

Court Judgment of February 3, 2004 Regarding the Legality of the General Anthroposophical Society (Christmas Conference)

English Translation with Commentary

Translator's Introduction

The recent constitution plan of the Board of Directors of the General Anthroposophical Society has caused considerable controversy among members. In 2001, the Board departed from the accepted society understanding that the existing GAS is fully competent legally and in complete succession of the society Rudolf Steiner founded in 1923. The Board stated that, due to irregularities in its 1925 registration and reorganization, this is not the case, and that, in fact, the existing GAS is only an administrative society. At the same time, the Board began to speak of a second, inactive, hitherto unrecognized society they say is truly in succession of the 1923 society. In December of 2002, the Board invited members to a meeting of this second society and took steps to reactivate it, calling it the General Anthroposophical Society (Christmas Conference). This meeting generated a number of lawsuits from members who felt that this second inactive society had no legal foundation.

Early in 2003, six Anthroposophists asked the Dorneck-Thierstein District Court, Switzerland, to prove that this General Anthroposophical Society (Christmas Conference) – the alleged second inactive society being reactivated – has no legal existence. The suit was brought against the six-member Board of Directors of the GAS and the hypothetical GAS (CC), a body quite distinct from the existing GAS, which was not named as a defendant. On February 3, 2004, after 24 hours of deliberation, twelve hours of hearings and a thorough study of all available documents, Judge Markus Christ confirmed that the GAS (CC) has no legal existence. The Court further decreed that, contrary to the Board's assertions, the existing GAS is legally and in every other way complete and therefore much more than just an administrative society.

Thus, the Board's constitution plan becomes not only impossible, since a legally nonexistent society cannot be reactivated, but also unnecessary, since, contrary to the Board's view, the existing society is already complete in every way. The Board's appeal to this ruling will be heard on January 11, 2005. The higher court, das Solothurner Obergericht, will have to overturn it before the Board can proceed with its constitution plans. The study of this document will greatly aid in an understanding of that next court proceeding and subsequent developments in our society's administration.

This 21-page court brief [Urteilserklärung], released on March 9, is an explanation of the court's decision. Practically the whole document appears here in English translation for the first time. Only legal references and explanations not meaningful to the average reader and not necessary to an understanding of the court's position have been left out, and some sections of secondary importance have been summarized rather than translated, as indicated. It was not always possible to use the correct English legal terms, yet the meaning has been made clear throughout. The footnotes and bracketed remarks, all in italics, are the translator's. The court's exact words, in translation, are in regular script, set off by quotation marks.

Short Glossary of Important Terms

General Anthroposophical Society GAS and Anthroposophical Society AS: Interchangeable names Rudolf Steiner gave to the society he founded at the Christmas Conference in 1923/24, which have been in use ever since.

Building Society: Founded in 1913 as the St. John Building Society, registered in 1918 and had its name changed to Society of the Goetheanum of the Free School for Spiritual Science. Decided to become a subdivision of the GAS on June 29, 1924.

Christmas Conference Society CCS: The defendants' newly coined name for the society founded at Christmas in 1923. The defendants believe that the CCS is distinct from the GAS, saying that the GAS is only the Building Society with its name changed. But in the court's opinion, they are one and the same. Nevertheless, the court uses the term CCS to mean the early GAS, and this has not been corrected every time, just in the most important passages.

General Anthroposophical Society (Christmas Conference) GAS (CC) [the parentheses are part of the official name]: The defendants' name for the alleged second, dormant society to be reactivated. The court has ruled this society nonexistent.

Konkludente Fusion: A fully legal fusion or merger of two societies (here, the GAS and the Building Society) that may not have been fully carried out legally by today's standards, but was clearly intended to be, and was **believed** to have been fully carried out by all concerned. Since in the case at hand this belief has been held and acted on by all members from 1925 to the present, the court now considers the fusion fully legal by usage. Cf. Section IX of the court document and footnote 8. With this background, the term is rendered as "implicit fusion".

Negotiorum gestio: or Geschäftsführung ohne Auftrag: an administrative body takes over on its own initiative a responsibility to which it has not been assigned by any authority.

Einfache Gesellschaft: A Swiss legal term simply meaning "a contractual relationship between two or more persons"

Beginning of Court Document

Sections I through III

Translator's summary of this lengthy section concerned with formalities: It contains the names and addresses of the plaintiffs, defendants, witnesses, and lawyers, an outline of the hearing procedure and the aims of the suit, and mention of a second suit merged with this one. The suit was brought against the six-member Board of Directors of the General Anthroposophical Society and against the proposed new society, the General Anthroposophical Society (Christmas Conference) – but not against the existing General Anthroposophical Society.

