

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA  
PROBATE DIVISION**

THE GENERAL BOARD OF CHURCH AND  
SOCIETY OF THE UNITED METHODIST CHURCH

Petitioner,

v.

THE DISTRICT OF COLUMBIA, et al.

Respondents.

Case No.: TRP-4-07

Judge Rhonda Reid-Winston

**RESPONDENTS' JOINT PROPOSED FINDINGS OF FACTS AND  
CONCLUSIONS OF LAW**

Pursuant to the request of the Court at the close of trial in the above captioned case, the Respondent the District of Columbia and Respondent Intervenors file this Joint Proposed Findings of Facts and Conclusions of Law, and state as follows:

**DEFINITIONS**

For the Purpose of these Findings of Facts and Conclusions of Law the following shall be used:

- A. Declaration of Trust: the Methodist Building Endowment fund dated March 23, 1965, attached as Exhibit A to the Complaint, will be called "Trust."
- B. The Corporate Entity, The Board of Temperance Prohibition and Public Morals of the Methodist Episcopal Church, incorporated in 1917, will be called the "Old Board of Temperance."
- C. The Board of Temperance of the Methodist Church, incorporated in 1943, will be called the "New Board of Temperance."
- D. The New Board of Temperance, subsequently known as the Division of Temperance and General Welfare of the Board of Christian Social Concerns of the Methodist Church, and later known as the Division of Alcohol Problems and General Welfare of the Board of Christian Social Concerns after a legal name change in 1960, will be called "Division."
- E. The General Commission on Archives and History of the United Methodist Church located in Madison, NJ shall be known as the "Archives."

- F. The "Methodist Building" is located in Washington, DC and is the headquarters of the United Methodist Church.

#### FINDINGS OF FACTS

1. **Petitioner did not present any testimony from witnesses who had first-hand knowledge regarding the intent of the settlors in creating the Trust or of the Trust itself.**
2. **No evidence was presented regarding how the Archives selects or maintains its records. Furthermore, no evidence was presented to establish the completeness and accuracy of their records.**
3. **Petitioner's position that the corpus of the funds was not restricted at the time of formation of the Trust is based solely on documents at the Archives and the Methodist Building.**
4. **Petitioner did not present any evidence that funds were given containing restrictions for use in areas other than temperance and alcohol problems.**
5. **Petitioner did not present any testimony from its witnesses that could establish that the Background and Purpose section of the Trust is incorrect. Furthermore, Petitioner conceded that it has no basis to assert that the narrative in the Background and Purposes section of the Trust is factually correct or incorrect.**
6. **Petitioner has no first-hand knowledge regarding the intent or purpose of any donor regarding gifts made to the Old Board of Temperance or the New Board of Temperance. Moreover, Petitioner did not present any testimony from witnesses who had first hand knowledge regarding the intent or purpose of any donor who gave a gift to the Old Board of Temperance or the New Board of Temperance which formed the corpus of the Trust.**
7. **The Board of Temperance, Prohibition and Public Morals was organized by the General Conference of the Methodist Episcopal Church and was an outgrowth of the Committee on Temperance and Prohibition established in 1888. The Old Board of Temperance was incorporated in 1917. The New Board of Temperance was incorporated in 1943.**
8. **The Discipline of the Methodist Church is the law of the Methodist Church and its agencies including the Old Board and New Board of Temperance. The Discipline sets forth the Constitution of the Old Board and New Board of Temperance and sets forth the scope of work that these Boards could do**

during the quadrennial years that the Discipline was in effect. Further, the New Board of Temperance adopted bylaws and amended them in 1960.

9. The term "Public Morals" is defined in the Book of Discipline and Resolutions of the Methodist Church.
10. The Old Board of Temperance and the New Board of Temperance did work overwhelmingly in the area of temperance and alcohol problems.
11. The bequest by Sarah Simpson specifically restricted the bequest to be used for temperance and temperance educational purposes.
12. Of the four pledge cards submitted by Petitioner into evidence at trial, two stated that the funds were given by the donor to save American Youth which, at that time, meant to promote temperance and alcohol programs. The other two pledge cards amount to a total of \$2000.00 collectively. All four of the pledge cards, were dated between 1923 and 1929.
13. Starting in at least the 1930's, the Old Board of Temperance and the New Board of Temperance treated funds it held as being preserved for temperance and alcohol problems.
14. The publications of the Old Board of Temperance and the New Board of Temperance overwhelmingly dealt with the issues of temperance, temperance education, fighting the alcohol industry, problems of alcoholism, and other societal issues related to alcohol.
15. In 1960, the name of the New Board of Temperance was changed to the Division of Temperance and General Welfare, but it remained a separate corporate entity with its own Board whose CEO was Roger Burgess.
16. Roger Burgess was a long time employee of the New Board of Temperance and was the CEO of the Division of Temperance and General Welfare at the time of the creation of the Trust and instrumental in the Trust's formation.
17. At the time of the formation of the Trust, the settlors knew that they could "do whatever [they] want[ed] to do" with the assets of the Old Board and New Board of Temperance. Roger Burgess is the only witness who had first-hand knowledge of the creation of the Trust, as he was an officer of the settlors.
18. One of the officers of the settlors and a key person in creating the Trust, Roger Burgess, testified that there was no mistake as to the settlors' intent. The court finds the testimony of Roger Burgess credible.

