturally concluded that the Board of Directors (ecclesiastical) *did* have the right to remove a Trustee of the Publishing Society. This conclusion overturned the interim injunction of Judge Dodge and ruled in favor of the ecclesiastical Board of Directors, but *only* on this limited

question — and of course only because Mrs. Eddy's God-impelled estoppel clauses had been entirely overlooked.

The Chief Justice then states:

Every instrument in writing although it cannot be varied or controlled by extrinsic evidence, must be interpreted with a view to all material circumstances of the parties at the time of its execution...

He considered that the intent of the donor [Mrs. Eddy] in executing the Trust Deed was to supply a vehicle that would "promote and extend the religion of Christian Science," and not be merely a mechanism whereby the First Members together with the Board of Directors could remove a Trustee. He pointed out that if the latter view prevailed, the Publishing Society Deed of January 25th, 1898, would have to come to an end since the First Members no longer existed.

The Bench wording on the above was as follows:

It is manifest from the structure of the trust deed as well as from its express words that the single and only design of the founder was to promote and extend the religion of Christian Science as taught by her [Mrs. Eddy]. Every part of the trust deed reinforces and makes even more plain the avowed purpose of Mrs. Eddy that her sole and completely dominating aim was to promote and extend the religion of Christian Science as taught by her. The administration of the trust must continue to be directed exclusively to the accomplishment of that object alone.

A trust of that nature cannot be revoked or modified in the absence of reservation of express power to that end by the donor. The deed in question created a trust complete in itself. By its own phrase it was declared to be upon "the irrevocable and perpetual trust and confidence therein set out."

Thus the Court stated that the Publishing Society Trust Deed was "complete in itself," recognizing that Mrs. Eddy had provided a trust instrument that could function on its own at her departure; there was nothing in her 1898 Deed of Trust to connect it to any other body or church.

The Chief Justice also stated that in interpreting a legal instrument the same words used throughout the instrument would have the same meaning:

It is a well recognized principle of interpretation that the same words used in different places in the same instrument commonly have the same meaning and effect unless another meaning is demanded by the context.

Here we see that the recognition of the estoppel in article XXXV, Section 1, page 104, regarding revising the *Manual*, must be applied to the estoppels wherever they occur in the *Church Manual*. In other words, the Court did not consider the estoppels as creating an "impossible situation," but held them to be valid, and to be *obeyed*. (Here again recall that when Mrs. Eddy was asked to change the By-Laws containing estoppels her fervent exhortation was that we *obey* the By-Laws *as written*. Her reason for not changing those By-Laws was that they were God-impelled and she had no right or desire to change what God had directed her to do, "and it remains for the Church to *obey* [them]." For seventy years the church has disobeyed the By-Laws containing estoppels.)

The Chief Justice then discusses the existence of the two Boards of Directors:

The board of directors as those words are used in the [Publishing Society] trust deed of January 25, 1898, do not in our opinion refer to the [fiduciary] board established by the deed of September 1, 1892, but to the officers constituting the ecclesiastical board of directors under the polity of the church. The reasons already stated respecting First Members lead to this conclusion.

No reference to the deed of September 1, 1892 is found in the [Publishing Society] trust deed of January 25, 1898. The latter [the Publishing Society] deed throughout relates to those connected with The First Church of Christ, Scientist [The Mother Church], either as First Members or directors. These terms are ECCLESIASTICAL. When, therefore the board of directors under the practice of the church was increased in membership it became vested

with powers formerly exercised by the four directors, so far as concerns the power of removal in the trust deed of January 25, 1898.

It is unnecessary to determine in this connection whether the board of directors constituted a corporation or not. For the purpose of this decision, the finding of the Master that they never became a corporation is accepted.

The result is that the board of five directors have the power, if they act in accordance with law and with the terms of the [Publishing Society] trust deed of January 25, 1898, to effect the removal of a trustee under that deed.

The conclusion that the power of removal of a trustee is now vested in the board of *five* directors is contrary to that of the Master, [Judge Dodge], but it is in substance and effect the application of different legal principles to the facts found by the Master. The facts found by him [Judge Dodge] are accepted in their entirety. The result which has been stated follows in law from those facts.

The Chief Justice's establishment of the presence of *two* Boards is one of the most important opinions to come out of the Court's findings and actions.

The Chief Justice in discussing the events leading to the Bill in Equity dated March 25, 1919, stated in part:

The controversy appears to have centered about the meaning of certain sections of the *Church Manual* and to the extent to which its provisions authorized the directors to supervise the matter to be printed and sent out by the trustees, and to what extent the trustees were required to heed the provisions of the *Church Manual*. Into the details of this controversy, it is not necessary to enter.

Both points in the controversy concerned ecclesiastical matters and civil law courts do not enter into ecclesiastical controversies, as the Chief Justice again indicated:

The judgment of the Court cannot be substituted for the discretion of the constituted authorities when fully exer-

cised. Whether the decision be right or wrong is not for the courts to decide.

Then the final conclusion of the Full Bench is stated:

The result is that upon application of the principles of law to the facts found by the Master, the removal of Mr. Rowlands as one of the trustees was effected.

We now come to the findings of the Full Bench and the action taken:

The result is that the exceptions of the defendants to the Master's report so far as they relate to his [Judge Dodge's] rulings that the directors had no power under the deed of January 25, 1898, to remove a [Publishing Society] trustee and that the removal of Mr. Rowlands was ineffectual must be sustained. On the facts found by the Master in the light of the principles of law here found to be controlling, the plaintiffs cannot maintain their bill.

Bill dismissed, November 23, 1921.

The findings of the Full Bench are *only*, you will notice, "so far as they relate to Judge Dodge's ruling that the Directors had no power under the Deed of January 25, 1898, to remove a Publishing Society Trustee." Earlier the Chief Justice stated, "The facts found by him [Judge Dodge, the Master] are *accepted in their entirety*." The Chief Justice was merely applying "different legal principles to the facts found by the Master."

What were some of the facts found by the Master, Judge Dodge, which the Chief Justice "accepted in their entirety," but because they were *ecclesiastical* in nature they could not affect the Court's decision?

The Master had found that the Directors were:

(1) endeavoring by direct and indirect means to interfere with the publishing Trustees in the discharge of their duties under Mary Baker Eddy's Deed of Trust. (The Court considered this an ecclesiastical matter into which civil law courts do not enter.)

(2) striving "by direct and indirect means "to compel the [publishing Trustees] ... to resign their offices as trustees." (This again was considered ecclesiastical.)

(3) attempting by direct and indirect means "to impair, destroy, or ... injure the business of The Christian Science Publishing Society." (This too was an ecclesiastical affair.)

The Master's injunction ordered the Directors to desist and refrain from "in any way [carrying] out any threat or purpose to injure the business of said Publishing Society either by creating and maintaining a publishing society to conduct a business in competition therewith or otherwise; and from taking any action to defeat ... the purposes of Mrs. Mary Baker G. Eddy, the Donor, as set forth and declared in the Trust Deed..." such as demanding the Trustees agree in writing that the Board of Directors was in supreme control, and that the Trustees break Mrs. Eddy's Deed of Trust when that Deed conflicted with the plans of the Directors. (Again, the Court considered this of an ecclesiastical character.)

But the Court did admonish the Directors that Mrs. Eddy intended the profits of the Publishing Society to be used for promoting and extending the Science taught by her and "not as a money-making operation to pay to the church for its normal operation."

Since these findings of the Master, Judge Dodge, were all of an ecclesiastical nature, the Chief Justice said that whether the Directors were right or wrong was not for the Court to decide; therefore the injunction restraining the Directors was reversed. This reversal was heralded by the Directors as giving them power and authority to "rule the entire Movement forever."

The other finding of Judge Dodge, concerning First Members, was reversed because the Court did not take into consideration that the estoppels had terminated all Board-of-Director control over the Publishing Trustees.

In reflecting on the Court's decision, Dr. Shawk comments: "The Plaintiffs cannot maintain their bill." Why? Because they sued the wrong party. The ecclesiastical Board of *five* Directors was the Board they should have sued (and actually *five* Directors were named in the suit). But since counsel for

the plaintiffs (Publishing Society) knew that an ecclesiastical Board of Directors could not be sued in a human court of law, the lawyers for the Publishing Society sued the *legal* Board of Directors established under the two legal Deeds of Trust who had absolutely nothing to do with the dispute since these Deeds were not mentioned in the Publishing Society Deed of January 25, 1898.

"A second costly error concerned the Trustees of the Publishing Society wanting the Directors to discontinue removing a Trustee of the Publishing Society, although (as long as Mrs. Eddy was personally with them and in control) it was clearly spelled out that the Board of five ecclesiastical Directors did have this power which was given both in the *Manual* and in the Publishing Society Deed of Trust. But, of course, this power was only to have remained in effect as long as Mrs. Eddy was present to authorize it. [All offices in The Mother Church were dissolved at the first Annual Meeting (June, 1911) following Mrs. Eddy's departure.]

"Given these premises, the Court was limited as to what it could rule on, so it merely straightened out the record by removing the master's injunction against the Board of Directors, and threw out the suit! Since the plaintiffs had sued the wrong party there wasn't much the Court could do. So, when the Court did rule (by removing the injunction) in favor of the Board—on something that was never in question—the ecclesiastical Board of Directors portrayed this to the Field as the Court having ruled in favor of the Board to rule the Christian Science Movement forever. Clifford P. Smith, a lawyer, was undoubtedly the author of this misstatement of fact."<sup>15</sup>

The Court ruled on only one point, and of course it never gave the Board of Directors the right to "rule the Christian Science Movement forever."

The Court rendered its opinion that the estoppels control in the *Church Manual*.

The Court also identified an ecclesiastical Board of five under the polity of the church and its *Manual*; and a fiduciary Board of four Directors deriving its power from the September 1, 1892 Deed of Trust.

## WHY THE PUBLISHING TRUSTEES DID NOT APPEAL TO THE UNITED STATES SUPREME COURT

When the Publishing Trustees were urged to appeal their case to the United States Supreme Court, they found themselves faced with the following insurmountable deterrents:

(1) The Directors had unlimited funds to carry on another lawsuit. (Besides the nearly one million dollars a year the Publishing Trustees had been paying over to them, the Directors had access to the money Mrs. Eddy had left in her Will to the church, which the Directors had sued for and had become "Trustees" of.)

(2) By influencing the Field to cancel their subscriptions to the Christian Science periodicals, the Board of Directors had been instrumental in bankrupting the Christian Science Publishing Society Trustees.

(3) During Mrs. Eddy's lifetime the Field had become accustomed to viewing the Board of Directors as Mrs. Eddy's agent; so when the Board announced themselves as her successor, the Field, in general, acquiesced, and during the lawsuit the Field had vigorously plied the Court with demands favorable to the Directors and would, no doubt, have continued to do so had the Publishing Trustees appealed to the United States Supreme Court; the Publishing Trustees felt this unremitting badgering of the Court by the Directors' supporters was a force to be reckoned with.

(4) In a gross violation of the separation of church and state, the Directors had persuaded the State's Attorney-General to intervene on their behalf.

These were a few of the factors influencing the Publishing Trustees against a United States Supreme Court trial.

### DIRECTORS' MISINTERPRETATION OF COURT'S DECISION LEADS TO ECCLESIASTICAL MONOPOLY

The Board of Directors' misinterpretation of the Court's decision and of the *Church Manual* led to the type of

ecclesiastical monopoly which Mrs. Eddy deplored:

All revelation (such is the popular thought!) must come ... along the line of... ecclesiastical descent, as kings are crowned from a royal dynasty... For this Principle [the Principle of Christian Science] there is no dynasty, no ecclesiastical monopoly. Its only crowned head is immortal sovereignty. Its only priest is the spiritualized man.<sup>16</sup>

“Material organization... wars with Love’s spiritual compact.”

“Conflict and persecution,” says Mrs. Eddy, “are the truest signs that can be given of the greatness of a cause or of an individual, provided this warfare is honest and a world-imposed struggle. Such conflict never ends till unconquerable right is begun anew, and has gained fresh energy and final victory.”<sup>17</sup>

Strength and freedom will be gained from the motivation to obey our Leader’s estoppel clauses, and all fear of getting lost in life will fall away. A lesson can be taken from the migration of birds. The Pacific Golden Plovers, for example, are hatched in the far north of Alaska and Siberia. The old birds desert their young and fly away to the Hawaiian Islands long before the baby birds are able to fly any distance. But as soon as these fledglings have grown strong enough to follow their parents, they, too, rise into the sky and set their course over the Pacific. In a journey they have never made before they must cross two thousand miles of ocean without rest, without food. Frequently they encounter storms and tornado winds. Unerringly they fly onward to those tiny specks in the Pacific Ocean, the Hawaiian Islands. Surely if God has provided for these birds such unerring direction, we can be certain He has provided for man the same infallible guidance when we are willing to obey His dictates. Mrs. Eddy gave us God impelled By-Laws which she was asked to change because they did not conform with any known form of religion that had evolved according to the wisdom of man. But Mrs. Eddy knew that her church — because it had been established under divine direction — must necessarily follow

divine inspiration and could not be the product of legal enactments or worldly-wise evolutions. She knew God had dictated the estoppels in the *Manual*. She therefore had no right or desire to change what God had directed her to do, "and it remains," she said, "for the church to obey it." Only through obedience can the profound scientific discoveries embodied in Science and Health be realized to constitute our true identity.

Mrs. Eddy discovered the impersonal divine Science which reveals our real being as a system of divine ideas showing that in reality we *are* the holy city foursquare. In the predecessor to this book, *Mary Baker Eddy: A New Look*, the reader is shown how Mrs. Eddy step by step fulfilled her divine mission to "complete the work of Christ Jesus on earth." She brought forth the "little book," Science and Health, prophesied in Revelation, chapter 10. As we obey the command to assimilate the contents of this "little book," and obey the estoppel clauses in the *Manual*, we free ourselves of the belief of being imprisoned in a material, fleshly body; we find ourselves to be the timeless spiritual proposition that Mrs. Eddy designated as her successor when through her estoppel clauses she terminated all personal control. Obeying these estoppel clauses and the dictates of Science and Health we begin to put on our ever-present divinity. In that divinity every requirement for becoming Mrs. Eddy's successor is met. See Mrs. Eddy's reference to "the good soil" in *Collectanea*.<sup>18</sup>

An important phase of the conflict engendered by material organization that "wars with Love's spiritual compact" concerns the copyright of Mary Baker Eddy's writings. Chapter V, to which we will now turn, discusses the impact of the new Copyright Act of 1971 on Science and Health.

<sup>1</sup>Man. p. 44:21

<sup>2</sup>See March 25, 1919 Bill in Equity, p. 193.

<sup>3</sup>Taken from Dr. Shawk's copyrighted cassettes. (Used by permission).

<sup>4</sup>Here The First Church of Christ, Scientist is confused with The Mother Church but The Mother Church is *not* the recipient of the Publishing Society funds. Students of the *Church Manual* know that a distinct separation exists between The Mother Church and The First Church of Christ, Scientist, in Boston, Massachusetts. The Mother Church and its Board of *five* Directors is governed by the By-Laws found between pages 25 and 105 in the *Church Manual*. On the other hand, The First Church of Christ, Scientist, with its *four* Directors was established by the legal Deed of Trust found on page 128 of the *Manual*, and is governed by the two Deeds of Trust found on pages 128-138 of the *Manual*.

<sup>5</sup>Man. p. 44:20

<sup>6</sup>See Appendix for full text of Publishing Society Deed of Trust, p. 187.

<sup>7</sup>For full text of March 25, 1919 Bill in Equity, see Appendix p. 193.

<sup>8</sup>From Dr. Shawk's copyrighted cassettes on the *Manual*. (Used with permission.)

<sup>9</sup>Available from Rare Book Co., P.O. Box 957, Freehold, N.J. 07728, and from Bookmark, P.O. Box 4148, Pasadena, California 91106.

<sup>9A</sup>A Christian Science practitioner of international repute, who secured a copy of *Proceedings in Equity* and is making a study of the "great literature litigation," writes: "I have made notes on the first 500 pages of the tome, and will continue as I am able. That litigation is the most damning piece of evidence there could ever be as to the motives of those righteous and moral men, who immediately after Mrs. Eddy's passing fell into the trap of animal magnetism [the name for error in Christian Science], that the power and the prestige of office were all that mattered to them—all neatly translated to them as the right thing to do to save the movement and run it forever."

<sup>10</sup>Braden, *Christian Science Today*, p. 82.

<sup>11</sup>Braden, *Christian Science Today*, p. 87.

<sup>12</sup>Hugh Studdert Kennedy, *Christian Science and Organized Religion* (Available from Rare Book Co., P.O. Box 957, Freehold, N.J. 07728 and from Bookmark, P.O. Box 4184, Pasadena, California 91106.)

<sup>13</sup>Material preserved in Alice Orgain Library.

<sup>14</sup>Mis. 303

<sup>15</sup>From copyrighted cassette tape by Dr. Harry R. Shawk. (Used by permission.)

<sup>16</sup>S&H. 141:10

<sup>17</sup>00. 10:5

<sup>18</sup>*Divinity Course and General Collectanea*, p. 169. Compiled by Richard Oakes. (Available from Rare Book Company, Freehold, N.J. 07728.): "The good soil is the active honest heart. Where this exists there is energy, fidelity, success and reward gained by the individual, not a gift of God, but the wages of uprightness and hard work, struggle and victory" (from Mrs. Eddy's article, *Soldier, Seed, and Soil*).

## Chapter V

# SCIENCE AND HEALTH COPYRIGHT "ACT" 1971

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*When needed tell the truth concerning the lie. Correct the false with the true — then leave the latter to propagate.*

*Expose and denounce the claims of evil.*

*Withhold not the rebuke or explanation which destroys error.*

*Mary Baker Eddy.*

*Justice also will I lay to the line, and righteousness to the plummet: and the hail shall sweep away the refuge of lies, and the waters shall overflow the hiding place.—Isaiah 28:17*

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THE last document under discussion is the Copyright "Act" on Science and Health passed by Congress in 1971. This copyright action was a private bill introduced into the Senate. It was called "An Act for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John." These five named persons were the five-member ecclesiastical Board of Directors. This private copyright bill was numbered S. 1866. It has no connection with the revised copyright law which took effect January 1, 1978.

Testimony of various witnesses before Subcommittee No. 3, Committee on the Judiciary, House of Representatives, on S. 1866, can be read in the Appendix (see p. 255).

It is illuminating to read Mrs. Eddy's comments regarding copyright:

Christian Science is not copyrighted; nor would protection by copyright be requisite, if mortals obeyed God's law of *manright*. A student can write voluminous works on Sci-

ence without trespassing, if he writes honestly, and he cannot dishonestly compose *Christian Science*. The Bible is not stolen though it is cited, and quoted deferentially.<sup>1</sup>

To understand the situation it is necessary to go back to the time of Mrs. Eddy's passing. Mrs. Eddy in her Will had left a large portion of her estate to "the church," to be used for "the promotion and extension of the Science taught by [her]." The five-member Board of Directors (whose office as Directors had actually been terminated by the estoppel clauses in the *Church Manual*, as we have seen) sued to gain control of this money. Around 1913 the Court awarded them custody of these funds, and thus the Board of Directors also became known as the Trustees under the Will of Mary Baker G. Eddy. This is how the Trustees under the Will of Mary Baker G. Eddy came into being. The Court, of course, did not realize that through her estoppel clauses in the *Church Manual* Mrs. Eddy had terminated this Board of Directors.

In 1916 the Board of Directors began the policy of "authorizing literature." This was a powerful tool in molding church-member opinion in conformity with the convictions of those in authority in Boston. It was a move that stifled growth, understanding, and inspiration.

The next important move of the Board of Directors came in 1919 when they launched a concerted campaign to take over the communications arm of the Movement, the Christian Science Publishing Society. This they accomplished by means of a protracted legal battle, which was covered in Chapter IV.

## 1934 COPYRIGHT, ILLEGAL

In 1934 the five-member ecclesiastical Board of Directors moved to get the copyright on Science and Health out of Mrs. Eddy's name and into their own through the renewal of the 1906 edition of Science and Health. This caused a great stir in the Christian Science Field since most Christian Scientists felt Mrs. Eddy wanted Science and Health to be in the public domain at the earliest possible time and she had

## ERRATA

### NOTE TO READER:

Since publication the following facts concerning the illegal 1934 renewal of copyright on Science and Health have come to light, and take precedence over any conflicting statement in this Chapter.

The second codicil to Mrs. Eddy's will states: ". . . *the residue of my estate . . . I have left to said The First Church of Christ, Scientist, in Boston, Massachusetts*" (see Appendix, p. 180, line 24). This codicil, dated May 14, 1904, had priority at any point where there was a variance between it and her basic will dated September 13, 1901. In this codicil she does not mention The Mother Church since the estoppel clauses would terminate The Mother Church at her passing.

In 1901 the *four-member* Board of Directors was not only the legal entity which Mrs. Eddy created by her September, 1892, Deed of Trust but was also the governing Board of the second organization which was at first called "Mother's Church" and later designated "The Mother Church." Thus the Board of Directors wore two hats and continued to do so until the estoppel clauses in the Manual *terminated* The Mother Church and the five-member ecclesiastical Board of Directors at Mrs. Eddy's passing, following which only the four-member legal Board existed.

In order to trace the ownership of the copyrights on Science and Health and to show the illegality of the 1934 renewal of this copyright, we submit the following vital information taken from Alice Orgain's *Angelic Overtures to Christ and Christmas*, pp. 819-821:

On March 6th, 1907, Mrs. Eddy made a *personal* Deed of Trust placing her entire earthly fortune in the hands of three Trustees, Henry M. Baker, Josiah E. Fernald, and Archibald McClellan. This Deed of Trust transferred and assigned to these three Trustees ownership of the copyrights to her writings, as can be seen from the following quote from this Deed of Trust:

KNOW ALL MEN BY THESE PRESENTS: that I, Mary Baker G. Eddy . . . do hereby grant, convey, assign, and transfer unto the said [three Trustees] . . . all my interest of every kind and description . . . including stocks, bonds, *interests in copyrights, contracts, . . . First: To manage, care for, and control all the above granted real estate and interest therein during my earthly life . . . . Fourth: At the termination of my earthly life, this trust shall terminate, and all the personal estate then held by my said trustees shall pass to the executor of my last will and codicils thereto, to be disposed of in accordance with the provisions thereof.*

At Mrs. Eddy's passing, the five-member ecclesiastical Board of Directors, which included the four-member legal Board within itself, refused to obey the By-Laws containing estoppel clauses. This, in effect, amended and annulled these By-Laws, and the four-member Board never discharged its responsibilities, never lawfully took office. This constituted a breach of trust. On p. 133:13, the *Manual states*:

11. The omission or neglect on the part of said Directors to strictly comply with any of the conditions herein contained shall constitute a breach thereof, and the title hereby conveyed shall revert to the grantor Mary Baker G. Eddy, her heirs and assigns . . ."  
(Man. 133:13.)

Remember, Principle, God, dictated the Manual. Did this breach of trust deprive the Board of Directors of any rights to Mrs. Eddy's copyrights on Science and Health? Certainly the five-member ecclesiastical Board of Directors never had any legal authority to renew the copyright on Science and Health in 1934 or in 1971.

Also, Mrs. Orgain states that in 1934 the courts very definitely said that there is no provision for an administrator

to renew. Additionally, it is a definite fact that neither an Executor nor an Administrator so appointed could renew copyrights after he had completed the administration of the estate. Josiah E. Fernald was appointed Administrator by the Court to succeed the deceased Executor Henry M. Baker. Mr. Fernald "closed his final account [as Administrator] March 26, 1914," according to the Register of the Court of Probate for the County of Merrimack in New Hampshire. It was therefore illegal for past Administrator Josiah E. Fernald to renew the 1906 copyright on Science and Health twenty years later. That the Board of Directors knew this is evidenced by the fact that the copyrights of 1890, 1894, and 1901 were properly renewed by Ebenezer J. Foster-Eddy, who, however, had passed on shortly before the time to renew the 1906 copyrights.

A pregnant question, rich in significance and implication, remains unanswered:

Mrs. Eddy previously had always copyrighted her editions at the time any extensive changes were made, regardless of the date of her last copyright. For instance, she took out copyrights on Science and Health in 1875, 1878, 1883, 1885, 1890, 1894, 1901, 1902, 1906. Why then did she not copyright the extensive changes made after the second edition in 1907? She tells us "spiritual ideas unfold as we advance," and after her second edition in 1907 spiritual ideas began unfolding exponentially in her consciousness bringing forth evolutionary statements and changes of the greatest spiritual magnitude, ushering in the "culmination of scientific statement and proof."

Do these extensive spiritual additions, covering the whole range of Science and Health universalize our textbook? Do they evince that her final great illuminations lifted Science and Health beyond the power of law or church to bind? — Do they establish that the Church of Christ, Scientist, is a wholly spiritual state of consciousness, the Church Universal and Triumphant? This must be so because her last 24 or 25 highest statements (other than those in Science and Health) were not given to The Mother Church periodicals but to *the WORLD* through its own channels: New York World, The Ladies Home

Journal, Boston Herald, Boston Globe, Concord Monitor, New York American, The Independent, The Evening Press, Cosmopolitan, Minneapolis News, Boston Post, New York Commercial Advertiser, etc.

“Sweeping down the centuries” Science gathers beneath its wings *all* humanity, inexorably bringing to light Mary Baker Eddy’s successor, man in God’s image and likeness, generic man.

END OF ERRATA

"There is nothing covered that shall not be revealed; or hid, that shall not be made known." —Christ Jesus

Dear Reader:

Slowly all the facts in connection with the Copyright Act of 1971 on Science and Health are coming to light.

None of these facts are more pertinent than Mrs. Eddy's letter to William G. Nixon (p. 163 of this book) evincing her fear of legalized suppression of Science and Health through copyright legislation. She wanted Science and Health to be given at once to the people, and expressed utter dismay at the prospect of any copyright legislation that would impede the greatest world-wide distribution of Science and Health, knowing that such legislation would do incalculable harm to the prosperity of her book. The thought of giving certain individuals a monopoly on Science and Health and thus limiting its accessibility to the public through copyright legislation, was intolerable to Mrs. Eddy.

In order to avoid this "great sin," she said, "God's law to 'Feed my sheep,' to give Science and Health at once to those hungering for it, must be obeyed and held paramount to an international law on copyright" (pp. 163 and 164.)

The 1971 Congressional Copyright Act on Science and Health threatens to ruin, totally, the "prosperity" of this book. This 1971 Congressional Copyright Act was "for the relief of" five named individuals in Boston who were the "Trustees under the Will of Mary Baker Eddy," and at the same time were also the five-member ecclesiastical Board of Directors of The Mother Church.

In order to get at the heart of this copyright matter it is important to understand how the "Trustees under the Will of Mary Baker Eddy" came into being.

In the second codicil to her will (see p. 180) Mrs. Eddy bequeathed the residue of her estate "to the said The First Church of Christ, Scientist," the local Boston church.

As has been well-chronicled in this book, the estoppel clauses in the Church Manual terminated both The Mother Church and the five-member ecclesiastical Board of Directors leaving only the four-member legal or fiduciary Board established by Mrs. Eddy's

1892 Deed of Trust. This was a self-perpetuating Board, controlling only the local Boston church.

However, the five-member ecclesiastical Board, which was governed by the Church Manual's estoppel clauses, refused to step down when, at Mrs. Eddy's passing, these estoppels (terminating The Mother Church and its five-member ecclesiastical Board) went into effect. This five-member ecclesiastical Board was made up of the *four*-member legal or fiduciary Board, which simply wore another hat when it acted as Mother Church ecclesiastical Directors. (A fifth Director was added from the Field in February, 1903.) As fiduciary Board members under the 1892 and 1903 Deeds of Trust this 4-member Board was only a housekeeper for The First Church of Christ, Scientist, the *local* Boston church. But when they put on their ecclesiastical hat and acted as the Board of Directors of The Mother Church (which they were allowed to do during Mrs. Eddy's lifetime) they enjoyed almost unlimited power, prestige, authority, and "glory".

When Mrs. Eddy passed on in 1910 her estoppel clauses in the Manual ended all that power and authority. This was a pill too bitter for the five-member ecclesiastical Board to swallow. They refused to obey the estoppel clauses, which terminated their Board, and they quickly instituted suit to gain control of the money and property Mrs. Eddy had left in her second codicil *NOT* to The Mother Church, but to The First Church of Christ, Scientist, the local Boston church which was legally set up to receive it.

In an original will, dated Sept. 13, 1901, Mrs. Eddy had left everything to The Mother Church. But in the *second codicil* to her will she changed the beneficiary, and left everything to The First Church of Christ, Scientist, a completely different entity from The Mother Church. (By 1911 standards the estate was very large.)

A committee of dedicated Christian Scientists which is making a thorough investigation of the 1971 Congressional Copyright Act on Science and Health, requested the complete New Hampshire Probate Court records in connection with the granting of Mrs. Eddy's estate to the five-member ecclesiastical Board of Directors of The Mother Church. The Court records arrived without the codicils which in 1904 changed the beneficiary

from The Mother Church, as named in the original will of 1901, making the new beneficiary The First Church of Christ, Scientist, the local Boston church.

When inquiry was made regarding the missing codicils, the New Hampshire Probate Court official stated the codicils were not sent because in the Court's opinion they in no way influenced the will. In a telephone conversation which followed, the New Hampshire Probate Court official stated that the lawyers acting for the Mother Church Board of Directors never explained to the Court that The First Church of Christ, Scientist, was a different entity from The Mother Church; instead the Mother Church attorneys allowed the Probate Court officials to believe that The Mother Church and The First Church of Christ, Scientist, were one and the same thing. Thus the New Hampshire Probate Court was kept unaware that the second codicil to Mrs. Eddy's will changed the beneficiary to her estate.

The Court therefore awarded, in error, Mrs. Eddy's estate to the five-member ecclesiastical Board of Directors of The Mother Church instead of to the four-member legal or fiduciary Board of The First Church of Christ, Scientist, the local Boston Church. But it must be remembered that the two boards were constituted of the same individuals, except for a fifth member. They merely performed different functions. After Mrs. Eddy's passing the four-member fiduciary Board never lawfully took office, never discharged its duties; thus they broke their trust. These four members of the legal Board, who were governed by the two deeds of trust shown in the back of the Manual breached their trust agreement when they waived the Manual's estoppel clauses and refused to give up the great power and authority they wielded during Mrs. Eddy's lifetime. Because of this breach the entire estate legally reverted to Mrs. Eddy's heirs and assigns as provided by condition No. 11 of the trust agreement. (Man.p. 133:13)

The probate court, unaware of all the foregoing facts, awarded Mrs. Eddy's estate (which included copyrights) to the five-member ecclesiastical Board of Directors. And this is how the "Trustees under the Will of Mary Baker Eddy" came into being. Thus, the five-member ecclesiastical Board of Directors now held yet another office.

The estate (including copyrights) should, of course, have gone to The First Church of Christ, Scientist, as Mrs. Eddy intended and specified in the last codicil to her will. But it did not. Instead, the "Trustees under the Will" kept the copyrights for *sixty years* and derived all revenues, royalties, and other benefits therefrom.

Through the copyright legislation of 1971 these Trustees under the will secured the copyrights not only to the 1906 edition but to all 432 editions of Science and Health, in their own names—in the names of Craig, Wuth, Hanks, Sleeper, and John. This copyright legislation was consummated in December of 1971. A month later, in January of 1972, Craig, Wuth, Hanks, Sleeper, and John sold the copyrights to The First Church of Christ, Scientist, for the reported sum of two million dollars. (This in spite of the fact that Mrs. Eddy had bequeathed her estate, including copyrights, to this church sixty years prior to this time.) Also it must be remembered that Craig, Wuth, Hanks, Sleeper, and John were simultaneously the Board of Directors and the Trustees under the Will.

In view of the above and the fact that many leading authorities found the 1971 Congressional Copyright Act to be unconstitutional, violating the First Amendment prohibition of Congress making a "law respecting an establishment of religion, or prohibiting the free exercise thereof," we feel this 1971 copyright legislation should be rescinded. A petition to return all 432 editions of Science and Health to the public domain would extend to our Congress an opportunity to set the highest example of justice and equity ever to be performed by any government, since it would be asking that legislative body to free the Word of God from legalized suppression by international copyright law, and to let God's Word have free course and be glorified.

God's message to humanity during the past 70 years has been obvious, namely, that a society of sheep invariably begets a government of wolves and that the great need of the hour is for each one to claim and accept his true heritage: government by divine Principle alone.

**MARY BAKER EDDY'S CHURCH MANUAL**  
*AND CHURCH UNIVERSAL AND TRIUMPHANT* was written and published in the hope that human rights can only be violated if the truth is allowed to go unpublished.

made no provision for the 1906 copyright renewal, nor had she copyrighted the vital changes made in her last fourteen editions. To give the copyright on Mrs. Eddy's great work, Science and Health, to five individuals in Boston seemed a grave injustice to Mrs. Eddy.

Attorneys familiar with the case felt that as Mrs. Eddy had made no provision to pass on these copyrights, or for the renewal of the still-existing 1906 copyright, it was clearly her intention to let that copyright lapse.

Attorneys also contended that the renewal of the 1906 copyright in 1934 was illegally obtained because under copyright law at that time the only one who *could* renew a copyright was the originator of the work, meaning in this case, Mary Baker Eddy herself, or the executor of her estate, Mr. Fernald. Mr. Fernald had passed on prior to 1934. In his place Boston appointed an "administrator." They could not appoint an *executor* since only the person who initially takes the responsibility of resolving an individual's estate can be termed an "executor." Because the man who replaced Mr. Fernald was merely an administrator, he did not have the legal authority under copyright law, at that time, to renew the copyright on the 1906 edition.

Furthermore, it must be remembered that the five-member ecclesiastical Board of Directors had usurped power and authority illegally in 1910 at Mrs. Eddy's passing, since the estoppel clauses terminated The Mother Church and its Board of Directors.

(During the years from 1907 to 1910 momentous scientific changes consummated the teachings of the Christian Science textbook, Science and Health. While Mrs. Eddy issued 432 editions of Science and Health, her statement on page 361:21 must be born in mind: "I have revised Science and Health only to give a clearer and fuller expression of its original meaning. Spiritual ideas unfold as we advance." *They unfolded in greatest profusion during the years 1907 to 1910*, but always as an unfoldment of that "final revelation of the absolute divine Principle of scientific mental healing" she received initially in the year 1866. [See S&H. 107:1-6.]

The 1906 edition of Science and Health was therefore the

only edition on which the Board could obtain renewal of copyright, but this edition had not been used by Christian Scientists since 1906 because much-changed and updated later more scientific editions superseded it. Since 1910 the only edition of Science and Health in general use, and for sale in Reading Rooms, is the 1910 edition, which differs radically from the 1906 edition. The 1906 cannot be substituted for the 1910 edition.

Because of the complete control, and the great financial resources of the Board of Directors, this 1934 copyright action was not challenged in the Courts of the land.

### THE 1971 COPYRIGHT ACTION

The next renewal could have come up in 1962, but due to the new Copyright Act, which was under consideration in Congress, all copyright renewals were extended until the new Copyright law took effect (which would be in 1978).

The many voices of protest raised in 1934 against the copyright renewal on Science and Health caused the Board of Directors to pursue their next copyright plans in utmost secrecy. Accordingly, in 1971 a private bill titled "An Act for the Relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John" was introduced into the Senate.

The Board of Directors' homework was well done and well timed. With the No. 1 and No. 2 principals on the White House Staff and a number of influential Senators and Congressmen all members of the Christian Science Church and all loyal to the Board of Directors' point of view, the bill was planted in a fertile field.

So, in 1971 while the Board of Directors *portrayed* the copyright action they were taking as being just a "renewal," the fact was that it was *NOT* a renewal. They were actually securing a *brand new* copyright *in their own name*, not only on the 1906 edition but on all the other 431 editions of Science and Health most of which had long been in the public domain. They obtained this through a most unusual procedure, which the Congress enacted and President Nixon signed into law. This copyright is to be effective for 75 years.

While the Trustees under the Will of Mary Baker G. Eddy are also the Christian Science Board of Directors, it is reported that within two months after obtaining the 75-year copyright the name of the owner of the copyrights was changed from Trustees under the Will of Mary Baker G. Eddy to "The Christian Science Board of Directors." This transaction is partially explained in *The Christian Science Journal* of November, 1976, page 656, (Church in Action section).

Among other things, this same *Journal* article states:

In her will, Mrs. Eddy made several specific bequests. The balance of her estate, *including the copyrights on her books*, was left to the Church.

This is *not* correct. If the reader will turn to Mrs. Eddy's will, reproduced in the Appendix,<sup>2</sup> he will not find anywhere in her Will a bequeathing of her copyrights to the church, and hence not to the Trustees under the Will of Mary Baker G. Eddy, who are the five-member ecclesiastical Board of Directors.

## COPYRIGHT ACT UNCONSTITUTIONAL

Competent legal and constitutional authorities have severely criticized and condemned the 1971 Copyright "Act" on Science and Health as totally unconstitutional. Senator Jacob Javits took a strong position against the bill, S. 1866. He pointed out that it would vest in the Board of Directors (or the Trustees under the Will of Mary Baker G. Eddy) exclusive copyright "over Mrs. Eddy's great work, 'Science and Health,' upon which a copyright still remains under various extensions of the copyright law for the *one* edition which was published in 1906. Numerous editions [actually 431 editions] are now in the public domain, and of course *other revisions may take place hereafter.*"

Senator Javits then again requested, that because of the alleged unconstitutionality of this copyright Act, Congress delay consideration of it. Javits wanted to give the New York Bar Association an opportunity to file a statement of its objections to this copyright Act.

Following are some excerpts from report of the Committee of Civil Rights of the Association of the Bar of the City of New York on the subject of S. 1866. The report was forwarded with the approval of the President of the Association, the Honorable Bernard Botwin:

On behalf of the Association, we again strongly urge that this bill not be enacted. As you will note, the report recommends the rejection of the bill...or its recommittal to the Committee on the Judiciary for hearings on the constitutionality of the issues involved, so as to give its proponents an opportunity to respond to our views as to the bill's *unconstitutionality*.

In closing they again stress the Copyright Act's unconstitutionality.

The Association of the Bar of the City of New York, Committee on Civil Rights, after strongly recommending rejection of this copyright Act on Science and Health, stated:

The Association's Committee on Copyright Law, basing its stand on the constitutional provisions for copyright and the policy of copyright law, has announced its opposition...because it would violate the First Amendment prohibition of Congress making a "law respecting an establishment of religion, or prohibiting the free exercise thereof."

While the Bar Association's letter urged rejection of this Copyright "Act," on the grounds of its unconstitutionality and its impingement on the First Amendment guaranteeing religious liberty, they may also have seen the grave injustice being done the author, Mary Baker Eddy, in granting to five persons in Boston not only a copyright on the 1906 edition, but on all 432 editions, 418 of which had long been in the public domain; and the cruelest blow of all to the author, Mary Baker Eddy, came with granting these five persons in Boston *the right to bring out their own versions and revisions of Science and Health*.

The Bar Association points out that this copyright Act on

Science and Health would have the following unfortunate effects:

In sum, the effect of S. 1866 would be . . . to single out Mrs. Eddy's works in the following respects: (a) remove all versions published prior to the 1906 edition from the public domain and impose thereon until 2046 or 2047, either a new copyright or a copyright for the first time; (b) extend to the same date the copyright on the 1906 edition; and (c) allow *future versions* [of Science and Health] to be registered for a period of 75 years from date of publication.

(The question many dedicated Christian Scientists are asking is: "If the Directors of The Mother Church are not planning to bring out their own revised editions, why was it so important to have the copyright Act on Science and Health cover "*future versions*"?)

The Bar Association in its letter urging rejection of the copyright Act on Science and Health listed the reasons given by the proponents of S. 1866, and then stated:

We believe that those very arguments [given by the proponents of the copyright Act] point to the *unconstitutionality* of the bill. . . . we confess ourselves unable to perceive how S. 1866 can be other than unconstitutional. Its purpose and its ultimate effect are to single out a particular doctrine within a particular church to grant to writings embodying that doctrine protection [?] that has never been made available to any other religious or non-religious writings, and to supply civil *and criminal* sanctions against those who, religiously or non-religiously, whether calling themselves Christian Scientists or not, may choose to deviate from that doctrine. Indeed our research . . . has failed to disclose any constitutional decisions involving similar statutes—an indication, if constitutionality can be regarded as quantitative, how "*extremely unconstitutional*" S. 1866 is.

Think of Christian Scientists advocating an "extremely unconstitutional" course! No more law-abiding citizen than Mary Baker Eddy ever walked on American soil. She said

genuine Christian Scientists are or *should be* the most law-abiding people on earth.<sup>3</sup> Mrs. Eddy was a strict believer in the Constitution of the United States. She would have deplored Christian Scientists endeavoring to circumvent the Constitution in trying to pass an "extremely unconstitutional" law that deprives dedicated Christian Scientists of religious freedom and deprives the public generally of the benefit of Science and Health, and that will permit the trustees of Mrs. Eddy's estate (the Board of Directors) to publish '*revised versions*' of Science and Health. S. 1866 gives the Board of Directors the *legal* right to bring out revised versions of Science and Health.

Senator Javits summed up his position by stressing that the copyright Act on Science and Health raised fundamental questions concerning conflict between S. 1866 and the First Amendment provisions guaranteeing *religious liberty*. He agreed with the Bar Association that S. 1866 violated the basic principle which governs the granting of copyrights. Javits reminded the Committee that the Senator from Michigan, Philip Hart, had raised the same objections to S. 1866.<sup>3A</sup>

It is also clear the the proponents of the bill, representing the Board of Directors' position, had led Senator Javits to believe that the 1906 edition of Science and Health was the edition in general use and sold in Christian Science Reading Rooms. This, of course, was totally false. The 1906 edition has not been sold in Christian Science reading rooms since 1907 nor could the 1906 edition be used by Christian Scientists in "getting their lesson," or in Sunday Church services, since the pagination and lineation of the 1906 edition is entirely different from any of the more scientific 14 editions Mrs. Eddy subsequently published. Her 1910 edition is the one that has been in use since 1910. The 1906 edition has not been in use for nearly three-quarters of a century.

Senator Javits then once again pointed out the Bar Association's severe condemnation of this bill as unconstitutional, as impinging on the First Amendment and supplying civil *and criminal* sanctions against those who, religiously or non-religiously — whether calling themselves Christian

Scientists or not — may choose to deviate from that doctrine.

Javits observed that no doubt Catholics would like to have a copyright on the New Testament, and he himself knew the Jewish faith would like to have a copyright on the Old Testament. He indicated the entire world had as much right to Science and Health as the world has to the Holy Scriptures— both the Old and New Testaments. He indicated it did not seem quite right to him that a great work like Science and Health should become the personal property of five persons in Boston. "There is a question," he said, "which a copyright raises, of a monopoly and accessibility of this great book to everyone."

Javits then asked to have printed, among other communications he had received, the following:

To Senator Jacob K. Javits: On behalf of the Committee on Civil Rights of the Association of the Bar of the City of New York, I strongly urge that no action be taken by the Senate on S. 1866 'for the relief of Clayton Bion Craig, et al.' which raises serious constitutional problems relating to the constitutional provisions prohibiting the establishment of religion, as well as other constitutional provisions....

From Robert M. Kaufman, Chairman, Committee on Civil Rights, the Association of the Bar of the City of New York.

The Committee on Copyright and Literary Property of the Association of the Bar of the City of New York sent the following telegram to all members of the House Judiciary Committee:

At its meeting last night the Committee on Copyright and Literary Property, of the Association of the Bar of New York City, unanimously *disapproved* that portion of S. 1866 which purports to restore to copyright protection editions of Science and Health which have long been in the public domain. The bill would create for the first edition of that work a copyright term in excess of 170 years. We believe that such action exceeds the congressional power

under article 1, section 8, of the Constitution and would represent unsound copyright policy. We urge you to object to the passage of private bill S. 1866.

## COMMITTEE ON THE JUDICIARY HEARING

On page 2 of the "Hearing before the Committee on the Judiciary"<sup>4</sup> Representative McClory, a member of The Mother Church, testifying for the Christian Science Board of Directors, stated:

The final edition of the Christian Science textbook was published and copyrighted in 1906..."

This statement is not correct. The 1906 edition was not the final edition because Mrs. Eddy issued fourteen editions subsequent to the copyrighted 1906 edition. Each of these fourteen editions contained changes of the greatest magnitude.

Then Representative McClory continued:

The complete and final revelation of Christian Science, as set forth by Mrs. Eddy, the Discoverer and Founder of Christian Science, is embodied in the copyrighted edition of the textbook..."

Again, of course, this is not correct. A committee set up to compare the 1906 last-copyrighted edition with the 1910 more complete edition found that Mrs. Eddy had made 3,906 additions, changes, and deletions in the 1910 edition. This means Mrs. Eddy made nearly 4,000 changes in her 1910 edition. Many of these changes had supreme significance in the unfoldment of her Science. For instance, a radical change was made in her fourth edition in 1907 when she changed her definition of God which brought the entire textbook into line with the Science she was teaching.