Beginning of Translation of the Court's Words:

IV The Facts of the Case

“The objective of this lawsuit is to determine the legality of a society according to the Swiss Book of Civil Law. Neither of the parties disputes that Rudolf Steiner founded a society in December of 1923 during a meeting known as the Christmas Conference. The subsequent fate of this society (**hereinafter called the Christmas Conference Society or CCS**)¹ is the point of disagreement.

Several parallel developments during the formation of this society complicate the issue. A society called St. John Building Society had already been commercially registered in November of 1918. This society decided to change its name to the Society of the Goetheanum of the Free School for Spiritual Science (hereinafter called the Society of the Goetheanum) [*now known as the Building Society*]. After the CCS had been founded by Rudolf Steiner in 1923, attempts were made in 1924 to enter it in the commercial register. They failed because of tax reasons and registration technicalities. After a lengthy period of reconsideration, it was decided to make use of the Society of the Goetheanum [*the Building Society, already entered in the commercial register*]. As agreed on at an extraordinary meeting of the Society of the Goetheanum on February 8, 1925, the statutes of this society were subjected to comprehensive changes and it was renamed the General Anthroposophical Society (**hereinafter called the GAS**). These proceedings are not called into question by either party. It is the nature of the newly incorporated GAS that the parties disagree on. [*Emphasis added*]

In the plaintiffs' opinion, an implicit fusion² took place in 1925. The newly organized GAS took over all elements and functions of the CCS, as well as the entire membership and the board of directors of that body. The plaintiffs believe that, ever since then, the GAS has been the sole society of the anthroposophical movement, while the CCS, on the other hand, was fused with the GAS and thus lost its independent legal existence.³

¹ The term *Christmas Conference Society*, used here by the judge, was coined only a few years ago by the defendants and their lawyer. Historically, it was never used. Our society was always known simply as the General Anthroposophical Society, since its Christmas Conference roots were taken for granted. Historically, then, it was the GAS, pure and simple, that merged with the Society of the Goetheanum or Building Society..

² eine konkludente Fusion. See Glossary

³ The Board has lately been using this phrase “has lost its independent legal existence” to claim that the court decreed the society founded at Christmas in 1923 no longer exists, yet what the court means, as the context

The defendants deny this view. In their opinion the GAS simply took over the functions of the Society of the Goetheanum [*Building Society*], and only the following functions: Since 1925, they say, the GAS has only been responsible for administrative affairs, while the CCS [*the one they consider the truly esoteric society*] continues to exist outside of the GAS⁴, and is led by the Board of the GAS, though not assigned to this position by any authority⁵.

The constitution of the anthroposophical movement was complicated by the fact that when Rudolf Steiner died in 1925, he had not brought complete clarity to these matters.

In subsequent decades, members again and again asked about the fate of the CCS, without anyone being able to provide an answer. In the 1960's particularly, a wave of articles appeared on the constitution issue.

In November of 2002, the Board of the GAS invited members to an extraordinary meeting of the CCS [*which they called the GAS (CC)*]. At this meeting, the six GAS board members were elected board members of the CCS. The Board then undertook a revision of the statutes of this society, which they now considered fully reactivated, in order to prepare the society for a merger with the GAS.

On January 24, in response to these events, the plaintiffs requested the head of the Dorn-eck-Thierstein Court to issue a temporary injunction preventing the CCS [*actually, the GAS(CC)*] from conducting business with the GAS or with any GAS member. This request was partially granted, and the temporary injunction issued. The defendants challenged this request before the higher court and the court lifted it on May 22, 2003. The Federal High Court upheld this request [*the defendants'*], having gotten involved in the case because of a constitutional complaint [*Beschwerde*] related to the same lawsuit.

At the November 15, 2003 extraordinary general meeting of the GAS, a majority of the attending society members decided on a fusion with the CCS and authorized the Board to undertake this fusion at a time they deemed appropriate. These decisions, too, were challenged by a separate group of plaintiffs; this lawsuit was suspended; it will be heard when the main lawsuit has been settled.”