19. The evidence presented at trial establishes that the Old Board of Temperance and the New Board of Temperance communicated to its donors that the money given to it would be used for temperance and alcohol problems. Moreover, the evidence presented also established that the Boards raised money specifically for its primary work in temperance and alcohol problems.
20. Petitioner admitted that funds given to the Old Board and New Board of Temperance from 1917-1960 were to be conserved for the exclusive use of work that the Old Board and New Board of Temperance did during that time.
21. Funds were raised on World Temperance Sunday each year to fund the Old Board of Temperance.
22. The settlors of the Trust intended to preserve the funds of the Old Board of Temperance and the New Board of Temperance for the primary work of those boards, i.e. temperance and alcohol problems.
23. Evidence presented at trial established that the settlors of the Trust believed they had a moral obligation to preserve the funds that were given to it for its primary historic work in the area of temperance and alcohol problems.
24. Prior to 1960, the New Board of Temperance was concerned that its wealth of funds and income from the Methodist Building would be used for areas other than temperance and alcohol problems by other agencies of the United Methodist Church.
25. In an effort to ensure that funds belonging to the Old Board and New Board of Temperance would not be diverted to areas other than temperance and alcohol problems, Roger Burgess and others from the New Board of Temperance lobbied the General Conference to insert language into the 1960 Discipline stating, "funds vested in any of the predecessor boards shall be conserved for the exclusive use of the appropriate division of this board and for the specific purposes for which such funds have been given."
26. After 1960 when the New Board of Temperance, The Board of World Peace and the Board of Social and Economic Relations became Divisions under the umbrella of the General Board of Christian Social Concerns, Dudley Ward attempted to access the funds of the Division of Temperance and General Welfare, some of which consisted of funds belonging to the Old and New Board of Temperance, and which eventually formed the corpus of the Trust.

27. In 1960 and thereafter until sometime after the Trust was created and fully executed, the three separate agencies comprising the Board of Christian Social Concerns were separate corporate entities and kept their respective assets separate and distinct. After 1960, until the execution of the Trust, the funds of the Old Board of Temperance and the New Board of Temperance were preserved and used exclusively by the New Board, now called the Division of Temperance and General Welfare, for work in the area of temperance and alcohol problems.
- 27A. Although Bishop White claims the funds were not segregated, his testimony directly conflicts with that of the CEO, Roger Burgess. The more credible evidence is CEO Burgess, who testified at trial and whose testimony is corroborated by budget sheets of the Division at the time the Trust document was executed.
28. The settlors were aware of the General Board of Christian Social Concerns and specifically Dudley Ward's concerns regarding restrictions on the use and administration of the funds in the proposed Trust document. Despite this fact, they executed the Trust.
29. The Trust document was fully executed on March 23, 1965 by the Old Board of Temperance and the New Board of Temperance, through Paul Hardin, its Chairman, and attested to by Sara J. Clardy, its Secretary, which had legally changed its name to the Division of Alcohol Problems and General Welfare. The Trust was notarized on April 30, 1965.
30. The Bylaws of the New Board as amended in 1960 gave the Executive Committee of the New Board full power to place the assets held by the New Board in trust.
31. Roger Burgess testified as to the meaning of the term "existing situation" in the Trust. The term "existing situation" as the term is stated in the Trust means that the New Board of Temperance had preserved the funds after 1960 to be used exclusively in the areas of temperance and alcohol problems.
32. The Trust was created for the following three reasons: 1) the settlors believed they had a moral obligation to its donors; 2) the settlors did not want the Old and New Board of Temperance's money to be used for areas other than temperance and alcohol problems; and 3) to preserve the primary historic work of the Old and New Board of Temperance.
33. At some point in time after the execution of the Trust, Dudley Ward challenged the Division's authority and proposed modifications to the Judicial Council of the Methodist Church. The Judicial Council never reached a decision.

34. In October 1965, Bishop Hardin and Dudley Ward discussed modifying the terms of the Trust as to the control or oversight of the funds. However, there is no executed document modifying or amending the Trust.<sup>1</sup>

35. No governing documents of the Old Board or New Board of Temperance prevent the Old Board or New Board of Temperance from entering into the Trust. No evidence was presented at trial which could prevent the Old Board or New Board of Temperance from entering into the Trust. The Court finds that the Bylaws of the New Board of Temperance authorize the Executive Committee of the New Board of Temperance to encumber the assets of the New Board of Temperance as a charitable trust.