The complete and final revelation of Christian Science is *not* set forth in the 1906 edition. Fourteen more editions were required to bring out the final revelation. Mrs. Eddy speaks of her first edition in 1875 as having been revised only to give a clearer and fuller expression to its original meaning.<sup>5</sup> But

it took the unfoldment that came with all 432 editions to make the pure Science of Christian Science clear to humanity in such a form and manner as would enable it to be taught in the same way that music and mathematics are taught. A vital part of this unfoldment came between 1907 and 1910. A science does not need to be copyrighted, and Mrs. Eddy stated, "Christian Science is not copyrighted." When Mrs. Eddy made no arrangements to copyright the major developments and profound unfoldments that came with the last fourteen editions, it seems evident that she wished Science and Health to be in the public domain at the earliest possible time.

Continuing on page 3 of the Congressional Record, the Hon. Robert McClory states:

While I speak only as one member of the Christian Science Church, I can assure you that I do, indeed, voice the interest and support of all Christian Scientists...

This seems a rather sweeping statement from Representative McClory when there are perhaps more Christian Scientists *outside* than inside the official Boston church, and those outside the official church circle (as well as a great many still within the material organization) would tend to feel Mrs. Eddy's writings should be in the public domain just as the Bible is. If "*all* Christian Scientists" supported taking the copyright out of the name of Mary Baker Eddy and vesting it in the Board of Directors why was it deemed necessary to maintain absolute *secrecy* in planning this seventy-five year copyright "extension"?

Dr. J. Buroughs Stokes, Manager of the Christian Science Committee on Publication, representing the Trustees under the Will of Mary Baker G. Eddy, and "spokesman for all Christian Science church members," stated:

Not a single member of our church has indicated any opposition to the passage of this bill, or is opposed to extending the copyright on "Science and Health." Our members realize that the last edition of "Science and Health" is the pastor of this church. To protect this pastor,

it is necessary to *extend* the copyright on "Science and Health," which is owned by the Trustees under the Will of Mary Baker Eddy. The Christian Scientists know that these Trustees must maintain the book as their pastor in its final form as written by the author, and will not change it, revise it, annotate it, or issue abridged versions. (p. 10 of Committee on Judiciary Report)

Dr. Stokes avers: "Not a single member of our church has indicated opposition . . ." But he fails to mention that no one knew about the bill. It had been prepared in *absolute secrecy*. It had not been advertised in any of the Christian Science periodicals or in the *Monitor*. Shortly before the bill was passed, a student in Washington, D.C. heard of it, by chance, and did what she could to alert Christian Scientists. The worldwide stir aroused by the 1934 copyright renewal obviously warned the Directors of the inadvisability of letting the Field know of their plans. When asked by the Committee if the bill had any publicity, G. Ross Cunningham, Christian Science Committee on Publication for Washington, D.C., replied:

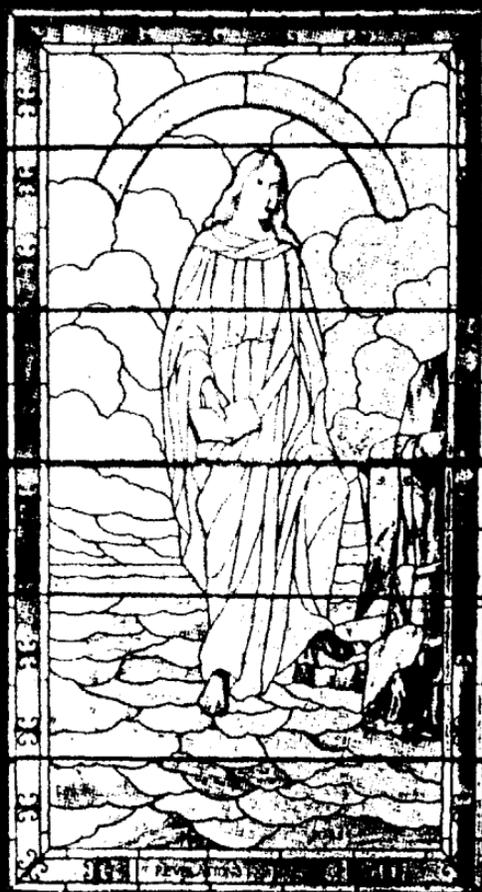
There has been *national publicity* about S. 1866 in *various publications*, such as Publishers' Weekly, Variety, and the American Patent Law Association Bulletin. To the extent that this bill can be considered *newsworthy to them*, the public and publishing interests are informed concerning S. 1866. (p. 6 of Judiciary Report)

No notice of any kind had been sent to the more than three thousand churches or any of the church members. When asked later by an interested member of the Committee why nothing had appeared in the *Monitor* or any of the Christian Science periodicals concerning S. 1866, the answer given was, "We thought it best to keep it quiet and not to stir up anything."<sup>6</sup>

A second item in Dr. Stokes' testimony asserted that the members realize the last edition of Science and Health "is the pastor of this church. To protect this pastor it is necessary to 'extend' the copyright. . . ." The last edition changes in Sci-



JESUS AND THE SAMARITAN WOMAN  
*"The true worshipers worship  
the Father in Spirit and in*



THE ANGEL WITH THE LITTLE BOOK  
*Science and Health*

20 OCT 1980



United Christian Scientists, Inc.  
P.O. Box 8048  
San Jose, California, 95155

Attention: David James Nolan

Dear Mr. Nolan:

This refers to your letter of August 11  
1980. The following search report is made:

Search in the indexes and catalogs of  
the Copyright Office covering the period 1890  
through 1945 under the name Mary Baker Eddy  
and title SCIENCE AND HEALTH WITH KEY TO THE  
SCRIPTURES failed to disclose any separate  
registration for a work identified under this  
name and specific title and bearing the year  
dates 1907 through 1910.

Your remittance of \$20.00 has been ap-  
plied in payment for this search and report.

Sincerely yours,

A handwritten signature in cursive script that reads "Robert G. Myers".

Robert G. Myers  
Bibliographer,  
Reference and Bibliography Section

LIBRARY  
OF  
CONGRESS

Washington  
D.C.  
20559

ence and Health were never copyrighted (see letter from Library of Congress Office, p. 142-a, confirming that no copyright exists on the vital changes Mrs. Eddy made in her last 14 editions).

Furthermore, the Copyright Act of 1971 was not an "extension." This "Act" gave the Board of Directors of The Mother Church a *brand new* copyright, vesting all rights to Science and Health—on all 432 editions—in the Trustees under the Will of Mary Baker G. Eddy, namely, the Board of Directors.

Dr. Stokes further declared that the textbook will not be "changed, revised, annotated, or abridged."

For a number of years, however, rumors have circulated among highly placed Boston officials that the Board is working on extensive revisions to Science and Health. In the past the Directors have made changes to Science and Health. They have removed Mrs. Eddy's picture from the front of the book; they have moved and deleted testimonies Mrs. Eddy carefully selected; they have changed marginal headings; they have added "Authorized Literature of The First Church of Christ, Scientist, in Boston, Massachusetts"; they have listed books and booklets on the flyleaf of Science and Health; they have reduced the size of the cross and crown insignia on Science and Health, etc. This is not reassuring for a future policy that "will not change it, revise it, annotate it, or issue abridged editions" now that they are *legally* empowered to make any changes they may wish to make.

Dr. Stokes offered to show the Judiciary Committee how the "lesson sermon" is carried out with the Quarterly. But this couldn't have been the 1906 edition of Science and Health for which they sought the copyright since its pages and lines are not the same as the 1910 edition currently in use. Church members use the *1910 edition* "to get their lesson." It is this edition which corresponds to the page and line listed in the Christian Science Quarterly. The 1906 edition was last used for this purpose in 1906, and never since.

Mr. C. Ross Cunningham, Manager of the Washington, D.C. office of the Christian Science Committee on Publication, told the Judiciary Congressional Committee why the Board of Directors was seeking to "extend the copyright on

the book *Science and Health*.”<sup>7</sup> After affirming that the most recent copyright was in 1906, and S. 1866 would “extend” the copyright 75 years, he stated that “this book [the 1906 edition] is used together with the Bible, as the basic textbook for all instruction in the Christian Science religion, and for the teaching and practice of the spiritual healing which is a central part of this religion.” He stated a copyright “extension” was needed on this book since the present copyright was due to expire December 31, 1971. He said Christian Scientists look to this book as the pastor of their church, and all sermons throughout the world are comprised of scriptural readings together with readings from this book. He explained in detail how necessary this “extension” on the 1906 copyright was. But these statements are *not correct*. 14 editions followed the 1906, in which *Science and Health* “gathered momentum and clearness and reached its culmination.” The latest is used in Sunday services throughout the world, and by students for instruction in Christian Science. Few, indeed, are the Christian Scientists who have ever seen a 1906 edition of *Science and Health*.

He further stated that without the copyright extension on this [1906 edition] of *Science and Health* “there would be serious danger that the course of Christian Science church services and the basis of individual religious study by Christian Scientists would be seriously impaired. The result,” he said, “would be a definite limitation on the freedom of adherents of this denomination to practice their religion.” These statements, again, are not correct.

As has been previously brought out, the 1906 edition of *Science and Health* has not been used by Christian Scientists either individually or in church services since 1906. Mary Baker Eddy never copyrighted any of the more than 4000 changes she made in the 14 editions of *Science and Health* published after 1906. As has been previously brought out, she made no provision in her Will or elsewhere for an extension of copyright on *Science and Health* after it had run its normal course of 28 years.

Ignoring the fact that the edition of *Science and Health* currently in use in all Christian Science churches *should*

*have been in the public domain* since 1934, Mr. Cunningham told the Congressional Judiciary Committee: "Our concern is that if this book *goes* into the public domain, as a practical matter, the public will not know whether it is buying or reading what Mrs. Eddy wrote...."

Mr. Abe Goldman, General Counsel, U. S. Copyright Office, like Senator Javits and others, based his testimony before Congress on his understanding that the 1906 edition was the one now used in church services and by individual Christian Scientists, which the proponents of the bill had obviously led him to believe. Mr. Goldman stated:

We understand that the 1906 edition, the one still under copyright, is *the one now used* by the Christian Science Church as the basic text ... for instruction in the Christian Science religion, and for the practice of its teaching and its church services.

Since all the witnesses representing the Board of Directors knew that the 1906 edition had not been used by Christian Scientists or for church services for nearly three quarters of a century, how could this copyright have been *legitimately* obtained?

Mr. Goldman testified that there had been little opposition to the bill, S. 1866. But it must be remembered *no one knew about the bill*. It was kept a closely guarded secret until the very last minute. It was only when Senator Javits requested a postponement of the bill that the supporters of the Christian Science Board of Directors launched a concerted drive for support.

At this point an interesting episode developed. The Directors of The Mother Church had hoped to steer the bill smoothly through the Congressional hearing without the Christian Science Field hearing about it. And from May, when the bill was first entered, until late November they had succeeded in keeping it wholly hidden from the Christian Science Field. But when Senator Javits of the State of New York requested the bill be held up indefinitely, those supporting the bill decided the time for secrecy was past. All Chris-

tian Science church members (in New York State) and their friends, and all Sunday School students and their friends were then urged to send letters and telegrams to their Senator, Mr. Javits, saying, "Please release bill S. 1866, protecting copyright on Science and Health, our Pastor."

Thousands of *identical* telegrams began pouring into Senator Javits' office. The great multitude of senders did not realize they were crying: "Crucify Mrs. Eddy's textbook, crucify Science and Health!" The flood of telegrams received was in sharp contrast to the intelligent, meaningful letters received by Senator Javits from dedicated Christian Scientists unalterably opposed to the Directors' latest attempt to get the copyright out of Mrs. Eddy's name and into their own. Membership in branch churches today<sup>8</sup> consists for the most part of those who believe in material organization and, thus, would naturally support the Board of Directors' position, since they tend to read only what is "authorized" by the Board of Directors. This probably accounts for Senator Javits hearing *mostly* from those favoring the Board of Directors' position, since Christian Scientists who do not attend church services—and who surely far outnumber those who do—would have had no way of knowing about the Board of Directors' copyright action.

Senator Javits, to his everlasting credit, saw the unconstitutionality of the bill, and voted "No!" However, he did not continue to take a determined stand on the bill mainly, perhaps, because true and pertinent facts concerning this copyright action had been withheld from him, and he also had been led to believe, as had others, that the 1906 edition on which copyright still existed was the *final* edition, the one for sale in Reading Rooms, and used by Christian Scientists individually and in church services. No doubt the telegrams received from Sunday School children and their friends and from church members, had also had their effect. All these factors, plus the normal Senatorial pressures, weighed against his taking an uncompromising stand against what he "obviously" felt in his heart was an unlawful and unconstitutional act.

Mr. Cunningham, Manager of the Washington, D.C. office

of the Christian Science Committee on Publication, stated:

The copyright on Science and Health is owned by...the five individuals named in the caption of the bill (S. 1866)...The trustees under the will [of Mary Baker G. Eddy]...own many other copyrights, some of them on the works written by the author of "Science and Health"....

As previously noted, if the reader will turn to the last Will and Testament of Mary Baker Eddy in the Appendix<sup>9</sup> he will *not* find that Mrs. Eddy bequeathed the copyrights to any of her writings to either the temporary five-member Board of Directors which the estoppel clauses in the *Church Manual* terminated at Mrs. Eddy's demise, nor to the four-member self-perpetuating Board left legally in control of the local Boston First Church of Christ, Scientist. That she did not copyright changes in her last fourteen editions and made no provision for extending the 1906 copyright is a clear indication that Mrs. Eddy wanted that copyright to lapse, and go into the public domain also.

Regarding the \$200,000.00 yearly profit from the sale of Science and Health, the Honorable Robert F. Drinan of Massachusetts, member of the Judiciary Committee, asked:

If the copyright were not renewed, I would assume Bantam Books or MacMillan... would put out a paperback.... And I would assume that this would mean some diminution of revenue from the person who now owns the copyright.

Congressman Drinan said he was making the point because a publisher had said he was opposed to the bill. This publisher was no doubt typical of many who feel that after a copyright has run its course the book should pass into public domain so that everybody, wishing to, could publish it and derive profits from it.

To this argument Dr. Stokes, representing the Christian Science Board of Directors, responded that it was the aim of the proponents of the bill to "protect religion." "We have got to protect religion," he said. "We have got to protect what God wants his children to hear." This, regardless of what the

author of Science and Health obviously wanted when she made no provision in her Will or elsewhere for extending the copyright on the textbook after its normal run.

Congressman Drinan replied, in substance, that the U. S. Supreme Court said in the case of *Kedoff* that state protection of any particular denomination is forbidden by the "establishment clause." Congressman Drinan stated that in the U. S. Supreme Court opinion there is a long line of cases now saying that the establishment clause means no aid to one particular religion and no aid to all religions across the board.

When Attorney Peterson, C.S., was asked, "Can you give us an idea how accessible the copies are?" he responded:

Yes, there is a bookstore edition that is published for sale in commercial bookstores. We would like it to be much more generally carried in the bookstores than it is. We make every possible effort to make it available to them.

The sad *fact*, here, is that after the new seventy-five-year copyright was granted, Science and Health and other writings by Mary Baker Eddy were *withdrawn* from bookstores and are now for sale only in the rapidly closing Reading Rooms.

All through the hearing the proponents of the bill insisted the copyright protection was necessary because of the possibility of someone publishing a distorted version, but when a member of the Judiciary Committee asked Attorney Peterson, "Can you give us examples of where people have tried to distort or change or misrepresent them? [meaning any of the 418 editions of Science and Health that have long been in the public domain]." Attorney Peterson answered, "No, no one has tried it as far as we know."

Returning for a moment to Mr. Goldman, General Counsel, U. S. Copyright Office, we can see from his testimony that he had been entirely misled as to the reason for seeking an "extension" of the copyright.

His statement on page 33 of the Hearings before Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives, is here quoted, in part:

They say they need this bill to protect the integrity of the work. With respect to the 1906 edition, which is the one still under copyright, and which is the one I understand is *the present text used* in the practice of the Christian Science Church, it could be that its integrity is extremely important to them for the reason they state that even the pagination, the numbering of the lines, and the precise wording must be maintained because it is used all over the world, and references are made to it by page and line number for the purpose of indicating what text is for the week's service.<sup>10</sup>

These statements by Mr. Goldman indicate he had been led to believe that the pagination, numbering of lines, and wording in the 1906 edition of Science and Health matched the Quarterly in use by Christian Scientists in "getting their lesson," and in church services. Mr. Goldman's testimony shows he had been allowed to believe something totally false. The fact is it is the 1910 edition not the 1906—which in 1971 should have been in the public domain for 37 years—that has been used all over the world since 1910 in church services, and is the only edition for sale in Christian Science Reading Rooms.

The fundamental changes made in the 14 editions following the 1906 copyrighted edition were not submitted for registration, as we saw from the Copyright Office's letter to Mr. Nolan, (see p. 142a).

That the Librarian of Congress had also been misled and was unaware of the facts, can be seen from *The Report of the Librarian of Congress*, dated September 30, 1971, which stated:

We understand that the 1906 edition, which is still under copyright, *is the one now regularly used for the teaching and practice of the Christian Science religion.* (House of Representatives Report No. 92-604, 92nd Congress, 1st Session, accompanying Senate Bill S. 1866.)

This misleading of Mr. Goldman, the Congressional Librarian, Senators, Representatives, and others, by the church authorities, shows the length to which they were

willing to go to betray Mrs. Eddy, their professed Leader, in their reach for place, power, and authority.

Earlier we quoted testimony by the Honorable Robert McClory of Illinois, found on page 2 of the Congressional Judiciary Report<sup>11</sup> in which, testifying on behalf of the Christian Science Board of Directors, he said:

The *final* edition of the Christian Science textbook was published and copyrighted in 1906.

Evidence has already been produced to show that the 1906 was not the *final* edition, that the 14 editions which followed it contained the greatest fundamental and comprehensive changes Mrs. Eddy ever made in all her 432 editions. We have also seen that chief among the nearly 4,000 alterations distinguishing the 1910 edition from the 1906 was the change Mrs. Eddy made in her definition of God in 1907, which constituted perhaps the most important and basic change Mrs. Eddy ever made in her many editions.

No doubt Mrs. Eddy purposely did not copyright vital changes in her last 14 editions in which the culmination of her discovery of Christian Science, as a Science, was reached. A Science, she said, does not need to be copyrighted. In 1906 she had not yet reached this culmination of her discovery as a pure Science. But once this Science had reached its culmination, in 1910, she knew it no longer needed to be copyrighted.

During her last years Mrs. Eddy gave all her messages to the world-press rather than to the Christian Science periodicals which reached only a limited number of people. Mrs. Eddy was always eager for her discovery to reach the entire world, and she yearned for her students' spiritual progress. The majority of her students, on the other hand, were always more interested in building up a material organization.

In December, 1887, Mrs. Eddy asked a student to insert part of one of her (Mrs. Eddy's) letters in the *Journal*. It read:

True Christianity began to wane as Truth became hid in churches and ritualistic forms; and just as you lay more stress on the formation of church-organizations than you do on the work of healing, will your cause decline and eventually be lost.

...Not all your churches and preachers will do as much to win people to the Truth as the few good healers.... Science and Health...is greater than any Church.... This book, or rather the truth therein, *needs no church* to proclaim it or bolster it...I condemn the mistaken policy of embalming any truths. [The last statement no doubt refers to the fact that church organizations tend to embalm Truth, to fix it in a static condition, leaving no opportunity for growth or development.]

In the June *Journal* of 1887 in an article, *Mind-Healing History*, Mrs. Eddy wrote:

My discovery promises nothing but blessings to *every* inhabitant of the globe. This glorious prospect seems to incense some degraded minds, and stimulate their unscrupulous efforts to thwart its benign influence and defeat its beneficence.

Many earnest dedicated students of Christian Science are today asking: "Since Mrs. Eddy did not make provision for extending the copyright on Science and Health, and did not copyright the revisions, doesn't this prove beyond cavil that she wanted Science and Health to have the widest possible exposure and acceptance, rather than be confined and limited by copyright regulations? As was pointed out, the Old Testament has not suffered because those of the Jewish faith did not protect it by copyright regulations, and the New Testament has not suffered because neither Catholics nor Protestants protected it by copyright. Mrs. Eddy counseled: Let the Word [the scientific Word embodied in Science and Health] have *free course* and be glorified."<sup>12</sup>

Almost from the beginning Mrs. Eddy's students tended to confuse her idea of Church as "the structure of Truth and Love" with material organization. This cast a heavy burden on Mrs. Eddy. As we learned earlier she stated, "All the trouble I have had has been with my students." In Science and Health she comments sadly, "If the Master had not taken a student he would not have been crucified. The determination to hold Spirit in the grasp of matter [to hold the spirit

and the absolute letter in a church organization] is the persecutor of Truth and Love.” While Mrs. Eddy turned unreservedly to God for comfort and direction, her students occupying the highest offices were turning to *human law* and *legal power*. We saw this was true even before Mrs. Eddy left us—when they turned to legal opinion in the matter of the estoppel clauses in the *Church Manual*.

As we have been seeing, there was considerable determined opposition to S. 1866, but it was successfully throttled. It is a matter of record, and of deep regret, that unbelievable manipulative pressure was brought to bear upon those members of the Judiciary Committee—Congressmen and Senators—to rescind their objections to the bill.

Senator Philip Hart, who voted against the bill, stated that this copyright would grant a monopoly over expression, and limit what may be freely said and heard in public, thus conflicting with the guarantees of free speech under the First Amendment. (See page 12 of Committee on Judiciary Hearing, Appendix p. 303.) Senator Hart also insisted that Congress does not have the power to grant copyrights to trustees of an estate. He was concerned the bill might put the support of the government on the side of the established Christian Science Movement in any dispute it might have with groups differing from the view of the official Boston hierarchy.

Some opposition surfaced on the present difficulty of obtaining the earlier editions of Science and Health. A letter read into the Congressional record stated:

Dear Sirs: I am a member of The Mother Church and have been for over 25 years. I urge the Committee to vote against S. 1866 on the ground that it would shut off completely availability of all earlier editions of Science and Health by Mary Baker Eddy, none of which The Mother Church publishes or makes available to its members or the general public...

The Board of Directors’ refusal to make available the early editions of Science and Health has effectively eliminated a most useful aid in understanding Christian Science, namely, the help of following the evolution of the Science as Mrs.

Eddy developed it in her many revisions. Former high officials in the church report that early editions were bought up by the church so they would *not* be available to students seeking them. They also report that the fear of the Board of Directors' legal arm prevented any but the most intrepid from reproducing a few of the earliest editions.

In the *Christian Science Journal*, April, 1891, p. 7, Mrs. Eddy, through an article dictated to her student, Rev. Norcross, urged all Christian Scientists to keep their editions. In this article Mrs. Eddy stated:

A practical suggestion or two regarding study of the new edition: In the first place, *do not attempt to dispose of the earlier editions*. Some are asking, "Can we be permitted to exchange?" Probably not; but you do not want to do so, even if you can. Fortunate is he who has all former revisions with the original edition of 1875! They are indicators of successive stages of growth in Christian Science; and as such, at some future day will not only possess historic value, but will be extremely difficult to procure. Keep them all; they will prove a "*treasure trove*." Again, Let the new volume be studied *in connection with earlier editions*. The very contrasts help to see how the thoughts have risen only as we have been able to receive them. This, again, will reveal why the new edition could now be written for us. It is simply because the advancing thought, or demonstration, of Christian students has ascended to that plane which makes it both possible and practicable for us to have the new work. [Italics are in the original.]

Many Christian Scientists have been led to believe that Mrs. Eddy warned against studying the earlier editions. This is not true as can be seen from her article in the *Journal*, just quoted. She, of course, recommended that her last edition, published in 1910, be the basic edition used, since it alone contained the full and final revelation of her great discovery. As we saw in comparing it with the 1906 edition, the 1910 editions contained nearly 4,000 changes, additions, and deletions.

Genuine Christian Scientists dread the consequences of

robbing the world of the privilege of having all 432 editions of Science and Health in the public domain.

The Christian Science Field owes a great debt of gratitude to Mr. Ralph Geradi of Rare Book Company for reprinting a number of the early editions, principally the much sought after and highly prized first edition.

Mrs. Eddy left a good share of her estate to the church to be used for the promotion and extension of the Science taught by her. This would surely mean, for one thing, the reproduction of the books written by her. Also in her Deed of Trust given to the Publishing Society she stipulated the profits were to be used for the promotion and extension of the Science taught by her. Again, what is more important than making available the "*treasure trove*" of her 432 editions of Science and Health to students of Christian Science? Most of the funds, however, were spent to support the organization, and as we saw, for such things as quadrupling the Directors' salaries shortly after Mrs. Eddy's departure, and for legal fees, funding of lawsuits, etc. This apparent lack of a genuine interest in the promotion and extension of the Science taught by Mary Baker Eddy was a substantial factor contributing to the precipitous decline in the spread of Christian Science that became noticeable as early as 1935.

When the Congressmen asked if any publishers were known to be interested in publishing Science and Health, representatives for the Board of Directors said, "No." This was not entirely true, of course, because over the years there have been those who wished to do so but feared the legal arm of Boston. Recently, however, Eric W. W. Taylor of Seven Lakes, West End, North Carolina, 27376, published a magnificent reproduction of the 1910 edition of Science and Health with all details exactly as Mrs. Eddy left them, including the frontispiece picture of Mary Baker Eddy.

Mr. Ralph Geradi of Rare Book Company reports he has had many requests for copies of the 1910 edition, meaning, of course, the 1910 edition just as Mrs. Eddy left it, containing her picture, 700 full pages, and without the various changes that were made in Science and Health after Mrs. Eddy's departure.

## TESTIMONY OF ATTORNEY HACKMAN

The last witness to be questioned by the Committee on the Judiciary concerning the copyright on Science and Health, was Attorney Mary Cook Hackman of Arlington, Virginia. She apparently believed strongly that the 418 editions of Science and Health should remain in the public domain, and that the 1906 should also be allowed to go into the public domain along with the 14 subsequent editions, having had 65 years of copyright protection. She said:

The proponents have basically advanced two arguments: One, that what they have asked you to do is a *legal* thing for you to do; that is, it is *constitutional*. I would question that, on the First Amendment basis. And as for the citations they have given you, they all go back to 1898 and before, and we all know that the Constitution is interpreted very differently in the last 30 years than it ever was prior to then. I also feel that there is some question as to whether the Trustees [C.S. Board of Directors] under the Will of Mrs. Eddy, as a matter of fact, *violate* the rules against perpetuities....

The second argument that the proponents use is that they need this legislation for protection.... We feel that the better understanding of Christian Science itself requires the *greatest possible distribution* of the textbook, Science and Health.

Attorney Hackman advanced the feeling that the motives of those seeking this copyright legislation "are the perpetuation and protection of the church *as an organization* and this, of course, is specifically in violation of the Constitution. *The church organization* is what they [the proponents of the bill] feel is at stake here." The church organization is what the proponents want to maintain at any cost.

Christian Scientists, she said, are by nature non-contentious people, and that is why there is not more opposition. This aside from the fact, of course, that only a dozen or so *non-church* Scientists knew about the copyright action.

And they only heard about it at the very last minute, when it was too late to organize any type of resistance.

Miss Hackman felt there would be no problem at all about maintaining the purity of the contents of Science and Health, just as there has been no problem maintaining the purity of the Bible. This argument about "purity," she maintained, was only the decoy; what the proponents of the bill were really seeking, was absolute control of the church organization: "And that," she said, "is the real purpose of this bill, it is to protect the organization of the church rather than the spiritual teachings of Mrs. Eddy."

One senses from Miss Hackman's testimony that this copyright action is sought more to protect the public from access to Mary Baker Eddy's writings than to protect the writings from possible distortion by the public. Mrs. Eddy wanted everyone to be blessed by the teachings of Science and Health: "My discovery," she said, "promises nothing but blessings to *every* inhabitant of the globe." With Francis Thomson she knew that

All things by immortal power  
Near or far  
Hiddenly  
To each other linkéd are,  
That thou canst not stir  
    a flower  
Without troubling of a star.

Mary Baker Eddy's great work on earth was not done for her own self, nor for God; she dipped her pen in the well of Love and wrote for all people wherever they might be, to bless them and show them their divinity. Innately all humanity has the capacity to understand what is in Science and Health; it should have the widest possible distribution rather than have its accessibility restrained and shackled by copyright regulations.

Attorney Hackman had been given only five minutes in which to present the side of perhaps the vast majority of Christian Scientists in the world today. Her excellent arguments for obedience to the laws of the land and for the religious liberty our great Constitution provides, fell largely

on deaf ears, however. The 75-year copyright on *Science and Health* "For the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John," was passed by both Houses of Congress and was signed into law by President Nixon.

Having secured a new copyright in their own name, on all 432 editions of *Science and Health*, the Christian Science Board of Directors in Boston is now free to remove Mrs. Eddy's name entirely from *Science and Health*, as in 1911 they removed her name and office as Pastor Emeritus from the *Church Manual* when, at that time, they put out a *Manual* of their own. Her name remained removed for fifteen years until pressure from the Field caused its restoration.

Writing in the April edition of the *National Educator*, Ron Bartlett (not a Christian Scientist) stated in part:

Haldeman and Ehrlichman, those two so-called Christian Scientists, were able to get the government under President Nixon to carry out a copyright on the writings of the Founder of the Christian Science religion, when she expressly wanted her works to go completely public as the Bible [is], as her book must be studied with the Bible. She prayed for her country; asked others to pray for our country; but apparently the Directors of The Mother Church took over after her death and did her in. The religion declined, members vanished from the churches....

Writing from the Republic of South Africa, a Christian Scientist of world renown gives his opinion:

It can now be said that in those copies of *Science and Health*—printed after 1971—the seemingly innocent and harmless words, "1971 The Christian Science Board of Directors copyright under special act of Congress. All rights reserved in all editions," constitutes—by all that is sealed beneath them—a ghastly villification of Mrs. Eddy.

It can be clearly shown that this so-called copyright is the very antithesis of Mrs. Eddy's committal of *Science and Health* to "honest seekers for Truth"....*Science and Health* has a rebuke for every action taken by the Chris-

tian Science Board of Directors to achieve that Act of Congress, and divine Principle will not allow that evil work to stand.

Then, writing about the Board of Directors' current legal action in which they are claiming they own the term "Christian Science," this same gentleman writes: "Now, what must surely be the *final* act of their [the Christian Science Board of Directors'] own self destruction, the Board places "Christian Science" on trial by its own god, legal power."

Another student writes, "the more one studies the history of Christian Science, the more one becomes aware of the intent of evil to separate the Discoverer of Christian Science from her discovery. This is as true today as it was a century ago. Evil's design and aim is, secondly, to separate the students from Mrs. Eddy through denying her place in prophecy—denying that Mrs. Eddy fulfilled step by step Jesus' prediction to St. John regarding the woman of the Apocalypse in chapter twelve of the Book of Revelation. This Woman brought Science and Health, the Comforter, promised by Jesus in chapters 14 and 16 of the Gospel of St. John which, in turn, fulfilled his parable of the 'leaven, which a woman took and hid in three measures of meal, till the whole was leavened.' "

Robbing Mrs. Eddy of her rightful place in scriptural prophecy, world esteem, and human history is an error that must be exposed. "It requires courage to utter truth," Mrs. Eddy states, and also, it requires the spirit of our blessed Master to tell a man his faults and risk displeasure..." Writing in *Historical Sketch of Metaphysical Healing*, Mrs. Eddy says, "There is but one way to deal with sin; namely, if you can't stop it, *expose it*, for the safety of others."

Writing in the 1885 May *Journal*, on *Love* and "over what worlds of worlds it has range and is sovereign," she says she stands in awe before it, but states that

Sometimes this gentle evangel comes to burst the pent-up storm of error with one mighty thunder-bolt, and clears

the moral atmosphere, foul with human exhalations. It is a born blessing at all times, either *as a rebuke* or a benediction.

Many alert Christian Scientists have been asking: "Was the 1971 copyright on *Science and Health*—which took the copyright away from Mrs. Eddy and gave it to the five individuals—*legal*? Or was the 75-year copyright obtained by misrepresentation and fraud?"

On page 253 of *Science and Health* Mrs. Eddy writes:

If you believe in and practice wrong knowingly, you can at once change your course and do right.

Nothing prevents those who advocated a wrong course of action from admitting a mistake was made, and from doing all in their power to rectify the error. This would require moral and spiritual courage, but it would attract respect.

Elsewhere she tells us, "All bonds that hinder progress will be broken." Evil will be seen powerless, and God, good, will be seen as infinite and omnipotent. In *Science and Health* we read, "It is Christian Science to do right, and nothing short of right-doing has any claim to the name."

## **CHOOSE YE THIS DAY WHOM YE WILL SERVE**

In an article<sup>13</sup> a few years ago the Board of Directors declared the organization to be "the watchful and tender guardian of human consciousness in its ascent Godward"! and in a letter to a Christian Science teacher in England, John Lawrence Sinton, the Board asserted that "any attempt to teach or lecture on Christian Science in any manner other than as provided for in [the Board's interpretation of] the *Manual*, constitutes an attack upon the sufficiency and finality of the revelation embodied in the textbook, its author's establishment of the church organization, and her divinely inspired provisions for its growth and progress."<sup>14</sup> At this time the Field had already been warned, says Braden, that any preference for the "irregular and unauthorized [literature] is distinctly a manifestation of mortal mind,"

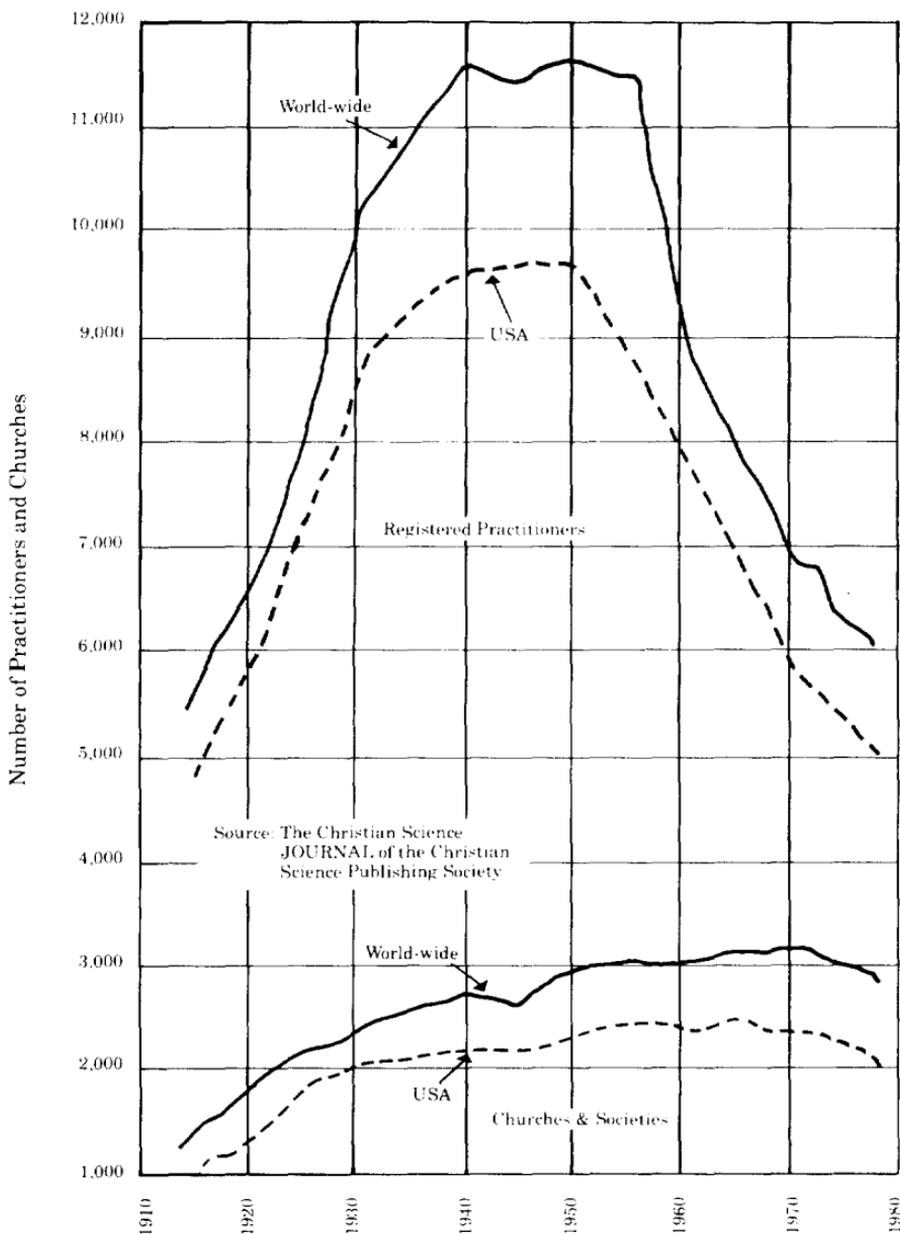


Chart prepared by Dr. Harry R. Shawk of Lacey, Washington

and the Field had been reminded that if there were need of additional literature on the subject of Christian Science "it would naturally be recognized and satisfied by the Board of Directors."

A vast gulf yawns between such "paternalism" and Mrs. Eddy's basic teaching that every individual is entitled to freedom of thought and action in religion and Science, since the only "enemy" is the belief in a power apart from God. So, she counseled,

Let us serve and not rule...and allow to each and everyone the same rights and privileges we claim for ourselves" (Mis. 303).

Christian Science is not copyrighted....A student can write voluminous works on Christian Science if he writes honestly...(Ret. 76).

Spiritual rationality and free thought accompany approaching Science, and cannot be put down... (S&H 223)

Let the Word have free course and be glorified. The people clamor to leave cradle and swaddling clothes... Truth cannot be stereotyped; it unfoldeth forever. (No. 45)

## **RESULT OF THE 70-YEAR RULE IN DISOBEDIENCE TO THE CHURCH MANUAL**

What has been the result of the seventy-year rule in disobedience to the *Church Manual's* estoppel clauses?

Mrs. Eddy's estoppel clauses were intended to terminate the five-member ecclesiastical Board of Directors. This was her way of assuring that there would be no one *to stand between* her writings and the world. She wanted all mankind to be the owner of her writings and to be blessed by them.

Mrs. Eddy was betrayed; her plan was scuttled.

The chart prepared by Dr. Shawk, p. 160 shows how the number of registered Christian Science practitioners has dwindled from a magnificent 12,000 to perhaps less than 5,000 today. Of the approximately 800 churches that have

closed, more than 500 have closed in just the last four years. As the churches close, the Reading Rooms they maintained also close. The closing of the Reading Rooms at this alarming rate makes it increasingly difficult and inconvenient for the public to obtain the writings of Mary Baker Eddy since the Christian Science Board of Directors in Boston allows Mrs. Eddy's writings to be sold only in Reading Rooms, as the profits are doubtless needed to support the church organization.

Fortunately, today thousands of Christian Scientists are awakening, and as they do, they find it almost impossible to conceive how free people can be deluded into supposed obedience to such dictatorial rules controlling their lives and their thinking.

How many spiritually-minded, gifted writers have been prevented by the Boston hierarchy from sharing their divine inspiration with the field through the media Mrs. Eddy provided—the Christian Science Publishing Society—the only “official” teaching institution Mrs. Eddy established *legally*, under a perpetual and irrevocable Deed of Trust to continue the spiritual education of the world when she was no longer here.

How many divinely gifted teachers have been prevented by Board-of-Director edicts from teaching and sharing their Christly input? Mrs. Eddy freed everyone to teach, requiring only that our great desire be to live the life of Love. Mrs. Eddy closed her College at the height of its prosperity. When it was re-opened, under her control, she used an estoppel clause to make sure that “organized” teaching would cease when she was no longer here to supervise it. Teaching Christian Science was, to Mrs. Eddy, a proper preparation of the heart from which teaching, practicing, and living would follow naturally. A prepared heart can give to the world the benefit of its preparation, and teach and heal with increased confidence, speaking, teaching, and writing freely the truth of Christian Science—the absolute letter combined with the spirit. The kingdom of heaven is *within* you, Mrs. Eddy emphasized—not afar off—but right within that which you accept as mind, as consciousness, and this includes all that

you call person, place, or thing, all that appears as a book, a church, or a remedy.

Speaking to the "remnant," Mrs. Eddy counseled:

The letter of your work dies, as do all things material, but the spirit is immortal. Remember that a temple but foreshadows the idea of God, the "house not made with hands, eternal in the heavens," while a silent, grand man or woman, healing sickness and destroying sin builds that which reaches heaven. Only those men and women gain greatness who gain themselves in a complete subordination of self.<sup>15</sup>

It is only "the adamant of error" that keeps us from this complete subordination of self, which is gained through obeying the sixteen chapters of Science and Health. These sixteen chapters of our textbook constitute our true body and our true Mind. Mary Baker Eddy's writings give us a whole new frame of reference, a totally new standpoint. As we learn to reason and deduce from our one divine Principle, we achieve that paradigm shift out of the world's way of thinking, into oneness with our true divine being. Our only need is to discover our divinity, and in that divinity every need is met.

This divinity is gained as we assimilate the divine character through exchanging mortal beliefs for the divinely scientific facts taught in Science and Health. This is why Mrs. Eddy felt that suppression of the textbook, such as has been accomplished by the 1971 Congressional Copyright Act, was far more dangerous than copyright violation. In *Mary Baker Eddy's Six Days of Revelation* Richard Oakes writes: "Mrs. Eddy's concern was not that someone else might print and sell her book . . . so much as the possibility of legalized suppression . . . Mrs. Eddy wrote William G. Nixon: 'Some worldly-poor Christian in England and elsewhere, can publish it for the good of our race; or translate it with more facilities than we can, in the old countries (Europe). Let them do it. It is God's Book and He says give it at once to the people. . . . There is a great *sin* being committed by delaying or

suffering my Book, Science and Health, to be delayed for money consideration. If this course is pursued the unprecedented prosperity of this Book that I have always conducted on the opposite basis will go down in the hands of those who do this. This I *know*.

“God’s law to “feed my sheep,” to give *Science and Health* at once to those hungering for it, *must be obeyed* and held paramount to an international law on copyright.”

<sup>1</sup>Ret. 76:2

<sup>2</sup>See Appendix, p. 171

<sup>3</sup>Ret. 87:10

<sup>3A</sup>Even though Senator Philip Hart had been led to believe the 1906 edition was the one currently in use in Christian Science church services and by students of Christian Science, he nevertheless insisted that “the Congress of the United States ought not aid directly a specific religious institution.” In his view enactment of S. 1866 violated the Constitution’s guarantee of freedom of religion in this country. He further stated:

Finally, enactment of S. 1866 violates the copyright clause of the Constitution. Article I, Section 8 of the Constitution precludes extension of copyright protection to the trustees of an estate. The limitation to authors is specific, and Mary Baker Eddy was afforded ample protection and monopoly power over her work since 1875, notwithstanding the normal copyright protection being 28 years with the right of renewal for an additional 28 years.

The constitutional collision course being steered by S. 1866 can and should be easily avoided—and with no adverse effect upon the Christian Science Church. An official and authorized version of the text could be established and recognized and denominated as such by the church to assure the page for page, line for line, word for word adherence to the original text, which the church deems essential to its members. This is a well-recognized practice in other religions with regard to their basic religious texts. I opposed the bill in committee and renew my opposition now.

<sup>4</sup>See Appendix for complete text of 1971 “Relief from Copyright Act” (Report of the Committee on the Judiciary) p. 255.

<sup>5</sup>S&H. 361:21

<sup>6</sup>Item in letter of a Christian Scientist covering the Senate Hearing.

<sup>7</sup>See Appendix page 266.

<sup>8</sup>From one million Christian Scientists in 1901 (see *Message for 1901*) nearly all of whom attended church services, church attendance has dwindled to a mere handful. Churches built to seat 1200 sometimes have less than fifty in attendance today.

<sup>9</sup>Appendix, p. 171.

<sup>10</sup>See Appendix p. 292.

<sup>11</sup>See Appendix, p. 262.

<sup>12</sup>No. 45:24

<sup>13</sup>*Christian Science Sentinel*, Vol. XLIX, p. 1114.

<sup>14</sup>Braden, *Christian Science Today*, p. 119.

<sup>15</sup>My. 194:5

## CONCLUSION



**E**MBOLDENED by their success in wresting the copyrights on all editions of *Science and Health* from Mrs. Eddy, the Board of Directors are now claiming they own the term "Christian Science"—that the term Christian Science is a trademark, and as such it is the property of the Boston Board of Directors. The Board, as we saw in the Preface, is now in the process of suing the Independent Christian Science Church of Plainfield. The question before the Court today is: Do five individuals in Boston own the term "Christian Science"? Can the members of Independent Christian Science Church of Plainfield be deprived of their constitutional right to religious liberty and freedom to practice their religion in accordance with their interpretation of the teachings of Christian Science? Can any Christian Scientist anywhere in the world be summarily stripped of his right to call himself a Christian Scientist? Can only those who have permission from the Boston Board of Directors call themselves Christian Scientists?