V Urgency of Need for Court Action and Decision to Enter Into Suit

“According to Paragraph 132 of the ZPO [*A Swiss book of civil law*] a suit can be brought concerning the existence or nonexistence of a legal relationship when a plaintiff urgently needs a legal opinion. In such a case, it is the federal court that must provide the

makes clear, is that though this society no longer existed in its own previous legal body, it entered fully into and still fully exists in, that of the former Building Society. The court is saying that the society lives on -- in a different legal framework, which it made its own. The plaintiffs were not trying to prove that GAS founded during the Christmas Conference has no legal existence, but that the Board's hypothetical second society, the GAS (CC) does not exist. The court confirmed that it does not, while at the same time also confirming that our existing GAS is the only anthroposophical society that ever existed, and is in full succession of the society Rudolf Steiner founded during the Christmas Conference of 1923.

⁴As already noted, what the defendants call the CCS is the society founded during the Christmas Conference, to which Rudolf Steiner gave the name GAS. In view of this, it becomes clear these two societies could not have existed side by side, as they claim, because Swiss law forbids more than one society having the same name.

⁵ This is a free but accurate translation of *Geschäftsführung ohne Auftrag – Negotiorum gestio* in legal Latin.

necessary legal protection. A lawsuit regarding the existence or nonexistence of a society according to Article 60 in the Swiss Book of Civil Law is a matter for the federal courts.

Before the federal court will take on such a suit, three conditions must be met: 1) The plaintiff's position must either be uncertain, insecure, or endangered. 2) The plaintiff's hardship must be so pronounced that he or she cannot be expected to live with it permanently." 3) *The translator's summary of a complicated legalistic statement: It must be determined that the legal problem cannot be resolved any other way.*

The Translation Resumes

"The plaintiffs believe that they are entitled to legal protection. They say they are members of the society founded at Christmas in 1923 by Rudolf Steiner – the GAS – and that this directly guarantees them such protection.

The defendants say that the plaintiffs have no need for legal protection. They add that there is no legal relationship between the plaintiffs and the defendants because the former are all members of the GAS [*rather than the CCS, two legal bodies which the court finds are the same*] and because they are not being subjected to uncertain, insecure conditions or endangerment.

It is the opinion of the Court that the plaintiffs are entitled to legal protection. Even if some of the plaintiffs might not be members of the CCS, we know what occurred after the higher court decision of May 22, 2003 lifted the temporary injunction issued by the Dorn-eck-Thierstein Court on February 6, 2003. For it was then decided [*by the defendants*] to fuse the GAS with the CCS (decision taken at the November 15th and 16th general meetings of the GAS). Not only the plaintiffs who are members of the CCS, but also those who are members of the GAS are entitled to the protection of the law. They have a legitimate right to know if their society is going to be fused with a society which might turn out to be nonexistent.

For these reasons we have entered into this lawsuit."

VI Position of the Defendants

"It is the defendants' opinion that the CCS was founded in 1923. [Remember at this point that the society founded in 1923 was called GAS or AS by Rudolf Steiner, and that the term CCS did not exist] Its statutes were to be entered in the commercial register, but this proved impossible, due to tax considerations and registration technicalities.

In 1925, the former Society of the Goetheanum [Building Society] changed its name to GAS, and, even after extensive changes to the statutes, still continues on, but as an administrative society only. From 1923 on, the defendants believe, the CCS has been leading a separate existence parallel to the GAS, with the Board of Directors of the GAS also acting as Board of the CCS⁶ though not appointed to that task by any authority [*negotiorum gestio*].

⁶ Since the court found the CCS to be the same as the GAS, they could not have existed side by side, because Swiss law does not allow more than one society with the same name.

These two societies together, they say, would form one complete simple society⁷ since it would be their joint purpose to further the anthroposophical idea.

The Court considers this opinion to be wrong. There is ample proof that for decades the Board of the GAS has believed that there was one and only one society.

In view of this, it is clear that the Board members of the GAS could not at the same time have been legally heading the CCS, as the defendants claim. Clearly, no one can be on the board of a society without an awareness of that society's existence. How could anyone lead a second society while at the same time firmly believing that only one society exists? A belief [in two societies] would have had to exist for the entire time [of the Society's existence], i.e., for decades. Without this awareness, the Board could not have been leading a second society. It is therefore unnecessary to discuss the defendants' position further. Yet we should take note of a certain contradiction in the exposition of their view: They claim that the CCS has always existed and has led an active society life; they even claim that the Society's entire cultural and communal life evolved within the framework of the CCS. Yet, according to them, the CCS has no board of directors, otherwise there would not have been any need for them, the Board of the GAS, to take over its leadership without official assignment from any authority [*negotiorum gestio*]. But can a society even exist without executive leadership, without a board? According to Article 77 in the Swiss Book of Civil law, this must clearly be answered in the negative."