36. Petitioners introduced no evidence at trial as to what the intent of the settlors at the time of the formation of the Trust would have been, if there was a mistake of fact or law that warranted reformation.

#### RECORD BASIS FOR FINDINGS OF FACTS

1. Petitioner did not present any testimony from witnesses who had first-hand knowledge regarding the intent of the settlors in creating the Trust or of the Trust itself.

Respondents' Ex. 1: "Declaration of Trust, The Methodist Building Endowment Fund" dated March 23, 1965.

*James Winkler, 10/6/08 Trial Transcript*  
Page 8, Lines 14-19.

14. Q. When did you first become aware of the fact that there was a Trust agreement in 19- dated to 1965?

16. A. Somewhere during 2001. Exactly when during that year, I don't recall.

18. Q. But it was after you became the general secretary?

19. A. That's correct.

Page. 99, Lines 11-15.

11. Q. [S]o do you have any independent knowledge regarding the work of the Old Board of Temperance or the New Board of Temperance prior to 1960 other than what you've seen in these documents?

15. A. No, I don't.

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<sup>1</sup> Even if such a modification or amendment had occurred, it would be unenforceable as the Trust document itself did not reserve the right to amend or modify the Trust. *In re Duroske Marital Trust*, 862 A.2d 914 (D.C. 2004).

*Wesley Paulson, 10/7/08 Trial Transcript*

Page 130, Lines 24-25; Page 131, Lines 1-3.

24. Q. And when did you first read what's marked as Petitioner Exhibit 6? [Trust]

1. A. I was - - it was sometimes [sic] after I started employment in the Spring of 2007. I can't recall the exact date.

Page 132, Lines 23-25; Page 133, Lines 1-4.

23. Q. Other than the research that you did at the General Archives in your office you don't have any independent knowledge regarding the background and purpose of these as stated in Petitioner's Exhibit 6 [Trust]; do you?

2. A. I did not have any - - what did you call it again?

3. Q. Independent personal knowledge.

4. A. No, I wasn't there when it was created.

*Bishop C. Dale White, 10/8/08 Trial Transcript*

Page 33, Lines 19-21.

19. Q. So, the follow-up question is, did you have any part in creating this document? [the Trust]

21. A. No.

Page 35, Lines 16-18, 21-25; Page 36, Lines 1-2.

16. Q. At some time - - at some point, did you have an occasion to talk with the Assistant Attorney General Brian Caldwell?

21. A. Yes.

22. Q. Did you tell him during that conversation that you were not part of creating the Declaration of Trust?

24. A. That's right.

25. Q. And if someone wanted to know why the Declaration

1. of Trust was created they should contact Roger Burgess?

2. A. That's right.

Page 37, Lines 6-8.

6. Q. Prior to March 24, 1965, were you ever consulted for advice on the language of the Declaration of Trust?

8. A. No, not as such, no.

Page 46, Lines 10-19.

10. Q. Is the reason why you said people should talk to Mr. Burgess about this matter was because Mr. Burgess and not you was involved with the actual drafting of the Declaration of Trust?

14. A. That is true. He agrees with that.

15. Q. Do you agree with that, also?  
16. A. Yes.  
17. Q. Is that because you did not know what the drafters had in mind when they drafted the Declaration of Trust?  
19. A. They didn't consult me on it.

*John Stumbo, 10/7/08 Trial Transcript*  
Page 46, Lines 23-25.

23. Q. So, you have no personal knowledge then of any restriction of any of the funds involved in this lawsuit?  
25. A. That's right.

Page 84, Lines 4-8.

4. Q. Now, with respect to the Declaration of Trust that was executed on March 23, 1965, did you ever have any conversations with anybody that was involved with the actual drafting of the Declaration of Trust?  
8. A. Not to my recollection.

**2. No evidence was presented regarding how the Archives selects or maintains its records. Furthermore, no evidence was presented to establish the completeness and accuracy of their records.**

*James Winkler, 10/6/08 Trial Transcript*  
Page 51, Lines 9-11, 24-25; Page 52, Lines 1-2.

9. Q. You don't know how the archivists [sic] keeps his records at the Archives; do you?  
11. A. No, I don't.  
24. Q. So, you wouldn't know if there were other pledge Cards that were out there that didn't make it to the  
1. Archives.  
2. A. No, I would not.

Page 70, Lines 6-19.

6. Q. You do not know when the documents prior to 1965 got to the General Archives from the Board of Temperance or from the Old Board of Temperance; do you?  
10. A. I do not.  
11. Q. And you do not know what documents the general archivist - - well, let me strike that. Was there a general archivist back in - - prior to 1965?  
14. A. I don't know.  
15. Q. So, that begs the question then. You obviously would not know then what protocol the general archivist, if one existed prior to 1965, gave the Board of Temperance



regarding the documents?