The last By-Law in Mary Baker Eddy's *Manual* reads:

No new tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled, without the written consent of Mary Baker Eddy, the author of our textbook, *Science and Health*.

When Mrs. Eddy lifted this By-Law out of the ecclesiastical document (the *Church Manual*) and placed it in the heart of her legal Deed of Trust (see *Manual*, p. 136) it made all 26 or more estoppels in the *Church Manual* a part of that Deed. By annulling the estoppel clauses every Director since 1910 has been in breach of the trusts contained in the 1903 Deed. This 1903 Deed, conveying land for church purposes is a legal

instrument over which the Courts of the land *do* have jurisdiction. The Board of Directors in their suit against the Plainfield church may find their legal action has no basis whatever.

Furthermore it may well develop, at long last, that the Courts will recognize that the five-member ecclesiastical Board of Directors was made non-existent through the operation of Mrs. Eddy's estoppel clauses.

Mary Baker Eddy faced a world sunk in materialism. But she brought the message from God which was to bring change. On the capstone marking the place of her birth were four inscriptions—facing North, South, East, and West. The inscription facing west reads:

NOVUS ORDO SECLORUM  
(NEW ORDER OF THE AGES)

This new order of the ages which Mary Baker Eddy's writings initiated points "westward, to the grand realization of the Golden Shore of Love and the Peaceful Sea of Harmony."<sup>16</sup> Mrs. Eddy's *Manual*, embodying the spirit of her Magna Charta and her Declaration of Independence, breathes the omnipotence of divine justice which is the matrix of that peace which passeth all understanding. It lifts thought to the point of ascension where organized animate matter is no longer a legitimate state of man's conscious evolvment, and mortality is no longer seen "to be the matrix of immortality."<sup>17</sup>

This is the higher spiritual message of the *Manual*, and the reason Mrs. Eddy said, "Notwithstanding the sacrilegious moth of time, eternity awaits our *Church Manual*, which will maintain its rank as in the past, amid ministries aggressive and active, and will stand when those have passed to rest."<sup>18</sup>

In studying the *Church Manual*, one's admiration and profound respect and gratitude for Mrs. Eddy is immeasurably heightened; one's heart overflows with love for this lone brave woman who single-handedly laid the foundation for the new order of the ages—a world government based on divine Love manifesting itself in brotherly love. Her *Manual*

estoppel clauses lead the way; "it remains for the church to *obey* [them]." Mrs. Eddy finished the work God gave her to do. Of the kingdom her Science brought there can be no end. It will unfold forever.

<sup>16</sup>S&H. 575:32

<sup>17</sup>S&H. 250:5

<sup>18</sup>My. 230:1

# APPENDIX

**Explanatory note:**

The underlinings in the following documents are not the authors. They existed on the copies obtained for this work.

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January 25, 1898 ..... 187
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Court of Massachusetts, November 23, 1921 ..... 223
- (8) Copyright Act on Science and Health: Committee  
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# LAST WILL AND TESTAMENT

OF

## MARY BAKER EDDY

**Be It Known** that I, Mary Baker G. Eddy, of Concord, New Hampshire, being of sound and disposing mind and memory, do make, publish and declare this to be my last will and testament in manner and form following, that is to say;

1. I hereby nominate and appoint Honorable Henry M. Baker, of Bow, New Hampshire, sole executor of this my last will and testament; and, having ample confidence in his ability and integrity, I desire that he shall not be required to furnish sureties on his official bond.

2. Having already transferred and given to my son, George W. Glover, of Lead City, South Dakota, four certain mortgage deeds bought of the Farmers Loan and Trust Company, of the State of Kansas, and having already given him a house and lot located in Lead City, South Dakota, and monies at various times, I hereby confirm and ratify said transfers and gifts, and, in addition thereto, I give and bequeath to my said son, George W. Glover, the sum of ten thousand dollars.

3. I give and bequeath to George H. Moore, of Concord, New Hampshire, the sum of one thousand dollars; to each of the five children of my son, George W. Glover, the sum of ten thousand dollars; to Mrs. Mary A. Baker, of Boston, Massachusetts, widow of my late brother, the sum of five thousand dollars; to Frances A. Baker, of Concord, New Hampshire, the sum of one thousand dollars; to Henrietta E. Chanfrau, of Philadelphia, Penn., the sum of one thousand dollars; to Fred N. Ladd, of Concord, New Hampshire, the sum of

three thousand dollars; to my adopted son, Benjamin J. Foster, M. D., the sum of five thousand dollars; to Calvin A. Frye, of Concord, New Hampshire, the sum of ten thousand dollars; provided he continues in my service to the date of my decease; to Pauline Mann, of Concord, New Hampshire, the sum of one thousand dollars, provided she continues in my service to the date of my decease; to Joseph G. Mann, of Concord, New Hampshire, three thousand dollars, provided he continues in my service to the date of my decease; to Laura E. Sargent, of Concord, New Hampshire, three thousand dollars, provided she continues in my service to the date of my decease.

4. I give and bequeath to The Mother Church—First Church of Christ, Scientist, in Boston, Massachusetts, the sum of fifty thousand dollars.

5. I give and devise to Calvin A. Frye and Joseph G. Mann, above named, provided they shall respectively remain in my service to the date of my decease, the right, during the term of their respective natural lives, to occupy and use my homestead and grounds called "Pleasant View," in Concord, New Hampshire, as their residence and home, but the rights hereby conditionally granted to said Frye and Mann shall not be assignable to any other person. Said homestead and grounds connected therewith shall not be leased to, or occupied by, any persons, except as herein provided. No part of said homestead, or lands connected therewith, shall be devoted to any other uses or purposes than those of a home for said Frye and Mann during their respective lives (provided they respectively remain in my service to the

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date of my decease) and a home for my grandchildren according to the terms of this will and, after the termination of the rights of said Frye and Mann and my grandchildren as herein provided, as a place for the reception, entertainment, and care of Christian Science visitors and their friends, and to such other purposes looking to the general advancement of the Christian Science religion as may be deemed best by the residuary legatee. All the personal property, except my jewelry, in and about said homestead and lands shall be kept and carefully used on said premises.

In my contract with Edward A. Kimball, of Chicago, dated October 9, 1899, provision is made for the creation of a trust fund for the purpose of procuring an annual revenue or income which shall be used for maintaining in a perpetual state of repair my said homestead. A further provision is also made for that purpose in said contract. If for any reason, sufficient funds for such purposes shall not be provided from the sources named in said contract, then I direct that my residuary legatee shall provide and expend such sums, from time to time, as may be necessary for the purpose of maintaining said homestead and grounds in a perpetual state of repair and cultivation.

I hereby give and devise to my grandson, George W. Glover, Jr., the right and privilege of living and having a home at Pleasant View and of being supported therein in a reasonable manner at the expense of my estate while he is obtaining his education preparatory to admission to Dartmouth College, providing he shall select and choose to obtain his education at that institution. I also direct my executor to pay all of said George W. Glover, Jr.'s, reasonable expenses while at said

The words "in said contract" inserted before signing.—M. B. G. Eddy.

College, giving him, in the meantime, the privilege of a home at Pleasant View.

I also give and devise to my granddaughters the right and privilege of living and having a home at Pleasant View, and of being supported therein in a reasonable manner at the expense of my estate, while they, or either of them, are obtaining a high school education, provided they, or either of them, desire the advantages of such course.

6. I give and bequeath to the Christian Science Board of Directors of The Mother Church—The First Church of Christ, Scientists, in Boston, Massachusetts—and their successors in office, the sum of one hundred thousand dollars, but, nevertheless, in trust for the following purposes, namely; said trustees shall hold invest, and reinvest the principal of said fund and conservatively manage \* the same, and shall use the income and such portion of the principal, from time to time, as they may deem best, for the purpose of providing free instruction for indigent, well-educated, worthy Christian Scientists at the Massachusetts Metaphysical College and to aid them thereafter until they can maintain themselves in some department of Christian Science.

I desire that the instruction for which provision is hereby made shall be at the said College, but my said trustees are hereby authorized to provide said instruction elsewhere, if, in the unanimous judgment of all said trustees for the time being, such course shall seem best. The judgment and discretion of said trustees with reference to the person to be aided as herein provided and

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\* This provision was afterwards offset by the By-Laws which forbade the appointment of a Teacher in the Massachusetts Metaphysical College without her approval, and that her signature be on all certificates. The Manual is her LAST WILL AND TESTAMENT for her Church. The Manual also precludes "successors in office" for the 5-member Board of Directors of The Mother Church.

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the amount of aid furnished to each of said persons shall be final and conclusive.

7. I hereby ratify and confirm the following trust agreements and declarations, viz.

(1) The deed of trust dated September 1, 1892, conveying land for church edifice in Boston and on which the building of the First Church of Christ, Scientist, now stands.

(2) The trust agreement dated January 25, 1898, conveying to Edward P. Bates, James A. Neal, and William P. McKenzie, and their successors, the property conveyed to me by the Christian Science Publishing Society, by bill of sale dated January 21, 1898, the said trust being created for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me.

(3) The trust agreement dated February 12, 1898, specifying the objects, purposes, terms, and conditions on which the First Church of Christ, Scientist, in Boston, Massachusetts, shall hold the real estate situated at # 385 Commonwealth Avenue, in Boston, Massachusetts, which was conveyed by me to said church on said February 12, 1898.

(4) The trust agreement dated January 31, 1898, whereby certain real estate was conveyed to George H. Moore, Calvin A. Frye, and Ezra M. Buswell, and their successors, and in addition thereto, the sum of one hundred thousand dollars, for the purpose of a Christian Science Church to be erected on said real estate.

(5) The trust agreement dated May 20, 1898, under which the sum of four thousand dollars was transferred to The First Church of Christ, Scientist, in Boston, for the benefit of the children contributors of the Mother's room in said church.

(6) The deed of trust dated December 21, 1895, transferring five hundred dollars to the trustees of Park Cemetery Association, of Tilton, New Hampshire.

8. I give, bequeath and devise all the rest, residue and remainder of my estate, of every kind and description to the Mother Church \*—The First Church of Christ, Scientist, in Boston, Massachusetts, in trust for the following general purposes; I desire that such portion of the income of my residuary estate as may be necessary shall be used for the purpose of keeping in repair the church building and my former house at # 385 Commonwealth Avenue in said Boston, which has been transferred to said Mother Church, and any building or buildings which may be, by necessity or convenience, substituted therefor; and so far as may be necessary, to maintain my said homestead and grounds ("Pleasant View" in Concord, New Hampshire) in a perpetual state of repair and cultivation for the use and purposes heretofore in this will expressed; and I desire that the balance of said income, and such portion of the principal as may be deemed wise, shall be devoted and used by said residuary legatee for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me.

Witness my hand and seal this thirteenth day of September, A. D. 1901.

MARY B. G. EDDY (LS)

Signed, sealed and declared by the above named Mary Baker G. Eddy as and for her last will and testament, in the presence of us, who, at her request, in her

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\* While this portion of Mrs. Eddy's estate was willed to the Church, no agency in the Church was established for its handling. Thus it was necessary to file a suit for its custody.—THE NOTE-TAKER.

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presence, and in the presence of each other, have subscribed our names as witnesses hereto.

MARY E. TOMLINSON  
IRVING C. TOMLINSON  
MYRON J. PRATT  
ALVIN B. CROSS

BE IT KNOWN that I, Mary Baker G. Eddy, of Concord, New Hampshire, do hereby make, publish and declare a codicil to my last will and testament, originally dated September 13, 1901, a duplicate of said will having been this day re-executed by me upon the discovery of the loss of the original dated September 13, 1901, as aforesaid, in manner following, namely;

1. I hereby revoke the bequest in paragraph numbered 5 of my said will, to Joseph G. Mann, of the right to occupy with Calvin A. Frye my homestead premises known as "Pleasant View," during the lifetime of the said Mann, and I hereby bequeath unto Irving C. Tomlinson, of Concord, New Hampshire, and to his sister Mary E. Tomlinson the right during the term of their respective lives to occupy and use as a home said premises known as "Pleasant View," said occupancy and use by them to be personal to them and not assignable to any other person by them or either of them and shall be exercised with due regard to the rights of other persons named in said will, excepting said Mann, to occupy and enjoy said premises.

2. I give and bequeath to Laura E. Sargent the sum of Five Thousand Dollars (\$5,000), this legacy to be in lieu of the legacy provided for her in paragraph numbered 3 of my said will, and to be unconditional.

3. I give, devise and bequeath to the Second Church of Christ, Scientist, in New York City, a sum not exceeding One Hundred and Seventy-five Thousand Dol-

lars (\$175,000.) sufficient to pay the indebtedness which may exist at the time of my decease upon the church edifice of said Second Church of Christ, Scientist, and direct that said sum of One Hundred and Seventy-five Thousand Dollars (\$175,000.), or so much thereof as may be necessary for the purpose, shall be applied as soon as may be after my decease to or towards the extinguishment of said indebtedness; if the amount required for this purpose shall not be as much as One Hundred and Seventy-five Thousand Dollars (\$175,000.), then this legacy shall be limited to the amount actually required.

4. I give and bequeath to Mrs. Pamela J. Leonard, of Brooklyn, New York, the sum of Three Thousand Dollars (\$3,000.); to Mrs. Augusta E. Stetson, of New York City, my "crown of diamonds" breastpin; to Mrs. Laura Lathrop, of New York City, my diamond cross; to Mrs. Rose Kent, of Jamestown, New York, my gold watch and chain; and to Henry M. Baker, of Bow, New Hampshire, my portrait set in diamonds.

5. Mrs. Mary A. Baker, to whom I have bequeathed Five Thousand Dollars (\$5,000), by my will having deceased since the original execution of said will on September 13, 1901, I hereby revoke the legacy therein provided for her.

6. The bequest in my will to Calvin A. Frye is hereby increased to twenty thousand dollars, but subject to the same condition as therein provided.

I hereby ratify and reaffirm my will as originally executed on September 13, 1901, and as again executed this day, in all respects except as herein modified.

In witness whereof I have hereunto set my hand and seal at Concord, New Hampshire, this seventh day of November, A. D. 1903.

MARY BAKER G. EDDY (LS)

## APPENDIX

Signed, sealed, published and declared by the above named Mary Baker G. Eddy to be a codicil to her last will and testament in presence of us, who at her request, in her presence and in the presence of each other have subscribed our names as witnesses hereto.

MYRON J. PRATT

ALVIN B. CROSS

CALVIN C. HILL

34 St. Stephen St., Boston.

BE IT KNOWN THAT I, MARY BAKER G. EDDY, of Concord, New Hampshire, do hereby make, publish, and declare this second codicil to my last will and testament originally dated September 15, 1901, a duplicate of said will having been re-executed by me on November 7, 1903, in manner following, namely;

I. I hereby direct and require that the executor of my will shall sell, within three months after his appointment, at public auction or, if he sees fit, at private sale, for such price as he may determine upon and to such purchaser as he may see fit, my real estate in said Concord known as "Pleasant View," consisting of my homestead and the grounds occupied in connection therewith, and I hereby direct that the proceeds of such sale shall be forthwith paid over to the Directors of the First Church of Christ, Scientist, in Boston, Massachusetts, to be used for such purposes in connection with said Church as said Directors may determine. Nothing contained in my will or codicil thereto shall be considered inconsistent with said Church purchasing said real estate, if the Directors may consider it desirable so to do.

I hereby revoke the provisions of my will and first codicil providing for the occupancy of said real estate by various persons, the preservation and maintenance thereof at the expense of my estate, and all other pro-

visions of my will and codicil inconsistent with the foregoing direction to my executor to sell said real estate.

II. I hereby give and bequeath to The First Church of Christ, Scientist, in Boston, Massachusetts, all the contents of my said homestead and of the other buildings at "Pleasant View,"—except so far as any of the same may be specifically bequeathed in my will and codicils thereto, which specific bequests I do not modify by this provision,—the same to be kept or disposed of as may be determined by the Directors of said Church; but I direct that Calvin A. Frye shall have the privilege of selecting from said articles such keepsakes or mementos, not exceeding in intrinsic value the sum of five hundred dollars, as he may desire, and I give and bequeath the same to him when so selected.

III. I hereby direct that said Calvin A. Frye shall be provided with a suitable home in my house at No. 385 Commonwealth Avenue, Boston, if he so desires, he to have the exclusive occupancy of two furnished rooms therein, to be designated by my executor, and to have his board, suitable heat, light, and all other things necessary for his comfortable occupancy of said premises during his natural life, the expense thereof to be provided out of the income from the residue of my estate which I have left to said The First Church of Christ, Scientist, in Boston, Massachusetts.

IV. I give and bequeath to Lydia B. Hall, of Brockton, Massachusetts, the sum of one thousand dollars.

V. I give and bequeath to Irving C. Tomlinson, of said Concord, the note which I hold signed by him, it being my intention hereby to release him from said indebtedness.

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In all other respects except as herein specified, I hereby ratify and reaffirm my will and codicil above mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and seal at Concord, New Hampshire, this fourteenth day of May, A. D. 1904.

MARY BAKER G. EDDY (LS)

Signed, sealed, published and declared by the above named Mary Baker G. Eddy to be a codicil to her last will and testament, in presence of us, who, at her request, in her presence, and in the presence of each other, have subscribed our names as witnesses hereto.

JOSIAH E. FERNALD

MARY E. THOMPSON

CALVIN C. HILL

Suffolk S. S., Dec. 6, 1928.

Probate Court.

A true copy, attest

John R. Nichols, Asst. Register.

(EXHIBIT "B")

**DEED OF TRUST**

*The following is a copy of the Deed of Trust  
Conveying Land for Church Edifice*

KNOW ALL MEN BY THESE PRESENTS,

That I Mary Baker Eddy of Concord in the County of Merrimack and State of New Hampshire in consideration of one dollar to me paid by Ira O. Knapp of Boston, Massachusetts, William B. Johnson of Boston, Massachusetts, Joseph S. Eastaman of Chelsea, Massachusetts, and Stephen A. Chase of Fall River, Massachusetts, the receipt whereof is hereby acknowledged, and, also in consideration of the trusts and uses hereinafter mentioned and established, do hereby give, bargain, sell, and convey to said Ira O. Knapp, William B. Johnson, Joseph S. Eastaman, and Stepehn A. Chase as trustees as hereinafter provided and to their legitimate successors in office forever, a certain parcel of land situate on Falmouth street in said Boston, bounded and described as follows: Beginning at the junction of Falmouth street, and a forty-foot street now called Caledonia street; thence running Southwest on said Falmouth street one hundred and sixteen and eighty-eight hundredths feet; thence Northwest at a right angle to a point where a line drawn at right angles to said forty-foot street at a point thereon one hundred and sixteen and fifty-five hundredths feet Northwest from the point of beginning meets the said boundary at right angles to Falmouth street, sixty-six and seventy-eight hundredths feet; thence at an obtuse angle on said line at right angles to said forty-foot street sixty-seven and thirty-five hundredths feet to said forty-foot street; thence Southeasterly on said forty-foot street one hundred and sixteen and fifty-five hundredths feet to the point of beginning; containing seven thousand eight hundred and twenty-eight square feet more or less, and subject to the agreements and restrictions mentioned in a deed recorded in Suffolk Registry of Deeds Lib. 1719, Fol. 83 so far as the same are now legally operative.

This deed of conveyance is made upon the following express trusts and conditions which the said grantees by accepting this deed agree and covenant for themselves and their successors in office to fully perform and fulfill.

1. Said grantees shall be known as the "Christian Science Board of Directors," and shall constitute a perpetual body or corporation under and in accordance with section one, Chapter 39 of the Public Statutes of Massachusetts. Whenever a vacancy occurs in said Board the remaining members shall within thirty days fill the same by election;

but no one shall be eligible to that office who is not in the opinion of the remaining members of the Board a firm and consistent believer in the doctrines of Christian Science as taught in a book entitled "SCIENCE AND HEALTH," by Mary Baker G. Eddy beginning with the seventy-first edition thereof.

2. Said Board shall within five years from the date hereof build or cause to be built upon said lot of land a suitable and convenient church edifice, the cost of which shall not be less than fifty thousand dollars.

3. When said church building is completed said Board shall elect a pastor, reader or speaker to fill the pulpit who shall be a genuine Christian Scientist; they shall maintain public worship in accordance with the doctrines of Christian Science in said church, and for this purpose they are fully empowered to make any and all necessary rules and regulations.

4. Said Board of Directors shall not suffer or allow any building to be erected upon said lot except a church building or edifice, nor shall they allow said church building or any part thereof to be used for any other purpose than for the ordinary and usual uses of a church.

5. Said Board of Directors shall not allow or permit in said church building any preaching or other religious services which shall not be consonant and in strict harmony with the doctrines and practice of Christian Science as taught and explained by Mary Baker G. Eddy in the seventy-first edition of her book entitled "SCIENCE AND HEALTH," which is soon to be issued, and in any subsequent edition thereof.

6. The congregation which shall worship in said church shall be styled "The First Church of Christ, Scientist."

7. Said Directors shall not sell or mortgage the land hereby conveyed; but they shall see that all taxes and legal assessments on said property are promptly paid.

8. Said church building shall not be removed from said lot except for the purpose of rebuilding thereon a more expensive or a more convenient structure in which said doctrines of Christian Science only shall be preached and practised. If said church building is removed for either of the purposes above set forth, any and all tablets and inscriptions which are or shall be upon said church building at the time of removal shall be removed therefrom and placed upon the walls of the new edifice. If said building is burned, the Directors shall forthwith proceed to rebuild the church.

9. Said Directors shall maintain regular preaching, reading or speaking in said church on each Sabbath, and an omission to have and maintain such preaching, reading or speaking for one year in succession shall be deemed a breach of this condition.

10. Whenever said Directors shall determine that it is inexpedient to maintain preaching, reading or speaking in said church in accordance with the terms of this deed, they are authorized and required to reconvey forthwith said lot of land with the building thereon to Mary Baker G. Eddy, her heirs and assigns forever by a proper deed of conveyance.

11. The omission or neglect on the part of said Directors to strictly comply with any of the conditions herein contained shall constitute a breach thereof, and the title hereby conveyed shall revert to the grantor Mary Baker G. Eddy, her heirs and assigns forever, upon her entry upon said land and taking possession thereof for such breach.

To Have and to Hold the above granted premises with all the privileges and appurtenances thereon belonging to said grantees and their successors in office to the uses and trusts above described forever.

And the said grantor for herself and her heirs, executors and administrators covenants with the said grantees and their successors in office that she is lawfully seized in fee simple of the aforesaid premises, that they are free from all incumbrances not herein mentioned or referred to, that she has good right to sell and convey the same to the said grantees and their successors in office as aforesaid, and that she will and her heirs, executors, and administrators shall, warrant and defend the same to the said grantees and their successors in office forever against the lawful claims and demands of all persons.

In witness whereof I the said Mary Baker G. Eddy have hereto set my hand and seal this 1st day of September, 1892.

MARY BAKER G. EDDY.

Signed, sealed, and delivered in presence of

LAURA E. SARGENT.  
R. E. WALKER.

September 1st, 1892.

State of New Hampshire, }  
Merrimack. } ss.

Then personally appeared the above named Mary Baker G. Eddy and acknowledged the foregoing instrument to be her free act and deed.

Before me

R. E. WALKER,  
Notary Public.

September 2, 1892.

Suffolk Registry of Deeds, Lib. 2081, Fol. 257.

(EXHIBIT "C")

**DEED CONVEYING LAND FOR  
CHURCH PURPOSES**

*Metcalf to Knapp et al Trs. Libro 2886, Fol. 521.*

KNOW ALL MEN,

That I, Albert Metcalf, the grantor in a certain deed given to Ira O. Knapp and others dated October 23, 1896, and recorded with Suffolk Deeds, Book 2591, page 398, do hereby declare that the land conveyed by said deed was conveyed to the grantees therein, as they are the Christian Science Board of Directors, upon the trusts, but not subject to the conditions mentioned in the deed creating said Board given by Mary Baker G. Eddy to Ira O. Knapp and others, dated September 1st, 1892, and recorded with Suffolk Deeds, Book 2081, page 257. In addition to the trust contained in said deed of September 1, 1892, from Mary Baker G. Eddy, this property is conveyed on the further trusts that no new Tenet or By-Law shall be adopted, nor any Tenet or By-Law amended or annulled by the grantees unless the written consent of said Mary Baker G. Eddy, the author of the textbook "Science and Health with Key to the Scriptures," be given therefor, or unless at the written request of Mrs. Eddy the Executive Members of The First Church of Christ, Scientist, (formerly called the "First Members,") by a two-thirds vote of all their number, decide so to do. And that the same inscription which is on the outside of the present church edifice shall be placed on any new church erected on said lot. And in consideration of one dollar to me paid by said Ira O. Knapp, William B. Johnson, Joseph Armstrong and Stephen A. Chase, the receipt whereof is hereby acknowledged, I do hereby confirm the deed as above mentioned, and do grant and release unto them, their heirs, successors and assigns in trust as aforesaid, the premises therein described.

In Witness Whereof I have hereunto set my hand and seal this nineteenth day of March, A.D. nineteen hundred and three.

ALBERT METCALF. [Seal]

Commonwealth of Massachusetts, }  
Suffolk } ss. March 20, 1903.

Then said Albert Metcalf acknowledged the foregoing instrument to be his free act and deed.

Before me

MALCOLM MCLEOD.  
Justice of the Peace.

March 20, 1903, at twelve o'clock and sixteen minutes P.M.

Received, Entered and Examined.

Attest: THOS. F. TEMPLE, Reg.

A true copy from the RECORDS OF DEEDS for the COUNTY OF SUFFOLK,  
Lib. 2886, Fol. 521.

Attest: CHAS. W. KIMBALL, Asst. Reg.

## 1898 PUBLISHING SOCIETY DEED OF TRUST

Deed of Trust Organizing The Christian Science Publishing Society given by Mary Baker Eddy, January 25, 1898, Boston, U. S. A.

### DEED OF TRUST

(The following is a copy of the Deed of Trust constituting the Board of Trustees, organizing The Christian Science Publishing Society.)

**Be It Known** That I, Mary Baker G. Eddy, of Concord, New Hampshire, in consideration of one dollar to me paid by Edward P. Bates, James A. Neal and William P. McKenzie, all of Boston, Massachusetts, and in consideration of their agreement to faithfully observe and perform all the conditions hereinafter specified to be by them observed and performed, and for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me do hereby sell and convey to them, and the said Bates, Neal and McKenzie, and their successors in the trust hereinafter established all and singular the personal property, goods, and chattels which were sold and conveyed to me by the Christian Science Publishing Society by its bill of sale dated January 21, 1898, said property being located in the premises numbered 95 and 97 Falmouth Street in said Boston, including the publication called "The Christian Science Journal" (not including the copyrights thereof), the linotype, all pamphlets, tracts, and other literature conveyed to me by said sale, the hymnal, the subscription lists of "The Christian Science Journal" and of "The Christian Science Quarterly" all stationery fixtures, stock on hand manufactured or otherwise, machinery, tools, mailing lists, book accounts, notes, drafts, checks and bills whether in process of

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collection or not, five United States bonds of one thousand dollars each, all cash and bank accounts and all personal property of whatsoever kind or nature which belonged to said Society and which were conveyed to me as aforesaid, excepting only such said property as may have been used and disposed of since the date of said sale to me upon the following perpetual and irrevocable trust and confidence, namely:

1. Said trustees shall hold and manage said property and property rights exclusively for the purpose of carrying on the business, which has been heretofore conducted by said Christian Science Publishing Society, in promoting the interest of Christian Science; and the principal place of business shall be in said Boston.

2. The business shall be done by said trustees under the unincorporated name of "The Christian Science Publishing Society."

3. Said trustees shall energetically and judiciously manage the business of the Publishing Society on a strictly Christian basis, and upon their own responsibility, and without consulting me about details, subject only to my supervision, if I shall at any time elect to advise or direct them.

4. Said trustees shall keep accurate books of account of all the business done by them, and shall deposit in a responsible and reliable Bank or Trust Company all bonds, mortgages, deeds, and other documents or writings obligatory of every kind and nature for safe keeping; also all surplus funds over and above the sum necessary to defray the running expenses of the business, until the same shall be paid over to the Church Treasurer, as herein provided. No papers or monies shall be taken from said Bank or Trust Company excepting by and in presence of a majority of said Trustees. Once in every

\*The underlines do not appear in the original.

six months, the trustees shall account for and pay over to the treasurer of "The First Church of Christ, Scientist, in Boston, Mass.," the entire net profits of said business. The "net profits" shall be understood to mean the balance remaining at the end of each six months after paying the usual and legitimate expenses incurred in conducting the business. No authority is intended to be conferred upon the trustees to expend the money of the trust for property not necessary for the immediate successful prosecution of the business, or to invest the same for the purpose of speculation, or to incur liabilities beyond their ability to liquidate promptly from the current income of the business. Said treasurer shall hold the money so paid over to him subject to the order of "The First Members" of said Church, who are authorized to order its disposition only in accordance with the rules and by-laws contained in the Manual of said Church.

5. The business manager shall present to the Trustees at the end of each month, a full and correct statement of the receipts and expenditures of the month.

6. Said Trustees shall employ all the help necessary to the proper conduct of said business, and shall discharge the same in their discretion or according to the needs of the business, excepting that the business manager may call in at times of necessity such temporary help as will facilitate the business.

7. The Trustees shall employ such number of persons as they may deem necessary to prepare Bible Lessons or Lesson Sermons to be read in the Christian Science Churches, the same to be published Quarterly as has heretofore been done by and in the name of the Christian Science Quarterly; and they may, in their discretion, change the name or style of such Quarterly pub-

## APPENDIX

lication as occasion may demand. They shall also fix the compensation of the persons so selected.

8. Said Trustees shall have direction and supervision of the publication of said Quarterly, and also of all pamphlets, tracts, and other literature pertaining to said business, using their best judgment as to the means of preparing and issuing the same, so as to promote the best interests of the Cause, reserving the rights to make such changes as I may think important.

9. Said Trustees and their successors in trust shall not be eligible to said trusteeship or to continue in the same, unless they are loyal, faithful and consistent believers and advocates of the principles of Christian Science as taught by me in my book "Science and Health, with Key to the Scriptures."

10. Whenever a vacancy shall occur in said trusteeship for any cause, I reserve the right to fill the same by appointment, if I shall so desire so long as I may live; but if I do not elect to exercise this right, the remaining trustees shall fill said vacancy. The First Members together with the directors of said Church shall have the power to declare vacancies in said trusteeship for such reason as to them may seem expedient.

11. I also reserve the right to withdraw from said trust, if I shall so desire, the publication of the Christian Science Journal, but if I do not exercise this reserved option, then said Journal shall remain a part of the trust property forever.

12. Upon my decease, in consideration aforesaid, I sell and convey to said trustees my copyright of "The Christian Science Journal" to be held by them as the other property of said trust.

13. Said trustees shall each receive annually one thousand dollars for their services in that capacity, pay-

able semi-annually in payment of five hundred dollars, or such salary as the said Church may determine from time to time.

14. The delivery of this instrument to, and its acceptance by, said trustees shall be regarded as the full establishment of the trust and as an agreement by the trustees to honestly and faithfully do and perform all things to be done and performed by them within the terms, objects and purposes of this instrument.

Witness my hand and seal at Concord, New Hampshire, this twenty-fifth day of January, 1898.

(Signed) MARY BAKER EDDY [Seal]

We accept the foregoing Trust,

(Signed) EDWARD P. BATES

JAMES A. NEAL

WM. P. MCKENZIE

January 25, 1898.

September 8, 1898 (Signed) Thomas W. Hatten, succeeding Edward P. Bates, Resigned.

October 21, 1898 (Signed) Joseph B. Clark, succeeding James A. Neal, Resigned.

September 25, 1906 (Signed) Allison V. Stewart, succeeding Joseph B. Clark, Deceased.

January 6, 1908 (Signed) William D. McCrackan, succeeding Allison V. Stewart, Resigned.

June 19, 1908 (Signed) Clifford P. Smith, succeeding William D. McCrackan, Resigned.

September 12, 1911 (Signed) James R. Neal, succeeding Clifford P. Smith, Resigned.

December 2, 1912 (Signed) Herbert W. Eustace, succeeding James R. Neal, Resigned.

February 1, 1917 (Signed) Edward A. Merritt, succeeding Thomas W. Hatten, Resigned.

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August 1, 1917 (Signed) David B. Ogden, succeeding William P. McKenzie, Resigned.

August 1, 1917 (Signed) Lamont Rowlands, succeeding Edward A. Merritt, Resigned.

**BILL IN EQUITY, MAR. 25, 1919**

INCLUDING

**DEED OF TRUST**

Constituting the Board of Trustees—Organizing  
The Christian Science Publishing Society

**DEED OF TRUST**

Conveying Land for Church Edifice with  
Supplementary Declaration

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

SUFFOLK, SS.

IN EQUITY

BETWEEN

HERBERT W. EUSTACE of Boston, and  
DAVID B. OGDEN of Brookline, both in the Commonwealth of Massachusetts; and  
LAMONT ROWLANDS of Picayune in the State of Mississippi, as they are Trustees under a Deed of Trust dated January 25, 1898, wherein Mary Baker G. Eddy is the Donor,

Plaintiffs.

AND

ADAM H. DICKEY, JAMES A. NEAL,  
EDWARD A. MERRITT of said Brookline, and  
WILLIAM R. RATHVON of said Boston, as they are Trustees under a Deed of Trust dated September 1, 1892, wherein Mary Baker G. Eddy is Donor, and a Declaration of Trust supplementary thereto and in amendment thereof, dated March 19, 1903, and as they are also Directors of The First Church of Christ, Scientist, in Boston, Massachusetts; and  
JOHN V. DITTEMORE and ANNIE M. KNOTT, both of said Boston, each claiming to hold the position and office of Trustee and Director in association with the other defendants,

Defendants.

## BILL OF COMPLAINT

1. The plaintiffs are the duly appointed trustees under a Deed of Trust dated January 25, 1898, in which Mary Baker G. Eddy of Concord, New Hampshire, was the Donor, and Edward P. Bates and others of Boston, Massachusetts, were donees and trustees.

A copy of said Deed of Trust, with the dates of resignations of trustees who have held office heretofore, and of the appointments of their respective successors endorsed thereon, is hereto annexed marked Exhibit "A." The plaintiff Eustace became a trustee on December 2, 1912. The plaintiffs Ogden and Rowlands became trustees on August 1, 1917, and all the plaintiffs have held their office continuously since the dates of their appointments.

2. The defendants Dickey, Neal, Merritt and Rathvon, as the plaintiffs are informed and accordingly allege; are trustees under a Deed of Trust dated September 1, 1892, in which said Mary Baker G. Eddy was Donor, and a Deed of Trust, supplementary to and in amendment of the original deed, dated March 19, 1903, copies of which deed and supplementary Declaration of Trust are hereto annexed marked respectively Exhibit "B" and Exhibit "C."

Said defendants are, also, as the plaintiffs are informed and accordingly aver, for the time being directors of The First Church of Christ, Scientist, in Boston, Massachusetts, a religious organization founded by said Mary Baker G. Eddy.

The defendant Dittmore was, until recently, as the plaintiffs are informed and accordingly aver, a trustee under said Deed of Trust of September 1, 1892, and a director of The First Church of Christ, Scientist, in Boston, Massachusetts; but recently, as the plaintiffs are informed and accordingly aver, the defendants Dickey, Neal, Merritt and Rathvon, purporting and claiming to act under authority so to do, have removed, or attempted to remove, said Dittmore from his office as trustee as aforesaid and as a director of The First Church of Christ, Scientist, and have elected and appointed or attempted to elect and appoint, the defendant Annie M. Knott as successor to said Dittmore, both as trustee and director as aforesaid.

Accordingly, as to whether said Dittmore or said Knott is now the duly appointed trustee under said Deed of Trust and director of said First Church of Christ, Scientist, the plaintiffs are ignorant and are unable to make further averment.

The First Church of Christ, Scientist, in Boston, Massachusetts, hereinabove referred to, is also known as "The Mother Church," and will hereinafter be thus referred to.

3. Prior to the date of either of the trust deeds hereinbefore referred to, to wit: in or about the year 1879, Mrs. Mary Baker G. Eddy became the

Leader in the organization of a church "designed to commemorate the word and works of our Master, which should reinstate primitive Christianity and its lost element of healing;" and after the charter of said Church, obtained in June, 1879, she became its pastor. In September, 1892, Mrs. Eddy was instrumental in reorganizing said Church, which was named "The First Church of Christ, Scientist," of which Mrs. Eddy became the pastor and later Pastor Emeritus until the date of her passing on.

As a means of promoting and extending the religion of Christian Science as taught by her, Mrs. Eddy had created an organization known as "The Christian Science Publishing Society," to publish and circulate various Christian Science publications of which Mrs. Eddy was the author or to which she contributed. In 1898 said publications had acquired a substantial circulation and had been highly effective in accomplishing the purpose for which they were created, viz.: of more effectually promoting and extending the religion of Christian Science as taught by Mrs. Eddy. All authority in connection with her publications remained in the hands of Mrs. Eddy herself; and although the "Christian Science Board of Directors" had been created by the Deed of Trust of September 1, 1892, said Board of Directors was given no authority by Mrs. Eddy over her publications and had no participation in the work of The Christian Science Publishing Society.

4. The conception and plan of Mrs. Eddy for the promotion and extension of the religion of Christian Science, as taught by her, involved two general branches of activity. The first, the organization of churches for the study of the Bible and teaching the doctrinal truths of Christian Science as contained in Mrs. Eddy's textbook of Christian Science, "Science and Health with Key to the Scriptures." The second, by increasing the circulation throughout the world of publications containing the truths of Christian Science, for the purpose thereby of more effectually promoting and extending the religion of Christian Science.

These two branches of activity, both calculated to develop and enlarge the Christian Science movement, so-called, Mrs. Eddy determined to put into the hands of different sets of trustees,—reserving to herself, in respect to each and both, a large measure of power to control and guide both boards of agents selected by herself.

Mrs. Eddy accordingly, as hereinbefore stated, through the Deed of Trust of September 1, 1892, and the amended declaration already referred to, placed with the "Christian Science Board of Directors" certain duties and powers in relation to The Mother Church, its organization and discipline, reserving to herself, however, general control by right of removal and appointment. Several years later, in 1898, as hereinabove set forth, she conveyed to the Board of Trustees her property used in The Christian Science Publishing Society, and delegated to said

trustees the authorities connected therewith which she had up to that time reserved exclusively to herself, as appears in the Deed of Trust of January 25, 1898 (Exhibit "A"). The original trustees named in said Deed of Trust (Exhibit "A") included no members of the then "Christian Science Board of Directors" nor trustees under the trust deed of September 1, 1892 (Exhibit "B"); and the selection of other persons to serve as trustees under said Deed of Trust (Exhibit "A") as these plaintiffs are informed and believe, and accordingly aver, was in pursuance of a distinct purpose on the part of Mrs. Eddy, the Founder of The Mother Church and the Donor of both trusts, to keep the affairs of the Publishing Society under a separate control and management from that of her Church.

5. Since the date of their respective appointments as trustees under said Deed of Trust of January 25, 1898 (Exhibit "A"), the plaintiffs have at all times zealously, conscientiously, and faithfully discharged the duties imposed upon them by the trust and confidence of Mrs. Eddy.

They have held and managed the property and property rights which came to them under the Deed of Trust exclusively for the purposes declared and defined therein, and solely for the promotion and extension of the religion of Christian Science as taught by Mrs. Eddy, the Donor of the trust and the Founder and Leader of the Christian Science Church. As specifically provided in the trust deed, the trustees have energetically and judiciously managed the business of the Publishing Society on a strictly Christian basis and upon the sole responsibility of themselves, the trustees.

As a result of the administration of the trust by the present trustees, the affairs of the Publishing Society have been highly prosperous and successful. The publications of the Society, religious and secular, have increased in circulation and influence. The interests of Christian Science have thereby been greatly promoted, the teaching of Christian Science has been widely extended, and the number of believers in the faith has been steadily increased. In no way have the plaintiffs failed in the proper discharge of their duty, as either expressed or implied in the terms of said Deed of Trust. The trustees have worked harmoniously with each other, and never in their business association has there been friction or disagreement as between themselves. They have all worked loyally, earnestly, and faithfully as Christian Scientists and believers in its tenets and doctrines, for the best interests of the Christian Science Church and the spread of Christian Science throughout the world.

In addition to the great work thus achieved in the direct promotion and extension of Christian Science, the plaintiffs and their predecessors in the trust have indirectly promoted and extended the interests of Chris-

tian Science by paying over, semi-annually, substantial sums of money to the defendants, both in their capacity as directors for the support of The Mother Church and in their capacity as trustees for the promotion of Christian Science under the terms of the trust created in Mrs. Eddy's will.

The trustees have paid over to the defendants in these two capacities, as directors of The Mother Church and as trustees, as earnings and profits from their conduct of the trust for a period of six months ending October 1, 1918, a sum in excess of \$450,000.

6. In the growth and extension of the Christian Science movement, more than eighteen hundred Christian Science churches and societies have been created and are now in existence. The "Christian Science Board of Directors," hereinafter referred to as the directors, or directors of The Mother Church, are directors, of only one of these Christian Science churches: to wit, The Mother Church situated in Boston.

The Church By-laws created by Mrs. Eddy provide for local self-government of churches:

#### Article XXIII

Local Self-government. Section 1. The Mother Church of Christ, Scientist, shall assume no general official control of other churches, and it shall be controlled by none other.

Each Church of Christ, Scientist, shall have its own form of government. No conference of churches shall be held, unless it be when our churches, located in the same State, convene to confer on a statute of said State, or to confer harmoniously on individual unity and action of the churches in said State.

Sect. 10.... In Christian Science each branch church shall be distinctly democratic in its government, and no individual, and no other church shall interfere with its affairs.

#### Article XI

Sect. 13.... Each church shall separately and independently discipline its own members,—if this sad necessity occurs.

7. In recent years, since the passing on of Mrs. Eddy, the directors have been gradually endeavoring to assume and exercise powers with regard to the Publishing Society which the directors never assumed or attempted to exercise during the lifetime of Mrs. Eddy. Upon one excuse or another, the directors have sought from the trustees various information with regard to the work of the Publishing Society and the management of its affairs. They have requested the Board of Trustees to abstain

from the exercise of certain powers and the performance of certain duties theretofore exercised and performed by them. The trustees have conformed to all of these requests. They have given all the information requested, and have in all cases conformed to any specific request which has been made by the Board of Directors.

In addition to such specific requests within the months recently last past, the directors have repeatedly insisted that the Board of Trustees should make open, specific and public acknowledgment that the directors were the supreme and final authority with reference to all of the affairs of the Publishing Society and the management of the trust created by the trust deed of January 25, 1898 (Exhibit "A").

8. During the month of October last past, the defendants Dickey, Neal, Merritt, Rathvon, and Dittimore made formal demand upon the trustees that thereafter the trustees should in general no longer conduct the business of The Christian Science Publishing Society as they had theretofore conducted said business and performed their duties as declared and defined by the provisions of the trust instrument; but that they, the trustees, thereafter should act in all matters concerning the administration of the trust in conformity with the directors of said Board of Directors in accordance with the interpretation by said Board of Directors of certain alleged wishes of Mrs. Eddy, the Donor, alleged by said directors to have been expressed both in the Manual of The Mother Church and otherwise, on occasions long after the date of the Deed of Trust, although these alleged expressions and statements are admittedly inconsistent with the terms of the Deed of Trust and in derogation of the powers and duties of the trustees as therein declared and defined.

The directors have demanded of the trustees in substance and effect not that they should do or refrain from doing any particular thing but that the trustees should declare their general acceptance of and assent to the directors' claim of supreme authority and agree definitely and in writing that they would thereafter discharge their duties as trustees in accordance with the directors' interpretation of the By-laws of The Mother Church; and that upon occasions where the directors' interpretation of the provisions of the Church By-laws or Manual was inconsistent with and contrary to the provisions of the Deed of Trust the trustees should disregard the provisions of the Deed of Trust and exercise their powers, or refrain from exercising their powers, in accordance with the interpretation of the directors of such By-law,—denying to the trustees the right to act either upon their own interpretation of the provisions of the Manual or that of any person or persons other than the directors.

The directors have also insisted that the trustees should at once openly declare and agree that since the By-laws of the Church as a whole

indicated that the Directors of the Church were entrusted with the business of the Church, they, the directors, were thus authorized and required to supervise and control the business of The Christian Science Publishing Society as a part of the Church and that thereafter the trustees should not act as they hitherto had acted in the discharge of their duties as declared and defined by the trust instrument, but should act solely and exclusively as directed by, and in subordination to, the directors, who would thus in effect arrogate to themselves all the duties of the trustees of the Publishing Society as well as of the directors of the Church.