VII The Position of the Plaintiffs

"According to the plaintiffs, the CCS was founded at Christmas in 1923. At least on this point, the two parties agree [*though this agreement does not extend to the name, which the plaintiffs hold to be the GAS. See Glossary.*]. They relate that the society could not be entered in the commercial register because in moving the real property of the Society of the Goetheanum to the CCS, the Society would have incurred very high transfer taxes. Moreover, the head of the commercial register was not willing to register the rather unusual statutes for technical reasons. Therefore, the already-registered Society of the Goetheanum was made use of, its statutes revised, and its name changed to General Anthroposophical Society. Finally, the then current Board of the CCS took over the task of leading the former Society of the Goetheanum, now legally, in totally reorganized form, [*called*] the GAS. The CCS, they say, was thus conclusively fused with the GAS; it no longer had any independent legal existence.

In this, the plaintiffs agree with Professor Riemer, who came to the same conclusion in his legal opinion.

VIII Placement of Burden of Proof

In the translator's words: In a lawsuit to prove the nonexistence of a legal entity, the burden of proof is shared equally by both parties. Contrary to the defendants' opinion, this principle applies here.

⁷ *einfache Gesellschaft*, Swiss legal term meaning simply, "the contractual relationship between two or more persons."

IX The Court's Evaluation [of the Evidence]

“In the course of this legal proceeding, **two legal opinions** were presented to the court as evidence. One of them – the one handed in first – is the Riemer Legal Opinion, which was commissioned in 2000 by Board members themselves, after discussions on the constitutional issue had grown heated. Obviously, the Board was not quite happy with Riemer’s conclusions, since soon thereafter, the Board commissioned a second opinion – the Furrer/Erdmenger Legal Opinion. During the entire course of this legal proceeding, the parties were continually trying to cast doubts on the legal opinion most advantageous to their opponents’ plans. It seems advisable, therefore, to compare and evaluate the two opinions here.

The court finds the Riemer opinion far more valuable than the Furrer/Erdmenger opinion. Even though the defendants say that Professor Riemer did not feel the need to look at all the documents, it is obvious that, even as an outsider [*Riemer, unlike Furrer and Erdmenger, is not a member of the GAS*], Riemer had sufficient access to the documents and materials needed, or he would not have been able to write a legal opinion at all. Moreover, Professor Riemer is a highly regarded law professor and specialist in corporate law, whose independence and integrity are beyond question, [*and*] it was the Board members themselves – the defendants – who commissioned him to draw up this opinion. Therefore his opinion carries considerably more weight than that of Furrer/Erdmenger. In their opinion, the solution [*emphasis added*] to the problem seems to have been of primary importance, with the outcome decided on in advance, before the problem had even been analyzed.

Moreover, it must be remembered that, unlike Professor Furrer, Professor Riemer is not a party in this lawsuit and is not conversant with anthroposophical thought.

The court unanimously agrees with the plaintiffs and the Riemer conclusions in stating that an implicit fusion [*konkludente Fusion*] took place. An identical case is not found in the relevant legal commentary or in the records of court cases, but that in no way means that it is not possible. In this legal case, there was a gap that had to be filled [*eine Lücke – meaning a legislative gap*] of the sort mentioned in Article 1, Paragraph 2 of the Book of Civil Law and the principle of good faith [*Treu und Glauben – faith and belief*] has also been applied here.

In fact, in this case, we have what is known as a “genuine gap” [*eine echte Lücke*] – a classic case, according to federal law. It is unanimously agreed that such a gap caused by a lawmaker’s oversight may – indeed, must – be filled by the judge. In doing so, he must be guided primarily by pre-existing prescriptive or common law before taking over the lawmaker’s job in creating a new ruling.

It is even possible that a fusion in the strict sense [*totally complete legally*] could have taken place here; the court is in possession of at least one document that could be interpreted as evidence of this (cf. the minutes of the June 29, 1924 extraordinary general meeting of the Society of the Goetheanum).

In reaching its decision, the Court follows this main line of reasoning: In 1925, the Society of the Goetheanum was transformed into the GAS. But it is important to note that the statutes did not remain unchanged. It is not accurate to speak about a mere name change. The statutes were extensively changed and also expanded. The membership grew considerably. In addition, the board of the Society of the Goetheanum, which resigned as a body, was replaced by the board of the CCS [*the accurate name is GAS; see Glossary*].