19. A. No idea.

Page 79, Lines 8-14.

8. Was this - - did anybody working for you  
Bother to look at - - for annual reports for the Old Board  
of Temperance or the New Board of Temperance when you were  
at the General Archives or in your own offices?

12. A. As I said, we were looking for information related  
to the Declaration of Trust and gifts to the Old Board of  
Temperance. I was there one day, please understand.

*Wesley Paulson, 10/7/08 Trial Transcript*

Page 124, Lines 10-25.

10. Q. You

don't know what documents the Old Board of Temperance gave  
to the General Archivist, do you?

13. A. I don't know what the Old Board - - what they gave  
to the General Archivist, that's correct.

15. Q. Likewise, you don't know what the New Board gave  
the General Archivist?

17. A. I don't know the source of the documents of the  
Archives and where they came from.

19. Q. And, in fact, you don't know whethere[sic] any of the  
documents that were at the General Archives were received  
by the General Archivist?

22. A. I know that we, the General Board, sent a large  
shipment up in 1995, the documents, which of these were  
from that set versus something that were sent earlier, I  
couldn't tell you.

**3. Petitioner's position that the corpus of the funds was not restricted at the  
time of formation of the Trust is based solely on documents at the Archives  
and the Methodist Building.**

*James Winkler, 10/6/08 Trial Testimony*

Page 69, Lines 22-25; Page 70, Lines 1-4.

22. Q. And you didn't speak to anybody alive that had  
donated money to the Old Board of Temperance or the New  
Board of Temperance, did you?

25. A. No, I couldn't find any such person.

1. Q. So, the only knowledge you have is based upon  
documents at the General Archives and also at your  
headquarters?

4. A. Correct.

- 4. Petitioner did not present any evidence that funds were given containing restrictions for use in areas other than temperance and alcohol problems.**

*Roger Burgess, 10/21/08 Trial Transcript*  
Page 96, Lines 16-22.

16. Q. During your time in the division and, and with the old, the New Board of Temperance, excuse me, have you ever had occasion to come across a gift instrument to the Board of Temperance that appeared to restrict the gift used to an area other than temperance and alcohol problems?

22. A. No.

- 5. Petitioner did not present any testimony from its witnesses that could establish that the Background and Purpose section of the Trust is incorrect. Furthermore, Petitioner conceded that it has no basis to assert that the narrative in the Background and Purposes section of the Trust is factually correct or incorrect.**

*Wesley Paulson, 10/7/08 Trial Transcript*  
Page 138, Lines 21-25; Page 139, Lines 1-4, 6-12.

21. Q. The question is: Is the General Board of Church and Society able to say that the narrative in the background and purpose section of the Declaration of Trust is factually correct? Either it can or it can't. So, can they?

1. A. No.

3. Q. Likewise, you cannot say that it is factually incorrect; can you?

5. A. I would say I would agree with that statement speaking for myself.

9. Q. I'm asking you to speak on behalf of the General Board. You are an officer of the General Board.

11. A. Then at this point I would say I can't say that it's incorrect and I can't say that it's correct.

- 6. Petitioner has no first-hand knowledge regarding the intent or purpose of any donor regarding gifts made to the Old Board of Temperance or the New Board of Temperance. Moreover, Petitioner did not present any testimony from witnesses who had first hand knowledge regarding the intent or purpose of any donor who gave a gift to the Old Board of Temperance or the New Board of Temperance which formed the corpus of the Trust.**

*James Winkler, 10/6/08 Trial Transcript*

Page 69, Lines 22-25; Page 70, Lines 1-4.

22. Q. And you didn't speak to anybody alive that had donated money to the Old Board of Temperance or the New Board of Temperance, did you?

25. A. No, I couldn't find any such person.

1. Q. So, the only knowledge you have is based upon documents at the General Archives and also at your headquarters?

4. A. Correct.

*Wesley Paulson, 10/7/08 Trial Transcript*

Page 116, Lines 11-14.

11. Q. You have no firsthand knowledge regarding any gifts being made to the Old Board of Temperance or the New Board of Temperance; do you?

14. A. No, I don't.

15. Q. Any knowledge that you have is solely based upon searches that you've done at the Methodist Building and at the General Archives?

18. A. And also Wesleyan Seminary.

- 7. The Board of Temperance, Prohibition and Public Morals was organized by the General Conference of the Methodist Episcopal Church and was an outgrowth of the Committee on Temperance and Prohibition established in 1888. The Old Board of Temperance was incorporated in 1917. The New Board of Temperance was incorporated in 1943.**

Respondents' Exhibit Nos.:

15 Discipline of the Methodist Episcopal Church - 1908

16 Discipline of the Methodist Episcopal Church -1912

34 Annual Report 1936

130 Articles of Incorporation - May 23, 1917

131 Articles of Incorporation - May 11, 1943

- 8. The Discipline of the Methodist Church is the law of the Methodist Church and its agencies including the Old Board and New Board of Temperance. The Discipline sets forth the Constitution of the Old Board and New Board of Temperance and sets forth the scope of work that these Boards could do during the quadrennial years that the Discipline was in effect. Further, the New Board of Temperance adopted bylaws and amended them in 1960.**

Petitioner's Exhibit No. 3 By-Laws of the Board of Temperance of the Methodist Church. July 13, 1949.