The trustees desiring information as to their powers and responsibilities in the premises, consulted counsel in order to secure a competent opinion for their guidance. The trustees were advised, and accordingly communicated to the directors, that they were unable to conform to the request of the directors, because they believed that the demand which the directors had made was contrary to the purposes and intentions of the Founder of The Mother Church, the Donor of the powers declared in the Deed of Trust, and inconsistent with Mrs. Eddy's plans for the promotion and extension of Christian Science, especially in respect of maintaining the control of the Publishing Society apart and free from interference by the directors; that compliance with the demand of the directors would be in effect to defeat the purposes of the Donor as declared in the Deed of Trust; and that thus the trustees would become recreant to a sacred duty imposed upon them and them alone by the Founder and great Leader of the Christian Science Church.

9. Thereafter there occurred an interchange of correspondence between the Board of Directors and the Board of Trustees, in which the sole point discussed was whether the trustees would continue to conduct their trust and perform their duties in accordance with the terms declared and defined in the trust deed, or should in substance and effect agree thereafter to manage the affairs of the Publishing Society in accordance with the edict and direction of the Board of Directors under their own interpretation of the Church Manual and the alleged wishes of Mrs. Eddy.

On the third day of January last past, the Board of Directors sent to the Board of Trustees a communication in substance and effect demanding the resignation of the Board of Trustees, said demand being couched in the following terms:

"The Directors have one more proposal to make. It is that the present members of the Board of Trustees submit their resignations to The

Christian Science Board of Directors to take effect when their resignations are accepted by the Board of Directors.”

10. On no occasion prior to the demand of January 3d for the resignation of the trustees did the directors, or any member thereof, criticize either the efficiency or success of the management of the affairs of the Publishing Society. In substance and effect the directors conceded that the business affairs of said Society were being efficiently and successfully managed, and that the purposes of the trust deed as stated and declared therein were being promoted; but said directors insisted that entirely apart from questions of efficiency of management and performance of the trust under the terms of the Deed of Trust it was in their opinion necessary to the success of the Christian Science movement that the Board of Directors of The Mother Church should have absolute and unchallenged dominion and control of the affairs of the Publishing Society as a department of the Church; that such was the purpose of the Founder of the Church, Mrs. Eddy, as made known to them and claimed by them to appear in the Church Manual; that accordingly the provisions in the trust deed creating the trust and defining the duties and responsibilities of the trustees must be disregarded by the trustees, who should accept the later declarations of the donor of the trust and the directors' interpretations thereof to guide them in the performance of their duties as trustees.

11. Upon receipt of said demand by the Board of Directors for their resignation, the Board of Trustees again consulted counsel and requested a further opinion as to the proper manner, under the circumstances thus presented, in which they should proceed in the discharge of their duties and responsibilities as trustees and for their guidance as to what they should do in the proper execution of their trust.

Counsel thus employed rendered an opinion in terms which appear in a communication addressed to counsel employed by the Board of Directors, as follows:

Boston, January 27, 1919.

Messrs. John L. Bates,  
Clifford P. Smith,  
Leon M. Abbott,  
Edwin A. Krauthoff,

Counsel for the Board of Directors of The First Church of Christ, Scientist, in Boston, Mass.

Dear Sirs:

.....  
The Trustees have sought our advice respecting their rights and duties as Trustees under the Deed of Trust executed by Mary Baker G. Eddy, under date of January 25, 1898.  
.....

After having carefully considered the deed, we have advised our clients that,

(1) The Deed created a valid, express trust. The activities, powers and duties of the Trustees are therein stated in clear and decisive terms;

(2) The Deed of Trust is complete in itself and irrevocable. By it the title to the property therein described was transferred and the relation of the Trustees and *cestuis que trustent* was definitely fixed. It was beyond the power of Mrs. Eddy, the creator of the trust, thereafter to change, alter or modify the rights and interests established by the Deed;

(3) The power under the Deed of Trust to declare vacancies having been vested jointly in the Board of Directors and the First Members, the Board of Directors alone cannot exercise the power;

(4) The source of the powers and duties of the Trustees is the Deed of Trust. To it they must look for the extent and limit of their authority. The language of the Deed of Trust being definite and controlling, neither subsequent provisions of the Church Manual nor, as heretofore stated, any subsequent declarations of Mrs. Eddy, can have the effect of modifying the Deed of Trust or the estates and equitable interests thereby created. Nor can such provisions or declarations add to, or detract from, the particular responsibilities, duties and functions imposed upon the Trustees by the Deed;

(5) If there be any conflict between the terms of the Deed and the language of the Church Manual, the legal and moral obligation of the Trustees compels them to respond to and obey the mandates of the Deed. Should they do otherwise, they would violate the compact which they made by their acceptance of the trust "to honestly and faithfully do and perform all things to be done and performed by them within the terms, objects and purposes of this instrument."

Although the Deed of Trust provides that the balance remaining after paying the usual and legitimate expenses incurred in conducting the business shall be paid over to the treasurer of the First Church of Christ, Scientist, in Boston, the avowed and reiterated purpose of Mrs. Eddy in creating the trust was more effectually to promote and extend the religion of Christian Science. As said by the Supreme Court of Massachusetts in *Chase v. Dickey* (212 Mass. pp. 555, 561, 562): "This latter

purpose in substance is not a gift to the particular ecclesiastical organization for its special needs. It manifests a broader design, and authorizes the use of the gift for spreading the tenents of faith taught by the testatrix over an area more extensive than could possibly be gathered in one congregation. It includes the most catholic missionary effort both as to territory, peoples and times. It is the founding of a trust of comprehensive scope for the upbuilding of the sect which the testatrix made the object of her bounty." Obviously it was not Mrs. Eddy's intention to establish a mere money-making enterprise for the benefit of the First Church in Boston.

Having been thus advised as to their powers and duties and the objects of the trust, the Trustees assert it always has been and is now their purpose, as Trustees and as "loyal, faithful, and consistent believers and advocates of the principles of Christian Science as taught by me (Mrs. Eddy) in my book, 'Science and Health with Key to the Scriptures,'" as required by the Deed, strictly, to carry out and faithfully to discharge the duties and responsibilities which the Deed imposes.

It must be assumed that in creating the Publishing Society and in designating Trustees to hold and manage the property and property rights involved, and in imposing upon them the duty of energetically and judiciously managing the business of the Publishing Society on a Christian basis and "upon their own responsibility," Mrs. Eddy intended to commit this important work of "effectually promoting and extending the religion of Christian Science" to men of character, discretion, and courage, and that by the controlling terms of the deed she did not intend that the Trustees should yield their responsibility to some other body or individuals, or to permit the judgment of others to be substituted for that of the Trustees.

Minds may differ as to the manner in which the Trustees have performed and are performing their duty, but there can be no serious dispute as to the meaning of the language of the Deed. The Trustees welcome kindly and just criticism of anything which they may do or fail to do in the discharge of their duty. In the same spirit, they feel they must refuse to accept peremptory orders concerning subjects which rest wholly within the discretion of the Trustees.

.....

We reiterate what was stated to you at the interview—our earnest wish to cooperate with you to the end that our respective clients may work harmoniously and effectively in the discharge of the duties which they have severally assumed, and we welcome your suggestions.

CHARLES E. HUGHES,  
SILAS H. STRAWN,  
SHERMAN L. WHIPPLE.

12. As a result of conferences between counsel of the trustees and directors, it was agreed that the respective boards would make a sincere attempt to harmonize their different views as to the authority of the Board of Trustees in respect to the manner in which the trustees should perform their duties as such. The plaintiffs endeavored in good faith to carry out such agreement, but the directors personally and through counsel, both in interviews and by correspondence, demanded of the trustees and insisted as a condition of their continuing to hold their offices, that the plaintiffs should explicitly and in writing repudiate the advice and opinion of their counsel as hereinabove set forth, and agree that their actions should not be governed thereby.

Said directors requested the trustees particularly to repudiate that part of the opinion of counsel stated in the following terms:

"If there be any conflict between the terms of the Deed (the Deed of Trust dated January 25, 1898) and the language of the Church Manual, the legal and moral obligation of the Trustees compels them to respond to and obey the mandates of the Deed."

The directors insisted as a further condition of the trustees retaining their offices as such, that the trustees acknowledge in writing that the Board of Directors have final authority in regard to the editorial policy of the publications of The Christian Science Publishing Society, and general supervision of the general affairs of The Christian Science Publishing Society.

The trustees expressed themselves as always willing to receive recommendations or criticisms from the Board of Directors as to the administration of their trust and the direction of the editorial policy of their publications, and stated that they would give to such recommendations careful and earnest consideration and that they would on all occasions conform thereto when in the exercise of sound discretion and judgment they might do so.

They stated their assent that the Board of Directors of the Church was supreme in respect of any and all matters in any way affecting the government of The Mother Church in so far as such matters did not require the Board of Trustees to violate the terms of the trust deed, which was the source and measure of their own authority. The trustees offered cordially to cooperate with the directors in promoting and extending the interest of the Christian Science religion, but they declined to repudiate the advice of their counsel and stated that in the administration of their trust they would be guided by the terms of the trust instrument, with a due regard for the By-laws of the Church and the provisions of Mrs. Eddy's desires and purposes in the provisions of the Trust Deed.

13. Thereafter solely for the reasons above set forth the directors made an attempt to remove the plaintiff Rowlands as trustee and declare his office vacant. In pursuance of a plan which the defendants Dickey, Neal, Merritt, Rathvon, and Dittimore had conceived and intended to carry out to accomplish the subordination of the Board of Trustees to the will of the directors and to dominate the affairs of The Christian Science Publishing Society in derogation of the terms of the trust deed, the defendant directors on the 17th day of March current delivered to the plaintiff Rowlands a so-called "Notice of Dismissal" of said plaintiff as a trustee of The Christian Science Publishing Society, said "Notice of Dismissal" being as follows:

"The following resolution is offered for adoption by The Christian Science Board of Directors, the Board of Directors of The First Church of Christ, Scientist, in Boston, and the governing board of the Christian Science denomination. It is offered for adoption in the exercise of the rights and powers vested in this church and in this Board by the law of Massachusetts, by the Deed of Trust dated January 25, 1898, through which Mary Baker Eddy, the Discoverer and Founder of Christian Science, and the Leader of the Christian Science movement, constituted the Board of Trustees of The Christian Science Publishing Society, by the By-Laws of this church, and by the usage of the Christian Science denomination.

Whereas Mr. Lamont Rowlands, who has been acting as a Trustee of The Christian Science Publishing Society under said Deed of Trust and under Article XXV of the By-Laws of this church, was put into said position for the reason, among other reasons, that he was a member of this church who had subscribed to its By-Laws and was regarded as obedient to its By-Laws and government; and

Whereas Mrs. Eddy has declared that "The present and future prosperity of the cause of Christian Science is largely due to the by-laws and government of 'The First Church of Christ, Scientist,' in Boston" (Christian Science Sentinel, Volume XVI, page 1010); and

Whereas Mrs. Eddy has declared that "Law constitutes government, and disobedience to the laws of The Mother Church must ultimate in annulling its Tenets and By-Laws. Without a proper system of government and form of action, nations, individuals, and religion are unprotected; hence the necessity of this By-Law and the warning of Holy Writ: 'That servant, which knew his lord's will, and prepared not himself, neither did according to his will, shall be beaten with many stripes'" (Church Manual, page 28); and

Whereas the tenets referred to in the foregoing quotation are "the important points, or religious tenets, of Christian Science" (Science and Health, page 497), and the system of government and form of action

referred to in the foregoing quotation is that which is shown by the By-Laws of this church; and

Whereas it has become evident that Mr. Rowlands does not understand or recognize the importance and necessity of promoting the interests of Christian Science by following the directions given by Mrs. Eddy in our Church By-Laws; and

Whereas Mr. Rowlands has shown a disposition to invent or adopt interpretations of our Church By-Laws that pervert their meaning and annul their effect; and

Whereas since Mr. Rowlands began to act as a Trustee of The Christian Science Publishing Society, he and the other Trustees thereof have tried to change the relation which had always theretofore existed between The Christian Science Publishing Society and its Board of Trustees on the one hand and The Mother Church and its proper officers on the other hand, and he in particular has tried to convert and enlarge said trusteeship into an office or function of a new and different character; and

Whereas Mr. Rowlands and other persons acting with him, including several eminent lawyers wastefully employed have set up said Deed of Trust against the By-Laws and government of The Mother Church, and have threatened this Board with litigation if this Board exercise its right and power to remove any of said Trustees; and

Whereas it has become evident that Mr. Rowlands has allowed a sense of self-interest to interfere with the interests of Christian Science; that he has become self-assertive, contentious, and disposed to make trouble without regard to consequences; and that he is, for these reasons and the foregoing reasons and other reasons, not suitable for connection with The Christian Science Publishing Society as a Trustee thereof; and

Whereas Mr. Rowlands evidently has other interests which prevent him from giving sufficient time and attention to the business of The Christian Science Publishing Society;

Now therefore it is resolved by The Christian Science Board of Directors, the Board of Directors of The First Church of Christ, Scientist, in Boston, and the governing board of the Christian Science denomination, in the exercise of the rights and powers above mentioned, that Mr. Rowlands is no longer accepted by this Board as suitable for connection with The Christian Science Publishing Society as a Trustee thereof; that he be and hereby is removed from the Board of Trustees of said Society; and that the trusteeship in connection with said Society heretofore held or claimed by him be and hereby is declared vacant."

On the following day the defendant directors caused to be delivered to the plaintiff Rowlands' associates on the Board of Trustees a communication reading as follows:

"The Christian Science Board of Directors,  
Boston Massachusetts.

March 18, 1919.

Mr. Herbert W. Eustace,  
Mr. David B. Ogden, Trustees,

The Christian Science Publishing Society,  
Boston, Mass.

Dear Friends:—

I am instructed by The Christian Science Board of Directors to say in furtherance of the Board's interview with you on the 17th inst., at which time you were served with a notice of the dismissal of Mr. Lamont Rowlands as a Trustee of The Christian Science Publishing Society, which action was taken by The Christian Science Board of Directors under Article XXV, Sections 3 and 5, of The Mother Church Manual, the Board calls attention to your duty under Article XXV, Section 3, of the Manual, requiring the remaining Trustees to fill the vacancy. It is the Board's desire that you immediately appoint some one to fill the position made vacant by their action of yesterday, and in the appointment of Mr. Rowlands' successor they expressly request that you name a person who shall be suitable and satisfactory to the Board of Directors.

Kindly acknowledge receipt of this letter, and advise the Board of Directors when you will be able to comply with the above request.

Sincerely yours,

(Signed) 'Chas. E. Jarvis.'  
Corresponding Secretary for The Christian  
Science Board of Directors."

14. The plaintiffs deny that the statements set forth in the preamble of the above resolution as a ground for the removal of the plaintiff Rowlands are well founded or justified in fact.

They especially deny that the plaintiff Rowlands has ever shown a disposition to invent or adopt interpretations of the Church By-Laws that pervert their meaning and annul their effect.

They further deny that either he or the other trustees have "tried to change the relation which had always theretofore existed between The Christian Science Publishing Society and its Board of Trustees on the one hand and The Mother Church and its proper officers on the other hand," and they state the fact to be that the trustees have continued the relations which they had found to exist between the Board of Trustees and the Board of Directors, and that the Directors alone have tried to alter and destroy that existing relation.

The plaintiffs further deny that the plaintiff Rowlands "in particular has tried to convert and enlarge said trusteeship into an office or function of a new and different character;" and they state the fact to be that no one of the trustees has in any way attempted to convert said trusteeship into an office or function of a new or different character and that said trustees have enlarged the trusteeship only in the sense that by their efforts they have steadily attempted to promote and extend the circulation of the Christian Science publications and increase their influence and thus to enlarge the interest of the world in Christian Science, and that in such endeavor the trustees have in fact been successful beyond any of their predecessors.

They deny that either they or their counsel have set up the Deed of Trust against the By-Laws and government of The Mother Church, but they state the fact to be that having received the advice of counsel that their duties as trustees were defined and declared in the Deed of Trust, they accepted said advice and have acted accordingly, always giving due regard and heed to the provisions of the Church Manual.

The plaintiffs deny that they have at any time threatened the Board of Directors with litigation in case the Board should exercise its alleged right and power to remove any of said trustees, and state the fact to be that the trustees were advised by their counsel that under the circumstances existing the directors had no right or power whatever to remove either the plaintiff Rowlands or any of said trustees, and that this advice was duly and respectfully communicated to the Board of Directors and their counsel.

The plaintiffs deny that "the plaintiff Rowlands has allowed a sense of self-interest to interfere with the interest of Christian Science or that he has become self-assertive, contentious or disposed to make trouble without regard to consequences," and they state the fact to be that he has in all respects discharged his duties as trustee solely with a view to what in the exercise of sound judgment he has regarded as the best interests of Christian Science, the Christian Science Church and the promotion and extension of Christian Science throughout the world; that he has been prayerfully conscientious and loyal and faithful to his duty as a believer in Christian Science and has taken no action whatever in the premises except upon the advice of those whose experience and learning in the law made them competent to guide the plaintiff in the discharge of those important duties to an important cause. The plaintiffs aver that all of them have been faithful, loyal and conscientious Christian Scientists in the performance of the duties under the important trust and confidence reposed in them by the great Leader and Founder of the Christian Science movement.

The plaintiffs deny that either for the reasons set forth in the preamble of said resolution or for any other reason the plaintiff Rowlands is not suitable for connection with The Christian Science Publishing Society as a trustee thereof, and they state the fact to be that in all respects, as they believe, he has discharged his duty faithfully and loyally and conscientiously.

The plaintiffs further deny that the plaintiff Rowlands has any other interest which prevents him from giving sufficient time and attention to the business of The Christian Science Publishing Society and they state the fact to be that upon taking the trusteeship he gave up large and important business interests and engagements which, if continued, would have brought to him a financial return many fold greater than the salary of a trustee; that he made this financial sacrifice solely to consecrate himself to the extension and promotion of Christian Science which he had adopted and professed, and in which he had become very deeply and sincerely interested.

The plaintiffs believe that no valid or sound reason exists why the plaintiff Rowlands should be removed or should resign his office as trustee and they state their belief to be that the action of the defendant directors in seeking his dismissal does not rest upon sound judgment exercised in the interest of the Christian Science movement, but is an arbitrary and capricious attempt to exercise a fancied power which does not exist; that said action is undertaken for the purpose of extending the power of the directors, individually or collectively, into a domain purposely excluded from their jurisdiction by the specific provisions which the Donor caused to be inserted in said trust instrument, and thus create an absolute oligarchy in control of the great Christian Science movement, which its Founder and Leader never intended and against which she specifically provided in creating the trust under which the plaintiffs are acting.

15. The plaintiffs are advised and accordingly aver that neither as matter of fact nor under the law have the directors the right to remove or dismiss the plaintiff Rowlands from his position as trustee under the Deed of Trust, and that the action of the directors in the premises is nugatory and without effect, but upon belief they aver that the defendant directors having taken the above described action will further proceed to attempt to prevent the plaintiff Rowlands from acting as trustee and interfere with said Rowlands in the discharge of his duties under the trust agreement and that the business of The Christian Science Publishing Society may thereby be seriously and irrevocably injured.

16. The plaintiffs aver upon information and belief that the things which the directors have done in demanding the resignation of the

plaintiffs as trustees and in attempting to remove from his office the plaintiff Rowlands are done in pursuance of a plan which the defendants Dickey, Neal, Merritt, Rathvon and Dittimore have heretofore contrived, to which plan said defendants expect to secure the assent of the defendant Knott; that said plan involves a deliberate attempt by the directors to force the trustees out of the offices which they hold in order to place therein either three of the directors themselves or three persons who will be subservient to the directors and manage said trust and the affairs of the Publishing Society in subservience to the defendants; that said plan contemplates that the trust created by Mrs. Eddy in respect of the Publishing Society and which she specifically provided should be dominated and controlled by trustees other than directors of The Mother Church shall hereafter be dominated and controlled by said directors.

The plaintiffs further aver upon belief that in case the plaintiffs Eustace and Ogden should decline to make an appointment of the plaintiff Rowlands' successor and appoint such person as may be selected by and agreeable to the directors, the directors plan to make such refusal a ground and excuse for an attempt to remove both said plaintiffs from their office as trustees.

17. The plaintiffs further aver upon information and belief that it is not a part of the plan of the defendants to appeal to the Courts for an order determination of the question of their right to remove the plaintiff trustees under existing circumstances, but that on the contrary they propose to accomplish their removal by the exercise of the great and dominating influence which they carry by reason of their official position and in the exercise of their power to dominate and control members of The Mother Church by the powers of discipline which they hold, and to influence the action of other churches by refusals to grant licenses or appointments.

The plaintiffs believe that the defendants intend thus to make the office of trustees practically untenable by the plaintiffs, or to make the performance of their duties so arduous and disagreeable as thereby to induce their voluntary resignation as trustees and their compliance with the demands which the defendants have made upon them as hereinabove set forth.

The plaintiffs further aver upon information and belief, that the defendants have stated to many Christian Scientists in substance that they plan to obtain control of the Publishing Society, or to destroy it; that if the plaintiffs as trustees continue to resist the demands of the directors and refuse to conform to their will, the directors propose in the terms used by one of them, "to make the Publishing Society an empty shell," and to accomplish that result by using their great influence with

Christian Science churches and throughout the field to induce Christian Scientists not to continue to subscribe for and support the publications published by the Society established and founded by Mrs. Eddy, but to subscribe for and support new publications which the directors have threatened, themselves, to publish and issue, to take the place of those which the plaintiffs as trustees are now publishing as the duly authorized and accredited works of the great Founder and Leader of the Christian Science movement.

18. The plaintiffs aver that the threat on the part of the directors to injure the Publishing Society and to make the same "an empty shell" is in effect a threat to use their power as directors to embarrass the plaintiffs in the management of a trust created by Mrs. Eddy and which is being carried out in accordance with her express purposes and desires, as declared in the trust instrument; to defeat the purposes of the Donor of the trust to provide a management and control of the Publishing Society, separate and distinct from the management and control of The Mother Church; to injure and possibly to ruin an enterprise created by the Founder of The Mother Church for its support and for the extension of the Christian Science movement, and utterly to destroy the effect of the instrument which conveyed to the trustees the property which they hold upon a "*a perpetual and irrevocable trust and confidence,*" thus to destroy what is believed by all true Christian Scientists to be a sacred trust created by the Founder and great Leader of all Christian Science churches and the world-wide Christian Science movement.

19. The plaintiffs aver, upon belief, that unless the defendants are restrained from carrying out the plan which they have contrived, as hereinbefore described, and from executing the threat which they have expressed to make the Publishing Society "an empty shell," the trust which as trustees these plaintiffs are bound by duty to protect and maintain, will suffer irrevocable and irremediable harm, and great and lasting injury will be done to the business of The Christian Science Publishing Society; the income upon which The Mother Church and the Christian Science movement so largely depend, will be diminished or entirely abated and the purposes of the trust as therein declared for the promotion and extension of the religion of Christian Science as taught by Mrs. Eddy will be defeated.

WHEREFORE the plaintiffs pray:

1. That the defendant directors be restrained and enjoined from taking any further action intended directly or indirectly to impede or interfere with the plaintiff Rowlands, or either of the other plaintiffs, in the discharge of his or their respective duties as trustees, under the trust instrument of January 25, 1898 (Exhibit "A").

2. That the resolution hereinbefore recited purporting to remove the plaintiff Rowlands as trustee of The Christian Science Publishing Society and declare said trusteeship vacant, be adjudged as nugatory and of no legal effect;

3. That the defendants be restrained and enjoined from carrying out any purpose or plan by either direct or indirect means to compel the plaintiffs or any of them to resign their offices as trustees; to impair, destroy, or in any way injure the business of The Christian Science Publishing Society as conducted by the plaintiff trustees; or in any way to carry out any threat or purpose to injure the business of said Publishing Society either by creating and maintaining a publishing society to conduct a business in competition therewith, or otherwise;

4. That the defendants may be restrained and enjoined from taking any action to defeat or tending to defeat the purposes of Mrs. Mary Baker G. Eddy, the Donor, as set forth and declared in the Trust Deed of January 25, 1898 (Exhibit "A");

5. And for such further relief as the case may require or admit of.

By their solicitors.

(Signed) WHIPPLE, SEARS & OGDEN.

(Signed) CHARLES E. HUGHES,

(Signed) SILAS H. STRAWN,

(Signed) SHERMAN L. WHIPPLE,

of Counsel.

We, the plaintiffs named in the foregoing bill in equity, hereby certify that we have read the bill; that the statements therein contained which are made upon knowledge, are true; and those made upon information and belief, we believe to be true.

(Signed) HERBERT W. EUSTACE,

(Signed) DAVID B. OGDEN,

(Signed) LAMONT ROWLANDS.

Commonwealth of Massachusetts,

Suffolk, ss.

March 25, 1919.

Personally appeared the above named Herbert W. Eustace, David B. Ogden and Lamont Rowlands and made oath that the foregoing statement by them subscribed is true, before me.

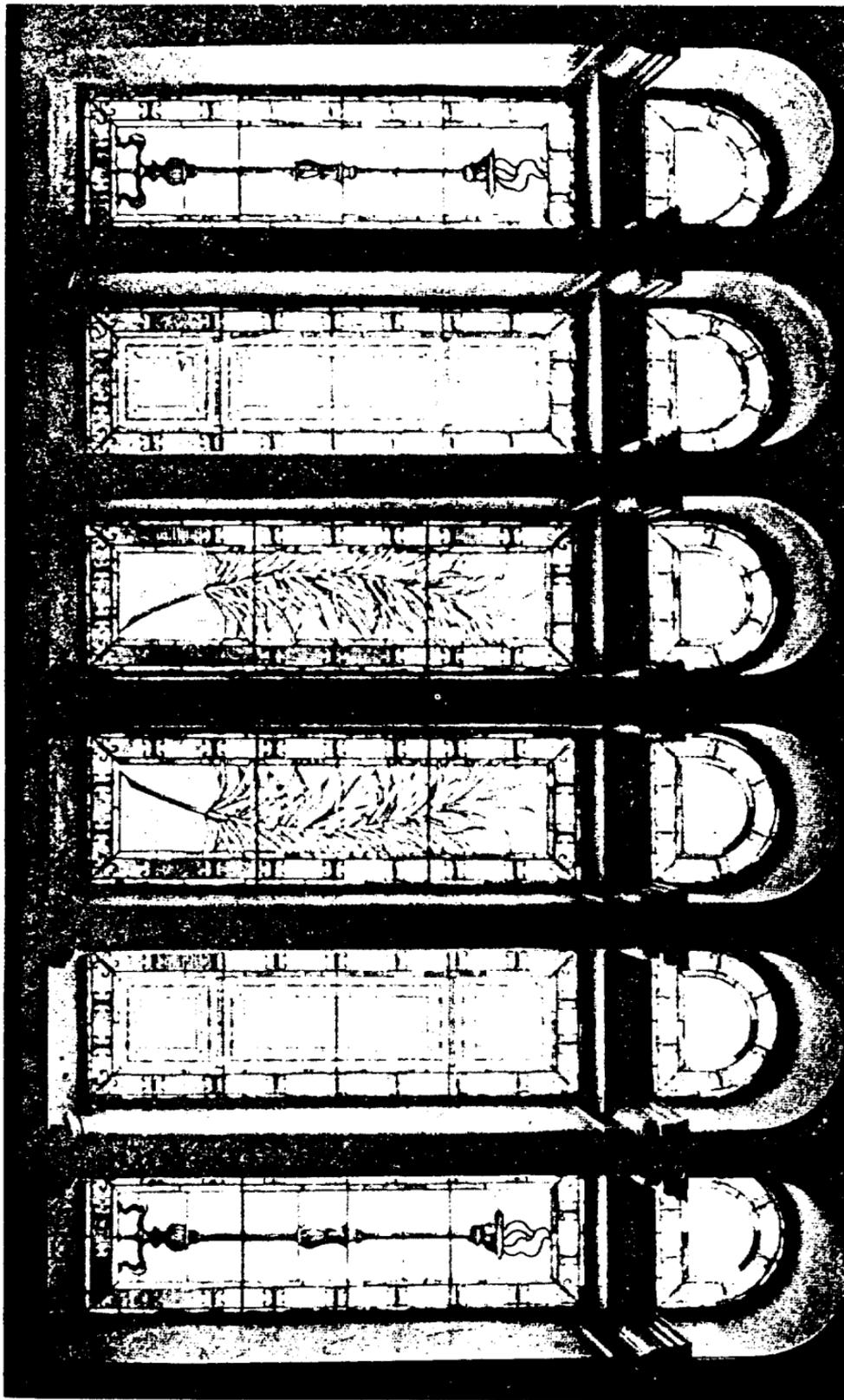
(Signed) ALEXANDER LINCOLN,

Justice of the Peace.

## INJUNCTION ISSUED

On this bill on March 25, 1919, an *ad interim* injunction by the Supreme Judicial Court was issued, restraining all the defendants, as follows:

Until said hearing you the said defendant directors, your agents, attorneys and counsellors, and each and every of them are commanded to desist and refrain from taking any further action intended directly or indirectly to impede or interfere with the plaintiff Rowlands, or either of the other plaintiffs, in the discharge of his or their respective duties as trustees, under the trust instrument of January 25, 1898; and from carrying out any purpose or plan by either direct or indirect means to compel the plaintiffs or any of them to resign their offices as trustees; to impair, destroy, or in any way injure the business of The Christian Science Publishing Society as conducted by the plaintiff trustees; or in any way to carry out any threat or purpose to injure the business of said Publishing Society either by creating and maintaining a publishing society to conduct a business in competition therewith, or otherwise; and from taking any action to defeat or tending to defeat the purposes of Mrs. Mary Baker G. Eddy, the Donor, as set forth and declared in the Trust Deed of January 25, 1898.



**BILL IN EQUITY, APRIL 10, 1921**  
COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

SUFFOLK, SS.

IN EQUITY

The First Church of Christ, Scientist, in Boston, Massachusetts, Adam H. Dickey, of Cohasset in the County of Plymouth, James A. Neal of Brookline in the County of Norfolk, Edward A. Merritt of Concord in the County of Middlesex, William R. Rathvon and Annie M. Knott, both of Boston in the County of Suffolk, as they are the Christian Science Board of Directors, the Directors of said The First Church of Christ, Scientist, in Boston, Mass.; and Edward L. Ripley of Boston in the County of Suffolk, as he is Treasurer of said The First Church of Christ, Scientist, in Boston, Mass.

Plaintiffs.

v.

Herbert W. Eustace of Boston in the County of Suffolk, David B. Ogden of Brookline in the County of Norfolk and Lamont Rowlands of Picayune in the State of Mississippi, acting as Trustees of The Christian Science Publishing Society under a deed of trust dated January 25, 1898.

Defendants.

**BILL OF COMPLAINT**

1. The plaintiff, The First Church of Christ, Scientist, in Boston, Massachusetts, is a voluntary religious society located in Boston, in the County of Suffolk, and for the purposes of this suit is a corporation by virtue of Revised Laws, Chapter 37, Section 12, and Chapter 132 of the Special Acts of 1917, and is otherwise known and referred to hereinafter as The Mother Church; and said The First Church of Christ, Scientist, is the sole financial beneficiary under the trust deed hereinafter mentioned.

The plaintiffs Dickey, Neal, Merritt, Rathvon, and Knott are the members of the Christian Science Board of Directors, the Directors of said The First Church of Christ, Scientist, and are charged with the transaction of the business of said Church by virtue of the by-laws thereof contained in the Church Manual, a copy whereof is hereto annexed marked Exhibit "A". The plaintiff Edward L. Ripley is the duly elected, qualified and acting Treasurer of said The First Church of Christ, Scientist.

2. The defendants Eustace, Ogden, and Rowlands are acting as Trustees of The Christian Science Publishing Society under an instrument dated January 25, 1898, a copy whereof is hereto annexed marked Exhibit "B".

3. On January 25, 1898, Mary Baker Eddy executed a deed of trust, Exhibit B, by which she conveyed to certain Trustees and their successors in trust certain personal property as therein described upon the trusts therein established, to hold and manage said property and property rights exclusively for carrying on the business therein mentioned in promoting the interests of Christian Science. By said deed Mrs. Eddy provided that the Trustees thereunder should energetically and judiciously manage the business of the Publishing Society on a strictly Christian basis, and upon their own responsibility, without consulting her about details, but reserved to herself the right to make such changes as she might think important and to supervise the management of the business if she should at any time elect to advise or direct the Trustees thereunder, and provided that said Trustees and their successors in trust should not be eligible to said trusteeship, or to continue in the same, unless they were loyal, faithful and consistent believers and advocates of the principles of Christian Science as taught by her in her book "Science and Health with Key to the Scriptures". Mrs. Eddy also provided in said deed that the Trustees thereunder should keep accurate books of account of all the business done by them and should deposit in a responsible and reliable bank or trust company all bonds, mortgages, deeds and other documents or writings obligatory of every kind and nature for safe keeping; also all surplus funds over and above the sum necessary to defray running expenses of the business until the same should be paid over to the Treasurer of said Church. By said deed she also provided that no papers or monies should be taken from said bank or trust company excepting by and in the presence of a majority of said Trustees; and that once in every six months the Trustees should account for and pay over to the Treasurer of said "The First Church of Christ, Scientist, in Boston, Massachusetts", the entire net profits of said business. The term "net profits" was, by said trust deed, defined to mean the balance remaining at the end of each six months after paying the usual and legitimate expenses incurred in conducting the business; and it was further provided that no authority is intended to be conferred upon the Trustees to expend the money of the trust for property not necessary for the immediate successful prosecution of the business, or to invest the same for purpose of speculation, or to incur liabilities beyond their ability to liquidate promptly from the current income of the business.

4. At or about the date of the execution of said trust deed and from time to time subsequent thereto the donor, Mrs. Eddy, by means of by-

laws contained in the Church Manual made provisions for the supervision of the business conducted by the Trustees under said trust deed and directed said Trustees in the management of said business likewise by means of such by-laws, originated and approved by her as a part of the organic law and denominational government of said Church. Some of such directions are now contained in Article XXV, in Article VIII, Sections 11 and 14, and in Article I, Sections 6 and 7, of the 89th edition of the Church Manual which is annexed hereto marked Exhibit "A". Among such directions are the following:

#### Article VIII

**CHURCH PERIODICALS.** Sect. 14. It shall be the privilege and duty of every member, who can afford it, to subscribe for the periodicals which are the organs of this Church; and it shall be the duty of the Directors to see that these periodicals are ably edited and kept abreast of the times.

#### Article XXV

**VACANCIES IN TRUSTEESHIP.** Sect. 3. The Christian Science Board of Directors shall have the power to declare vacancies in said trusteeship for such reasons as to the Board may seem expedient.

Whenever a vacancy shall occur, the Pastor Emeritus reserves the right to fill the same by appointment; but if she does not elect to exercise this right, the remaining trustees shall fill the vacancy, subject to her approval.

**EDITORS AND MANAGER.** Sect. 4. The term of office for the editors and the manager of The Christian Science Publishing Society is one year each, dating from the time of election to the office. Incumbents who have served one year or more can be re-elected, or new officers elected, by a unanimous vote of the Christian Science Board of Directors, and the consent of the Pastor Emeritus given in her own handwriting.

**SUITABLE EMPLOYEES.** Sect. 5. A person who is not accepted by the Pastor Emeritus and the Christian Science Board of Directors as suitable, shall in no manner be connected with publishing her books, nor with editing or publishing The Christian Science Journal, Christian Science Sentinel, Der Herold der Christian Science, nor with The Christian Science Publishing Society.

In thus promulgating her directions relating to the business of said trust by means of Church by-laws Mrs. Eddy, the donor of said trust and the Discoverer and Founder of Christian Science, established, for all

time, for the guidance of the Trustees thereunder and all loyal Christian Scientists, her directions as to what is necessary for the promotion of the interests of Christian Science, which is the purpose and object of said trust deed; and when said defendants accepted their appointments under said deed these said directions were known to them and accepted by them as among Mrs. Eddy's directions as to how best to promote the interests of Christian Science.

5. For nearly twenty years following the establishment of The Christian Science Publishing Society under said deed, the Trustees thereof, with the support and co-operation of The Mother Church, its branches and members, conducted the business of said Society in accordance with the provisions of said deed and the directions and requirements of Mrs. Eddy, as contained in said by-laws in the Church Manual, and as thus conducted the said Society flourished and grew in influence, greatly extended and promoted the interests of Christian Science, and prospered financially to the benefit of the plaintiff Church and the Cause of Christian Science. During said period and until September 30, 1919, the Trustees acting under said deed paid to the Treasurer of said Church, as the sole financial beneficiary, once in every six months net profits of the business, so that The Mother Church has until recently derived regular and substantial revenue therefrom for its purposes in extending and promoting the religion of Christian Science. The monies so paid for the five years ending March 31, 1919, amount in the aggregate to more than \$1,500,000 and the last payment made to said Treasurer, viz: for the semi-annual period ending March 31, 1919, amounted to \$231,896.58.

6. The periodicals published by said Society include The Christian Science Journal and the Christian Science Quarterly, both founded prior to the date of said trust deed, the Christian Science Sentinel, first published in September, 1898, Der Herold der Christian Science, first published in 1903, The Christian Science Monitor, first published in 1908, and Le Heraut de Christian Science, first published in 1918. That said Journal and Quarterly were adopted by The Mother Church, its members and branches, as organs of said Church, and said Sentinel, Herold, Monitor and Heraut were originally issued and adopted by The Mother Church, its branches and members, as organs thereof, with the understanding on the part of the Trustees of said trust, as well as the officers, members and branches of The Mother Church, that all of said periodicals were to be conducted in accordance with and subject to the directions given by Mrs. Eddy in said trust deed and in the by-laws of said Church. That the patronage and support of said periodicals and their usefulness for the purpose of promoting the religion of Christian Science, always has depended and still depends largely on the fact that they are the organs of said Church, and conducted in accordance with

Mrs. Eddy's directions. The defendants publish said periodicals and carry on the business of the trust in buildings owned by the plaintiff Church, and provided by plaintiff Directors under the provisions of Article 1, Section 7, of the by-laws, and not provided for by the trust deed. The above and other benefits derived from Church by-laws the defendants claim the right to enjoy, and at the same time refuse to accept the provisions of the same and other by-laws containing Mrs. Eddy's directions as to how best to promote the interests of the Cause in the execution of said trust. That nearly all of the business of said Society consists of publishing the above mentioned periodicals; and they are profitable, in so far as they are profitable, mainly by reason of the patronage of The Mother Church, its branches and members and individual Christian Scientists. Such patronage has always been maintained because Christian Scientists regard it as a privilege and duty to subscribe for the periodicals which are the organs of The Mother Church, and which are to be supplied with editors and ably edited and kept abreast of the times by and under the supervision of said Directors as directed by the donor of said trust through the by-laws of said Church. It is because of such directions, and because Mrs. Eddy enjoined upon Christian Scientists never to abandon the by-laws nor denominational government of The Mother Church, that said periodicals have been recognized and regarded as the organs of said Church, and as authorized Christian Science literature.

7. The continued successful management of the trust, for the reasons above stated, requires on the part of the Trustees thereunder a strict adherence to the teachings of Christian Science and a faithful compliance with the directions of Mrs. Eddy contained both in the trust deed and in the Church Manual as to what is necessary best to promote the interests of Christian Science which is the object and the purpose of said trust deed. Said defendants, however, have failed so to conduct said business and have refused to be guided by the said directions of Mrs. Eddy as to what is necessary to promote the interests of the Cause, but on the contrary they have assumed an attitude of hostility and defiance to the plaintiffs, the Directors of The Mother Church, the financial beneficiary under said deed, and have antagonized Christian Scientists throughout the world upon whose support the success of said business is dependent, as a result of which many Christian Scientists and branch churches, acting under Article VIII, Sections 11 and 14, of the by-laws have cancelled subscriptions to the periodicals and withdrawn their paid advertisements from The Christian Science Journal, and withdrawn their financial and moral support from said Society as a protest against the misconduct of the business by the defendants; and plaintiffs are informed and believe and so aver that such cancellations are rapidly

increasing; and said defendants have also assumed the exclusive editorial control of the periodicals. Because of the above described attitude and conduct of the defendants, many faithful and efficient workers in The Christian Science Publishing Society have resigned their positions, many others have been unjustly and improperly discharged for the reason that they remained loyal to the Church by-laws and they refused to support the defendants in their refusal to be longer guided by said by-laws and because said workers insisted upon their own individual and conscientious convictions:— in all more than two hundred. Moreover for the same reasons the editors of The Christian Science Journal, Christian Science Sentinel, Der Herold der Christian Science, and Le Heraut de Christian Science, heretofore elected by the plaintiff Board of Directors in accordance with the directions of Mrs. Eddy contained in the Church Manual, have resigned their positions. And solely because of the above described attitude and conduct of said defendants the said periodicals for the time being have ceased to be the organs of said Church within the meaning of the Church Manual and have become the personal organs of said defendants. And plaintiffs aver that the defendants have published misleading statements in certain of said periodicals; that they have denied the right of the Directors of said Church to exercise their power and duty to remove from its organs the cards of persons and organizations found to be ineligible for advertisement as practitioners and teachers of Christian Science and as branches of said Church; and they have also caused to be published public comments on the by-laws and government of said Church, as established by Mrs. Eddy, calculated to cause an abandonment thereof. In consequence of the aforesaid and other facts the confidence of Christian Scientists, who are beneficiaries under said trust deed, in the defendants' management of said business, has been almost wholly destroyed, the business of the trust has been greatly impaired and is threatened with complete destruction.

8. The plaintiffs are informed and believe and therefore aver that the defendants are further mismanaging said business and have contravened the plain requirements and obligations placed upon them by said trust deed and rendered themselves unsuitable to act as Trustees thereunder, in that:—

a. They have not at all times kept on deposit in a responsible and reliable bank or trust company all surplus funds over and above the sum necessary to defray the running expenses of the business until the same shall be paid over to the Treasurer of said Church;

b. That they have employed the trust funds to a large extent for the purpose of purchasing stocks of material for use in an enterprise forming no part of the business contemplated by said trust deed;

c. That they have not judiciously managed the business, but have man-

aged it injudiciously, extravagantly and wastefully and have expended the money of the trust for property not necessary for the immediate successful prosecution of the business in that they have recently for the first time in the history of said Publishing Society, and contrary to the usage of the Christian Science denomination rented quarters at a large expense in the City of San Francisco, California, for the display and sale of their publications and have expended and incurred expense in connection therewith many thousands of dollars;

d. That they have not judiciously managed the business, but have managed it injudiciously, extravagantly and wastefully in that large and excessive salaries and increases of salaries have been paid by said defendants to employees, not in recognition of valuable services or on the basis of merit and worth, but, as the plaintiffs believe, for the purpose of improperly influencing the employees in favor of the defendants and against the plaintiff Directors; and for the further purpose of so depleting profits as to furnish a pretext for a refusal to pay any money to said plaintiff Treasurer from said trust;

e. That they have not judiciously managed the business but have managed it injudiciously, extravagantly and wastefully in that large and excessive amounts have been allowed and paid for traveling and other expenses of the defendants and some of their employees and they have improperly expended other sums of money for other purposes;

f. That they have not judiciously managed the business but have managed it injudiciously, extravagantly and wastefully in that they have destroyed and have sold as junk periodicals which were valuable for sale, reference and distribution.

And plaintiffs further aver upon information and belief that defendants have mismanaged said business and have violated the terms of said trust deed in certain respects other than those hereinbefore specifically set forth.

9. The plaintiffs aver that for the first time in the history of the business conducted under said trust deed these defendants failed and refused to pay the plaintiff Treasurer of said Church the net profits of said business, as the deed directs, to wit, the net profits for the semi-annual period ending September 30, 1919, and that they also failed and refused to pay to said plaintiff any money as net profits for the semi-annual period ending March 31, 1920, so that more than a year has now elapsed during which said defendants have paid nothing to the beneficiary under said trust as net profits for said year. Plaintiffs are informed and believe and so aver, defendants had a large amount of cash on hand on September 30, 1919, and on March 1, 1920, they had on hand in cash more than \$325,000.

And plaintiffs are informed and believe and therefore aver that according to the method of determining net profits prescribed by said trust deed

defendants have had since September 30, 1919, and now have, a large amount of such net profits which they are withholding and failing to pay over in violation of the terms of said deed; that they have, without the consent of the plaintiff beneficiaries, made radical changes in the manner of conducting said business contrary to the requirements of the trust deed, whereby large sums of money, which ought to have been paid over to the plaintiff Treasurer for said Church, have been diverted, misapplied and employed in an unreasonable and unauthorized manner in the purchase of large stocks for future use and not necessary for the immediate successful prosecution of the business as provided in said deed. Furthermore, they have without the consent of the plaintiff beneficiaries made radical and unauthorized changes in the method of accounting in that they have charged off as depreciation extraordinary and improper amounts; and contrary to the methods and practice which had been followed for many years said defendants in the year 1919 charged to expense not only depreciation allowances of \$97,324.18, but also all expenditures for addition to plant and furniture accounts in that year amounting to \$121,045.93, making a total charge for one year for depreciation of \$218,370.11, so that profits and plant assets were unreasonably and improperly reduced. And the plaintiffs are informed and believe and therefore aver that defendants' attention was called to their improper and unreasonable changes in the established method of accounting, by certified public accountants of Boston, Massachusetts, who had been employed for many years by the Trustees under said deed, and said accounting as changed by the defendants was criticised by their said accountants as incorrect, improper and preposterous and as an arbitrary departure from the accepted canons of good accounting; and said plaintiffs aver that the methods thus for the first time adopted by said defendants against the advice of their accountants and without the knowledge and consent of the financial beneficiaries under said trust deed said defendants refused to change, but instead superseded said accountants, and as plaintiffs believe and therefore aver, in order to deprive The Mother Church of monies which according to the trust deed ought to be paid to its said Treasurer, persisted in said improper and unreasonable method of accounting and at great expense employed accountants from Chicago, Illinois, who, with said defendants, have, without the knowledge or consent of the financial beneficiary under said trust deed, so changed and manipulated the method of accounting, which had for many years prevailed, as to make it appear that there are no net profits to be paid to the Treasurer of The Mother Church, but said defendants now claim that by reason of their alleged improper method of calculation of net profits in former years they have overpaid said Treasurer.

10. And the plaintiffs aver upon information and belief that the defen-

dants are secretly attempting in England and other European countries to obtain exclusive registration of and a legal monopoly for the name, description, designation, and title,

"The Christian Science Publishing Society, Boston, U.S.A.,  
Sole Publishers of All Authorized Christian Science Literature,  
As Established by Mary Baker Eddy."

whereas said trust deed provides that the business shall be done under the unincorporated name of "The Christian Science Publishing Society"; and that defendants are planning and endeavoring improperly to obtain legal sanction for their intended representation that said periodicals are now published by them without regard to Mrs. Eddy's directions relating thereto, as contained in the Church by-laws, are nevertheless the only authorized organs of said Church. And said defendants are thus seeking to obtain the exclusive right to publish Christian Science literature as authorized and as established by Mrs. Eddy, which literature is, in fact, published not in accordance with Mrs. Eddy's directions in the Church by-laws, but in disregard thereof. And plaintiffs aver that unless restrained by the order of this Court defendants will obtain legal sanction for publishing as authorized Christian Science literature that which is not authorized because published in a manner contrary to the express directions of the donor of said trust and the Discoverer and Founder of Christian Science, to the irreparable injury of the plaintiff Church and in derogation of its rights to control and determine according to its by-laws what is authorized Christian Science literature.

11. And plaintiffs aver that on March 25, 1919, an ad interim injunction was issued by this Court in the case of Eustace et al. v. Dickey et al., now pending herein, at the instance of said defendants, to preserve the alleged status quo, which injunction has in effect prevented the Directors, plaintiffs herein, pending a decision of said case, from exercising the authority given them by the by-laws of said Church over the Trustees and the business of said trust; that said attempt now being made by the defendants is to alter the relation of the parties before this Court in said case and to affect adversely to said Directors, who are under the temporary restraint of said injunction, the subject matter of said case, while the same is still sub judice; that said attempt of the defendants is contrary to equity and good conscience, and is an effort on their part improperly and unlawfully to extend their rights and powers as the same existed when said temporary injunction issued, and as the same are fixed by said trust deed. And plaintiffs aver that unless restrained therefrom defendants will thereby work irreparable injury to the plaintiff church and the interests it represents.

12. That plaintiffs are advised and therefore aver that the plaintiffs Dickey, Neal, Merritt, Rathvon, and Knott, composing the Christian Science Board of Directors, the Directors of said The First Church of Christ, Scientist, have the right to declare the trusteeship of said defendants vacant for such reasons as to them may seem expedient, but they have been temporarily restrained from exercising such right by the aforesaid ad interim injunction issued by this Court; and said plaintiffs, Directors as aforesaid, do not waive any right they may have to remove a Trustee under said trust deed by reason of any prayer for relief hereinafter contained. But said Board being temporarily enjoined from taking such action, plaintiffs apply to this Honorable Court representing that the facts complained of hereinabove set forth have arisen since the issuance of said injunction and require the prompt removal of said defendants acting as Trustees under said deed.

WHEREFORE the plaintiffs pray:

1. That an accounting may be had under the direction of this Court.
2. That said defendants be required to pay over to the plaintiff Ripley, as Treasurer of The First Church of Christ, Scientist, in Boston, Mass., the amount found to be due upon such accounting.
3. That the Court remove said defendants acting as Trustees, and appoint new Trustees under said deed, having due regard to the purposes of the donor of said deed and to her directions as expressed therein and in the by-laws contained in the Church Manual.
4. That defendants be restrained and enjoined from adopting or using any name, title, or designation under which to carry on the business of said trust other than the name "The Christian Science Publishing Society", as provided in said deed; and that they be restrained and enjoined from taking any steps in any country whatever to obtain registration, or the exclusive right to the use of the name, description, title, or designation "The Christian Science Publishing Society, Boston, U.S.A., Sole Publishers of All Authorized Christian Science Literature As Established by Mary Baker Eddy", or of any legend or description implying that said defendants are sole publishers of all authorized Christian Science literature.
5. That in order to prevent irreparable injury, a temporary injunction forthwith issue restraining said defendants as above prayed for.
6. And for such further relief as justice and equity may require.

By their Solicitors,

BATES, NAY, ABBOTT & DANE,  
CLIFFORD P. SMITH.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

April 10, 1920

Personally appeared the above named plaintiffs, Adam H. Dickey, James A. Neal, Edward A. Merritt, William R. Rathvon and Annie M. Knott, and the above named plaintiff Edward L. Ripley, and made oath that the statements of fact in the foregoing bill made upon knowledge are true; and that those made upon information and belief, they believe to be true.

Before me,

LEON M. ABBOTT,  
*Justice of the Peace.*

My commission expires December 10, 1926.

DECISION OF THE FULL BENCH  
OF THE  
SUPREME JUDICIAL COURT  
OF MASSACHUSETTS

NOVEMBER 23, 1921

RUGG, C. J. This is a suit in equity. The plaintiffs are three persons, who by succession are trustees under a deed of trust executed by Mary Baker G. Eddy, the founder of "Christian Science" so called, as donor, on January 25, 1898, to three persons therein named as trustees. The defendants are four persons alleged to be trustees under another deed of trust executed by Mrs. Eddy dated September 1, 1892, and also to be Directors of The First Church of Christ, Scientist, in Boston, Massachusetts, and two other persons, each alleged to be claiming to be a trustee and director in association with the other four. The basic question is whether the defendants<sup>1</sup> have power to remove one of the plaintiffs from the position of trustee.

The answer to that question depends upon the true interpretation of these deeds of trust executed by Mrs. Eddy and whatever other matters rightly may be considered in ascertaining their meaning.

The deed of Mrs. Eddy of January 25, 1898, whereby were created the trusts hereto administered by the plaintiffs, hereinafter called the trust deed, related wholly to personal property. The declared object of that trust, recited in the early part of the trust deed, is "for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me." It transferred title to certain goods and chattels connected

<sup>1</sup>See end of Full Bench Report.

\*The underlines do not appear in the original.

## APPENDIX

with the publishing business conducted for the promotion of the interests of Christian Science, which heretofore had been carried on by a corporation called The Christian Science Publishing Society. The grantees were three individuals, who accepted the transfer upon the trusts set forth in the deed. These are stated in paragraphs numbered from 1 to 14, both inclusive. The first of these requires the trustees to use the property exclusively for carrying on the business, which had been conducted by The Christian Science Publishing Society, "in promoting the interests of Christian Science." Among these trusts were provisions to the effect that the trustees should energetically and judiciously manage the publishing business under the unincorporated name of "The Christian Science Publishing Society" on a strictly Christian basis and "upon their own responsibility and without consulting me [(Mrs. Eddy)] about details, subject only to my supervision, if I shall at any time elect to advise or direct them," should account for and pay over the profits of the business every six months to the treasurer of The First Church of Christ, Scientist, in Boston, Massachusetts, subject to the order of "The First Members of said Church," who were empowered to make the final disposition "only in accordance with the rules and by-laws contained in the Manual of said Church," and should employ and fix compensation of necessary help, assistance and persons to conduct the business and "to prepare Bible Lessons or Lesson Sermons to be read in the Christian Science churches." The annual compensation of the trustees was to be \$1000 each "or such salary as the said Church may determine from time to time." The trustees were required at all times to be "loyal, faithful and consistent believers and advocates of the principles of Christian

Science as taught by me in my book." Clause 8 of the trust deed is in these words: "Said trustees shall have the direction and supervision of the publication of said Quarterly and also of all pamphlets, tracts and other literature pertaining to said business, using their best judgment as to the means of preparing and issuing the same, so as to promote the best interests of the Cause, reserving the right to make such changes as I may think important." In clause 10 of the trust deed, it is provided that vacancies among the trustees should be filled by the donor, if she so elected, otherwise by the remaining trustees, and that "The First Members together with the directors of said Church shall have the power to declare vacancies in said trusteeship for such reasons as to them may seem expedient."

The facts are found by the master, in the light of which these words of this trust deed must be interpreted. Mrs. Eddy founded Christian Science. In 1879 she organized a church and became its pastor. In 1892 she reorganized the church. Under date of the first of September of that year she conveyed to four persons "as trustees as hereinafter provided and to their legitimate successors in office forever" land in Boston upon which within five years they were required to build a church edifice. It was provided that the "grantees shall be known as the Christian Science Board of Directors."<sup>2</sup> Thus that board first was constituted. "The First Church of Christ, Scientist," was not organized until September 23, 1892. The deed declared that the grantees should "constitute a perpetual body or corporation under and in accordance with section one, Chapter 39 of the Public Statutes of Massachusetts. The master has found that the grantees never organized themselves as a corporation and never became such by virtue of their

<sup>2</sup>See end of Full Bench Report.

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duties of similarity to deacons and wardens. The mere declaration of the grantor could not make them a corporation.

The directors were required, upon the completion of the church building, to "elect a pastor, reader or speaker to fill the pulpit who shall be a consistent Christian Scientist," to maintain public worship in accordance with the doctrines of Christian Science in said church and to that end they were "fully empowered to make any and all necessary rules and regulations."<sup>3</sup> The directors were enjoined not to allow in the church building any preaching or other religious services not consonant and in strict harmony with the doctrines and practice of Christian Science as taught and explained by Mrs. Eddy. The directors also were required to maintain regular preaching, reading or speaking in the church on each Sabbath and to rebuild the church under conditions named. The number of directors named in the deed of September 1, 1892, was four. In addition to the duties imposed on them by that deed, they have exercised other powers and performed additional functions, assigned to them by the Church Manual, all of a highly important nature and covering a wide field. There was no rule fixing their number until February, 1903, when a by-law was adopted, which has since continued in force, establishing their number at five. By the name "Christian Science Board of Directors" originally the four persons named as trustees by the deed of September 1, 1892, were described. As often, if not universally, used thereafter in the Church Manual, that name designates the board of five exercising powers and performing functions not derived from the deed but from the Church Manual.<sup>4</sup>

<sup>3.</sup> <sup>4</sup>See end of Full Bench Report.

The master also has found that the church has never<sup>5</sup> become incorporated but has continued from the first an unincorporated religious association. It has worshipped regularly to the present in the edifice erected by the directors. "The First Church of Christ, Scientist, in Boston, Mass.," was organized on September 23, 1892, by eleven persons among whom were the four named as trustees and constituted directors in the deed of September 1, 1892. These eleven persons together with one other were voted to be "First Members of The First Church of Christ, Scientist." Others designated as "First Members" were added from time to time by vote of "First Members." The voting power in the church always has been confined according to its polity to "First Members." Members of the church had no voting power. The First Church of Christ, Scientist, at the instance of the founder first adopted rules and by-laws in 1895. These were radically changed from time to time during the life of Mrs. Eddy and many different editions of them called the "Church Manual" have been published. In every edition the names of the Christian Science Board of Directors have been printed under the caption "Church Officers" together with the names of other officers of the church. This is true of those editions issued before January 25, 1898. At that time important functions of the church such as the election of all officers, the appointment of missionaries, the appointment and removal of readers of the church to conduct its services, amongst others, were vested in the board of directors by the Church Manual. Although it was not until 1908 that a by-law of the church expressly included a board of directors among the officers, it always has been provided by a by-law that all officers of the church should be elected by the board of directors.<sup>6</sup>

<sup>5</sup>, <sup>6</sup>See end of Full Bench Report.

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The provision respecting First Members in force at the time of the trust deed of January 25, 1898, were that their regular meetings were to be held semi-annually, that they should vote on the admission of candidates and attend to the transaction of any church business that properly might come before them. Their number should not be permitted to fall below forty and seven \* constituted a quorum. It was provided in the Church Manual of 1898 that the number of First Members should not exceed fifty, and in several subsequent editions one hundred was fixed as the maximum number.

Subsequent events have introduced new factors with reference to which the trust deed must now be applied. In January, 1901, the First Members adopted a by-law providing that "The business of the Mother Church [another name by which The First Church of Christ, Scientist, was known] hitherto transacted by the First Members shall be done by its 'Christian Science Board of Directors.'"† This by-law was accepted and acted upon forthwith by the entire church membership without objection, and has so continued to be observed until the present. Almost immediately after the adoption of this by-law, at Mrs. Eddy's request or with her approval, a by-law, to the effect that vacancies among the trustees of The Christian Science Publishing Society (the trustees created by the trust deed of January 25, 1898) might be declared by the First Members and the directors, was changed so as to vest that power exclusively in the Christian Science Board of Directors. Every by-law or amendment since adopted was transmitted by

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\* Note that *seven* constituted a quorum, showing that *seven* is the limit of Motherhood (Rev. 12), and that as *seed within itself* it must evolve beyond Motherhood to reach *twelve* (Bride, Rev. 21), its *basic* organization,—see Manual, p. 18.—THE NOTE-TAKER.

† Mrs. Eddy's approval is overlooked.

‡See end of Full Bench Report.

Mrs. Eddy to the Board of Directors alone, by whom it was adopted. It is manifest that this procedure had the approval of Mrs. Eddy. After January, 1901, the First Members never undertook to transact any business of the church \* and no new First Members were elected. In 1903 a by-law was adopted by the Board of Directors changing the name of "First Members" to "Executive Members" and in 1908 another by-law was adopted repealing all provisions concerning Executive Members and providing that "there being no further necessity for their organization, they shall be and hereby are disbanded." This occurred about two years before the passing on of Mrs. Eddy, and was approved, if not originated, by her. There has been no objection or protest to this. No meetings of First or Executive members have been held since that time. There has been continuous acquiescence in the binding force of this by-law by the entire membership of the church. All by-laws and provisions of the Church Manual were adopted during the life of Mrs. Eddy and substantially every one was suggested or proposed for adoption by her. So far as concerns the government of the church, treating it as an ecclesiastical organization, the First Members, who alone had voting power, have been abolished and have ceased to exist and the entire management has passed into the hands of the directors, a self-perpetuating body, all this at the suggestion and with the approval of Mrs. Eddy.<sup>9</sup>

The Church Manual in force in January, 1898, bore upon its title page "Church Manual of the First Church of Christ, Scientist, in Boston, Massachusetts, by Mary Baker G. Eddy." With slight modifications, this has

\* Although the Manuals from 1901 to the middle of 1908 show demand for their Annual and Special Meetings.—THE NOTE-TAKER.

8. 9. <sup>10</sup>See end of Full Bench Report.

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continued to be the title page of every edition of the Church Manual. The last several editions issued during the life of Mrs. Eddy contained provision that "This Manual shall not be revised without the written consent of its author." Since the Church Manual on its face purports to be the work of Mrs. Eddy as author and the master has found it to be proved that substantially all its provisions were suggested or proposed by her, it is apparent that there can now, since the decease of Mrs. Eddy, be no change in the provisions of the Church Manual in accordance with its terms. <sup>11</sup>

The trust deed made provision for the removal of a trustee by the concurrent action of the First Members and the directors of the church. That is the effect of the clause conferring upon them "the power to declare vacancies in said trusteeship for such reasons as to them may seem expedient." In this context, the power to declare a vacancy is the equivalent of the power of removal. <sup>12</sup>

The precise question to be decided is whether under these circumstances one of the trustees can be removed by the board of directors, since the First Members have been deprived of all ecclesiastical power and have been disbanded in accordance with the polity of the church. <sup>13</sup>

Every instrument in writing, although it cannot be varied or controlled by extrinsic evidence, must be interpreted with a view to all the material circumstances of the parties at the time of its execution, in the light of the pertinent facts within the knowledge of those who signed it and in such manner as to give effect to the main end designed to be accomplished by the instrument. *Best v. Berry*, 189 Mass. 510. *Polsey v. Newton*, 199 Mass. 450. *Simonds v. Simonds*, 199 Mass. 552. *Cotting v. Boston*, 201 Mass. 97. *Boulard v. Leach*, 213 <sup>14</sup>

<sup>11, 12, 13, 14</sup>See end of Full Bench Report.

Mass. 117. Tax Commissioner v. Putnam, 227 Mass. 552, 523, 524. Attorney General v. Methuen, 236 Mass. 564, 573. It is a cardinal rule in the interpretation of trust instruments that they are to be so construed as to give effect to the intent of the founder of the trust as manifested by the words used in the light of all the surrounding facts, unless inconsistent with some rule of law or repugnant to the terms of the instrument. McCurdy v. McCallum, 186 Mass. 464, 469. Ware v. Minot, 202 Mass. 512. Taft v. Stearns, 234 Mass. 273, 277. The decision of the question concerning any trust instrument depends upon the intention of the founder as manifested by the words used. An omission to express an intention cannot be supplied by conjecture. But if a reading of the whole trust instrument produces a conviction that a particular interest or power must have been intended to have been given not expressed by formal words, the court must supply the defect by implication, and so mould the language of the founder of the trust as to carry into effect the intention which it is of opinion has by the instrument as a whole been sufficiently declared. This principle has been chiefly invoked in the interpretation of wills but is equally applicable to a trust deed like that here involved. Metcalf v. Framingham Parish, 128 Mass. 370, 374. Boston Safe Deposit Co. v. Coffin, 152 Mass. 95, 100. Sanger v. Bourke, 209 Mass. 481, 486. Tibbetts v. Tomkinson, 217 Mass. 244, 252. Lamb v. Jordon, 233 Mass. 335, 340. The trust deed now under consideration must be construed and interpreted according to these principles. The avowed purpose of the trust deed of January 25, 1898, was for "more effectually promoting and extending the religion of Christian Science." The business of publishing was to be conducted "in promoting the interests of Christian

<sup>15</sup>See end of Full Bench Report.

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Science." The profits derived from that business were to be paid to the treasurer of the church who was authorized to dispose of it only in accordance with the manual of the church. Preparation of religious publications is the chief business of the trustees.

It is manifest from the structure of the trust deed as well as from its express words that the single and only design of the founder was to promote and extend the religion of Christian Science as taught by Mrs. Eddy. Every part of the trust deed reenforces and makes even more plain the avowed purpose of Mrs. Eddy that her sole and completely dominating aim in establishing the trust was to promote and extend the religion of Christian Science as taught by her. The administration of the trust must continue to be directed exclusively to the accomplishment of that object alone.

A trust of that nature cannot be revoked or modified in the absence of reservation of an express power to that end by the donor. Lund v. Thorp, 227 Mass. 474. The deed in question created a trust complete in itself. By its own phrase it was declared to be upon the "perpetual and irrevocable trust and confidence" therein set out. The delivery by the donor of the trust deed and of the property thereby transferred and the acceptance thereof by the grantees and the performance by them of the trust thereby established was an executed trust. It must be construed and applied according to its terms. Crawford v. Nies, 224 Mass. 474. Eliot v. Trinity Church, 232 Mass. 517.<sup>16</sup>

The clause at the end of paragraph eight which conferred upon the trustees direction and supervision of the publication of the Quarterly and all tracts and pamphlets, "reserving the right to make such changes as I may think important," is not a reservation of a gen-

<sup>16</sup>. <sup>17</sup>See end of Full Bench Report.

eral or special power of revocation of the trust itself or of any of its terms or provisions. The context shows that that clause refers only to the direction and supervision of the trustees over publications. Its scope and force are confined to the particular subject matter of that paragraph. It vested in the donor the right of modifying and altering the publications to be issued <sup>18</sup> "to promote the best interests of the Cause." The power there retained concerned the publications and did not extend <sup>19</sup> to the whole frame of the trust.

The words "First Members" occur twice in the trust deed, in paragraph four and in paragraph ten. The context in paragraph four is that the trustees shall keep accurate books of account and shall pay all expenses of the publishing business and "once in every six months shall account for and pay over to the treasurer of the First Church of Christ, Scientist, in Boston, Mass., the entire net profits of said business. . . . Said treasurer shall hold the money so paid over to him subject to the order of 'The First Members' of said Church, who are authorized to order its disposition only in accordance with the rules and by-laws contained in the Manual of said Church." The "First Members" of that church thus were constituted by the trust deed the sole body by which the net income of the publishing business as conducted by the trustees could be disbursed. Confessedly the net profits thus paid over have been very large in the aggregate. They must constitute a substantial element in the promotion and extension of Christian Science as taught by its leader. The First Members were an integral part of the organization of "The First Church of Christ, Scientist." They were selected for that reason. They were not co-ordinate, subsidiary, ancillary trustees. They were too numerous to qualify as trustees.

<sup>18</sup>. <sup>19</sup>See end of Full Bench Report.

Their duty was to disburse the net income, not in conformity to their own judgment, but only in accordance with the rules and by-laws contained in the manual of that church. In the earliest edition of the manual, by which that church was governed, and in all subsequent editions, there is printed as a foreword an extract from the writings of Mrs. Eddy to the effect amongst other matters that the "Rules and by-laws in the Manual . . . were impelled by a power not one's own, were written at different dates and as the occasion required." The edition of the manual in use on January 25, 1898, the date of the trust deed, was designated the seventh. It was different in material particulars from those which had preceded it. It is manifest that the trust deed was intended to be made subject, so far as it concerned the officers of the church and their powers and duties touching the disbursement of the net income paid by the trustees to the treasurer of the church, to such changes as the occasion might require to be made in the manual. If the words "First Members" in this connection in paragraph four are given a hard, fixed and unchangeable meaning, then the trust must come to an end when First Members are abolished as a part of the church. If "First Members" have been irrevocably established as an essential part of the machinery by which alone the trust can be carried out, and if for any reason that the machinery breaks down or becomes incapable of operation, then the trust itself would fall. <sup>20</sup> Bullard v. Shirley, 153 Mass. 559, 560. Teele v. Bishop of Derry, 168 Mass. 341, 342. Such a result ought not to be reached except for most compelling reasons, after the trust has <sup>21</sup> been established and executed for so many years. No such compelling reasons are found in this record. The plain intent of the founder of the trust is that the net

<sup>20</sup>, <sup>21</sup>See end of Full Bench Report.

income must be used to promote the religion of Christian Science as taught by Mrs. Eddy even though First Members may pass out of existence. The conclusion is unescapable that in this connection the words "First Members" had no hard and fast meaning, but were used in a broad sense to designate a body connected with and forming a part of that church, and to comprehend whatever body might from time to time exercise in accordance with the ecclesiastical laws of the Christian Science denomination the functions then exercised by First Members. Since the First Members have been abolished and all their powers transferred to the board of directors, it must follow that the directors are authorized to exercise the functions vested in First Members<sup>22</sup> under paragraph four of the trust deed.

The meaning of the words "First Members" in this connection is a significant aid in determining the meaning of the same words upon their second occurrence in paragraph ten of the trust deed. It is a well recognized principle of interpretation that the same words used in different places in the same instrument commonly have the same meaning and effect unless another meaning is<sup>23</sup> demandd by the context. Hall v. Hall, 209 Mass. 350, 353. Attorney General v. Armstrong, 231 Mass. 196, 211. Raymer v. Commissioner of Corporations, ante.

The second occurrence of the words "First Members" in the trust deed is in paragraph ten. The sentence there is "The First Members together with the directors of said Church shall have the power to declare vacancies in said trusteeship for such reasons as to them may seem expedient." The precise point is whether the power of removal is gone if there are no longer any First Members. Although the trustees under the trust deed were given extensive powers concerning the pub-

<sup>22</sup>, <sup>23</sup>See end of Full Bench Report.

lication of the so-called literature of the church, nevertheless they were not the final arbiters concerning these matters, because they might be removed from office by other church authorities "for such reasons" as to such other church authorities "may seem expedient." The soundness of the reasons for such removal is not made subject to review or revision by any other church tribunal, body or officer.\* The expediency of the reasons moving to that action are left by the deed wholly to the church authorities therein named. No discussion is needed to demonstrate that this power of removal was comprehensive, drastic and final. It is an important feature of the trust deed.

The power of removal of a trustee according to the trust deed was vested in "the First Members together with the directors of said Church." These are ecclesiastical terms. They describe authorities of The First Church of Christ, Scientist, in Boston as they were then constituted and established. Mrs. Eddy was the founder of that church. She was its pastor emeritus. It is manifest that so long as she lived the polity of that church might be modified or changed. Membership in the church, classification of members, voting rights, and officers, might be altered. Existing boards might be abolished and others created. The executive and disciplinary powers of the church, its officers and members, might be divided, consolidated and redistributed. They might be vested in one or several boards, officers or bodies. Of course the terms of the trust deed cannot be varied, but its words are to be interpreted with reference to the subject matter to which they relate. It seems

\* As is true with reference to the Board of Directors. The Finance Committee has the power under the Manual to admonish and dismiss them. This had been a By-Law for eleven years before Mrs. Eddy left us. Manual, p. 77, Sec. 6.—THE NOTE-TAKER.

<sup>24, 25, 26</sup>See end of Full Bench Report.

manifest to us that all parties to the trust deed used the words "First Members" and "directors" in paragraph ten of the trust deed with the significance, which they had acquired in Christian Science usage, and with the knowledge that, according to the practices of that church, duties imposed on them might be shifted to others connected with the church. Those words comprehended at the time they were used all those possessed of authority to control the affairs of the church. They were used in a generic sense. They included such authorities even though their number and descriptive title might change. The First Members did not include all members of the church. Those who united with the church by admission did not thereby become First Members. The First Members were those who were made such as the meeting for the organization of "The First Church of Christ, Scientist," and those who subsequently were by these First Members voted into their fellowship. First Members alone possessed voting power.\* The church was in its infancy as a religious sect. Its founder was active. The deed of January 25, 1898, is itself evidence of a hope and expectation of growth of the church and of the sect. It is a familiar principle of legislation, illustrated by numerous statutes, that one board, commission or other body may be abolished and its powers and duties transferred to other and succeeding officers. No doubt has been raised concerning the validity of such statutes. Ecclesiastical de-<sup>27</sup>nominations have like power as to the establishment of their officials, the description of their duties, the limits of their authority and the modification and alteration of these matters according to their own system of gov-

\* Therefore, they were its corporate body, and when disbanded in 1908, the "corporate body was dissolved."—THE NOTE-TAKER.

<sup>27</sup>See end of Full Bench Report.

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ernment. The conditions attendant upon the execution of the deed of January 25, 1898, indicate that its words "First Members together with the directors of said Church" were not used by the parties to the deed with the purpose of fixing inflexibly the persons or boards bearing those names in the church organization as alone capable of exercising power of removal of trustees. Thus to construe the words would be to stick to the form and to ignore the substance. The fair interpretation of the words is that those possessing the ecclesiastical functions at the time vested in First Members and directors should be the depositaries of the power of removal by whatever names they might be called, and however their number might fluctuate according to the polity of the church. In a more complete and accurate drafting of the deed of January 25, 1898, this might have been set forth in appropriate language. It is implied under all the circumstances from the words used. The intent of the parties to the trust deed as declared by the words used was not that the body known as First Members must be kept alive for all time in order that the power of removal of a trustee should continue, if at any time in the government of the church and in accordance with its practices it should be deemed wise to abolish First Members and transfer their duties to others. If such members should cease to exist under the church organization, the power of removal of a trustee would not thereby be extinguished. The parties to the instrument here in question were the founder of a sect of Christianity and three of her followers. The dominating purpose of the instrument was to promote and propagate the interests of that religious sect. As ancillary to that general object, power of removal of the trustees created by that instrument was established. It was vested in two

<sup>28, 29</sup>See end of Full Bench Report.

constituent bodies of "The First Church of Christ, Scientist," then organized and existing. The power or removal of the trustees was an essential part of the trust deed. The promotion of Christian Science as taught by Mrs. Eddy was the end and aim of the trust. To that regnant design all other provisions, not in themselves made fixed and unchangeable, must yield. Christian Science as thus taught was disclosed by the writings of the founder. The ecclesiastical organization established by her for the teaching and dissemination of Christian Science was "The First Church of Christ, Scientist."<sup>30</sup> She did not reserve to herself the power of removal of the trustees but she reposed that authority in First Members and directors of that church. That church was the beneficiary of the trust. That church as shown by the manual at the time of the execution of the trust deed of January 25, 1898, was the dominant church in Christian Science. It was the beneficiary of all net profits arising from the management of that trust. Its board of directors was clothed with extensive powers<sup>31</sup> concerning its management. Its manual appears to be a vital part of Christian Science. The presumption is inevitable that all the parties to the trust deed of January 25, 1898, intended that the power of removal should be vested in the responsible representatives of The First Church of Christ, Scientist, however they might be described or denominated, provided they succeeded to the powers and exercised the functions of First Members and directors. The inference is irresistible that they had in mind the mutability of the names and functions of church officers and intended that the power of removal should vest in such representatives of The First Church of Christ, Scientist, as might from time to time exercise according to the government of

<sup>30, 31</sup>See end of Full Bench Report.

that church the functions and possess the powers of those named in the trust deed as having the power of removal. The vote of the First Members of January 10, 1901, embodied in a by-law to the effect that the business of the church hitherto transacted by them be done in the future by the directors, was not an attempt to delegate the trust power to participate in the removal of a trustee vested in them by the deed of January 25, 1898. It did not stand alone. It was a part of a large transaction. It was one step in the process of change according to the polity of the church whereby First Members were abolished and their duties and authorities vested in the directors.<sup>32</sup>

The number of First Members of the church on January 25, 1898, when the trust deed was executed, is not disclosed in the record. It is, however, fairly inferable that they were numerous, and liable to constant fluctuation by reason of death and election of new members. Therefore, Mrs. Eddy could not have placed special confidence in their discretion as individuals. The principle that, when the element of personal choice is found, the exercise of the power must be confined to the person or persons selected and is not transmissible has no application. *Sells v. Delgado*, 186 Mass. 25, 27. The naming of directors and First Members in paragraph ten of the trust deed as having power of removal was not an appointment of particular persons as repositories of authority but a designation of two classes of church functionaries in whom the power was to vest and survive, no matter who the individuals might be. The power conferred upon these two classes of church functionaries "to declare vacancies for such reasons as to them may seem expedient" imposed a continuing duty to maintain a certain intimacy of knowledge as to the

<sup>32</sup>See end of Full Bench Report.

work of the trustees in order to be able constantly to act intelligently. It was a power coupled with a trust. The obligation rested upon them to cause the provisions of the trust deed to be executed in accordance with its terms and the intent and purpose of the donor there expressed to be administered faithfully. The duty was given to the donees of the power by virtue of their respective positions in the church. In a sense this position was kindred to that of trustees clothed with a power coupled with an interest in the survivors of whom the authority continues for the purpose of effectuating the object of the power. *Gould v. Mather*, 104 Mass. 283, 286. *Parker v. Sears*, 117 Mass. 513. *Chandler v. Rider*, 102 Mass. 268. *Coffin v. Attorney General*, 231 Mass. 579. *Wilson v. Snow*, 228 U. S. 217.

These circumstances distinguish the case at bar from *Boston v. Doyle*, 184 Mass. 373. In that case the holders of certain public offices had been designated in a trust instrument as members of a board of managers of a trust fund, and the offices thereafter were abolished and other offices created whose incumbents succeeded in most particulars to the same public duties. It was held that it became the duty of the court to appoint managers to take the place of those holding the original offices and designated by the donor as the board of managers.

The report of the master shows that the First Members have been disbanded according to the forms of church organization and government prevailing in "The First Church of Christ, Scientist." They are no longer in existence. They ceased to have any temporal power in 1901,\* and were disbanded in 1908. The means

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\* Provision was made in the Manual for their meetings and special meetings up to the middle of 1908.

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by which this was accomplished are not of consequence further than to know that they were those recognized, adopted and approved without dissent by the ecclesiastical body known as The First Church of Christ, Scientist. <sup>33</sup> That result has been accepted by all Christian Scientists. It had the approval of Mrs. Eddy if it was not suggested by her. It has been embodied in every edition of the Church Manual since 1908. It would be difficult to conceive more convincing proof that the church as an organization had abolished First Members and conferred their powers, at least so far as related to removal of trustees, upon the directors. Votes and by-laws to that end were accepted with entire unanimity at the time and there has been unbroken acquiescence in their regularity for many years. The First Members have not become incapable of participation in the exercise of the power or removal of trustees merely as the result of their own act. The governing power of the church at the suggestion or with the approval of Mrs. Eddy has brought about their elimination in connection with removals because substantially all their power has been transferred to the directors. That has been accomplished by ecclesiastical methods accepted without question by all the church. It is a matter as to which the action of the church according to its rules is final. So far as concerns the power or removal of a trustee under the trust deed of January 25, 1898, the organization of the church in accordance with its polity has consolidated those powers, previously shared by the First Members and the directors in concurrence, and placed them wholly in the directors. Interpreting the words of the trust deed according to their true meaning, we are of opinion that the power of re-

<sup>33</sup>See end of Full Bench Report.

removal thereby survived and became vested in the board of directors. It exists in them by virtue of their office and the trust reposed in them by the deed of January 25, 1898, and the duties placed upon them by the church itself. Carter v. Papineau, 222 Mass. 464. Attorney General v. Armstrong, 231 Mass. 196.

The board of directors as those words are used in the trust deed of January 25, 1898, do not in our opinion refer to the board established by the deed of September 1, 1892, but to the officers constituting the ecclesiastical board of directors under the polity of the church. The reasons already stated respecting First Members lead to this conclusion. No reference to the deed of September 1, 1892, is found in the trust deed of January 25, 1898. The latter deed throughout relates to those connected with The First Church of Christ, Scientist, either as First Members or directors. These terms are ecclesiastical. When therefore the board of directors under the practice of the church was increased in membership, it became vested with powers formerly exercised by the four directors, so far as concerns the power of removal in the trust deed of January 25, 1898. It is unnecessary to determine in this connection whether the board of directors constituted a corporation or not. For the purpose of this decision the finding of the master that they never became a corporation is accepted.

The result is that the board of five directors have the power, if they act in accordance with law and with the terms of the trust deed of January 25, 1898, to effect the removal of a trustee under that deed.

The conclusion that the power of removal of a trustee is now vested in the board of five directors is contrary to that of the master, but it is in substance and effect the application of different legal principles to the

<sup>34, 35</sup>See end of Full Bench Report.

facts found by the master. The facts found by him are accepted in their entirety. The result which has been stated follows in law from those facts.

One being absent and one refusing to vote, the three remaining directors adopted a resolution removing the plaintiff Rowlands from his position as one of the trustees under the deed of January 25, 1898. This resolution is somewhat long and recites numerous reasons. One of these is that Rowlands "evidently has other interests which prevent him from giving sufficient time and attention to the business of The Christian Science Publishing Society." Respecting this the master was "unable to regard the charge made as one actually believed to be true, by the directors who made it, after due inquiry into the facts, or as one which they would have considered sufficient for his removal if they had not desired to remove him for other reasons." The other reasons assigned in the resolution of removal grew out of a controversy, arising some years after the death of Mrs. Eddy, between the trustees and directors regarding the extent to which the former were subject to the control and supervision of the latter. <sup>36</sup> Seemingly the controversy started because the directors requested that a pamphlet called "Purification" be not sent out until authorized by them. Nevertheless the business manager sent out the pamphlets on the ground that it was "his highest understanding of Principle to follow the original order of the Trustees" to that effect notwithstanding the request of the directors. Then the controversy widened into a general discussion of the respective powers and duties of the two boards under the deed of trust of January 25, 1898, and under the Church Manual. <sup>37</sup> The controversy appears to have centered about the meaning of certain sections of the Church Manual and the

<sup>36, 37</sup>See end of Full Bench Report.

extent to which its provisions authorized the directors to supervise the matter to be printed and sent out by the trustees, and to what extent the trustees were required to heed the provisions of the Church Manual. Into the details of that controversy, it is not necessary to enter.<sup>38</sup> Out of it has grown the present litigation. The finding of the master is that "I am unable to hold either that the final authority claimed by the directors is so clearly established by the deed itself and the provisions of the Manual that no reasonable denial of it was possible—or that the Directors' determination that they had such final authority was conclusive upon the trustees. Whatever the right conclusion may be upon the question whether such final authority belonged to the Directors or not, it was by no means a question regarding which no honest difference of opinion was possible." This is another way of saying that an honest difference of opinion was possible. Therefore if the directors were honest in their view, they cannot be said to be without authority to decide that it was expedient with reference to the welfare of the trust to remove one of the trustees.<sup>39</sup>

The words of the trust deed are that vacancies in the trusteeship may be declared "for such reasons as to them may seem expedient." That is a broad phrase. Expediency is a word of large import. It comprehends whatever is suitable and appropriate in reason for the accomplishment of the specified object. In this connection it includes whatever may rationally be thought to conduce to the welfare of the trust. It means that the genuine judgment of the named church authorities honestly exercised is to prevail. The discretion of those possessing the power of removal, when applied in good faith, is not subject to re-examination in respect of its wisdom. The judgment of the court cannot be substi-

<sup>38, 39</sup>See end of Full Bench Report.

tuted for the discretion of the constituted authorities, when fairly exercised. Whether the decision be right<sup>40</sup> or wrong is not for the courts to decide. The power of removal cannot be put forth maliciously, whimsically, or capriciously. The function of the court is to ascertain whether the terms of the deed of trust have been observed, whether the proceedings have been regular, whether the cause assigned is one sufficient to warrant removal, whether fair opportunity has been accorded the trustee to present his side of the matter so as to satisfy the requirements of natural justice, whether the decision is within the scope of the power conferred and whether the final action appears to have been in the exercise of good faith and an honest judgment or to have been arbitrary and lacking in the ordinary elements of fairness. *Proctor v. Heyer*, 122 Mass. 525, 529. *Grosvenor v. United Society of Believers*, 118 Mass. 78, 91. *Leverett v. Barnwell*, 214 Mass. 105, 108. *Richards v. Morison*, 229 Mass. 458, 461. This does not necessarily imply that a formal hearing must be had before removal. *O'Dowd v. Boston*, 149 Mass. 443. *Attorney General v. Donohue*, 169 Mass. 18, 22. *Sims v. Police Commissioner*, 193 Mass. 547, 549. Circumstances may be conceived to exist, which would render a hearing futile. Nevertheless a hearing ordinarily is important to the decision of such a question. *Burgess v. Mayor & Aldermen of Brockton*, 235 Mass. 95, and cases collected at page 100. *Smyth v. Phillips Academy*, 154 Mass. 551, 557. *Gray v. Christian Society*, 137 Mass. 329, 331.

It hardly can be held to be a capricious or arbitrary exercise of power for the directors to determine that, because a radical difference of opinion as to the interpretation of the Church Manual existed between them

<sup>40, 41</sup>See end of Full Bench Report.

and the trustees, the welfare of the trust required the removal of one of the trustees. It is not for us to pass upon the wisdom of such action. <sup>42</sup> The only question is whether it was arbitrary and capricious and not in good faith. One of the grounds stated in the resolution of removal was that Mr. Rowlands did not recognize the importance of "promoting the interests of Christian Science by following the directions given by Mrs. Eddy in our Church by-laws" and had shown a disposition to pervert their meaning and annul their effect.

Respecting the good faith of the directors in this matter, the master finds that "So far as the assigned reasons accuse Rowlands of failure to devote time enough to the Publishing Society's business, or were made to appear as reasons requiring his removal only, and not equally the removal of his co-trustees, it may be said that they were not reasons assigned in good faith. But that the Directors who adopted the resolution honestly believed themselves to be exercising a power belonging to them, and for sufficient reasons whether those assigned or not, I find no reason to doubt." The directors cannot be said to have acted arbitrarily or capriciously in removing one only of the trustees, because the same grounds appear to have existed for removing all the trustees. Sound judgment may have dictated the removal of one, and not all. The last sentence of this finding to the effect that the directors honestly believed they were acting within their power and honestly believed their reasons to be sufficient is inconsistent with bad faith or fraud in its common acceptation. This is a finding of good faith on the part of the directors as to all the reasons stated except the one for failure to devote time enough to the business. It is not a finding that the other reasons given were tainted or

<sup>42</sup>See end of Full Bench Report.

affected by the one as to failure of Mr. Rowlands to devote time enough to the business. Those other reasons honestly assigned were such as, within the power vested in the directors, warranted them in making a removal. It is their honest judgment upon the question <sup>43</sup> of expediency in this regard which must prevail and not that of any other body or magistrate.

The circumstance that no formal hearing was held is not decisive against the validity of the removal. While ordinarily one, whose conduct is called in question, ought to be given an opportunity to be heard in his own defense, it is apparent that the long controversy between the trustees and the directors had brought out clearly the points of difference between them. The grounds of removal, on which the action of the directors can stand, had been in substance fully debated orally and in writing and Mr. Rowlands had stated his point of view forcibly and at length.

A majority of the directors were present at the meeting and voted for the removal. That was sufficient in form to effect a removal. A unanimous vote was not required. The result is that upon the application of the principles of the law to the facts found by the master <sup>44</sup> the removal of Mr. Rowlands as one of the trustees was effected.

While this case was pending before the single justice the Attorney General filed a petition for leave to intervene and to file an answer. That was denied. No exceptions were saved. No appeal was taken. Before the full court the Attorney General has filed a suggestion <sup>45</sup> that the court is without jurisdiction to determine the issues raised on this record or to enter a final decree on the ground that the suit relates to a public charitable trust or trusts and that the Attorney General as the rep-

<sup>43, 44, 45</sup>See end of Full Bench Report.

representative of the public beneficiaries is a party essential to jurisdiction over the subject. The point thus presented is not whether the Attorney General may be a proper party or whether in the exercise of the judicial discretion he ought to be permitted to become a party. Those questions were raised by his petition to intervene and, having been decided adversely to his contention without reservation of any right of review, cannot now be considered.

The court has taken jurisdiction of numerous cases, indistinguishable in this particular from the case at bar, to which the Attorney General was not a party. *Carey v. Bliss*, 151 Mass. 364. *Morville v. Fowle*, 144 Mass. 109. *Teele v. Bishop of Derry*, 168 Mass. 341. *Worcester Missionary Society v. Memorial Church*, 186 Mass. 531. *Codman v. Brigham*, 187 Mass. 309. *Hubbard v. Worcester Art Museum*, 194 Mass. 280. *Ware v. Fitchburg*, 200 Mass. 61. *Crawford v. Nies*, 220 Mass. 61. *S. C.* 224 Mass. 474. *First African Association v. Worthy*, 232 Mass. 331. It is the duty of the court of its own motion to examine its jurisdiction before proceeding to any decision. *Eaton v. Eaton*, 233 Mass. 351, 364, and authorities there collected. It is hardly to be thought that so many cases arising over so long a period of time could have been decided inadvertently. These adjudications without joining the Attorney General as a party are almost conclusive of the jurisdiction of the court even though the point has not been discussed.

The issue here to be settled (as has been already stated) is whether one of the trustees under the deed of January 25, 1898, can be and has been removed by the directors. The public interests must be directly and essentially, rather than remotely and accidentally in-

<sup>46</sup>See end of Full Bench Report.

volved as to some distinct issue in order to prevent the cause from proceeding to a decision without the presence of the Attorney General as a party. *Jackson v. Phillips*, 14 Allen, 539, 579. *McKenzie v. Presbytery of Jersey City*, 67 N. J. Eq. 625, 683 to 686. *Esquimalt and Nanaimo Railway v. Wilson*, 1920 A. C. 358.

Whether the power of removal of one of the trustees has been exercised according to law is a matter of direct interest to the parties to the present proceeding. The absence of the Attorney General does not affect the jurisdiction of the court to proceed to a final determination on the merits of the issues raised between the immediate parties. Such decision will not directly pass upon interests of which the Attorney General in his official capacity is the representative.

No question is involved in this suggestion of the Attorney General either under the Constitution of this Commonwealth or under the Fourteenth Amendment to the federal Constitution. Cases like *Riverside Mills v. Menefee*, 237 U. S. 189 and *McDonald v. Mabee*, 243 U. S. 90, plainly depend upon a principle different from that here raised.