Petitioner's Exhibit No. 4 Amended Certificate of Incorporation 1949

Petitioner's Exhibit No. 5 Amended By-Laws of the Division. April 28, 1961.

Respondents' Exhibit Nos.:  
132 Amended Certificate of Incorporation 1944  
133 Amended Certificate of Incorporation 1950

*James Winkler, 10/6/08 Trial Transcript*  
Page 14, Lines 12-21.

12. Q. We've heard about a Book called the Discipline. Would you tell us what the Discipline is?

14. A. The Book of Discipline is the, I guess you would say, the law-making or the law-giving Book of our Church, it's sort of governs the life of the Local Church, the annual conference, and the General Church, and there are provisions within the Discipline for any variety of matters within the life of the Church. There's a section devoted solely to the General Board of Church and Society that's in the Discipline.

*Roger Burgess, 10/9/08 Trial Transcript*  
Page 53, Lines 22-25; Page 54, Lines 1-3.

22. Q. What is the Book of Discipline?

23. A. The Book of Discipline is the Law of the Church. This is the Book that guides this very large organization in its actions and policies, if you will. It instructs

1. the officers and their responsibilities of the various Boards and Agencies and it instructs the Local Church and the way the Local Church will do its business and operate.

*Roger Burgess, 10/21/08 Trial Transcript*  
Page 82, Lines 9-15, 23-25; Page 83, Lines 1-4, 15-20

9. Q. In turning to the second page of that exhibit, [Pet. Ex. 4] and let me know if I'm reading this correctly. Number two, in effecting the above-mentioned objects and purpose, this corporation shall be amenable and power granted from time to time by the general conference of the Methodist Church and its successors.

23. Q. In effecting the above-mentioned objects and purpose, this corporation shall be amenable to and have and exercise all of the rights, authority and power

1. granted from time to time by the general conference of the Methodist Church and its successor. Did I read that correctly?

4. A. Yes.

15. Q. The statement that I just read from the Articles of Incorporation, as amended of the Board of Temperance, was that your understanding as to the role that the general conference had regarding the purposes

and what the Board of Temperance could and could not do?  
20. A. Correct.

Respondents' Exhibit Nos.:

- 30 Doctrines and Discipline - 1916
- 17 Discipline of the Methodist Episcopal Church - 1920
- 18 Discipline of the Methodist Episcopal Church - 1924
- 19 Discipline of the Methodist Episcopal Church - 1928
- 20 Discipline of the Methodist Episcopal Church - 1932
- 21 Discipline of the Methodist Episcopal Church - 1936
- 22 Discipline of the Methodist Episcopal Church - 1940
- 23 Discipline of the Methodist Episcopal Church - 1944
- 24 Discipline of the Methodist Episcopal Church - 1948
- 25 Discipline of the Methodist Episcopal Church - 1952
- 26 Discipline of the Methodist Episcopal Church - 1956

**9. The term "Public Morals" is defined in the Book of Discipline and Resolutions of the Methodist Church.**

Respondents' Ex. Nos.:

- 7 Resolutions - 1932 Book of Discipline
- 8 Resolutions - 1936 Book of Discipline
- 9 Resolutions - 1936 Book of Discipline
- 10 Resolutions - 1944 Book of Discipline
- 11 Resolutions - 1948 Book of Discipline
- 12 Resolutions - 1952 Book of Discipline
- 13 Resolutions - 1956 Book of Discipline
- 14 Resolutions - 1960 Book of Discipline

*Roger Burgess, 10/21/08 Trial Transcript*  
Page 86, Lines 24-25; Page 87, Line 1.

24. Q. Mr. Burgess, is the term public morals a religious term in the Methodist Church?

1. A. Yes.

**10. The Old Board of Temperance and the New Board of Temperance did work overwhelmingly in the area of temperance and alcohol problems.**

Respondents' Exhibits Nos.:

- 4 Resolutions - 1920 Book of Discipline
- 5 Resolutions - 1924 Book of Discipline
- 6 Resolutions - 1928 Book of Discipline
- 7 Resolutions - 1932 Book of Discipline
- 8 Resolutions - 1936 Book of Discipline
- 9 Resolutions - 1936 Book of Discipline