On April 6, 1920, after the filing of the master's report, Daisy L. Krauthoff and Edwin A. Krauthoff petitioned, in behalf of themselves and such other members of "The First Church of Christ, Scientist" as might elect to come in, for leave to file exceptions to the master's report, a motion to recommit to the master and a motion to postpone. They ought to except to the report on objections filed but omitted from exceptions by the defendants. A decree was entered denying this petition and the petitioners claimed an appeal. The petitioners were not parties to the proceeding and therefore had no standing to present such a motion. The master's re-

port was filed March 6, 1920. The time allowed by equity rules 31 and 32 for filing exceptions thereto had expired. *Smedley v. Johnson*, 196 Mass. 316. They had no right to appeal from the denial of their motion. *Martin v. Tapley*, 119 Mass. 116. *Ex parte Leaf Tobacco Board of Trade*, 222 U. S. 578.

On October 20, 1920, which was about two months after the reservation of the case for decision by the full court, Mr. and Mrs. Krauthoff filed a motion in behalf of themselves and such other members of the church as might desire to join, to be admitted as parties to the suit and to refile the motions before filed and denied. There was no error in the denial of this motion. The case was pending before the full court. The single justice could not then deal with such questions. *Burbank v. Farnham*, 220 Mass. 514, 515, 516. *Old Dominion Copper Mining & Smelting Co. v. Bigelow*, 203 Mass. 159, 221. The motion also was addressed under the circumstances disclosed on the record to the discretion of the court, which cannot be held to have been abused. *New York Bank Note Co. v. Kidder Press Manuf. Co.*, 192 Mass. 391, 408. *Credits Commutation Co. v. United States*, 177 U. S. 311, 314 to 317. Opinion by Lurton Circuit Judge, in *Toler v. Tennessee, Virginia & Georgia Railway*, 67 Fed. 168, 172. *City of New York v. Consolidated Gas Co.*, 253 U. S. 219. There appears to have been no adversary relation between the petitioners and the directors. It was the duty of the latter to protect the interests of the members of "The First Church of Christ Scientist." *John Hancock Mutual Life Ins. Co. v. Lester*, 234 Mass. 559-562.

The result is that the exceptions of the defendants to the master's report so far as they relate to his rulings that the directors had no power under the deed of Jan-

## APPENDIX

uary 25, 1898, to remove a trustee and that the removal<sup>1</sup>  
of Mr. Rowlands was ineffectual must be sustained. On  
the facts found by the master, in the light of the prin-  
ciples of law here found to be controlling the plain-<sup>2</sup>  
tiffs cannot maintain their bill.

In order to decide the fundamental issues raised on this record, it is unnecessary to consider the question whether Mr. Dittmore or Mrs. Knott is a director. That issue is directly involved in another suit.

The exceptions of Emelie B. Hulin have been waived and need not be considered.

Suggestion of the Attorney General denied.

Both appeals of Mr. and Mrs. Krauthoff dismissed.

Exceptions of Emelie B. Hulin waived.

Bill dismissed, November 23, 1921.<sup>3</sup>

<sup>1</sup>This is the sole question before the Court.

<sup>2</sup>See *Church Manual* pp. 128-135, incl.

<sup>3</sup>See Deed of Trust (*Manual* pp. 136-138, incl) starting with line 12, p. 136, with the words: "in addition to..." through line 11, pg. 137, ending: "...decide to do so."

<sup>4</sup>*Very important observation.* The 28th *Manual* (1902) increased the Board from four to five under the *Church Manual By-Laws*, but left the four Directors unchanged under the Deed of Trust of September 1, 1892 (*Manual* pp. 128-135) and Deed of Trust of March 19, 1903 (see *Manual* pp. 136-138).

<sup>5</sup>See *Church Manual* p. 25, footnote to line 10, Art. 1, Sec. 2. This footnote has been used to meld the two Boards (fiduciary and ecclesiastical) to make the latter "perpetual" in violation of the *Church Manual's* Art. 1, Sec. 5, in which an estoppel clause requires the approval of the Pastor Emeritus to fill a vacancy on the ecclesiastical Board of Directors.

<sup>6</sup>Here civil law sets aside the estoppels as conditions that cannot be complied with, hence are ignored. This has been the policy of the Boards since December 10th, 1910. But the *Church Manual* is ecclesiastical and not interpreted by human law.

<sup>7</sup>Not strictly correct. The First Members were changed to Executive Members who then in 1908 were disbanded and all functions consolidated under the Board of Directors. Mary Baker Eddy did this to simplify dissolution of The Mother Church at her passing by means of the 26 estoppel clauses requiring her approval in one form or another.

<sup>8</sup>See footnote on preceding page.

<sup>9</sup>Turn to page 243 of the Court's decision for clarification of this point. *Two* Boards of Directors exist; their duties are different and are derived from different sources, from different documents.

<sup>10</sup>This is very important! To have perpetuity to the *Church Manual* it had to be originated under the September 1, 1892 Deed of Trust to *apply to The Mother Church and The Mother Church members* whose existence is controlled by the 26 estoppel clauses.

<sup>11</sup>Estoppel is recognized by the Court. Very important! This is a tacit admission by the Court that the "estoppel clauses" *are controlling forever*, since the Chief Justice concedes that the provisions of Article XXXV of Sec. 1, and Sec. 3 do operate!

<sup>12</sup>See *Church Manual*, p. 80, Art. XXV, Sec. 3. (Note estoppel clause.)

<sup>13</sup>Note: the sole question before the Court.

<sup>14</sup>This is how *civil law* interprets a *civil document* or instrument, but this does *not* apply to an ecclesiastical instrument. An ecclesiastical instrument is not required to be consistent with a civil instrument.

<sup>15</sup>The Publishing Society Trust Deed was never filed in Court, hence is not strictly a legal document under civil law. The Justice, however, indicates elsewhere that its unchallenged operation from 1898 to 1921 establishes its legality in the eyes of the law.

The two land deeds were filed in Court and are legal instruments as is the Board of Directors established therein. The ecclesiastical Board of *five* Directors operating under the *Manual* is not a legal body.

<sup>16</sup>So, even though it was never filed in Court, the law views the Publishing Society Deed of Trust as a legal instrument.

<sup>17</sup>This is important in that it reinforces the concept that the Publishing Society is an independent body and is "perpetual."

<sup>18</sup>It vested in Mary Baker Eddy, the donor this right. *Not* in anybody else.

<sup>19</sup>This is an excellent point by the Court.

<sup>20</sup>Extending this thought to the *estoppel clauses* and heeding them as instructions of Mary Baker Eddy, then the law would also uphold terminating all functions of The Mother Church governed by the estoppels. This is implied here.

<sup>21</sup>Thus the Publishing Society Deed of Trust would still be operative in the eyes of the law; but *Church Manual* By-Laws (ecclesiastical) would be governed by the estoppels.

<sup>22</sup>Refer again to page 243 herein to see the Chief Justice's separation between the *four* Directors (fiduciary Board) and the *five* Directors (ecclesiastical Board).

<sup>23</sup>Note *interpretation*—same words appearing throughout a document have the same meaning. All estoppels are thus recognized by the Court.

<sup>24</sup>Article I, Sec. 5, p. 26 of *Church Manual* forbids succession in office for the 5-member ecclesiastical Board of Directors without Mary Baker Eddy's approval, thus this element of control could not last beyond her death. She created the estoppels to insure the ecclesiastical Board's control would come to an end.

<sup>25</sup>Important point: Note: "ecclesiastical."

<sup>26</sup>But not the Board of *four* under the Deed of Trust of Sept. 1, 1892, which is legal and irrevocable. The Deed of March 19th, 1903, confirming the Board of four, is also legal and irrevocable.

<sup>27</sup>The ecclesiastical government of the church.

<sup>28</sup>Seldom is a lawyer satisfied with the wording/drafting of another lawyer.

<sup>29</sup>Thus "perpetuity" is a mere legal phrase to establish a body for as long as that body is needed.

- <sup>30</sup>It was not The First Church of Christ, Scientist, but The Mother Church established under the *Church Manual*. While The Mother Church existed, it and the Publishing Society were ecclesiastical.
- <sup>31</sup>The ecclesiastical Board of Directors had such broad powers (see page 243 herein) derived from the *Church Manual*. On the other hand, the Directors under the two land deeds of Sept. 1, 1892 and Mar. 19, 1903, were limited in scope to the land and building management. (see *Church Manual* pp. 128-138.)
- <sup>32</sup>Correct. Mary Baker Eddy did this to accomplish a simple method of dissolving The Mother Church and its activities through the 26 estoppel clauses that went into effect at her passing.
- <sup>33</sup>Note that word "ecclesiastical" appears again.
- <sup>34</sup>This Board of Directors is ecclesiastical (and was dissolved by the estoppels at Mrs. Eddy's passing.) It does not, here, refer to the Board of *four* constituted by the Deed of September 1, 1892.
- <sup>35</sup>This opinion of the FULL BENCH is extremely important! Note especially lines 13 to 15, stating: "No reference to the Deed of September 1, 1892, is found in the [Publishing Society] Trust Deed of January 25, 1898." Remember, too, that the ecclesiastical Board of five Directors ceased to exist or exercise control at Mrs. Eddy's passing, when the estoppels went into effect.
- <sup>36</sup>(See *Manual*, Art. VIII, Sec. 14, page 44.) Regarding this By-Law, the Publishing Society was covered in Art. XXV in the 8th *Manual* (1898). In the 12th *Manual* what now appears as Art. VIII, Sec. 14, appeared for the first time, stating, "it was the duty of *this Church*" to see that publications were ably edited and managed. (See Art. XXV, Sec. 4, for Editors and Managers.) In the 29th *Manual* (1903) Mary Baker Eddy changed "this Church" to read, "the Board of Directors," thus bringing this By-Law under the Board of Director estoppel (Art. 1, Sec. 5, p. 26, line 22) which freed the Publishing Society of this restriction at the time of her passing. (Her Will was made in September, 1903, which indicated her awareness of her death.)
- <sup>37</sup>This was the reason for the "great literature litigation" taking place.
- <sup>38</sup>The Court refuses to bring the ecclesiastical *Church Manual* into its purview. It confines itself to the Publishing Society Deed of Trust which does not contain the contents of Art. VIII, Sec. 14.
- <sup>39</sup>This evades the issue of supervision by the ecclesiastical Board of Directors and confines opinion to the removal of a Trustee; but the Board of Directors has used this to justify "supervision" over the years to date.
- <sup>40</sup>The Court refuses to rule or render an opinion on an *ecclesiastical* matter.
- <sup>41</sup>What the Court has to review.
- <sup>42</sup>The Court again refuses to enter the ecclesiastical area.
- <sup>43</sup>This all concerns removal of a Trustee which was never in doubt. The matter of the ecclesiastical Board of Directors having authority over the Trustees of the Publishing Society, or supervising their work, *is not* included in this opinion of the Court.
- <sup>44</sup>The decision upholds the rights covered in the Deed of Trust (Jan. 25th, 1898), and the *Church Manual*, as well; it does not take into account that the ecclesiastical Board of five Directors lost control at Mrs. Eddy's passing when the estoppels went into effect.
- <sup>45</sup>For what reason did the Attorney General try to enter the act in place of the Supreme Court?
- <sup>46</sup>Again, this is the only issue before the Court.

S. 1866

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IN THE HOUSE OF REPRESENTATIVES

JULY 26, 1871

Referred to the Committee on the Judiciary

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AN ACT

For the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 *That, any provision of law to the contrary notwithstanding,*  
4 *copyright is hereby granted to the trustees under the will of*  
5 *Mary Baker Eddy, their successors, and assigns, in the work*  
6 *“Science and Health with Key to the Scriptures” (entitled*  
7 *also in some editions “Science and Health” or “Science and*  
8 *Health; with a Key to the Scriptures”), by Mary Baker*  
9 *Eddy, including all editions thereof in English and transla-*  
10 *tion heretofore or hereafter published, for a term of seventy-*  
11 *five years from the effective date of this Act or from the*

1 date of first publication, whichever is later. All copies of the  
2 protected work hereafter published are to bear notice of  
3 copyright, and all new editions hereafter published are to be  
4 registered in the Copyright Office, in accordance with the  
5 provisions of title 17 of the United States Code or any revi-  
6 sion or recodification thereof. The copyright owner shall be  
7 entitled to all rights and remedies provided to copyright  
8 owners generally by law: *Provided, however, That no lia-*  
9 *bility shall attach under this Act for lawful uses made or*  
10 *acts done prior to the effective date of this Act in connection*  
11 *with said work, or in respect to the continuance for one year*  
12 *subsequent to such date of any business undertaking or*  
13 *enterprise lawfully undertaken prior to such date involving*  
14 *expenditure or contractual obligation in connection with the*  
15 *exploitation, production, reproduction or circulation of said*  
16 *work. This Act shall be effective upon enactment.*

Passed the Senate July 22, 1971.

Attest:

FRANCIS R. VALEO,

*Secretary.*

**FOR THE RELIEF OF CLAYTON BION CRAIG, ARTHUR P.  
WUTH, MRS. LENORE D. HANKS, DAVID E. SLEEPER, AND  
DeWITT JOHN**

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**HEARINGS  
BEFORE  
SUBCOMMITTEE NO. 3  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-SECOND CONGRESS**

**FIRST SESSION**

**ON**

**S. 1866**

**FOR THE RELIEF OF CLAYTON BION CRAIG, ARTHUR P.  
WUTH, MRS. LENORE D. HANKS, DAVID E. SLEEPER, AND  
DeWITT JOHN**

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**OCTOBER 27, 1971**

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**SERIAL NO. 18**

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**Printed for the use of the Committee on the Judiciary**



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**FOR THE RELIEF OF CLAYTON BION CRAIG, ARTHUR P. WUTH, MRS. LENORE D. HANKS, DAVID E. SLEEPER, AND DeWITT JOHN**

WEDNESDAY, OCTOBER 27, 1971

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE No. 3,  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee met at 10:15 a.m., pursuant to call, in room 2237, Rayburn House Office Building, Hon. Robert W. Kastenmeier presiding.

Present: Representatives Kastenmeier, Ryan, Mikva, Drinan, Railsback, Biester, Fish, and Coughlin.

Staff members present: Herbert Fuchs, counsel; and Samuel A. Garrison, associate counsel.

Mr. KASTENMEIER. The hearing will come to order. We have met this morning to receive testimony on S. 1866, for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John.

Drafted and titled in the form of a private relief bill, this measure involves granting to the trustees under the will of Mary Baker Eddy extended copyright in the work, "Science and Health," also sometimes called "Science and Health with Key to the Scriptures."

The bill will be inserted in the record at this point.

(The bill S. 1866 follows:)

[S. 1866, 92d Congress, first sess.]

**AN ACT** For the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, any provision of law to the contrary notwithstanding, copyright is hereby granted to the trustees under the will of Mary Baker Eddy, their successors, and assigns, in the work "Science and Health with Key to the Scriptures" (entitled also in some editions "Science and Health" or "Science and Health; with a Key to the Scriptures"), by Mary Baker Eddy, including all editions thereof in English and translation heretofore or hereafter published, for a term of seventy-five years from the effective date of this Act or from the date of first publication, whichever is later. All copies of the protected work hereafter published are to bear notice of copyright, and all new editions hereafter published are to be registered in the Copyright Office, in accordance with the provisions of title 17 of the United States Code or any revision or recodification thereof. The copyright owner shall be entitled to all rights and remedies provided to copyright owners generally by law: *Provided, however,* That no liability shall attach under this Act for lawful uses made or acts done prior to the effective date of this Act in connection with said work, or in respect to the

continuance for one year subsequent to such date of any business undertaking enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction or circulation of said work. This Act shall be effective upon enactment.

Passed the Senate July 22, 1971.

Attest:

FRANCIS R. VALEO, *Secretary*

The subcommittee decided to hold a public hearing in this matter in order to elicit detailed explanation as to the need for and objectives of the legislation, as well as the consequences of its enactment.

Letters objecting to the subject legislation have been received from approximately a dozen persons and these persons have been advised of the time and place of this hearing.

First, we are very pleased and honored this morning to receive the views of two of our own colleagues from the Judiciary Committee, the gentleman from Michigan, Mr. Hutchinson, who was a member of our Copyright Subcommittee for many years, and the gentleman from Illinois, Mr. McClory.

And I am going to ask that our friend and colleague, Hon. Robert McClory from Illinois, be our first witness.

Bob.

### TESTIMONY OF HON. ROBERT McCLORY, A REPRESENTATIVE CONGRESS FROM THE STATE OF ILLINOIS

Mr. McClory. Thank you, Mr. Chairman.

I appreciate Mr. Hutchinson's consideration, too, so that I may come to Subcommittee No. 4, when I am concluded here, where a subcommittee meeting is in progress.

Mr. Chairman, it is only rarely that I undertake to testify in behalf of legislation. However, I have chosen to appear today in behalf of a measure in which I am personally and deeply interested.

As a practicing member of the Christian Science Church with membership in the mother church, the First Church of Christ, Scientist, Boston, Mass., as well as a branch church, I have personal knowledge of the tenets and principles which characterize this worldwide religious movement.

The principal works upon which the Christian Science religion is based are: first, the King James version of the Bible; and, second, the Christian Science textbook "Science and Health with Key to the Scriptures" by Mary Baker Eddy. The final edition of the Christian Science textbook was published and copyrighted in 1906. This copyright has been extended from time to time and is now in full force and effect until December 31, 1971.

The unique character of this volume suggests the importance—even the need—for extending the copyright for an additional 75 years, provided in this private bill, S. 1866.

The complete and final revelation of Christian Science, as set forth by Mrs. Eddy, the discoverer and founder of Christian Science, is embodied in the copyrighted edition of the text book, of which I have a copy here in my hand.

Citations from "Science and Health," together with passages from the King James version of the Bible, which all Christian Scientists study on a daily basis, constitute the weekly lesson-sermon. This constitutes the sermon which is read on Sunday by elected readers in

Christian Science branch churches throughout the world. These sermons are protected by the existing copyright.

The precise text, including page and line identification, and all of the detailed contents of the Christian Science textbook, are vital to this great religion. The purity of the text, which all true adherents of Christian Science find both essential and complete, requires faithful preservation of this volume without omissions, qualifications, footnotes, comments, or other departures which also might be expected—if the copyright were permitted to expire.

Mr. Chairman, while I speak only as one member of the Christian Science Church, I can assure you that I do, indeed, voice the interest and support of all Christian Scientists. All who adhere to this religion and apply its teachings can attest to its importance to them in their daily lives. Accordingly, to continue to enjoy these benefits, to protect this opportunity for religious expression, the passage of this private bill for the benefit of the trustees under the will of Mary Baker Eddy is peculiarly important.

Mr. Chairman, I understand that other private copyright bills have been enacted in the past and I can think of no occasion when such legislation would be more clearly justified than in this present bill.

Mr. Chairman, I feel strongly that this private bill should be passed and the copyright of this unique volume, "Science and Health with Keys to the Scriptures" by Mary Baker Eddy, should be extended for 75 years.

I should add that you are going to have expert witnesses here this morning in the person of the manager of the Washington Office of the Christian Science Committee on Publication and others from the mother church, and I am sure that they will be able to present detailed information which will be illuminating to this committee and I know also my colleague, Congressman Hutchinson, is going to add further testimony.

Mr. KASTENMEIER. As far as you can ascertain, then, you would find yourself in agreement with the statements that Mr. Cunningham, Dr. Stokes, and Mr. Schulman and others may make on behalf of the bill?

Mr. McCLORY. Yes, I would.

Mr. KASTENMEIER. Well, I thank my colleague.

I will yield to the gentleman from Illinois.

Mr. MIKVA. I have no questions.

I thank you for your statement.

Mr. DRINAN. I want to thank our colleague for appearing.

Mr. KASTENMEIER. Mr. Railsback?

Mr. RAILSBACK. I have no questions.

Mr. KASTENMEIER. Mr. Biester?

Mr. BIESTER. It is a delight to have you here, Bob.

Mr. KASTENMEIER. Mr. Fish?

Mr. FISH. No questions.

Mr. McCLORY. I appreciate these very generous questions.

Mr. KASTENMEIER. You were very persuasive.

Mr. McCLORY. Thank you, Mr. Chairman.

Mr. KASTENMEIER. Next, of course, we are very honored to have our old friend and colleague, Congressman Hutchinson from Michigan

TESTIMONY OF HON. EDWARD HUTCHINSON, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. HUTCHINSON. Thank you, Mr. Chairman and gentlemen of the committee.

I don't recall ever appearing before this committee from this vantage point before, but it is a pleasure to do so. Oftentimes I regret that I am no longer a member of this subcommittee. I enjoyed its work very much.

Mr. Chairman, I appear before your subcommittee to urge favorable consideration of S. 1866, a private bill to grant a copyright to the trustees under the will of Mary Baker Eddy for a term of 75 years in her work "Science and Health—with Key to the Scriptures." The existing copyright, held by the same trustees, will expire December 31 next under present law.

Other witnesses at this hearing will develop the unique need with the Christian Science Church for continuing copyright protection for their denominational textbook. It will be shown that the Congress has on nine previous occasions dealt with copyright through private legislation, so the present bill breaks no new ground.

I am satisfied this bill is not offensive to the establishment clause of the first amendment. Certainly the grant of copyright on a religious book does not establish religion. If it did, all such copyrights would be void and it seems most unlikely that nearly 180 years would have been required to discover such invalidity. A grant of copyright to a religious book is not violative of the establishment clause.

The grant of copyright provided for in S. 1866 will harm no one who has a legitimate interest in the publication of the Christian Science textbook. Failure of enactment, on the other hand, could lead to much confusion. I favor the bill.

Mr. KASTENMEIER. Thank you for a very concise statement that really to the point, to one point, certainly, that I think is of concern to members of the committee in the consideration of the legislation.

I have no questions.

I yield again to my friend from Illinois, Mr. Mikva.

Mr. MIKVA. No questions.

It is a pleasure to welcome you back on either side of the table.

Mr. KASTENMEIER. The gentleman from Massachusetts?

Mr. DRINAN. Mr. Hutchinson, we can't be too sympathetic to our colleague, so I do have a question.

Maybe this is anticipating the other witnesses, but you indicated that on some nine previous occasions copyrights were in fact extended in certain situations. You can defer that to other individuals if you want, but I myself was very interested in that particular fact.

Mr. HUTCHINSON. I have a list of them here. I am sure they will be presented by either Mr. Cunningham or Dr. Stokes.

The first one was the act of May 24, 1828, a copyright granted to John Rowlett for "Rowlett's Tables of Discount or Interest." And in 1830 he got another one and in 1843 he got a still a third one. And in 1849 there was by private bill granted a copyright to Levi H. Corso "A Perpetual Calendar or Almanac." In 1854, Thomas H. Sumner, "Method of Ascertaining a Ship's Position at Sea." In 1859, a copyright was granted to Mistress Henry R. Schoolcraft for "Historical Statistics, Condition, and Prospects of the Indian Tribes of the United States."

States." In 1866 to Mrs. William L. Herndon for a work entitled "Exploration of the Valley of the Amazon." In 1874 to William Ted Helmuth for "A System of Surgery." And in 1898 to Judson Jones, "The Alphabet of Orthoepy."

Mr. KASTENMEIER. I might say that these nine instances are all recited at pages 3 and 4 of the Senate report on this bill.

It is just as well that they were recited orally for the record so that one can know what they are.

Mr. DRINAN. Thank you very much, sir.

Mr. KASTENMEIER. The gentleman from Illinois?

Mr. RAILSBACK. No questions.

Mr. KASTENMEIER. The gentleman from Pennsylvania?

Mr. BIESTER. I have no questions. It is a great pleasure to welcome you.

Mr. KASTENMEIER. The gentleman from New York?

Mr. FISH. Welcome, Mr. Hutchinson.

I have no questions.

Mr. KASTENMEIER. I might point out that our friend and colleague, Mr. Hutchinson, has just come back from a trip in which he represented the Judiciary Committee on a copyright matter and we are most grateful to you for having represented the Judiciary Committee.

Mr. HUTCHINSON. I enjoyed making the trip to Geneva at the Diplomatic Conference on a treaty that is being worked out on phonograms, "pirated" records. I would be glad to report to the committee at any time.

Mr. KASTENMEIER. We would be glad to hear from you on it at some future date.

We thank our colleague.

The Chair would now like to call as witnesses Mr. C. Ross Cunningham, manager of the Washington office, Christian Science Committee on Publication, Dr. J. Burroughs Stokes, manager, Christian Science Committees on Publication, accompanied by their distinguished attorneys whom this committee knows well from testimony on many occasions. These are one of the outstanding copyright attorneys, Mr. John Schulman and Mr. John Peterson, counsel for the trustees under the will of Mary Baker Eddy.

May I inquire of Mr. Cunningham whether there are any others in your group here this morning that should be part of the panel?

Mr. CUNNINGHAM. No, this is the panel this morning and those you mentioned will give our presentation.

Mr. KASTENMEIER. All right, we welcome you all here this morning. You understand the purpose of our hearing and we are anxious to hear from you.

So Mr. Cunningham, if you will designate who is to testify first, we will proceed.

**TESTIMONY OF C. ROSS CUNNINGHAM, MANAGER, WASHINGTON OFFICE, CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION; DR. J. BURROUGHS STOKES, MANAGER, CHRISTIAN SCIENCE COMMITTEES ON PUBLICATION; JOHN SCHULMAN, ATTORNEY, NEW YORK CITY; AND JOHN PETERSON, COUNSEL TO THE TRUSTEES UNDER THE WILL OF MARY BAKER EDDY**

My name is C. Ross Cunningham and I am manager of the Washington, D.C. office of the Christian Science Committee on Publication. With me this morning to testify on the private bill, S. 1866, a next to me, Dr. J. Burroughs Stokes, manager of committees on publication of the First Church of Christ, scientists, representing the trust under the will of Mary Baker Eddy and spokesman for Christian Science church members throughout the United States and the world. Also, at the end, is Mr. John Schulman, an eminent attorney from New York City, and one of the deans of the copyright bar. With me at the table is Mr. John Peterson, who is general counsel of the church, and counsel to the trustees under the will of Mary Baker Eddy.

I will give a general statement explaining the reasons we are seeking passage of S. 1866. Dr. Stokes will amplify portions of my statement, and Mr. Schulman will outline the legal and constitutional basis of the bill.

S. 1866, a bill to extend the copyright on the book *Science and Health with Key to the Scriptures* by Mary Baker Eddy, was introduced May 14, 1971, by 12 members of the Senate, Senators Burdick, Per Bayh, Brooke, Cranston, Griffin, Hatfield, Humphrey, Monto Scott, Thurmond, and Tunney. It was reported by the Senate Judiciary Committee on July 21, and passed the Senate on July 22.

There has been national publicity about S. 1866 in various publications, such as *Publishers' Weekly*, *Variety*, and the *American Patent Law Association Bulletin*. To the extent that this bill can be considered newsworthy to them, the public and publishing interests are informed concerning S. 1866.

The most recent copyright on the book which we are concerned with is dated 1906, and it is due to expire December 31 of this year. This bill would extend the copyright by 75 years from the effective date of this act.

Students and adherents of the Christian Science religion look to *Science and Health with Key to the Scriptures* by Mary Baker Eddy as the fundamental statement of the religious teachings of Christian Science. They consider this book, together with the Bible, as the basic textbook for all instruction in the Christian Science religion, and the teaching and practice of the spiritual healing which is a central part of this religion.

Christian Scientists, as well as others who worship in the Church of Christ, Scientist, look to the Bible and *Science and Health* as the word of the pastor of this church. All sermons in Christian Science churches throughout the whole world are comprised of readings of scriptural texts and correlative passages from *Science and Health*. The citations comprising each weekly sermon are printed in the *Christian Science Quarterly*, and each week the same sermon is read in every Christian Science church. This sermon is also studied individually by students of Christian Science and members of the congregations throughout the week prior to the Sunday service at which it is to be read.

Christian Scientists and those of the general public wishing to learn of this religion are reliant upon the integrity and purity of the exact statement of Christian Science as set forth in the *Christian Science* textbook, and upon the uniform system of pagination and

line numbering which it employs, in order to effectively study and practice this religion, and to participate in the religious services and exercises of the Church of Christ, Scientist. Only through use of the authentic edition of the textbook can there be any assurance to a user that the copy of this book which he has is adaptable to the religious purposes of this church and can be used for the study and practice of Christian Science.

In all of the religious practices and activities of Christian Science, use of "Science and Health" as a textbook is based on two essential factors. First, the text of the book must be authentic and contain the exact words of its author, Mary Baker Eddy. Second, the words on each page, together with the numbering of the pages and lines, must be the same in all editions and translations, and be consistent with the system of reference and citation established by Mary Baker Eddy. Unless the book meets these requirements it cannot serve its purpose as the denominational textbook of Christian Science. Accordingly, students and adherents of this religion must use "Science and Health With Key to the Scriptures" without any change in the words or form of the book in English. Translations of the textbook are based on the words and form of the English text, and the English text is always included in all translated editions on facing pages together with the translated text.

The copyright on "Science and Health" is owned by the trustees under the will of Mary Baker Eddy, the five individuals named in the caption of the bill. These trustees are bound by their fiduciary responsibility to use any profits from the sale of the book for purposes that are completely nonprofit in character, and they are responsible to the director of Charitable Trusts and the Probate Court of the State of New Hampshire to whom they must furnish an annual accounting. No pecuniary benefit can inure to any person from this copyright. More important, the purpose for seeking copyright extension has no relation to the profit motive. The trustees under the will and the Christian Science Publishing Society own many other copyrights, some of them on works written by the author of "Science and Health," but the bill which is before your committee covers only the single work, "Science and Health".

The unusual nature of this literary work has led us to request private legislation rather than some more generic bill. "Science and Health" is the first and, to our knowledge, the only book that has ever been ordained as the pastor of a religion, and this status is at the heart of our need for extended protection. Enactment of S. 1866 need not be a precedent for other private copyright extensions. Moreover, Congress has enacted private copyright acts several times in the past to protect specific works. A list of these acts is attached. Mr. Schulman will expand on the constitutional aspects of such private laws.

The passage of this bill would create no restraint upon the interchange of religious ideas. Anyone may comment on or criticize Christian Science either favorably or adversely at any time. The church has never made an effort to restrict criticism of its teachings. Copyrights do not limit what may be said freely in public. A copyright simply prevents "copying or reproduction of a work" and does not prohibit the use of ideas or what may be said about a copyrighted work, nor does it prevent textual or historical criticism. Under the doctrine of fair use,

writers are even permitted to quote reasonable portions of a work for the purpose of criticism.

Without this copyright protection there would be serious danger to the course of Christian Science church services and the basis of individual religious study by Christian Scientists would be seriously impaired. The result would be a definite limitation on the freedom of adherents of this denomination to practice their religion.

In considering the appropriate length of the extended term for work like this we referred to the bill for a general revision of the copyright law now pending in the Senate. It provides for a term of 75 years for anonymous and pseudonymous works, and works for hire. As you will recall, a similar term was provided in the general revision bill passed in previous Congresses by the House. It is certainly a "limited period of time" as required by the Constitution.

Mr. Chairman, and Members of the Subcommittee, our concern is that, if this book goes into the public domain, as a practical matter the public will not know whether it is buying or reading what Mary Eddy actually wrote or some one else's version of her teaching which is set forth as an edited, abbreviated, modernized or simplified version, or even an intentionally distorted one. Someone seeking her religious teachings should be assured that that is what he is getting. They are entitled to the assurance that a book bearing that title is in fact the textbook of Christian Science by Mary Baker Eddy and is an accurate expression of the religious and spiritual teachings from which they may expect to derive solace and comfort.

We deeply appreciate the concern you have shown for our religious beliefs as evidenced by your holding these hearings.

Now Dr. Stokes has a statement to make.

MR. KASTENMEIER. Thank you, Mr. Cunningham.

We will be pleased to hear from Dr. Stokes. You may proceed, sir.

DR. STOKES. Mr. Chairman, and gentlemen of the Committee, my name is J. Burroughs Stokes.

As Manager of the Christian Science Committees on Publication representing the Trustees under the Will of Mary Baker Eddy and as chief spokesman for all Christian Science church members, I wish to give further testimony on the passage of S. 1866.

"Science and Health With Key to the Scriptures" by Mary Baker Eddy is the denominational textbook of Christian Scientists—that it is the one book which accurately sets forth the complete statement of the basic teachings of the Church of Christ, Scientist. In our church which was founded by Mrs. Eddy, Science and Health takes the place of all creeds and confessions. It serves as our fundamental religious statement of faith and theology.

In this modern age, even a unique religious book of this kind requires the protection of the law and the state in order to avoid the attack of commercial interests which often have no regard for the sacredness of religious views. Without copyright protection there is no reason at all to doubt that such interests would attempt to capitalize on this situation. Piracy, plagiarism and adulteration would be commonplace, thereby disrupting for no valid reason the lives of a significant body of sincere religious citizens of this Nation and the world.

Our church makes as its standard the last edition of "Science and Health With Key to the Scriptures." Changes of wording made

that time--as in the tenets of the faith given on pages 496 and 497 of "Science and Health"--are extremely important to members of our church. To others they may seem minor, but, as those of you know who are familiar with matters religious, centuries in the Christian church were devoted to clarifying just such questions of wording. Words, of course, stand for religious positions of vast significance to the lives of thousands of believers. A change of word can mean immense practical differences. In the preface of "Science and Health," the final edition the author speaks of this problem of inaccuracy and plagiarism, and points out important distinctions between her earlier works and the last major edition of the book, which summarized her lifelong work in the field of religion and healing.

The passage of S. 1866 is necessary to protect the right of individuals to freely exercise their chosen religion. This is the sole purpose of the bill. Its passage would involve neither Government sponsorship, support, nor entanglement in religion.

The edition of "Science and Health" which the Trustees under the Will of Mary Baker Eddy publish is the only one which adherents of our church and the public have relied on for the past 60 years as the authentic edition.

The very principle of free exercise of religion under the Constitution is freedom of the individual to worship as he wishes, while the effect of the copyright law is to give protection to the integrity and authenticity of published works. In S. 1866, these two principles combine to protect individual free exercise of religion by assuring the right of individuals and the public to freely exercise their religion by having sure access to the authentic edition of "Science and Health."

In the manual of our church, Mrs. Eddy ordained the Bible and "Science and Health With Key to the Scriptures" to be our pastor, and further instructed that "They will continue to preach for this church and the world." Now, there is no doubt that impersonation of a personal pastor could be easily recognized and prevented. But when the pastor is a book, the only practical method of protecting its integrity and preventing the possible deception of individuals who wish to follow that pastor is through the legal device of a copyright.

The bill by its terms creates a copyright in all editions of "Science and Health." Since there are some editions of "Science and Health" which are in the public domain, the opportunity for abuse and misrepresentation to the public by their publication or alteration or revision is unlimited. Unless the prior editions are restored to copyright protection, commercial interests could take, for example, the 190 edition, already in the public domain, and revise it and change it to heighten what they might consider to be its appeal to the mass market and advertise and sell it as "Science and Health Revised and Modernized." This would be deceptive to the public who, out of need, interest or desire, want to obtain the correct statement of the tenets and faith of Christian Science.

The bill as drafted is not a censorship bill. It in no way prevents one who wishes to do so from buying an early edition of "Science and Health," many of which are available, or from reading any of the earlier editions available in the public libraries as well as in private collections. The bill contains a special proviso to protect the right of anyone who has already reproduced or contracted for the reproduction

tion and sale of such early editions prior to the effective date of the law.

There is strong support of S. 1866 in our church. Not a single member of our church has indicated any opposition to the passage of the bill, or is opposed to extending the copyright on "Science and Health." Our members realize that the last edition of "Science and Health" is the pastor of this church. To protect this pastor, it is necessary to extend the copyright in "Science and Health," which is owned by the Trustees under the Will of Mary Baker Eddy. The Christian Scientists know that these Trustees must maintain the book as their past in its final form as written by the author, and will not change it, revise it, annotate it, or issue abridged versions.

Copyright protection for "Science and Health With Key to the Scriptures" is important for protecting the public and individual adherents of Christian Science. If variant texts are issued, either intentionally or as the result of carelessness, the correlation between "Science and Health" and the lesson-sermons in the Christian Science Quarterly could be destroyed. The correlation between the lesson-sermons and the authentic text is an important element to be protected by copyright, and it is this correlation which enables the textbook to function effectively as the pastor of the Church of Christ, Scientist.

Mr. Chairman, if I may depart from my statement, perhaps your committee would like to see what a Christian Science textbook looks like and note how the pages are numbered and how they correlate with the King James version of the Bible, and tie in with our lesson-sermon. I would be glad to pass it up to your committee. For example, our service next week is entitled "Everlasting Punishment." Here on this side of the Quarterly are listed selections from the King James version of the Bible, and alongside of it are the correlated passages from the textbook.

MR. KASTENMEIER. The committee will receive those several texts for the purpose of examining them.

DR. STOKES. Thank you.

To resume, Mr. Chairman.

The Christian Science method of religious worship and study is contingent on the accuracy and completeness of "Science and Health." Use of a deviant version would strike at the very heart of each student's most sacred religious life.

Mary Baker Eddy, in the preface of "Science and Health," writes

In the spirit of Christ's charity, as one who "hopeth all things, endureth all things," and is joyful to bear consolation to the sorrowing and healing to the sick, she commits these pages to honest seekers for Truth.

By passing S. 1866, the Congress would be acting in the spirit of the first amendment of the Constitution by protecting the public from possible confusion and distortion and by protecting from disruption those individuals whose lives have been built on "Science and Health With Key to the Scriptures." The passage of S. 1866 would not involve the Government in the sponsorship or support of religion nor would it entangle the Government in religion. Rather, the passage of the bill would protect the free exercise of religion by hundreds of thousands of individual citizens.

I respectfully request, Mr. Chairman, that your Committee favorably report S. 1866. Thank you.

Next we hear Mr. Schulz.

Mr. KASTENMEIER. Mr. Schulman, you may proceed, sir. I notice that you have an 11-page statement. You may use your own judgment as to whether to give us the entire statement or not.

Mr. SCHULMAN. Mr. Chairman, gentlemen of the Committee, I shall try to be as brief as possible and speak extemporaneously and without insisting on all of the statement being read.

(Mr. Schulman's prepared statement follows:)

#### STATEMENT OF JOHN SCHULMAN

My name is John Schulman. I am an attorney engaged in the practice of law at 108 East 38th Street, New York, N.Y. For upwards of 35 years I have specialized to a great extent in the law dealing with copyright and literary property, and in the problems encountered by authors, publishers and users of scientific, literary and artistic works.

During that period I have acted as advisor to various individuals, corporations and other organizations, including among them the Christian Science Church. I have appeared before this Committee and Committees of the Senate to discuss a variety of subjects relating to the Copyright law and its revision. In addition to my other activities in this area, I have participated in all of the programs concerning copyright revision, and have had the privilege of serving upon official delegations as one of the representatives of the U.S. Government at meetings concerned with international relationships on copyright and patent matters.

To avoid encumbering the record of this hearing unnecessarily, may I request permission of the Committee to leave with it a copy of a statement made by me at a hearing before this Committee on Wednesday, August 18, 1965 (Committee Print pp. 1694 et seq.). The appendix thereto includes a discussion of various aspects of the copyright law and system, under headings commencing respectively at the pages indicated, namely:

- I. Nature of Copyright; Committee Print, p. 1696.
- II. The Origins and Development of Copyright in the United States; Committee Print, p. 1697.
- III. The Existing Copyright System and the Need for Its Modernization and Revision; Committee Print, p. 1700.
- IV. A Single Uniform System of Copyright and the Term of Copyright; Committee Print, p. 1702.
- V. Exclusive Rights, Exemptions and Fair Use; Committee Print, p. 1704.

It is my hope that the material described above will be helpful to the Committee in considering the questions presently before it, as well as other legislative dealing with copyright.

S. 1860

In discussing the specific legislation which is the subject of this hearing, I shall not burden the Committee with a review of the nature of the work entitled Science and Health, the function which it serves, and its use by the membership of the Christian Science Church and the public, except to the limited extent that these elements may have a specific bearing on questions of law which this Committee may desire to consider.

My present statement will relate only to the following questions:

- (1) The Power of Congress Under the Constitution to Enact a Statute Granting Copyright Protection for a Specific Work or Works of a Specific Author.
- (2) The Power of Congress, One Which Has Not Heretofore Been Challenged to Extend the Term of Protection of Copyrights Already in Existence.
- (3) The Consistency and Compatibility of the Copyright Protection Sought by the Pending Bill and the Provisions of the First Amendment of the Constitution.

*The Power of Congress Under the Constitution To Enact a Statute Granting Copyright Protection for a Specific Work or Works of a Specific Author*

There can be little, if any, doubt that Congress is vested with the Constitutional power to enact special copyright statutes for the protection of a specific work or works. In his presentation of S. 1860 to the Senate, Senator F. Wick called attention to that portion of the Senate Committee Report (S. Rept. 280) listing numerous private copyright bills which had been enacted (Congressional Re-

ord, July 22, 1971, S 11899) Following this listing, the Senate Committee Report recited:

"The power granted to the Congress under Article I, Section 8 of the Constitution is not limited to the enactment of general patent or copyright statutes, but may be exercised in respect of specific inventions or to secure exclusive rights a specific writing created by a specific author."

In the course of his discussion of S. 1860, Senator Burdick made the following statement in support of the congressional power (at S11900):

"There is no doubt about the constitutionality of private copyright law. The committee report lists a number of such bills which have been enacted in the past. In a similar situation involving extension of a patent through the passage of a private bill a three-judge Federal Court in 1962 upheld the constitutionality of Congress' action and its judgment was affirmed *per curiam* by the Supreme Court of the United States in 1963 (*Radio Position Finding Corp. v. The Bend Corp.*, 205 F. Supp. 850 (D. Md. 1962), *aff'd per curiam* 371 U.S. 577, 83 S. Ct. 5 (1963))."

*The Radio Position Finding Corporation* case is not unique, but follows the principle established in *Evans v. Eden*, 3 Wheaton 454, one which was fortified in the opinion of Mr. Justice Story in *Blanchard v. Sprague*, 2 Story 1. For the convenience of the Committee, copies of the opinion in the *Radio Position Finding Corporation* case, which discusses in detail the principles upon which this congressional power is based, are submitted herewith.

*The Power of Congress, Which Has Not Heretofore Been Challenged To Extend the Term of Protection of Copyrights Already in Existence*

The validity of an enactment by Congress extending the term of an existing copyright is also fortified by the action taken by Congress when it adopted the Copyright Act of 1909.

Under the Act of 1790, the term of copyright had been established at a period of 14 years, with a right of renewal for an additional term of the same length. The Copyright Act of 1831 increased the first term of copyright to 28 years, but retained the 14 year term of renewal.

Under the Act of 1909 the first term remained unchanged but the renewal term was increased to 28 years. In referring to this extension of term the Report of the House of Representatives (60th Congress, Second Session, No. 22) recited:

"Section 21 deals with the extension of copyrights *subsisting* when this Act goes into effect \* \* \*."

This action by Congress, providing for an extension of existing copyrights has not been controverted.

*The Consistency and Compatibility of the Copyright Protection Sought by the Pending Bill and the Provisions of the First Amendment to the Constitution*

Senator Hart, who had voted adversely on S. 1860 in the Committee, explained the nature of his reservations when the bill was presented to the Senate (Congressional Record, July 22, 1971, S11900). His concern appears to stem from a belief that copyright grants a monopoly over expression, and limits what may be freely said and heard in public, thereby conflicting with the guarantees of free speech under the First Amendment. He has also expressed concern that the bill may offend the First Amendment's proscription against the establishment of a religion.

In the course of this presentation I shall endeavor to allay these doubts and concerns and to demonstrate that the copyright system in general, and the bill presently before the Committee in particular, do not impinge upon any of the Constitutional guarantees.

It should be recognized that copyright protection does not, by any means, preclude scholars or others from engaging in textual, or other historical, critical or commenting upon a copyrighted work. It does not stifle controversy or debate.

Nor does the copyright system create a monopoly or impede the enjoyment, use or utilization of ideas or information. Copyright protection extends only to copying or other forms of reproduction. It does not establish a monopoly in the ideas which are expressed, but preserves the property right only in the manner and content of that expression.

Exclusive rights may be claimed by an author or proprietor of a literary, scientific or artistic work only in the "tangible expression" of the ideas set forth in the manner in which the information is presented, or the way in which the facts are arranged. The extraction of data or information, as such, from a copyrighted work, or the use of that data or information, do not constitute violations or infringements of copyright. Infringement results only from the copying or reproduction, either in whole or in a substantial part, of an author's form of expression, or the manner of presentation or development of his material as formulated by him.

Even though a work is protected by copyright, the facts recited, the reasoning presented, or the processes described therein, are therefore freely available to the public at large and may be freely utilized by it.

It should also be borne in mind that the scope of protection of both common law and statutory copyright is extremely limited. These rights are unlike those which stem from a patent where the exclusive rights granted to the patentee are broad.

The law of copyright is designed to prevent only larceny, not to deter legitimate use, independent creation or mere imitation. One of its functions is to provide the safeguard that no spurious or distorted work will be palmed off upon the public as a true copy of the original.

An unequivocal answer to any claim of a hidden conflict between the Copyright law and the First Amendment to the Constitution is found moreover in the doctrine of Fair Use, which is, and has for many years been, a balance wheel and a safety valve for the copyright system. This doctrine specifically recognizes the right of scholars and all others, to engage freely in comment and criticism, and to reproduce verbatim quotations from copyrighted works for such purposes. Copyright does not stifle free speech, but merely prevents the unauthorized reproduction of the text of a copyrighted work, and a possible distortion thereof.

Any suggestion that the preservation and extension of copyright in the work Science and Health would offend the First Amendment's proscription against the establishment of religion, likewise cannot withstand analysis. The provisions of the present Copyright law, which have endured for more than half a century, recognize the right to secure copyright on religious works equally with other literary works. Specific provision is made for the right to secure copyright on "lectures, sermons and addresses" (Section 5(c)), and no claim has, at any time, been asserted that the right to claim copyright on a "sermon" is unconstitutional.

It should be recalled in this connection, that the First Amendment to the Constitution in its application to religion has a twofold aspect. It restrains Congress from making any law "respecting an establishment of religion, or prohibiting the free exercise thereof \* \* \*." S. 1866 would not result in the "establishment of religion." On the contrary, it would serve only to safeguard the rights of the adherents of the Christian Science Church "in the free exercise thereof." The bill would have the effect of enabling these adherents to continue their reliance upon the authenticity of the textbook, without incurring a risk that a copy purchased by them had been distorted, and was not authentic. This assurance of authenticity has prevailed for more than a half century and has enabled the adherents of the Church to feel secure in the free exercise of their religion.

The continuation of this protection and assurance would not "establish" the Christian Science religion. The failure to adopt S. 1866, on the other hand, may have a disruptive effect, one which would deprive the congregants of the right to "the free exercise thereof."

The prolongation of the term of copyright beyond 56 years follows a pattern which has heretofore prevailed in copyright legislation. As I have said earlier the original statute provided for a term of 14 years with a renewal of the same length, making a total of 28 years. Thereafter the copyright term was increased to 42 years, consisting of an original 28 year term, with a renewal of 14 years. In 1909 the term was increased to an aggregate of 56 years, divided into two periods of 28 years each. Under general legislation presently pending, the term will again be increased. All of these prolongations have taken into account not only the lengthening of the span of life of our population, but also all other values and benefits resulting to our nation from the copyright system.

Although not claiming any special competence in the field of constitutional law, particularly in the realm of religion, it would seem to me that Constitutional doctrine would refute any claim that S. 1866 is in conflict with that portion of the First Amendment which deals with matters of religion. May I, however, suggest to this Committee the applicability of that portion of the opinion of Mr. Justice Brennan in *Presbyterian Ch. v. Mary E. B. Hull Mem. Pres. Ch.* 393 U.S. 440, at page 447, which reads:

"The opinion (in *Watson v. Jones*) radiates \* \* \* a spirit of freedom for religious organizations, an independence from secular control or manipulation. In short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. *Freedom to select the clergy, where no improper methods of choice are proven, we think, must not be said to have federal constitutional protection as a part of the free exercise of religion against state interference.*" (Italics supplied.)" (The underscored portions appears in italics in the opinion.)

MR. SCHULMAN. My name is John Schulman. I am an attorney engaged in the practice of law in New York City. For upward of 30 years I have specialized to a great extent in the law dealing with copyright and literary property.

During that period I have acted as adviser to various individuals, corporations, and other organizations, including among them the Christian Science Church. I have appeared before this committee to discuss a variety of subjects relating to the copyright law and participated in the programs concerning copyright revision, and have had the privilege of serving on official delegations as a representative of the United States at meetings concerned with international relationships on copyright and patent matters.

When I appeared before the committee in 1965, I presented an appendix, which was rather lengthy, on the nature of copyright, the origins and development of copyright in the United States, the existing copyright system, and proposals for new legislation.

I shall not read any portion of that, but I have taken the liberty of typing out that appendix in typewritten form, so you don't have to read it in the record itself. It is all taken from the committee print but it is in larger type. I leave that with you. It does not have to be included in the reproduction of my statement.

In discussing the legislation which is the subject of this hearing I shall not review any of the matters taken up by Mr. Cunningham and Dr. Stokes. I shall present only material relating to the following questions.

That is, the power of Congress under the Constitution to enact a statute granting copyright protection for a specific work or works of a specific author, the power of Congress to extend the term of protection of copyrights already in existence, and the consistency and compatibility of the copyright protection sought by the pending bill and the provisions of the first amendment to the Constitution.

There can be little, if any, doubt that Congress is vested with the constitutional power to enact special copyright legislation. If you

will examine the Senate report on S. 1866, Senator Burdick called attention to the private bills. But in addition to the private bills which were listed and were adopted, he referred to a case entitled *Radio Position Finding Corporation v. Bendix Corporation*, in which a three-man constitutional court in the district of Maryland had before them the question of the constitutionality of a special patent bill. That three-judge constitutional court decided that Congress did have that power to enact a bill for the purpose of providing relief for a single individual. That decision was affirmed in the Supreme Court of the United States.

I have taken the liberty of leaving with the committee actual photocopies of the opinion of that three-man court, and would like to have it added to my statement so the committee can study that decision.

That decision is not unique in itself. It goes back to previous decisions in *Evans v. Eden*, decided many years ago, and in a decision by Judge Story, one of the great constitutional lawyers, in *Blanchard v. Sprague*, 2 Story 170.

MR. KASTENMEIER. May I interrupt? I was not aware that there was any question about the power of Congress to enact private legislation relating to the term of copyright. Has that been raised?

MR. SCHULMAN. It has been suggested; yes. Senator Hart raised the question whether Congress could pass a bill of this nature. And I had therefore, in advising the church, studied the law and had found this case with which even I wasn't familiar, because it was a patent case, and although I do patent work, I hadn't got into that particular field. But it is a definitive case, well established by the Supreme Court, and you will find a complete decision there.

The three-man court was Judge Sobeloff, Judge Watkins, and Judge Winter, and the Supreme Court approved that and confirmed the decision without opinion. So there can't be any question on the constitutional power of Congress to enact this legislation.

Now, Congress has had before it the question of extending terms. That was done in 1909 when the Congress extended the renewal term of existing copyrights to 28 years instead of 14. So this question of the continuation of copyright protection through private bills, I think as a matter of law, is a proper procedure on the part of Congress in its discretion and wisdom.

Now, Senator Hart, who voted adversely on S. 1866, made a statement in the Congressional Record on July 2, 1971, which appeared at page S11900. His concern appeared to stem from a belief that copyright grants a monopoly over expression, and limits what may be freely said and heard in public, and thereby conflicts with the guarantees of free speech under the first amendment. He also has expressed a concern that the bill may offend the first amendment's proscription against the establishment of a religion.

I shall attempt to demonstrate that Senator Hart's fears may be allayed by the recognition that copyright protection does not, by any means, preclude scholars or others from engaging in textual, or other historical criticism, or comments. That has never been the function of copyright law. It doesn't stifle controversy or debate. It doesn't create a copyright system of monopoly or impede the enjoyment, use or utilization of ideas or information. It only protects writing or other

forms of reproduction and preserves the manner and content of the expression.

Even though a work is protected by copyright, the facts recited, the reasoning presented, or the processes described therein, are free available to the public at large and may be freely utilized by it.

The law of copyright is designed to prevent only larceny, not deter legitimate use, independent creation or mere imitation. One of the functions of copyright is to provide the safeguard that no spurious or distorted work will be palmed off upon the public as a true copy of the original. That is fundamental in the copyright philosophy. A man has a right to have said what he said and not what somebody else said he said without attributing it to him.

Any suggestion that the preservation and extension of copyright on the work "Science and Health" would offend the first amendment's proscription against the establishment of religion, likewise cannot withstand analysis. The provisions of the present copyright law have endured for more than a half century and specific provision is made in the present law for the right to secure copyright on lectures, sermons and addresses. Now a sermon is a religious work and there has never been a suggestion that that right to copyright a sermon is unconstitutional.

It should also be recalled that the first amendment has a two-fold aspect. It restrains Congress from making any law "respecting an establishment of religion, or prohibiting the free exercise thereof." In my view, although I do not purport to be a specialist in constitutional law, this bill would guarantee the right granted under the Constitution by the first amendment; namely, the right to the free exercise of religious worship.

In that connection, I hope that the committee will accept another case and realize that I am not arguing a matter in court but I am arguing before people who really understand our system, the committee.

In a case decided by the Supreme Court, *Presbyterian Church v. Mary E. B. Hull*, 393 U.S. 440, the question arose concerning a dispute in the church, and the question of the first amendment was raised in that dispute by a bill enacted in the New York State Legislature. I have taken the liberty of leaving with this committee a copy of that opinion as it is printed in 89 S.C. 601. The case was decided in 1969. Justice Brennan, in that case at page 418 in the official report and at page 605 in the report that I have given you, referred to a case of *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church, North America*. And in discussing the former cases on the question of religion, he quoted the following from *Kedroff*:

The opinion radiates \* \* \* a spirit of freedom for religious organizations, independence from secular control or manipulation—in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. Freedom to select the clergy, where no proper methods of choice are proven, we think, must now be said to have federal constitutional protection as a part of the free exercise of religion against state interference.

It seems to me these expressions, these cases, merely support the basis which has been adopted by the Senate, from a constitutional and legal basis. And, of course, it is within the jurisdiction of this committee and the House to determine whether they agree with me.

I might say that the adoption of the bill will take nothing from anyone who cannot contest it. The adoption of this bill, the enactment of this bill, will leave anyone in the United States who disagrees with me to take the case to the Supreme Court to show whether I am right, whether I have interpreted the law correctly. But the result if the bill is not passed is that no one can go to the Supreme Court to have the question determined because there won't be any possibility of the church going to the Supreme Court with no bill. So you see the alternatives are there.

I am not an adherent to the Christian Science faith, but I have no hesitancy in giving my professional advice that this bill does not violate any constitutional provisions and is wholly within the power of Congress to adopt. Thank you.

Mr. KASTENMEIER. Thank you, Mr. Schulman.

Mr. Peterson, I understand you do not have a separate statement to make?

Mr. PETERSON. I am here to answer any questions if my answers could be helpful.

Mr. KASTENMEIER. I have a number of questions. Did any of the nine cases cited to show extension of copyright by private legislation involve material for which term had already expired and which material had already fallen into the public domain?

Mr. SCHULMAN. That is specifically referred to in the *Radio Position Finding* case. In that case and cases decided before that, the patents had either expired—and if you will refer to that case, it relates to that very subject—material which either had expired or from which no patent had been obtained.

If the chairman of the committee will look at the decision in the *Radio Position Finding* case, you will notice that the grant of the patent had expired some 20 years before.

May I have just a second to catch the precise language?

Dr. STOKES. While he is looking for that, Mr. Kastenmeier, Mr. Cunningham has an answer for you.

Mr. CUNNINGHAM. Maybe I can help in regard to the question. The first private copyright bill passed, that of John Rowlett's book in 1828, provided for the granting and continuance of the copyright, which therefore indicated that there was a part or all of that book that had gone into the public domain. The book was originally published in 1802 and the act of 1828 made provision for granting copyright. Then in the bill that was passed in 1859 for Mistress Schoolcraft, that was a book published under order of Congress. It had gone into the public domain and then the Congress granted to the widow of the writer a copyright.

This was also the case for the book that was provided extra copyright in 1866 when Mrs. Herndon was given extra time because that book had also been published under order of Congress and gone into the public domain. And she was given, as the widow, a copyright for 14 years.

The Rowlett book has an interesting history in that it had its original term of copyright, plus an extension, then it was granted an additional 14 years in 1928, and was granted another 14 years in 1843. So it really had about three terms over and above what the normal term of copyright was at that time.

Mr. KASTENMEIER. Thank you.

Mr. SCHULMAN, do you have anything further?

Mr. SCHULMAN. If you look at page 854 of the *Radio Position Fixing Corporation* case, the court refers to the fact that "Special acts for the relief of particular inventors have often been passed by Congress. Then it refers to the basic case of *Evans v. Eaton*. In the case *Agawan Company v. Jordan*, "the Supreme Court sustained a patent which had been extended in pursuance of a special act of Congress passed more than 20 years after the original patent had expired, and the invention had been free to the public. The act of Congress in that case was quite similar to the one under consideration, in that it authorized the Commissioner to entertain the application for extension as though it had been made within the time prescribed by the general law. In *Blanchard v. Sprague*, 2 Story 170, Mr. Justice Story speaking of the right of Congress to grant a patent to an inventor whose invention had, at the time of the passage of the act, gone into public use, says that the question is set at rest by *Evans v. Eaton*, and that he had never doubted the constitutional authority of Congress to make such a grant.

That is strong language that was approved by the Supreme Court. So that there is no doubt that a special bill may not only extend copyright but may give copyright to a work which never has been copyrighted or one whose copyright had expired.

I myself was rather startled when I read this case and I studied it carefully in the cases beneath it and there seems to be no doubt about it whatsoever.

I am referring to it in a lecture which I gave which will be published very soon.

Mr. KASTENMEIER. I would like to inquire, particularly as to the edition of Science and Health with which copyright is still in existence, whether any practices have come to your attention—and I raise this question in the terms of the need for the legislation—in the nature of copyright infringement? In other words, have you had any instances where the law has had a direct application in terms of protection of the material?

Mr. PETERSON. While Mrs. Eddy was still living she did bring action to protect her copyright. She was successful and it was sustained. As far as we know, there has been no systematic attempt to infringe upon the present edition of Science and Health. There have been various people who have separated themselves from the church at one time or another who would like to have rewritten the text in their own way. And we have always said they are perfectly free to write anything they want, but they mustn't pass it off as Mrs. Eddy's writings.

Mr. BIESTER. Would you yield at that point?

Mr. KASTENMEIER. Yes.

Mr. BIESTER. Could we pursue that point? Let us suppose that there were a split in the church which might hinge on the distinction between one version which is now no longer under copyright and another version which continues under copyright. If such a schism developed under the present circumstances, those adhering to the earlier work, the unprotected work, could distribute the work as Mrs. Eddy's but not as a version of the book authorized by The Mother Church, I

they could be a kind of separate church body based on the differences expressed in the earlier work, could they not?

Mr. PETERSON. Yes; but in the first place I can say that there is no such schism in the church at all and we know of no attempt whatever of anyone to build a separate religion on the earlier editions. The only thing that could possibly give rise to such a condition occurred about more than 75 years ago or so when, I guess it was around 1890-1889, several people who had been Christian Scientists and who broke away from Mrs. Eddy's church and claimed that some statements in the earlier editions gave support to their teachings. It fell apart. There was no trouble about it at all. And as far as I know today anyone who cares to read the first edition does so as a matter of historical interest.

Mrs. Eddy herself gave a lifetime of labor to developing the statements of the religious teaching that she felt was so important. She had been rescued from death's door and had healed many people and wanted to spread the teachings so that other people could do the same thing. She had an extensive staff of secretaries to help her study the statements themselves, the words themselves. And she finally reached the statement that she felt was definitive. She asked that they use only the latest edition so that her teachings would be presented as she felt they should be.

Mr. BIESTER. I understand that and appreciate that. But my question is, if at the present time the splitting off of the church were based on the earlier work, if that condition were to exist, could they not freely publish that work without the permission of The Mother Church and freely use it for their own purposes in the building of their own congregation under present law?

Mr. PETERSON. Actually, I don't think so. A copyright wouldn't prevent it, it is true. But I think the courts in the doctrines of unfair competition would actually prevent that because there would be such a misleading of the public when they ask for the book "Science and Health" if they got an earlier edition instead of the current edition, that they would be misled and the courts generally have shown themselves very jealous of the right of the public to get what they ask for.

Mr. BIESTER. If this legislation were passed, no such split could occur and no such establishment could occur without the permission of The Mother Church, isn't that correct?

Mr. PETERSON. I wouldn't really say so, Mr. Biester. I think that anyone who wanted to split off from the church and depart from its teachings would still be perfectly free to do so. The only difference is they would have to stand on their own feet when they did it and not pass it off as Mrs. Eddy's.

Mr. BIESTER. I am suggesting that they would not be standing on their own feet, they would be standing on an earlier, presently unprotected version. I am trying to see where the change may lie in passing this legislation. Under the present circumstances they could use the earlier work. I am speaking now of any difference as to the texts because I don't know what the distinctions are between the earlier and later ones. I am speaking in terms of any precedent that we are engaged in here with the particular situation.

It seems to me what we would be doing, perhaps, is saying that no such split, which now is possible, could occur in the future.)

Mr. PETERSON. I don't really think so. In the first place—I should say I know of no basic difference in the teachings in the earlier writings. I know of no group of people who came to follow the first or third or any other edition. We are not concerned with that. That isn't our purpose in presenting the bill. We have no desire to do anything like that.

I would say really that the founder of a religion has a right to have her teachings set forth in the way she wanted to set them forth. If someone should take an early edition and try to publish that and so on, this is different and so on, they are, in substance, passing themselves off as followers of hers when that isn't what she taught.

Mr. BIESTER. Thank you.

Mr. SCHULMAN. I don't know if this might help you. It just occurred to me as I sit and listen. The King James version of the Bible has perpetual copyright in England. It has perpetual copyright and I believe it is held in the name of the Oxford University. It has perpetual copyright and that was adopted a long time ago. There is that special sanctity about a religious book.

Mr. KASTENMEIER. That, of course, Mr. Schulman, would be unconstitutional in this country, would it not?

Mr. SCHULMAN. Yes, it would be because it wouldn't be a limited time. Perpetuity is limited, but not by the number of years.

Mr. BIESTER. Aren't we talking really about what the first amendment itself was all about? There was not to be a national imprimatur given permanently to a particular version of the Bible?

Mr. SCHULMAN. The bill doesn't go for permanent length of time. The bill goes for 75 years and Congress can then review it.

Mr. BIESTER. I am not speaking of this bill, I am speaking of your reference to the King James version.

Mr. SCHULMAN. That comes out of the statute of monopolies. I have just written and, if I may say so, given to the chairman the first draft of a lecture that I gave in which I pointed out the history of copyright both in England and here. And we had the situation in society where literature was censored and things of that sort. I pointed out what our own statesmen said when the Constitution was adopted in all of these things. And it seems to me that the limitation of time was put in. Congress could from time to time review the situation and not freeze the situation indefinitely. This bill does just that. Congress can look at it again and see whether it works any injustice. And the reason we have 75 years in the new bill is that people live longer, literature lives longer than it did back in the time of the Revolution when the lifespan was quite short.

Mr. KASTENMEIER. Thank you, Mr. Schulman.

Of course this bill covers the 1906 edition, whose copyright has not yet expired. Do you also wish to restore copyright in the 16 other editions of which copyright registrations were made but have since expired?

Mr. PETERSON. There were 17 registrations of copyright including the 1906 edition. The last previous one was in 1901, which is in the public domain.

The answer is yes, we would like to restore copyright on all of the previous ones so that the current edition, which is the one that everyone uses in connection with the church, the one on which the sermons are all based—that when the public goes to a bookstore and as

for a copy of "Science and Health"—suppose someone gets interested in Christian Science. They want to find out something about it. They want to find its textbook. They ask for "Science and Health," and this is the one they will get instead of some different one or earlier one.

Mr. KASTENMEIER. Finally, you also ask in the bill that 75 years of copyright now be instituted for editions or changes described as numerous for which copyright has never heretofore been claimed, is that correct?

Mr. PETERSON. Technically there were a number of changes in between the 17 registrations of copyright, but the changes were not substantial. They were slight changes. Under the present procedure of the copyright office a new registration would not have been granted because of the minor changes. Technically you might say those minor changes went into the public domain because of not being registered. Actually, I think they were really protected anyway because they were published under a suitable notice of copyright and the present copyright law really requires deposit and completion only as condition precedent to bringing an action in the courts. Your copyright is still valid anyway. From that standpoint, you can say they have been protected by copyright and this would be an extension.

Mr. KASTENMEIER. Then, really, you are seeking copyright only in the 17 editions or amended variations thereof and not in other materials?

Mr. PETERSON. Yes. We are really not asking for any copyright for something that hasn't been under copyright.

Mr. KASTENMEIER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I want to thank you, gentlemen, for coming this morning. You have posed a question which, frankly, is much more interesting than a lot of questions we get here.

But if I may ask just some simple questions of fact. Did Publishers Weekly and people similarly situated say, after the Senate enacted this bill on July 22, they take a position contrary to that position?

Mr. CUNNINGHAM. They took no position. They merely reported it and didn't say whether it was good or bad.

Mr. DRINAN. The second question is that if the copyright were not renewed, I would assume that Bantam Books or MacMillan or some publishing outfit would put out a paperback on January 1, 1972. And I would assume that this would mean some diminution of revenue from the person who now owns the copyright. I know it is very difficult to assess, but would that be a substantial factor if the copyright did in fact go into the public domain?

Dr. STOKES. That doesn't enter into it at all, Mr. Drinan. Any revenue from the sale of books merely has to be used for the promotion of the Christian Science church and the main purpose of the entire bill is to protect the people's right to have free worship. They should be able to get the book they are thinking they are buying and not some other version which is not the ordained pastor of the Christian Science church.

Mr. DRINAN. I make the point because a publisher has said he was opposed to this particular bill and said that after a copyright had in fact been granted it should pass into the public domain so that everybody could publish it and derive profits thereby. I made this

analogy. He said if a person invents a unique cookbook, puts it out and gets a copyright and benefits by it, that after the statutory period that should pass into the public domain. And he made the argument, rightly or wrongly, that the State or the law cannot treat a religious book any differently from a cookbook. That is his argument.

Dr. STOKES. Mr. Congressman, we are dealing with powers greater than the commercial interest. Here you are dealing with something which is fundamentally of the spirit of God and when we start commercializing it or use it for the benefit of a secular agency of some kind, this is not right. We have got to protect religion, we have got to protect what God wants his children to hear. Regardless of the background, these books must be protected.

Mr. DRINAN. I think that cuts both ways. The moment that you say there is a religious interest to be protected, you are involved in the establishment clause and in all candor I think that the case of *Maline v. Elizabeth Blue Hull Memorial Presbyterian Church* cuts the other way, and the U.S. Supreme Court said in that case as they had said in *Kedoff* that State protection of any particular denomination is forbidden by the establishment clause. So I really think that there is a basic question of the establishment clause. Can you say for the first time in American history this unique book shall be uniquely protected? Incidentally it is a little shattering that a book can become a pastiche. Can we really say there is no establishment question?

Mr. PETERSON. I think we could. We have agreed completely with you Father Drinan. There shouldn't be an attempt by the church to ask for a special protection by the church as such. We are not asking for that. What we are asking for essentially is that the public that wishes to exercise its religion in a particular way is protected in that exercise by getting what they asked for when they ask for a copy of *Science and Health*. They are perfectly free to buy any other book and I think one can write any other book and the publisher is perfectly free to publish any book on religion or any books on Christian Science. Our whole purpose here is to protect the public from being misled when they ask for a copy of the *Christian Science* textbook and get a different book.

Mr. DRINAN. In the U.S. Supreme Court opinion there is a long list of cases now saying that the establishment clause means no aid to one particular religion and no aid to all religion across the board. The only limitation is that it can be an incidental benefit to the religion if there is no other way to protect the particular interest.

If that would occur in a court case, if it ever came to that, isn't there another way by which the *Christian Science* church can protect people from something that is less than accurate? In other words, the other churches use the seal of approval and so on. Is a copyright the only possible way?

Mr. PETERSON. We have tried to follow every other way through trademarks. As an example, there was a shoe manufacturer in Los Angeles making what he called *Science and Health Shoes*. Actually he wasn't trying to imitate our name, he just didn't know about it. We called it to his attention and he stopped using the name. We have tried to do everything that we can. But it seems to us the only way the public can be adequately protected is through the copyright itself. The

is the one way in which they can be sure that the book called Science and Health is what they want and that they are not getting something else.

Mr. DRINAN. I will yield in just a second, but I think that might be a new use, frankly, of the copyright law. As I understand the copyright law, one of the basic objectives of that law was to encourage authors to compose and song people to write and to compose and to give them a reasonable time in which they could get the reward of their earnings. Now to extend the copyright law to this relatively unique and I think novel purpose is interesting to me and I am not certain whether I agree or disagree with it. But would you agree that it is a new purpose that you seek to confer on the copyright law?

Mr. PETERSON. Not completely. I think Mr. Schulman can cover that point.

Mr. SCHULMAN. The copyright is sometimes misunderstood. One of the elements of copyright is what the Europeans call the moral right. The Europeans, particularly the French writers, speak of the moral right in copyright. The right of a man not to be misrepresented, the right of a man not to have his work distorted. That is not written into a statute here, but it is an integral part of our whole system. You could quote me or quote parts of what I write. You could say I am right or you could say I am wrong and give every answer in the world, but you cannot say under our copyright law that I said something which I didn't say. You cannot reprint a book and change it. That is the very essence of my interest here.

Mr. DRINAN. I agree thoroughly that in the organizational instance a copyright is precisely that. But you are asking us to do something that this Congress has not done in 73 years.

Mr. SCHULMAN. It has extended copyrights.

Mr. DRINAN. But not for 75 years.

Mr. SCHULMAN. No. But it has granted copyrights.

We started with a copyright law of 14 years and that 14 went to 28 years; in 1890 the copyright term was extended from 14 to 28 years. But the renewal remained the same. In 1909 the copyright law was again amended to give a total term of 56 years. Those continuations of the copyright term have always been justified on the fact that not only do people live longer but the books live longer. The books remain a vital and vibrant part of our whole culture longer than they ever did before.

Mr. PETERSON. Perhaps it would be helpful in your answer to say that I had a long discussion with the former Register of Copyrights Arthur Fischer, about copyright law. He held forth at considerable length to point out that it is a two-prong purpose: One is to protect an author in a temporary monopoly on a publication and sale of his writing, and the other is to protect the purity and integrity of the work. It was not a new concept to him. He recognized that. And the courts have actually considered that aspect of copyright. So we are not asking that that be done for the first time for our purpose.

Mr. DRINAN. I will yield in just a minute, Mr. Chairman.

Am I right in my supposition that the Congress is being asked to do something which it has not in fact done since 1898?

Mr. PETERSON. Yes; this is the first time.

Mr. SCHULMAN. May I point out that the copyright revision bill which was passed by this House granted a longer term in copyright for the first time. Because when we were here speaking about the copyright revision bill these very questions were raised as to whether it was desirable to have a longer period.

Mr. PETERSON. On your first question, Father Drinan, I don't believe there is any publisher waiting to put out a paperback edition of "Science and Health." I know a great many publishers and I don't believe any one is seeking to do it. I don't think there is really a profitable market for it. We have published a paperback edition ourselves and recently put out a very inexpensive edition.

Mr. DRINAN. I read some of it every day in the Monitor. I find it interesting.

Mr. PETERSON. I am glad you do.

Mr. KASTENMEIER. The gentleman from Illinois, Mr. Railsback.

Mr. RAILSBACK. What are the annual revenues from the sale of copies of "Science and Health"?

Mr. PETERSON. Last year I think it was well under \$200,000 through the trustees under the will received.

Mr. RAILSBACK. Can you give us an idea of how accessible or how available the copies are?

Mr. PETERSON. Yes. There is a bookstore edition that is published for sale in commercial bookstores. We would like it to be much more generally carried in the bookstores than it is. We make every possible effort to make it available to them.

Mr. RAILSBACK. What do you charge for that?

Mr. PETERSON. The bookstore edition is something like \$5. The paperback is down to \$1.95. There is a little more expensive edition of the paperback edition also. The other editions used vary in price. The ones like this have an expensive leather binding, the bookstore edition is a hardback, and this is a hardback edition which sells for about \$8.75. We have over 3,300 reading rooms scattered everywhere. It is available to the public in those. They are advertised in the yellow pages of the telephone directories. Almost every public library has copies of "Science and Health." That is part of Dr. Stokes' committee's job to get it in libraries so it will be available.

Mr. RAILSBACK. Are there any copies that are distributed freely?

Mr. PETERSON. Yes, a great many copies are distributed freely.

Dr. STOKES. We give to the armed services quite a few of those and to public libraries throughout the world.

Mr. RAILSBACK. What problems have you had with any of your editions which are not now protected by copyright? In other words can you give us any examples of where people have tried to distort or change or misrepresent them?

Mr. PETERSON. No, no one has tried it as far as we know.

Mr. RAILSBACK. This is really an apprehension on your part of something that might occur which really has not occurred?

Mr. PETERSON. Yes. We have had a few members who have left the church and said they would like to rewrite it and edit out of it certain things. For instance, we do teach that you can't attempt to use medicine at the same time that you use Christian Science treatment. If you want to turn to medicine you are perfectly free to do so, but you shouldn't have Christian Science treatment at the same time. There

have been a few people, maybe three or four, who have left the church in the years past and said they would like to rewrite it and eliminate all the references to medicine. But our point is that would be a distortion then.

Mr. RAILSBACK. What is the treatment of successive editions under the copyright law; that is, is only the new material in the new editions, such as editorial comment and notations and so forth, copyrightable?

Mr. PETERSON. Yes; when you bring out a new edition of any book which is already under copyright and you register the copyright in the new edition, the new copyright covers only the new material in the book. It doesn't extend the copyright already existing in the previous material.

Mr. RAILSBACK. Thank you.

Mr. KASTENMEIER. The gentleman from Pennsylvania, Mr. Biester.

Mr. BIESTER. Thank you, Mr. Chairman.

I also join Father Drinan, I find your newspaper a great one, one of the greatest newspapers in the world, and I also find myself reading on that page.

Mr. PETERSON. That is one of our purposes in publishing it.

Mr. BIESTER. Since I did have time to ask questions earlier, I don't want to take a great deal of time at this point. But I am concerned that we are not perhaps running afoul of the establishment clause as much as we run the risk of the prohibition problem, the free exercise of religion. That was the occasion for the line of questioning that I entered into. I am really much more concerned, I think, about that.

I think it isn't really down to the point of clarity in my assessment yet. But I think I am as much worried about that as I am about the establishment clause, and that was the occasion for the line of questions earlier with respect to a putative division based on earlier editions of the work.

I quite agree, no one should be able to pass off as Mary Baker Eddy's work something which was not her work, or to create a separate church based on their revision of her work and call it the same thing. I don't think that is appropriate. But that is the occasion for the line of questioning I went into before. I want to leave that with you so that you will be clear as to what my thinking is.

Mr. PETERSON. You will be conscious, of course, of the Christian Science Monitor's position on the freedom of religion. We have taken a strong editorial position on that and we are completely in accord with it and we have made a very careful study of what we are presenting here, obviously, and we are satisfied that nowhere could it in any way prevent the perfectly free exercise of religion. If anyone should point out to us where it did we would change it immediately.

Mr. KASTENMEIER. The gentleman from New York, Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

I noticed on one of the first pages in "Science and Health" a list of other works by Mary Baker Eddy. There seemed to be a number of them. These works are currently not copyrighted?

Mr. PETERSON. Most of them are in the public domain already. There are a few writings after 1906 that are still protected but relatively few. But they aren't the fundamental statement, the textbook itself.

Mr. CUNNINGHAM. Or the pastor.

Mr. FISH. Are they more an interpretation of the matters that are in the pastor?

Mr. PETERSON. That is right. Most of them are actually reprints from articles that she wrote, sermons that she gave, articles she wrote for the newspapers, interviews she gave the press, and things of that sort.

Mr. FISH. If I understand the testimony correctly, if this copyright is extended this would in no way inhibit authors, scholars from writing interpretations of "Science and Health," so long as the titles were something like "Interpretation of Science and Health" and gave the author's name, is that correct?

Mr. PETERSON. Right.

Mr. FISH. Mr. Schulman, I am interested myself in the perpetual copyright that covers the King James Bible. Could this be changed by an act of Parliament?

Mr. SCHULMAN. I assume so. There is no constitution in England as we have it and I think the argument is the Parliament has almost unlimited power under the British Government.

Mr. FISH. Their laws are really their constitution, aren't they?

Mr. SCHULMAN. Their laws as adopted. I don't know whether they can terminate a copyright. Very frankly, I have never looked into that question in England. But because, as I say, they have no constitution, I believe Parliament can do it.

Mr. FISH. I notice the King James Bible and the New American Bible and several other versions of the Bible are apparently being sold to the public.

Mr. SCHULMAN. Yes, they are, but the King James perpetual copyright does not exist here. It has no effect on our law.

Mr. PETERSON. There are other versions published in England, of course, but they have their separate name; in other words there is Bartley's translation, Grosley's translation, but published under their own name.

Mr. FISH. Thank you, Mr. Chairman.

Mr. KASTENMEIER. The gentleman from Pennsylvania, Mr. Coulter, had to leave just a moment ago. He therefore is not able to be present to ask questions as of this moment, but he has handed me a letter and requested that I advert to it. I will just read the first paragraph and ask for your comments.

Dear Sir, I am a member of the Mother Church and have been for over 20 years. I urge the committee to vote against S. 1866 on the ground that it would shut off completely availability of all earlier editions of Science and Health by Mary Baker Eddy, none of which the Mother Church publishes or makes available to its members or the general public.

and so forth.

The question may be useful because there are a number of letters to the committee has which perhaps reflect the same point of view. Of course we are in no position to ascertain whether these represent a few people in this very large country, and I am mindful that your church has a very large constituency. They are not here this morning because I asked you not to bring any sizable number of adherents of the Christian Science Church because that was not necessary for the purpose of legislative determination.

Nonetheless, for some this is a representative comment. I wonder whether you would like to respond to it?

**Dr. STOKES.** Mr. Kastenmeier, you said earlier there were 11 or 12 letters received. When you consider the countless thousands of Christian Scientists in every part of this United States and throughout the world, that in itself shows you the tremendous support which there is for the passage of this bill. Now if those 11 or 12 are members of the church, as this one lady says she is, it is the first one that I have heard that has come to my attention, because the lady evidently doesn't quite understand.

We are not saying that these books cannot be available. They are already available. The rare editions are in the libraries and I am sure if permission was wanted by those wishing to publish those books and application was made to the owners of the copyright I think it would be worth considering. We do not wish to stop scholarship. In no way do we want to stop this. But we do feel unless this book is protected we are not going to do right by the rest of the country and all of the people here and others.

**Mr. PETERSON.** We have carefully preserved in our archives absolutely every one of these earlier editions and they are freely available to anyone who wants to come there and reproduce part of it for scholarly or religious convictions.

**Mr. RAILSBACK.** Would the chairman yield?

**Mr. KASTENMEIER.** Yes.

**Mr. RAILSBACK.** Are the earlier editions substantially different from the most recent edition?

**Mr. PETERSON.** Not in the teaching. The teaching itself is the same statement. The teaching has been clarified to avoid any misapprehensions. It is hard in presenting something which is completely different than has ever been presented before—there is no other religion that teaches the absolute nothingness of matter and denies the reality of evil but yet gives you a practical approach to healing and claims that the allness of God is sufficient for complete healing.

That does depart from every other religion. The statement of this was rather difficult. The purpose in the various editions was to clarify and simplify the statement so it wouldn't be possible to have misapprehensions. Mrs. Eddy speaks of her earlier editions as being most important.

**Mr. KASTENMEIER.** Are there any other questions by members of this committee?

Does counsel have any questions?

**Mr. FUCHS.** Just one or two questions for clarification. Would you indicate once again what is the relationship between the trustees under Mary Baker Eddy's will and the church?

**Mr. PETERSON.** Mrs. Eddy left all of her property to the Christian Science Church in trust for the promotion of the religion taught by her. The property was greater in value than the statutes of Massachusetts or New Hampshire, either one of which could possibly be deemed to be her domicile, would permit the church to take. So the court of its own motion in New Hampshire established a trusteeship in order that her gift might not fail since it was for obvious charitable purposes. They then appointed the same individuals who are the directors of

the Mother Church as the individuals who are the trustees under will.

Mr. FUCHS. One other question. What obstacle stands in the way of the church certifying the accuracy of particular versions of "Science and Health" and thus rendering unnecessary an application for copyright?

Mr. PETERSON. We do certify its accuracy by the use of the trademark on it, the signature of Mary Baker Eddy and also the symbol of the cross and crown which is registered as a trademark in many countries.

Mr. FUCHS. So there is clear identification to all?

Mr. PETERSON. It is to anybody who is a member of the church, but not to the general public. When they hear of the book "Science and Health," they go to a bookstore and buy "Science and Health." They haven't been educated on this.

Mr. CUNNINGHAM. In regards to that, if the copyright went into the public domain anybody could take another book and call it "Science and Health with Key to the Scriptures" by Mary Baker Eddy and even call it an authorized edition, because anyone could authorize something. I could authorize something. So this would be legitimate. They could put a cross and crown on the cover. Although this particular cross and crown is completely related to our denomination, I would judge that eight to 10 Protestant denominations have in their history at different times used forms of crosses and crowns. A cross and a crown is something peculiar to our denomination. So you could get a book that would look something like our own.

Mr. FUCHS. Mr. Peterson suggested that you might very well have a cause of action in tort for that kind of situation.

Mr. PETERSON. Yes. Our concern is not for our own members. They don't need that protection so much as the public.

Mr. FUCHS. My very last question. Do I understand correctly that you are not seeking protection for editions of the work for which copyright was claimed either by registration or by notice?

Mr. PETERSON. I don't believe there are any such editions.

Mr. FUCHS. There is an implication as to prior years, but anyway you are not?

Mr. PETERSON. No, I don't believe there are any such editions.

Mr. KASTENMEIER. Is that all?

If that is all, we thank you for your appearance this morning, gentlemen, on this very interesting bill, and we appreciate the time you have devoted to it.

Next the chair would like to call Mr. Abe A. Goldman, General Counsel of the U.S. Copyright Office and an old friend of the committee who, as I recall, first appeared before it, at least while I have been a member of this subcommittee, in 1965, as general counsel of the Copyright Office under Mr. Kastenmeier, the Register of Copyrights and has since that time been a great help to us.

I appreciate that despite the short notice and despite conflicts in your schedule that you have been willing to take the time off to appear before this committee this morning. I am very grateful to you and welcome you back.

I understand you have a rather short statement and you might want to read it for the committee.

**TESTIMONY OF ABE GOLDMAN, GENERAL COUNSEL,  
U.S. COPYRIGHT OFFICE**

**Mr. GOLDMAN.** It is quite short, Mr. Chairman. It is partly repetitions of things that have already been said, but since it is short I would simply like to read it, if I may.

Let me say I return to testify before this subcommittee with immense pleasure and with very fond recollections.

**Mr. KASTENMEIER.** There are many new faces on the subcommittee.

**Mr. GOLDMAN.** All but your face is new, actually.

I remember with great fondness the hearings on the copyright revision bill in 1965, and the 51 executive sessions of the subcommittee in 1966 which the Copyright Office was invited to attend to give its advice to the subcommittee.

**Mr. KASTENMEIER.** I had not remembered that there were so many.

**Mr. GOLDMAN.** I have often felt those proceedings were really a model of the ideal legislative process.

**Mr. KASTENMEIER.** We may have occasion to pursue that model again.

**Mr. GOLDMAN.** I hope so.

Mr. Chairman and members of the subcommittee:

My name is Abe A. Goldman. I am the general counsel of the Copyright Office and I appear on behalf of the Copyright Office and the Library of Congress.

S. 1866, which was passed by the Senate on July 22, 1971, would grant, to the trustees under the will of Mary Baker Eddy, copyright protection for all of the various editions, including translations, of Mrs. Eddy's "Science and Health," which was sometimes published under the title "Science and Health with Key to the Scriptures." All editions heretofore published would be protected by copyright for 75 years from the effective date of this act, and all editions hereafter published would have copyright for 75 years from their publication. The bill as passed by the Senate incorporates amendments suggested by the Copyright Office and the Library of Congress to the bill as originally introduced. These were purely technical amendments.

The first edition of "Science and Health" was published in 1875, and there are said to have been more than 350 so-called editions in the English language published during the lifetime of Mrs. Eddy, who died in 1910. Many, if not most, of these so-called editions, however, appear to have been reprints of earlier editions with little or no change.

Essentially there were apparently only 17 editions that were considered to have enough change in substance to warrant copyright registration. All the others represented, I assume, mere reprints or editions containing such slight changes over the preceding ones that it was thought unnecessary, and perhaps the Copyright Office would not have been willing, to make another registration.

Of the many English-language editions published, copyright registrations were made for 17 published between 1875 and 1906. The copyrights in all but the one edition published in 1906 have expired; the copyright in the first edition of 1875, which was renewed due course, expired in 1931; the one most recently expired was for the edition of 1901 which, after renewal, expired in 1957.

The 1906 edition, the one still under copyright, is among the thousands of works in which renewed copyrights that would otherwise have expired were extended until December 31, 1971, by the series of bills continuing until that date all renewed copyrights that were originally secured on or after September 19, 1906. There is now pending before your committee a further extension bill, Senate Joint Resolution 1 which was passed by the Senate on July 23, 1971, to continue the renewed copyrights until December 31, 1972.

We understand that the 1906 edition, the one still under copyright is the one now used by the Christian Science Church as the basic text together with the Bible, for instruction in the Christian Science religion and for the practice of its teachings and its church services.

On behalf of the trustees under the will of Mary Baker Eddy, it is asserted that the purpose of their seeking further copyright protection is not material gain, but to maintain the purity and integrity of the statement of the religious teaching and practice of Christian Science.

As your committee has already been advised by the Librarian of Congress, the Copyright Office and the Library of Congress neither favor nor oppose enactment of this bill. While we have generally been opposed to private copyright bills, there are some precedents for such bills—you have been told about them by some of the earlier witnesses and the situation in this case which has been explained to you by earlier witnesses, might be considered so special as to warrant exceptional treatment. Whether such is the case is a question presenting considerations of policy and equity that we believe must be decided by the Congress.

Mr. KASTENMEIER. Thank you.

Then to restate your position, normally the Copyright Office would be opposed to the extension of the terms of private copyrights, but in this case you neither oppose nor favor enactment. You thus take somewhat a different position than you would with respect to most private copyright legislation?

Mr. GOLDMAN. Yes, Mr. Chairman. There have been assertions made that perhaps do make out a good case for an exception. I don't think we are in a position to say that a case has been made out for an exception, but I think that there is enough to say that we would not take that position in this instance that there is no basis for a special exception.

Mr. KASTENMEIER. One further question. To your knowledge, are there any persons or organizations which would be adversely affected by enactment of this legislation, and if so could you characterize them?

Mr. GOLDMAN. Mr. Kastenmeier, we have received two or three letters from individuals who said they are either opposed to the bill entirely or opposed to the restoration of copyright in the editions in which copyright has expired. I think that the committee has probably received letters from the same two or three people and possibly others in addition.

Other than that, we have had no indication of opposition to this bill. I don't know of any particular group that might be hurt, unless it is some kind of individual or group that Mr. Biester was speaking of, who might want to dissent from the church, or perhaps form a dissident group, and might feel that there is some reason to oppose the imp-

tion of a new copyright on the older editions that are now in the public domain. Other than that I know of no opposition.

Mr. KASTENMEIER. I yield to the question from Pennsylvania, Mr. Biester.

Mr. BIESTER. I wonder if, as counsel, you see any constitutional problems in connection with this?

Mr. GOLDMAN. I really can't purport to be an expert on constitutional questions. I myself see no constitutional inhibitions against this particular legislation, although I can't say it is an open and shut question. But I must close as I started by saying I can't pretend to be an expert on the subject.

Mr. KASTENMEIER. Off the record.

(Brief discussion off the record.)

Mr. KASTENMEIER. You may proceed.

Mr. BIESTER. I really have one last question and it is a question I got into when Mr. Schulman was talking about his conversation with Mr. Fisher. It seemed to me that I recalled the Constitution when it gave the Congress the power to legislate on patents and copyrights, also spelled out the purpose for doing so. And I think it is article I, section 8, subsection 8, "To promote the progress of science and useful arts." And I wonder if you feel this bill comes within that?

Mr. GOLDMAN. I think that phrase in the Constitution is a very broad directive as to the ultimate reason for authorizing Congress to enact copyright legislation.

The purpose is also embodied in the remainder of the clause that says that authors are to be given exclusive rights to their writings for a limited time. And putting the two together, I would say one of the basic purposes of the copyright law is to offer a reward for creation, through copyright, as a means of inducing creation from which society will benefit.

Mr. BIESTER. I think we also can agree that there has been an expansion of the whole Nation's interest in copyright laws since the time of the late 18th century. We had really started out not much interested in copyright protection as a Nation, isn't that correct?

Mr. GOLDMAN. I wouldn't say we were not much interested in copyright protection. I think the fact that we were very much interested is evidenced by the appearance in the Constitution itself of provision for copyright protection.

Mr. BIESTER. But we did really have a strict closed copyright law for some period of time in the 19th century.

Mr. GOLDMAN. That is true. I guess there was no great volume of outstanding domestic works in that early period. Most of the works which were then read in the United States were works by British citizens.

Mr. BIESTER. In view of the Chairman's admonition with respect to time, I would like to further explore that with you at another time.

Mr. KASTENMEIER. Mr. Fish?