- 10 Resolutions – 1944 Book of Discipline
- 11 Resolutions – 1948 Book of Discipline
- 12 Resolutions – 1952 Book of Discipline
- 13 Resolutions – 1956 Book of Discipline
- 14 Resolutions – 1960 Book of Discipline
- 17 Discipline of the Methodist Episcopal Church - 1920
- 18 Discipline of the Methodist Episcopal Church – 1924
- 19 Discipline of the Methodist Episcopal Church – 1928
- 20 Discipline of the Methodist Episcopal Church – 1932
- 21 Discipline of the Methodist Episcopal Church – 1936
- 22 Discipline of the Methodist Episcopal Church – 1940
- 23 Discipline of the Methodist Episcopal Church – 1944
- 24 Discipline of the Methodist Episcopal Church – 1948
- 25 Discipline of the Methodist Episcopal Church – 1952
- 26 Discipline of the Methodist Episcopal Church – 1956
- 53 Quadrennial Report – 1920
- 54 Quadrennial Report – 1924
- 187 General Conference Journal - 1928
- 56 Quadrennial Report – 1932
- 57 Quadrennial Report – 1940
- 58 Quadrennial Report – 1944
- 192 Quadrennial Report - 1952
- 60 Quadrennial Report – 1960
- 62 The Voice Index – 1940
- 63 The Voice Index – 1941
- 64 The Voice Index – 1942
- 65 The Voice Index – 1943
- 66 The Voice Index – 1944
- 67 The Voice Index – 1945
- 68 The Voice Index – 1946
- 69 The Voice Index – 1947
- 70 The Voice Index – 1948
- 71 The Voice Index – 1950
- 72 The Voice Index – 1951
- 73 The Voice Index – 1952
- 74 The Voice Index – 1953

*Wesley Paulson, 10/7/08 Trial Transcript*

Page 118, Lines 21-25

21. Q. Isn't it true that the remaining of The Voices that you looked at dealt overwhelmingly with Temperance and Alcohol Problems?

24. A. That's correct. The majority of the articles were about Temperance and Alcohol.

*Roger Burgess, 10/9/08 Trial Transcript*

Page 34, Lines 17-25; Page 35, Lines 1-10.

17. Q. While you were associate general secretary for the Board of Temperance, what were the principle areas of programmatic concerns for the Board of Temperance?

20. A. The principle area was the Alcohol Problems and Temperance. I characterized before while the initial Board during the era, before and after Prohibition, was know as the Board of Temperance. It included in the name, I can't quite come up with the name. The Board of Temperance, Prohibition and Public Morals, that's the name of that

1. previous board.

2. Q. Right.

3. A. And in the area of public morals were included issues, gambling, use of tobacco and other injurious practices. But the amount of resources and funding and staff time spent on those were minimal compared to the nature work of the Board which was on Alcohol Problems and Temperance. And I'm sorry to say I described that before. Those additional areas of work were like the tail on a dog with the alcohol problems being the dog.

Page 42, Lines 23-25, Page 43, Lines 1-2.

23. Q. Again, what was the primary work that was promoted by the Board of Temperance?

25. A. Eighty to ninety percent of the work of the Board

1. of Temperance was directly involved with Alcohol Problems, and Temperance, Education.

Page 50, Lines 20-25; Page 51, Lines 1-7.

20. Q. How would you characterize the vast majority if not all of the money that was being received by the Board of Temperance from World Service and the Methodist Building Endowment Fund, how would you - - on what programs would you say that these funds were being used?

25. A. They were all being used for the program of the

1. Board of Temperance which was predominately ninety percent, at least, alcohol related programs. And the World Service income mentioned here of two hundred thousand per year was one source of income, and then from thirty thousand to maybe forty, fifty thousand in that range was income which came from which is now called the Methodist Building Endowment Funds.

*James Winkler, 10/6/08 Trial Transcript*

Page 69, Lines 17-21.

17. Q. You wouldn't disagree with the statement that the

Board, the Old Board of Temperance and the New Board of Temperance were well-known for Temperance and Alcohol Problems; would you?

21. A. Of course, yes, I would agree.

*Wesley Paulson, 10/7/08 Trial Transcript*  
Page 121, Lines 19-24.

19. Q. And you're going through The Voices at Wesleyan Seminary isn't it true that the Board of Temperance and the New Board of Temperance considered public enemy number one to be the liquor industry?

23. A. I don't know about public enemy number one. The majority of their work was on Temperance and Liquor.

**11. The bequest by Sarah Simpson specifically restricted the bequest to be used for temperance and temperance educational purposes.**

Respondents' Ex. No. 121, Sarah Simpson Will and Codicils 1933-1935.

Fifth Codicil, para. 2, "I hereby direct and designate that all of the legacies left to the said Board shall be held and the income therefrom used simply for the educational temperance program of the Board, and shall not be used in any way for the purpose of carrying on propaganda or otherwise attempting to influence legislation, but is to be used exclusively for educational purposes."