Mr. FISH. Mr. Goldman, regarding the reward for authors rationale which you gave for the copyright law, do you feel this applies to the extension of the copyright protection that we are being specifically asked to grant today?

Mr. GOLDMAN. I would not say that the sole purpose of copyright is to reward authorship so that once you have given an author a copyright term there is no reason for giving him an extension. Perhaps

the whole business of reward suggests the philosophy of giving a quate protection for the purposes of generally stimulating authors and stimulating the dissemination of works, and even to protect integrity of a work. This matter of integrity is extremely important to authors and disseminators.

And in answer to a question previously asked by Father Drin while there is nothing in the basic statement of the purpose of copyright law that refers specifically to protection of the integrity of work it has been misunderstood for many years that one of the incidents of copyright protection is the preservation of integrity and that this is important enough to be considered one of the objectives of copyright. There are many works in which copyright is claimed and registered with no financial motive whatsoever. People will copyright works that they want to give away, freely, but they are interested in maintaining the integrity, and preventing the distribution of distortions, of the work.

We have heard the argument made by some Government agencies that the rule of law existing today barring copyright in Government publications should be subject to exceptions, because of instances in which works put out by the Government, such as the famous book on Child Care published by HEW, have on occasion been republished privately in distorted form. That particular book includes medical and psychological information and advice, and HEW has been very disturbed about the private publication of a distorted version. This is an illustration of a situation where copyright might be relied upon as a means of protecting integrity.

Mr. FISIL. Do you know from your own knowledge whether any of the private copyright bills pertain to the integrity of religious texts?

Mr. GOLDMAN. I don't think any of them pertains to religious texts as such. I might go through the precedents of private copyright bills that were referred to before. They can be placed in three categories. The first one mentioned was purely for extension of an existing copyright that was about to expire after the usual period of 28 years. Congress enacted a special law to grant to the copyright owner another 14 years of copyright, and before that added period had expired passed a further special private bill to allow another 14 years for that particular copyright.

A second category is represented by two or three cases in which the Government itself, Congress itself, had a work printed, and then after passed a private bill for copyright in that particular work to allow the author, or in one case the author's widow, to benefit from the commercial exploitation of the work.

In the third category are cases where Congress thought there were hardships because the author of the book slipped up in some way in his efforts to comply with technical requirements for securing copyright. In one case the author made the deposit and registration in the wrong place, and in another case the notice was faulty. Congress, out of sympathy for the writer and in spite of the error, gave the writer a second chance to secure copyright.

In more recent years there have been private bills to give copyright protection to certain non's rules of procedure in the House, and C

gressman Sol Bloom once got a special bill to secure a copyright in a book about the U.S. Constitution.

Mr. FISH. Would you be in a position to give me a judgment as to whether, in respect to S. 1866, the necessity to maintain the integrity of the work is to protect the rights of individuals in the church to freely exercise their chosen religion or to protect the rights of the public outside the church to have access of the authorized text, or do you think it is both of these?

Mr. GOLDMAN. Mr. Fish, I hesitate to express an opinion on that. I think you are asking me for a conclusion as to the validity of the assertions the proponents of the bill are making as to the reasons they need this legislation. I am in no position to say it is or is not a valid conclusion. They say they need this bill to protect the integrity of the work. With respect to the 1906 edition, which is the one still under copyright, and which is the one I understand is the present text used in the practice of the Christian Science Church, it could be that its integrity is extremely important to them for the reasons they state, that even the pagination, the numbering of the lines, and the precise wording must be maintained because it is used all over the world and references are made to it by page and line number for the purposes of indicating what the text is for this week's service.

Mr. FISH. No further questions.

Mr. KASTENMEIER. Are there any further questions? If not, we thank you again for your appearance here this morning, Mr. Goldman.

Counsel has handed me a note to the effect that an attorney, Mary Hackman, is at present representing a person who is opposed to the extension of copyright.

Normally, the committee would not permit a person to appear, who had not been listed as a witness. But in view of the fact that the committee gave very short notice to all people concerning this bill, I am disposed to permit Counselor Hackman to appear briefly, with the limitation being the fact that there is presently a quorum call in the House. But that will give us a few minutes, and I invite you up, Miss Hackman, and hope that in 5 minutes or so you can present your views.

#### TESTIMONY OF MARY COOK HACKMAN, ATTORNEY

Miss HACKMAN. Thank you, Mr. Chairman.

My name is Mary Cook Hackman. I am a lawyer practicing law in Arlington, Va., and I represent one of the opponents to the bill.

I want to thank you again for giving me the few minutes, and I will not repeat arguments that the members have brought out by their questioning.

The opposition that I have been asked to express here is based upon the fact that these people who are Christian Scientists believe that "Science and Health" should be in the public domain. Now, the proponents have basically advanced two arguments: One, that what they have asked you to do is a legal thing for you to do; that is, it is constitutional. I would question that on the first amendment basis. And as for the citations they have given you, they all go back to 1898 and before, and we all know that the Constitution is interpreted very differently in the last 30 years than it ever was prior to then.

I also feel that there is some question as to whether the Trust under the Will of Mrs. Eddy, as a matter of fact, violate the rule against perpetuities. But that is a court question and not before you.

The second argument that the proponents use is that they need legislation for protection. We feel—"we," I am using this in the attorney sense of the people that I represent—we feel that the better understanding of Christian Science itself requires the greatest possible distribution of the textbook "Science and Health." They feel that the motives of the board in asking for this are what they disagree with. They believe that the motives are the perpetuation and protection of the church as an organization, and this, of course, is specifically in violation of the Constitution. The church organization is what they feel is at stake here. Christian Scientists, almost by definition, are a very kindly, noncontentious people. I think that explains why there isn't more opposition to this being expressed today.

The church, the Christian Science Church, is not one one would refer to as a democratic organization; that is, they do not send out notices saying, "Please vote on this. Please let us know how you feel about this." Rather, the structure of Christian Science, as demonstrated by their daily lessons that you all saw today, they are to read this line today and that line tomorrow.

Although there is no opposition to this method of teaching, you legislators can readily see that it does not promote any divisiveness.

The people I represent feel that the purity of the text, which they also want, could be maintained by endorsement of the church. Almost all Christian Science textbooks that are sold are sold through the Christian Science reading rooms. They feel there is no doubt that the church could by use of its endorsements and use of its reading rooms make sure that those people interested in Christian Science would also could procure the protection. Almost all people, I understand, who become interested in Christian Science, first go to a Christian Science reading room to read it. They don't go out and buy a book; they go and read it in a Christian Science reading room. And they feel that the various methods for the church to endorse and to promote the original text or the 1906 text is available, and that there is no need for such legislation as has been proposed here.

Mr. KASTENMEIER. Thank you, Miss Hackman. Do you have a prepared statement?

Miss HACKMAN. No; I do not.

Mr. KASTENMEIER. I would like to yield to the gentleman from Massachusetts.

Mr. DRINAN. I just want to thank you for coming and for your statement.

Mr. KASTENMEIER. The gentleman from New York, Mr. Ryan?

Mr. RYAN. Do you know whether or not the clients you represent or any parties with similar interests have attempted to depart from the 1906 version and have readings which vary in one respect or another?

Miss HACKMAN. No; I have no knowledge of that.

Mr. RYAN. Would you say that is an issue to the opposition of the copyright?

Miss HACKMAN. No; I think the 1906 edition is accepted by everyone. I think the motive here in the opposition is to make it more available and not to restrict it. They feel that the Bible—of course, we have heard the dissertation on the subject of it is not in the public domain in England. But English laws are different from our laws.

Let me explain briefly. Mrs. Eddy followed closely the teachings of Jesus. Both, in the opinion of the opposition here, both Mrs. Eddy and Jesus did not support a strong church organization. As you may remember, in the Bible, Jesus refers to church as "where two or three people are gathered in My name." For generations this was taken as the minimum of people that could be called a church.

In recent years the idea has come about that perhaps this is the maximum, that Jesus meant that organization was deadly to the spiritual beliefs of Jesus. The people I represent feel that the control of the church organization is basically what is here, that no Christian Scientists have ever showed up that I know of at a meeting of the Mother Church and said we protest, we want to do something differently. They all just stay away and go someplace else, drop out of the church. But they feel strongly that there is more organization here than the church wants. And that is the real purpose of this bill, it is to protect the organization of the church rather than the spiritual teachings of Mrs. Eddy.

Mr. KASTENMEIER. Do you have more questions?

Mr. RYAN. I have, although the bells are ringing.

In other words, you know of no dissent within the church which feels this would stop them?

Miss HACKMAN. No, I do not.

Mr. RYAN. And you said its whole basis for opposition is simply it should be in the common domain?

Miss HACKMAN. Yes.

Mr. KASTENMEIER. The gentleman from Illinois.

Mr. RAILSBACK. Do you have any idea about how many people object to what this bill proposes? In other words, is there any kind of a widespread feeling? We have heard earlier testimony that the mere fact that there aren't many people objecting to the bill is testimony to the fact that there is great support for the legislation. Can you go into a little more detail on that? How many people do you represent, for instance?

Miss HACKMAN. In the legal sense, I represent, that is there is an attorney-client relationship only between myself and one person. That one person has been in touch, I would say, with between 25 and 50 people on the question of opposition to this.

As legislators, of course, you all know that how many people respond to any particular notice is always a very small percentage. I would have been interested and would have liked for one of you to ask the church organization people whether this was publicized in the Christian Science Monitor.

Mr. RAILSBACK. That is what I was going to ask you.

Miss HACKMAN. I can't give you the answer, but I am sure that they can.

Mr. KAUSBYEK. One other quick question: Is there a feeling on the part of your constituent that there will be any kind of suppression of the earlier editions? In other words, we have received one letter to which the chairman alluded which indicated that the writer is afraid that the earlier editions, which are different according to the letter, might not be readily available.

Miss HACKMAN. You know, to tell the average person in Timbuktu or Oshkosh that all they have to do is go to the Library of Congress and read the Gutenberg Bible in the original, that really is not making it available to the person in Oshkosh. To say that scholars can come and read it; yes, as an attorney I expect I could go and read it.

Mr. KASTENMEIER. That is in Wisconsin. Oshkosh is not like Timbuktu.

Miss HACKMAN. Let's say someone in Brazil. I don't believe we have any Brazilian congressmen here.

But to say it is available in a locked room that is unlocked between 10 and 1 in the Capital of the United States is not really making it available to someone in Brazil.

Mr. KASTENMEIER. The gentleman from Pennsylvania.

Mr. BRESLER. I won't take much time on questions. I appreciate the witness' testimony.

I would ask, with respect to the first amendment, whether she regards the legislation as running afoul of the establishment clause, or the free exercise clause, or both?

Miss HACKMAN. I think both; certainly the establishment clause is the stronger argument here. Churches in the past decade have gone through a different legal situation as regards the first amendment. For instance, for 100 years churches have come under the charitable immunity clause as tort actions, as far as tort actions are concerned. That is now falling and the courts are recognizing the fact that a wealthy church is really not a charitable organization any more and further that a wealthy church has more opportunity to control its constituency, its membership, and more courts are knocking down the charitable immunity clause. The churches no longer fit this sort of thing. So the legal situation as regards to churches is changing.

And I am sure that you all are well aware that the first amendment as to how it affects churches has been construed quite differently in the last decade than they have been before.

Mr. KASTENMEIER. The gentleman from New York.

Mr. FISH. No questions.

Mr. KASTENMEIER. There are no further questions.

I wish to thank the witnesses who, on short notice, have given us some effective testimony.

That concludes those who have asked to be heard this morning and concludes the hearing.

Accordingly, this subcommittee will stand recessed until 2 o'clock this afternoon for the further consideration of this and other bills in room 2226.

(Whereupon, at 12:35 p.m., the subcommittee was adjourned.)

## ORDER OF BUSINESS

The PRESIDENT pro tempore. Under a previous order, the Senate will now proceed to the consideration of S. 1866 with a time limitation thereon of 20 minutes, to be divided between the Senator from New York (Mr. JAVITS), 15 minutes, and the Senator from North Dakota (Mr. BURDICK), 5 minutes.

## RELIEF OF CERTAIN PERSONS

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1866.

The PRESIDING OFFICER (Mr. BENTSEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1866) for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John", which was, on page 1, line 10, strike out "heretofore or hereafter published," and insert "heretofore published, or hereafter published by or on behalf of said trustees, their successors or assigns."

Mr. BURDICK. Mr. President, the bill, S. 1866, was returned to the Senate with a minor, technical amendment. The Senate is perfectly willing to accede to the House on this matter.

At this time I move that the Senate concur in the amendment of the House.

I believe that the Senator from New York (Mr. JAVITS) has a word to say on this matter.

Mr. GRIFFIN. Mr. President, if the Senator would yield, I think it would be well if we had a quorum call, the time to be charged to the time allocated to the Senator from New York pending his arrival.

Mr. BURDICK. That will be fine.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What is the pending business?

The PRESIDING OFFICER. The amendment of the House to bill S. 1866.

Mr. JAVITS. Mr. President, what is the time allocation.

The PRESIDING OFFICER. The Senator from New York had 15 minutes. The quorum call has taken 4 minutes. He has remaining 11 minutes.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this bill which is before us purports to vest in the trustees of the estate of Mary Baker Eddy an exclusive copyright on her great work, "Science and Health," upon which a copyright still remains under various extensions of the copyright law for the one edition which was published in 1906. Numerous editions published between 1875 and 1906 are now in the public domain, and, of course, other revisions may take place hereafter.

At the specific request of the Association of the Bar of the City of New York I have previously asked that consideration of S. 1866 be delayed in order to give the association an opportunity to file a statement of its objections to the bill. The chief sponsor of the bill, Senator BURDICK, has graciously agreed to delay consideration of the bill for a few days in order to give the association time to transmit its statement.

I have now received the report of the civil rights committee of the association, which is authorized to speak for the entire association on matters within its jurisdiction. I ask that the committee's report, together with the earlier telegrams to me from the chairman of the Committee on Civil Rights and the Committee on Copyright Law be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

COMMITTEE ON CIVIL RIGHTS,  
November 30, 1971.

Hon. JACOB K. JAVITS,  
U.S. Senate,  
Old Senate Office Building,  
Washington, D.C.

DEAR SENATOR JAVITS: Enclosed is a report of the Committee on Civil Rights of the Association of the Bar of the City of New York on the subject of S. 1866. This report is forwarded to you on behalf of the Association and with the approval of the President of the Association, the Honorable BERNARD BOTWIN.

On Behalf of the Association, we again strongly urge that this bill not be enacted. As you will note, the report recommends the rejection of the bill or, as a possible alternative, its recommittal to the Committee on the Judiciary for hearings on the constitutional issues involved, so as to give its proponents an opportunity to respond to our views as to the bill's unconstitutionality.

I also want to tell you that we all deeply appreciate the strength of your position on the "front lines" of this issue during this past week, so that the Association would have an opportunity to make its views on the constitutional issues known to the Senate.

Warmest regards,  
Sincerely yours,

ROBERT M. KAUFMAN.

ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,  
COMMITTEE ON CIVIL RIGHTS  
(By Mary Baker Eddy)

Recommendation: Rejection (Or, in the alternative, recommittal to the Committee on the Judiciary with instructions to hold hearings on the issue of constitutionality.)

There is now pending in the Senate a private bill, S. 1866, entitled "An Act for the relief of Clayton Blon Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John", which would grant copyrights to the trustees under the will of Mary Baker Eddy in various editions of the basic text of the Christian Science Church. The Association's Committee on Copyright Law, basing its stand on the constitutional provisions for copyright and the policy of copyright law, has announced its opposition to certain portions of the bill. We oppose the bill because it would violate the First Amendment prohibition of Congress making a "law respecting an establishment of religion, or prohibiting the free exercise thereof."

The bill, which was amended and passed by the House following earlier passage in slightly different form by the Senate, provides that all editions of works variously entitled "Science and Health with Key to the Scriptures", "Science and Health", and "Science and Health; with a Key to the Scriptures" (hereinafter simply "Science and Health") written by Mary Baker Eddy, the founder of Christian Science, heretofore published or hereafter published by or on behalf of the trustees, would be subject to copyright for 75 years from the effective date of the law or the date of first publication, whichever is later. The bill would affect numerous editions of the work published between 1875 and 1906, 16 of which had copyrights which have expired, and one edition, published in 1906, on which the copyright would have expired in 1962 but for the general legislation which has extended copyrights from year to year while Congress has been considering revision of the Copyright Act. In addition, the bill, by its terms, would be applicable to an unlimited number of editions which might at any time "hereafter" be published by the trustees. In order to give some protection to those who have made use of those portions of Mrs. Eddy's books which have been in the public domain, the bill provides that "no liability shall attach . . . for lawful uses made or acts done" prior to the effective date or, with respect to business undertakings or enterprises involving certain prior commitments, for one year thereafter.

Under the Copyright Act, as now in effect, registration may be obtained for an initial period of 28 years and a renewal term of 28 years. The pending revision of the Copyright Act would create a fixed period of 50 years following the death of the author or, in the case of anonymous and certain other works, 75 years following publication. As indicated above, in order to give existing copyrights the possible benefit of a general expansion of the registration period, Congress has extended from year to year (now through December 31, 1972) all existing copyrights, thereby including the 1906 edition of Science and Health. However, just as that edition's copyright registration would have expired without the general extension, so too would it expire with the adoption of the revision because Mrs. Eddy died more than 50 years ago. In sum, the effect of S. 1866 would be, whether eventually the Copyright Act remains unchanged or the pending revision is adopted, to single out Mrs. Eddy's works in the following respects: (a) remove all versions published prior to the 1906 edition from the public domain and impose thereon until 2046 or 2047, either a new copyright or, a copyright for the first time; (b) extend to

the same date the copyright on the 1906 edition; and (c) allow future versions to be registered for a period of 75 years from date of publication.

Private bills in the realm of copyright appear to be rare and S. 1866, in dealing specially with the period of protection, appears to be unique. In support of the bill, Senate Report No. 92-280 of the Committee on the Judiciary (adopted in substance in House Report No. 92-604 of the Committee on the Judiciary) cites only nine private copyright bills which Congress has enacted (three of which apparently deal with different editions of the same work), all in the period 1828-1898. We are informed that all of those bills relate to technical defects or a failure of timely registration and the like, none going to the basic policy of the Copyright Act with respect to the length of time a work is to be protected.

The purpose of giving special protection to Science and Health is set forth in the committee reports cited above. Adherents of the Christian Science religion look to that book "as the fundamental statement of the religious teachings of Christian Science." Together with the Bible, it is considered "the basic textbook for all instruction in the Christian Science religion, and for the teaching and practice of the spiritual healing which is a central part of this religion." Likewise, the Bible and Science and Health are regarded "as the only Pastor of this Church", so that weekly sermons "are comprised of readings of scriptural texts and correlative passages from 'Science and Health'." The sermon for each week is uniformly read throughout the world in every Church of Christ, Scientist, the citations having been publicized in advance through the Christian Science Quarterly. Church members "are reliant upon the integrity and purity of the exact statement of Christian Science as set forth in 'Science and Health with Key to the Scriptures', and upon the uniform system of pagination and line numbering which it employs, in order effectively to study and practice Christian Science, and to participate in the religious services and exercises of the Church of Christ, Scientist. . . . Unless the book meets these [two] requirement [i.e., authenticity in containing the exact words of Mary Baker Eddy and uniformity of pagination, etc.] it cannot serve its purpose as the denominational textbook of Christian Science."

On the floor of the Senate Senator Burdick, one of the sponsors of S. 1866, expressed his concern that, if the book fell into the public domain, "Amended editions, annotated versions, modernized editions, and abridged editions could all be published and would cause great distress and confusion, not only among Christian Scientists, but among those of the general public wishing to obtain a correct and complete statement of the teachings of this religion." He also argued that the bill "would create no restraint upon free expression of religious ideas [but] would only limit those who would seek to express the ideas of Mary Baker Eddy in her words." Senator Burdick concluded his remarks, as follows:

"Mr. President, in view of the fact that the book Science and Health with Key to the Scriptures play such a unique role in the life of an American religion and since the book is bringing personal profits to no one, I urge its passage. At the same time I wish to point out most emphatically that the committee considers this bill an exception to its general policy of opposition to private patent and

copyright bills, especially those providing for a longer term." (Cong. Rec. S. 11899-900, July 22, 1971.)

According to an article in the New York Times of November 25, 1971, quoting Dr. J. Burroughs Stokes, manager of the committee on publication for the church of Boston, absent copyright protection of the earlier editions of Science and Health, commercial interests might "revise it and change it to heighten what they might consider to be its appeal to the mass market and advertise it and sell it as 'Science and Health Revised and Modernized.'" The Times also mentioned that, according to church leaders, annual royalties on the book amount to about \$300,000 and are used for church purposes.

Whatever the validity of the arguments advanced for passage of S. 1866—and it seems to us that the desired doctrinal purity and uniformity is obtainable, as it is for other religions, by use of an authorized edition without the aid of copyright registration—we believe that those very arguments point up the unconstitutionality of the bill. While mindful of the usual difficulties of applying the establishment and free exercise clauses of the First Amendment, we confess ourselves unable to perceive how S. 1866 can be other than unconstitutional. Its purpose and its ultimate effect are to single out a particular doctrine within a particular church, to grant to writings embodying that doctrine protection that has never been made available to any other religious or non-religious writings, and to supply civil and criminal sanctions against those who, religiously or non-religiously, whether calling themselves Christian Scientists or not, may choose to deviate from that doctrine. Indeed, our research, though necessarily abbreviated because of time limitations, has failed to disclose any constitutional decisions involving similar statutes—an indication if unconstitutionality can be regarded as quantitative, of how "extremely unconstitutional" S. 1866 is. However, we may still be guided by the words of the Supreme Court in First Amendment religious cases, which follow:

*Everson v. Board of Education*, 330 U.S. 1, 15-16 (1946), upholding New Jersey's school bus law for church-related school: "The establishment of religion" clause of the First Amendment means at least this: . . . Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or groups."

*Burstyn v. Wilson*, 343 U.S. 495, 505 (1952), invalidating New York's ban on "sacrilegious" films: "It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine. . . ."

*Fowler v. Rhode Island*, 345 U.S. 67, 70 (1953), invalidating the application to a meeting of Jehovah's Witnesses of a municipal ordinance forbidding addresses to religious meetings in public parks: "Nor is it in the competence of courts, under our constitutional scheme to approve, disapprove, classify, regulate, or in any manner control sermons delivered at religious meetings. Sermons are as much a part of a religious service as prayers."

*Epperson v. Arkansas*, 393 U.S. 97, 103-4 (1968), invalidating Arkansas' anti-evolution statute: "Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine and practice . . . it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite."

*Walz v. Tax Commission*, 397 U.S. 664, 673 (1970), upholding New York's real property tax exemption for churches: "[New York] has not singled out one particular church or religious group or even churches as such; rather it has granted exemption to all houses of religious worship within a broad class of property owned by nonprofit, quasi-public corporations. . . ."

*Lemon v. Kurtzman*, — U.S. —, 29 L. Ed 745, 755 (1971), invalidating certain state aid to religious-related schools: "Three such tests [of constitutionality] may be gleaned from our cases. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . . ; finally, the statute must not foster an excessive government entanglement with religion. . . ."

Some guidance may also be obtained from lower federal courts. In *Anti-Defamation League of B'nai B'rith v. F.C.C.*, 403 F. 2d 169, 171-2 (D.C. Cir. 1968), cert. denied, 394 U.S. 930 (1969), Circuit Judge (now Mr. Chief Justice) Burger, in upholding the renewal by the F.C.C. of a radio station license, quoted with approval the remarks of Commissioner Loewinger: "For the FCC to promulgate rules regarding permissible and impermissible speech relating to religion would be . . . an unconstitutional infraction of the free exercise clause and the establishment clause of the First Amendment. . . . [Religious] subjects will and must be discussed. But they can not be freely discussed if there is to be an official ban on the utterance of falsehood."

*Swan v. First Church of Christ, Scientist in Boston*, 225 F. 2d 745 (9th Cir. 1955), is particularly instructive. The plaintiff, who had written and copyrighted a book, "God on Main Street," popularizing the teachings of Mary Baker Eddy, sued the Christian Science Church, alleging a conspiracy to suppress and discredit his book. In upholding the granting of summary judgment to the defendants, the court stated: "According to the complaint, what the defendants were doing was to disapprove the manner or language in which the appellant endeavored to advocate adherence to the Christian Science religion. The absolute right of the defendant in this respect is comparable to the absolute right of any religious order to select its own ministers, advocates, authors and sacred writings" (p. 751).

Applying the judicial opinions quoted above to S. 1866, we note that its enactment would constitute open participation in the affairs of a religious organization (*Everson*), could bring government into the business of suppressing (through copyright infringement proceedings) attacks upon a particular religious doctrine (*Burstyn*), would cause Congress to control religious sermons (*Fowler*), would possibly promote one religious theory against another (*Epperson*), and would, unlike general copyright legislation, single out one particular religious group (*Walz*). Moreover, S. 1866 would fail at least the first two and possibly all three tests of *Lemon v. Kurtzman* (secular legislative purpose; primary effect neither advances nor inhibits religion; does not foster excessive government entanglement), any one such failure resulting in unconstitutionality. S. 1866 would also result in an official ban on falsehood (*Anti-Defamation League, etc.*), at least as defined by the presently constituted Christian Science church. Finally and ironically, S. 1866 would deprive Christian

Science dissidents, of the right accorded the church against such a dissident in Swan, to select their own "sacred writings" & those writings happened to be those of Mary Baker Eddy.

We note that the reimposition, as well as the initial granting, of copyright privileges to works long in the public domain by an author long dead, and for extended periods (172 years in the case of the earliest publication), particularly in a specific instance rather than by general law applicable to all authors, may well exceed the constitutional grant of power to Congress by Article I, Section 8 to secure "for limited times to authors . . . the exclusive right to their . . . writings" and, additionally, may violate the freedom of press and speech guaranteed by the First Amendment. However, we are content, at this time, to limit our opposition to S. 1866 to its attempted establishment of religion and prevention of the free exercise of religion by others.

**ADDITIONAL CONSIDERATIONS**

If it is the belief of the sponsors and proponents of this legislation that it could fall within the constitutional limitations of the First Amendment, we believe that they would have an opportunity to establish this position. A delay in action on the bill should in no way prejudice their interests, since the general copyright extension bill extends the copyright on the 1906 edition through December 31, 1972 and this is the only edition presently under copyright. The Committee on Copyright and Literary Property of this Association, which has joined with the Committee on Civil Rights in opposing the enactment of S. 1866, has invited the General Counsel of the First Church of Christ Scientist, Boston, Massachusetts, to meet with that Committee on December 15, 1971 to explain his views on the constitutional issues raised by the bill.

In view of all of the foregoing, it is respectfully submitted that this legislation should not be enacted.

**COMMITTEE ON CIVIL RIGHTS.**

**ROBERT M. KAUFMAN, Chairman.**

Charles R. Bergoffen, Michael Cardozo, Jack David, Stephen J. Friedman, Murray A. Gordon, Alan U. Schwartz, Paul L. Trachtenberg, Raymond S. Calamaro, Simeon Golar, William S. Greenwalt, Eric L. Hirschhorn, (Mrs.) Maris L. Marcus, Donald S. Shack, Hon. Donald J. Sullivan, Eastman Brickett, John R. Fernback, Alfred J. Law, John J. Kirby, Jr., Mrs. Susan P. Teich, Milton L. Williams.

Mr. JAVITS. Mr. President, the report of the civil rights committee of the New York City Bar Association does raise some fundamental questions concerning possible conflict between S. 1866 and the first amendment provisions concerning religion. In addition, the copyright committee of the association opposes the bill because, in their judgment, it violates the basic principle which they feel should govern the granting of copyrights. I note also that when this bill was before the Senate last July, the Senator from Michigan (Mr. HART) raised similar questions.

In my opinion the arguments raised against S. 1866 present some serious questions. Clearly, by granting a special 75-year copyright on all editions of

"Science and Health" heretofore published by Mary Baker Eddy or the trustees of her estate, this bill does give special aid to a specific religion—Christian Science—which has never been given to any person or organization, religious or nonreligious, in this century. As a result of this bill the church will be able to continue to receive all proceeds—now about \$200,000 per year—from the sale of Mrs. Eddy's book. Furthermore, the bill may, to some extent, inhibit the formation of dissident groups within the Christian Science Church or could limit the public's right to enjoy great books in the public domain, because it will deprive anyone but the trustees of Mrs. Eddy's estate from publishing a revised version of "Science and Health With Key to the Scriptures."

Yet, there is also much to be said for the arguments advanced by representatives of the church for this bill. Unquestionably "Science and Health With Key to the Scriptures" plays a truly unique role within the Christian Science Church. It is, in fact, the pastor of the church—there is no ordained clergy—and Christian Scientists all over the world study the same passages at the same time. The purity of the text, and its proper pagination and lineation, is therefore vital to enable practitioners of Christian Science to practice their religion.

The publication of "revised" editions of the book could thus conceivably have a disruptive effect on the religion itself, and could also mislead members of the public who are not familiar with the Christian Science religion.

A number of leading members of the church have personally expressed their concern to me about the possibility of such disruption, and I am completely convinced of their heartfelt sincerity in supporting this bill. In addition, during the past 10 days I have received several thousand telegrams and letters from Christian Scientists supporting S. 1866.

Mr. President, again I would like to sum up the arguments of the association of the bar—contained in the following statement relating to the copyright. They say:

Its purpose and its ultimate effect are to single out a particular doctrine within a particular church and grant to writings embodying that doctrine a protection that has never been made available to any other religious or nonreligious writing, and to apply civil sanctions against those who, religiously or nonreligiously—whether calling themselves Christian Scientists or not—may choose to deviate from that doctrine.

Another pertinent statement is:

Finally and ironically, S. 1866 would deprive Christian Science dissidents of the right accorded the church against such a dissident in Swan.

Which is one of the major cases on the subject. I continue to quote:

To select their own sacred writings, if those writings happen to be those of Mary Baker Eddy.

Mr. President, I am persuaded by this opinion. I believe that there is at the very least a very strong case of constitutional-ity, and constitutionality is always a matter submitted to the Senate. So I felt we should hear the arguments and then decide by vote. I shall vote no, against the bill, and I want the Record to so reflect.

I have no interest whatever in impeding the great practice of this religion which so many wonderful people believe in so very deeply, except the constitutional issue which relates to taking out of the public domain, which this bill does, a great body of religious literature and putting it into a private document in a copyright.

I should imagine that the Catholic Church would be very happy to have a copyright on the New Testament; and I know the Jewish faith would like to have a copyright on the Old Testament.

Mr. President, I have one last observation. There is a question which a copyright raises of a monopoly and accessibility of this great religious book to everyone. On that, and I am persuaded by the church, I do not think there is much question about the fact that its constant unvariable practice has been for very broad accessibility to the book, and that it will so continue. In order to certify that that is the case, I have a letter from Mrs. Leonore D. Hanks, chairman of the trustees under the will of Mary Baker Eddy. The Senator from North Dakota will confirm that she constitutes the highest authority in the church. In the letter she states as follows:

The usual attempts that a commercial publisher would make to stimulate sales on a grand scale through advertising in the trade press and promotional campaign are simply not made, and this is in accord with Mrs. Eddy's basic view of the nature of the book and its essentially religious purpose. *Science and Health* is available for purchase in bookstores and Christian Science Reading Rooms throughout the United States and many foreign countries in paperback editions selling as low as \$1.95 per copy. There has been no attempt to restrict the sale in any area or to any person. It is widely placed in libraries, available free to those serving in the Armed Forces, distributed free at drug rehabilitation centers and on records and cassettes at libraries for the blind, etc. It is the intention of the Trustees that it be available for the widest possible public use and dissemination consistent with the protection of the purity of the text and the message. This basic policy will continue as long as our Church exists.

The clear record of the history of the book indicates that it was conceived as a matter of service to humanity, and the Christian Science Church sees this book in these of the nature of the conveyance of rights by the author to the Church she founded.

Mr. President, I am persuaded that this is a complete commitment to the public domain with regard to accessibility.

In view of the apparent fact this has not struck any fire or aroused great interest elsewhere, except among those

who practice the religion, and in view of the finding of unconstitutionality by the bar association, to which I have referred, and I respect it so highly I am going to vote "no." However, I felt there was no proper substantive reason for me to delay the matter further, after giving the bar association a full opportunity to look at the matter.

Assuming the bill is passed and the President signs it, it still must run the gauntlet of legal challenges from anyone who wishes to challenge it.

Those are the circumstances in which I leave the matter. I ask unanimous consent to have printed in the Record the letter from Mrs. Lenore D. Hanks and other correspondence from the association of the bar of the city of New York.

There being no objection, the material was ordered to be printed in the Record, as follows:

CHRISTIAN SCIENCE CENTER,  
Boston, Mass., December 6, 1971.

HON. JACOB JAVITS,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR JAVITS: As chairman of the Trustees under the Will of Mary Baker Eddy and speaking for all the Trustees, I am glad to assure you that for decades the policy of our Church toward *Science and Health with Key to the Scriptures* has been one of trusteeship and service rather than financial gain. This policy will remain unchanged and unaffected by the passage of S1866.

The usual attempts that a commercial publisher would make to stimulate sales on a grand scale through advertising in the trade press and promotional campaigns are simply not made, and this is in accord with Mrs. Eddy's basic view of the nature of the book and its essentially religious purpose. *Science and Health* is available for purchase in bookstores and Christian Science Reading Rooms throughout the United States and many foreign countries in paperback editions selling as low as \$1.95 per copy. There has been no attempt to restrict the sale in any area or to any person. It is widely placed in libraries, available free to those serving in the Armed Forces, distributed free at drug rehabilitation centers and on records and cassettes at libraries for the blind, etc. It is the intention of the Trustees that it be available for the widest possible public use and dissemination consistent with the protection of the purity of the text and the message. This basic policy will continue as long as our Church exists.

The clear record of the history of the book indicates that it was conceived as a matter of service to humanity, and the Christian Science Church sees this book in these terms—indeed, must see the book in these terms—because of the nature of the conveyance of rights by the author to the Church she founded.

The purpose of our Church is service, and this remains the overriding concern of our entire organization.

Sincerely yours,

MRS. LENORE D. HANKS,  
Chairman.

HON. JACOB K. JAVITS,  
U.S. Senator,  
Washington, D.C.

On behalf of the Committee on Civil

# CONGRESSIONAL RECORD — SENATE

Rights of the Association of the Bar of the City of New York. I strongly urge that no action be taken by the Senate on S. 1866 "for the relief of Clayton Blou Craig et al." which raises serious constitutional problems relating to the constitutional provisions prohibiting the establishment of religion, as well as other constitutional provisions.

The Committee on Civil Rights as well as the Committee on Copyright Law of this association, is studying this problem and plans to report thereon as soon as possible.

The postponement of action on this bill should not prejudice the parties concerned in view of the blanket copyright extension legislation recently passed.

ROBERT M. KAUFMAN,  
Chairman, Committee on Civil Rights,  
the Association of the Bar of the City  
of New York.

NEW YORK, N.Y.

Senator JACOB JAVITS,  
Old Senate Office Building,  
Washington, D.C..

The following telegram was sent yesterday to all members of the House Judiciary Committee: "At its meeting last night the Committee on Copyright and Literary Property of the Association of the Bar of the City of New York unanimously disapproved that portion of S. 1866 which purports to restore to copyright protection editions of science and health which have long been in the public domain. The bill would create for the first edition of that work a copyright term in excess of 170 years. We believe that such action exceeds the congressional power under article I, section 8, of the Constitution and would represent unsound copyright policy. We urge you to object to the passage of private bill S. 1866".

CARLETON G. ELDRIDGE, Jr.,  
Chairman.

Mr. BURDICK, Mr. President, I wish to say to my friend from New York that this matter was gone into by the various committees. I believe it was gone into in great depth by the House committee. Now, it comes back with this very minor amendment.

Mr. President, I ask unanimous consent to have printed in the Record a summary on the constitutionality of the bill, together with the authorities therefor.

There being no objection, the summary was ordered to be printed in the Record, as follows:

PRIVATE BILL S. 1866: CONSTITUTIONAL BASIS

Article I, Section 8 of the Constitution provides:

"The Congress shall have Power To . . . promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;"

A. Private Copyright Acts. Congress has heretofore enacted a number of private Copyright Acts for specific works. A list of these Acts is attached. Although these private Acts do not appear to have been tested in the courts, statutes involving private Patent Acts arising under the same provision of the Constitution have been tested in the courts. A list of these cases is attached. The courts have uniformly sustained these enactments on the ground that they constitute a proper exercise of the power of Congress granted

under Article I Section 8 of the Constitution. The most recent of these cases is *Radio Position Finding Corp. v. Bendix Corp.* which was decided by a three judge court in 1962, and was affirmed per Curiam by the Supreme Court of the United States in 1963.

The cases listed support the proposition that the power granted to the Congress under Article I Section 8, is not limited to the enactment of "general" patent or copyright statutes, but may be exercised in respect of specific inventions or to protect the invention of a specific inventor. By the same token, it would include the enactment of a statute to secure exclusive rights in a specific "writing" created by a specific author.

B. Establishment of Religion. Copyright protection for religious works does not constitute the establishment of religion. If it did, then the present copyrights laws of the United States would be unconstitutional. The extension and grant of copyright under S. 1866 creates no right of a kind which has not heretofore existed under the general copyright laws of the United States. Section 5(c) of the present law makes special provision for the protection of sermons. Section 104 of the present law and Sections 110(3) and (4) of the proposed general revision (S. 644) also make special reference to works of "a religious nature" and exempt performance of works "in the course of services at a place of worship or other religious assembly" or where the proceeds are used for "religious" purposes.

C. Free Exercise of Religion. Copyright protection for *Science and Health with Key to the Scriptures* is an important element in the free exercise of religion for adherents of Christian Science and those who wish to learn and study this religion. Such protection is vital for preventing the issuance of books containing changes, variations, deletions or additions to *Science and Health*, and for avoiding confusion to the public which in buying or borrowing the work from bookstores and libraries would not know whether the copies offered are the correct and complete text authorized by Mary Baker Eddy. If such variant texts were issued, either intentionally or as the result of carelessness, the correlation between *Science and Health* and the Lesson-Sermon in the *Christian Science Quarterly* would be destroyed. This correlation between the Lesson-Sermons and the authentic text is an important element to be protected by copyright, and it is this correlation which enables the textbook to function effectively as the Pastor of the Christian Science religion.

D. Freedom of Expression. There is no monopoly over expression and copyrights do not limit what may be said freely in public. Copyright simply prevents "copying or reproduction of a work" and does not prohibit the use of ideas or what may be said about a copyrighted work. Nor does it prevent textual or historical criticisms. Under the doctrine of fair use, not only may writers engage in comment and criticism, either favorably or adversely, but they are even permitted to quote portions of a work for this purpose.

E. Limitation of Duration. The term of copyright under S. 1866 is for a fixed period of time and is patterned on the 75-year provisions for institutional works under the proposed general copyright revision bill (See S. 644, 92d Congress, Section 302(c)). Thus, it complies with the Constitutional requirements of copyrights "for limited Times."

F. Rights of Trustees. Congress has the power to grant copyright protection to trust-

ees of an estate and such protection has been extended for many years. Section 9 of the Copyright Act reads: "The author or proprietor of any work made a subject of copyright by this title or his executors, administrators or assigns shall have copyright for such work \* \* \* The trustees of an estate can be proprietors of a copyright and are the assigns of the author's executor.

G. Science and Useful Arts. Congress is granted power to create copyrights "to promote the Progress of Science and useful Arts." But this language does not limit the subject matter of works which may be copyrighted. If religion is not a useful art, then no religious works could enjoy copyright protection, since the copyrights would not promote the progress of the useful arts. Clearly under our system of copyrights, protection is afforded to religious works as useful arts. Section 510 of the present 1909 law specifically provides for copyright registration of sermons even though not reproduced in copies for sale.

#### CASES ON CONSTITUTIONALITY OF PRIVATE EXTENSION BILLS

Radio Position Finding Corp. v. The Bendix Corp., 205 F. Supp. 850 (D. Md. 1962), aff'd per curiam 371 U.S. 577, 83 S. Ct. 548 (1963).  
Evans v. Jordan, 9 Cr. 199 (1815).

Bloomer v. McQuewan 14 How. 539, 548 (1852).

Bloomer v. Millinger, 1 Wall 340, 350 (1864).

Eunson v. Dodge, 18 Wall. 414, 418 (1873).

Bloomer v. Stolley, 5 McLean 158, Fed. Cas. No. 1559 at p. 731 (1850).

Jordan v. Dobson, 2 Abb. U.S. 398, Fed. Cas. No. 7519 at p. 1005 (1870).

Blanchard's Gun-Stock Turning Factory v. Warner, 1 Blatchf. 258, Fed. Cas. No. 1521 at p. 656 (1846).

Blanchard v. Haynes, 6 West. Law J. 82, Fed. Cas. No. 1512 at p. 628 (1848).

Stephens v. Howells Sales Co., Inc., 16 F. 2d 805 (S.D.N.Y. 1928).

Marx v. United States, 98 F. 2d 204, 37 U.S.P.Q. 380 (9th Cir. 1938).

Edward B. Marks v. Jerry Vogel Music, 42 F. Supp. 859 (S.D.N.Y. 1942).

Mr. HART, Mr. President, "Science and Health With Key to the Scriptures" is a text regularly used in the teaching and practices of the Christian Science religion. It contains the fundamental statement of the teachings of the Christian Science Church. The Christian Science religion requires that the original text of the book by Mary Baker Eddy be reproduced in haec verba without any deviation whatever—including pagination and the placement of the words on each page.

Of course, all of us respect the require-

ments and the teachings of the Christian Science religion. But the Congress of the United States ought not aid directly a specific religious institution. In my view, enactment of S. 1866 violates the 1st amendment to the Constitution's guarantee of freedom of religion in this country.

This is precisely the view articulated by the Bar Association of the City of New York and by a number of distinguished jurists in that State.

Finally, enactment of S. 1866 violates the copyright clause of the Constitution. Article 1, section 8 of the Constitution precludes extension of copyright protection to the trustees of an estate. The limitation to authors is specific, and Mary Baker Eddy was afforded ample protection and monopoly power over her work since 1875, notwithstanding the normal copyright protection being 28 years with the right of renewal for an additional 28 years.

The constitutional collision course being steered by S. 1866 can and should be easily avoided—and with no adverse effect upon the Christian Science Church.

An official and authorized version of the text could be established and recognized and denominated as such by the church to assure the page for page, line for line, word for word adherence to the original text, which the church deems essential to its members. This is a well-recognized practice in other religions with regard to their basic religious texts. I opposed the bill in committee and renew my opposition now.

Mr. BURDICK, Mr. President, at this time I am prepared to yield back my time if the Senator from New York is prepared to do so.

The PRESIDING OFFICER. All time has expired.

Mr. BURDICK, Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. JAVITS, Mr. President, I wish to be recognized.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS, I wish to be recorded as voting "no."

The PRESIDING OFFICER. The Senator is so recorded.



Private Law 92-60  
92nd Congress, S. 1866  
December 15, 1971

## An Act

For the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That, any provision of law to the contrary notwithstanding, copyright is hereby granted to the trustees under the will of Mary Baker Eddy, their successors, and assigns, in the work "Science and Health with Key to the Scriptures" (entitled also in some editions "Science and Health" or "Science and Health; with a Key to the Scriptures"), by Mary Baker Eddy, including all editions thereof in English and translation heretofore published, or hereafter published by or on behalf of said trustees, (their successors or assigns, for a term of seventy-five years from the effective date of this Act or from the date of first publication, whichever is later. All copies of the protected work hereafter published are to bear notice of copyright, and all new editions hereafter published are to be registered in the Copyright Office, in accordance with the provisions of title 17 of the United States Code or any revision or recodification thereof. The copyright owner shall be entitled to all rights and remedies provided to copyright owners generally by law: *Provided, however,* That no liability shall attach under this Act for lawful uses made or acts done prior to the effective date of this Act in connection with said work, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction or circulation of said work. This Act shall be effective upon enactment.

Approved December 15, 1971.

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## GLIMPSES OF GLORY IN EARTH.

OH, the earth shall be filled with the glory of God!  
Now we taste of the harmony *Love's* law has sent,  
And the world must grow heavenward under that rod.

Paths sinuous close,— the straight way must be trod!  
Great cares and great gifts in this new hour are blent;  
Oh, the earth shall be filled with the glory of God!

Not by crude, deadening creed shall men, ban-burdened, plod.  
They will live in the Christ as they truly repent;  
And the world must grow heavenward under that rod.

False images sink of woe, finity, fraud;  
All may rise to the splendor of Life's grand intent;  
Oh, the earth shall be filled with the glory of God!

Quick feet with the progress of bliss shall be shod;  
Man is blessed of the wholeness that cannot be rent;  
And the world must grow heavenward under that rod.

Christ-Love is diffusing His goodness abroad:  
His healings the fruit of All-Truth represent;  
And the world must grow heavenward under that rod.  
Oh, the earth shall be filled with the glory of God!

— *Alice Jennings.*