**12. Of the four pledge cards submitted by Petitioner into evidence at trial, two stated that the funds were given by the donor to save American Youth which, at that time, meant to promote temperance and alcohol programs. The other two pledge cards amount to a total of \$2000.00 collectively. All four of the pledge cards, were dated between 1923 and 1929.**

Petitioner's Ex. 14, "Report of Annual Meeting of Board of Temperance" 1917.

Petitioner's Ex. 128, Pledge Cards: April 4, 1929, August 22, 1928.

Petitioner's Ex. 129, Pledge Card, December 17, 1928.

Petitioner's Ex. 226, Pledge Card, October 18, 1922

Petitioner's Ex. 268, Pledge Card, October 5, 1923

Respondents' Ex. Nos.:

36 Annual Report-February 1941

38 Annual Report-October 1949

39 Annual Report-April 1950

42 Annual Report-January 1953

56 Quadrennial Report 1932

57 Quadrennial Report 1940



*Roger Burgess, 10/9/08 Trial Transcript*

Page 101, Lines 10-21.

10. Q. Mr. Burgess, we saw some pledge cards earlier in this litigation with the phrase to Save the American Youth on it. Do you know that that means?

13. A. Well, there was a strong feeling on the part of the leadership of the Church that alcohol use was very detrimental to the youth of our Church and our Country, and so that's what that phrase meant on the Commitment card.

17. Q. So, it wasn't to save the youth - - the American Youth in the general sense, it was more specifically?

20. A. It was more specifically for the use of alcohol and the dangers related thereto.

**13. Starting in at least the 1930's, the Old Board of Temperance and the New Board of Temperance treated funds it held as being preserved for temperance and alcohol problems.**

Respondents' Ex. No. 127 Report of Audit, 1936.

Respondents' Ex. No. 163 Letter to Rev. Leavitt, 1932

Respondents' Ex. No. 36 Annual Report-February 1941. p. 15

Petitioner's Exhibit Nos.:

17 Minutes of the Executive Committee 1931

19 Minutes of the Executive Committee 1933

25 Minutes of the Executive Committee 1935

29 Minutes of the Executive Committee 1942

*Roger Burgess, 10/9/08 Trial Testimony*

Page 37, Lines 16-25; Page 38, Lines 1-9.

16. Q. I'm talking specifically about the Methodist Building Endowment Fund.

18. A. Yes.

19. Q. Okay.

20. A. It was exclusively property of the Board of Temperance and the income was exclusively for it, for working in the field of alcohol problems which was the responsibility of the Board of Temperance.

24. Q. And decisions as to how those monies would be used was exclusively that of the Board of Temperance?

1. A. Exclusively.

2. Q. In your mind is the work of the Board of Temperance synonymous with the Temperance Cause and Alcohol

problems?

5. A. Yes, yes. Again, the history of Methodism is a great concern for that Temperance Cause which goes back a long, long way in history, and it was very well supported by the Church, the Board of Temperance particularly in my time.

**14. The publications of the Old Board of Temperance and the New Board of Temperance overwhelmingly dealt with the issues of temperance, temperance education, fighting the alcohol industry, problems of alcoholism, and other societal issues related to alcohol.**

Respondents' Exhibits Nos.:  
62-74, The Voice Indexes from 1940-1953.  
75 The Voice - December 1922  
76 The Voice - November 1937  
77 The Voice - April 1939  
78 The Voice - May 1939  
79 The Voice - September 1939  
80 The Voice - December 1939  
81 The Voice - February 1940  
82 The Voice - September 1940  
83 The Voice - January 1941  
84 The Voice - February 1941  
85 The Voice - September 1941  
86 The Voice - September 1942  
87 The Voice - February 1944  
88 The Voice - March 1944  
89 The Voice - April 1944  
90 The Voice - October 1944  
91 The Voice - November 1944  
92 The Voice - March 1945  
93 The Voice - March 1948  
94 The Voice - January 1949  
95 The Voice - February 1949  
96 The Voice - April 1949  
97 The Voice - August 1949  
98 The Voice - April 1950  
99 The Voice - May 1950  
100 The Voice - February 1952  
101 The Voice - March 1952  
102 The Voice - November 1953  
103 The Voice - February 1954  
104 The Voice - June 1954  
105 The Voice - February 1955  
106 The Voice - April 1956.

34 Annual Report -1936  
35 Annual Report-1939  
36 Annual Report-1941  
37 Annual Report-1944  
38 Annual Report 1949  
52 Quadrennial Report-1916

*Roger Burgess, 10/8/08 Trial Testimony*  
Page 64, Lines 14-18.

14. Q. So, in your experience as editor of The Voice would it be fair to say that the majority of the topics that articles that The Voice covered were related to alcohol and issues of Temperance and Alcohol Problems?

18. A. Without question.

*Roger Burgess, 10/9/08 Trial Testimony*  
Page 10, Lines 15-23.

15. Q. You mentioned some of what the Clipseet articles were about was legislation, keeping them updated on legislation. Was legislation related to what?

18. A. There was an effort going on at the time that I was there to outlaw the advertising of alcoholic beverages, particularly on television, and there were - - there was legislation before Congress to that effect. And we would be reporting on any steps that were made on the progress of that legislation in Congress.

**15. In 1960, the name of the New Board of Temperance was changed to the Division of Temperance and General Welfare, but it remained a separate corporate entity with its own Board whose CEO was Roger Burgess.**

Respondents' Exhibit No. 35 Annual Report 1939  
Respondents' Exhibit No. 52 Quadrennial Report 1916  
Respondents' Exhibit No. 134 Articles of Incorporation – September 29, 1960

**16. Roger Burgess was a long time employee of the New Board of Temperance and was the CEO of the Division of Temperance and General Welfare at the time of the creation of the Trust and instrumental in the Trust's formation.**

Respondents' Ex. No. 141 Letter from Dr. Hooton – May 1959.

*Roger Burgess, 10/8/08 Trial Transcript*  
Page 57, Lines 8-15

8. Q. After that what was the next job you had after that?

10. A. In 1953, I was recruited to move to Washington, DC where I became director of communications of the then-Methodist Board of Temperance.

13. Q. Is that the same Board of Temperance that has been the subject matter of this litigation?

15. A. Yes.

*Roger Burgess, 10/9/08 Trial Transcript*

Page 33, Lines 4-19, 24-25; Page 34, Lines 1-4, 8-14.

4. Q. Well, after you completed your tenure as editor of The Voice, what did you do next for the Church? What was your next assignment?

7. A. I was elected associate general secretary of the Board of Temperance, they were changing terms at that point, so that the chief executive officer was known as general secretary and then the number two person was the associate general secretary.

12. Q. So, you were the associate general secretary for the Board of Temperance?

14. A. That's correct.

15. Q. When was that? When did you become associate general secretary?

17. A. Approximately, 1960.

18. Q. 1960, for the Board of Temperance?

19. A. Correct. Prior to the merger of the Boards?

24. Q. How would you characterize the rank of the associate general secretary that position within the Board of Temperance?

2. A. It was an administrative post. It might be corresponding corporate terms to the chief operating officer.

8. Q. And what were the responsibilities of the associate general secretary of Board of Temperance?

10. A. He was totally responsible for the program of the Board. He was the staff for the staff of the Board. And associate general secretary position was kind of clerk of the Board to keep everything going, to report regularly to their president who concentrated more on policy matters ...

Page 61, Lines 6-16, 23-25.

6. Q. How long did you hold the position associate general secretary for the Division?

8. A. From the time of this meeting until I departed in 1965.

10. Q. Do you recall when you departed in 1965?

11. A. Yes, I left the work of that Board in 1965.

12. Q. Right. Do you recall when in the year of 1965 you left the Division?

13. A. It would have been in October or November. I think I announced my decision to leave at a Board meeting about that same time, a Division meeting.

23. Q. Did you announce your resignation in October of 1965?

25. A. Yes.

Page 78, Lines 13-19.

13. Q. When did Dudley Ward become general secretary of the Board of Christian Social Concerns?

15. A. After the death of Dr. Caradine Hooten. T[w]hen [sic] the Board was merged and Dr. Hooten was named general secretary of the New Board and I was named associate general secretary which means CEO of the Division of Temperance and General Welfare.

Page 52, Lines 8-9.

8. Q. Were you involved in drafting this document? [Trust]

9. A. Yes, I was.

**17. At the time of the formation of the Trust, the settlors knew that they could "do whatever [they] want[ed] to do" with the assets of the Old Board and New Board of Temperance. Roger Burgess is the only witness who had first hand knowledge of the creation of the Trust, as he was an officer of the settlors.**

Respondents' Ex. No. 170 Letter from Roger Burgess to Bishop Hardin, March 10, 1965.

*Roger Burgess, 10/9/08 Trial Testimony*

Page 111, Lines 10-19; Page 113, Lines 1-4, 18-25; Page 114, Lines 1-10, 13-18, 21-25; Page 115, Lines 1-25.

10. Q. And what does it [Resp. Ex. 170] say it's regarding?

11. A. Comments on the Dudley Ward letter of March 4 relating to the Trust agreement.

13. Q. Can you please read the first paragraph?

14. A. This proposal was not, underline not, represent the agreement of Mr. Raysor and Mr. Jones as is implied. Mr. Raysor's advice is only we can do whatever we want to do. Mr. Jones has told me in private conversations that the letter does not represent his views. I have asked him to write you further.

1. Q. Did you ever have any conversations with Mr. Raysor regarding the legality of restrictions on the use of funds for Temperance and Alcohol Problems?