“This process, which may clearly be construed as an implicit fusion [*konkludente Fusion, see Glossary*], took place on February 8, 1925, at the extraordinary general meeting of the Society of the Goetheanum. On the surface, it was the GAS that was inaugurated, since the

Society of the Goetheanum was renamed the GAS, but on closer examination, it is clear that the legal foundation of the CCS [*the GAS, see above note and Glossary*], founded by Rudolf Steiner in 1923, was taken up into the newly-created GAS. This is reflected in the new Article 3 of the GAS statutes. The esoteric elements of the CCS [*really the GAS*] of which the defendants speak and which are manifested in the original statutes (later called Principles) of the 1923 society, remained unaffected by this implicit fusion [*konkludente Fusion*] accomplished according to Swiss civil law. To use anthroposophical terminology, this esoteric content lives on to the present day – legally insignificant but esoterically all-powerful [*als rechtliches "Nichts" aber esoterisches "Alles"*]. Thus, the continuity of Rudolf Steiner's legacy is assured.⁸ The defendants, who are equally obligated to prove their position, have not succeeded in proving the legal existence of the CCS [*meaning here the GAS (CC), which purports to be the CCS*]. The plaintiffs, on the other hand, were able to prove their position that the CCS [*again, meaning the GAS (CC), which purports to be the CCS*] has no legal existence, with important documents, including historical documents.

The "pink cards" furnish further strong evidence of the implicit fusion [*konkludente Fusion*]. On these membership cards we may read that when a member leaves the Society or dies, the card is to be returned to the GAS. Two observations must be made here. First, these "pink cards" are the only membership cards in existence. We do not find *two* different kinds of membership cards for *two* societies in circulation. Second, on the front of these membership cards, the term Anthroposophical Society is used. The plaintiffs say that the terms GAS and AS are synonymous, whereas the defendants say that, whenever the Anthroposophical Society is mentioned, it is the CCS that is meant.

The court joins the plaintiffs in their belief that the two terms are used synonymously. This is made clear first of all by the membership cards themselves. On the front we read AS, and on the back, the term GAS is used. Further proof is found in the minutes of the eleventh ordinary general meeting of the Society of the Goetheanum held on June 29, 1924. The minutes state that the Society [*of the Goetheanum*] will in future exist only as a subdivision of the AS. But there is proof (cf. the following paragraph) that the AS just mentioned must mean precisely the GAS, and, indeed, cannot mean anything else.

The absorption of the Society of the Goetheanum by the GAS – in legal terms, the implicit fusion – is further clarified and proven in the minutes of the third extraordinary general meeting of the Society of the Goetheanum of June 29, 1924. The text speaks of a new constitution – proving that more than another name change of the Society of the Goetheanum (the former St. John Building Society) into the GAS is being undertaken. A complete reorganization and a change of content are in progress. Material submitted by the plaintiffs likewise makes clear that the former Society of the Goetheanum became a subdivision of the GAS, which served as an umbrella organization over this and other subdivisions.

In the *Nachrichtenblatt* of May 3, 1925, we may read that it was still possible to finalize plans for the reorganization of the different institutions shortly before Rudolf Steiner's death. Here, too, it becomes plain that more than a name change was undertaken in 1925 – that a comprehensive reorganization took place. In this context, Board member Paul Mackay's

⁸ Although Rudolf Steiner's original statutes or Principles are not legally registered, they are nevertheless the guiding force in conducting the society, and, as such, even legally binding, because Article 3 of the registered, legally binding GAS statutes declares that they are the ones to be followed.. The text of Article 3 of the Statutes: "The Society pursues its tasks and goals according to the Principles given to it by Rudolf Steiner and accepted by the members at Christmas of 1923".

statement in the *Nachrichtenblatt* # 19 of May 10, 1998 is relevant: “The GAS was created by the Christmas Conference of 1923 and has existed ever since.” This, too, is clear proof of the fact that today’s GAS is in continuity with the society founded in 1923 and legally fused in 1925.

In addition, we refer to the statutes of the GAS, in which you may read that the GAS is responsible for the “promotion of artistic, scientific, and educational initiatives” (Article 3) or, also “Concerns related to spiritual/cultural goals and tasks of the Society are only to be dealt with in free discussion” (Article 8).

Therefore we cannot share the defendants’ view that the GAS is a society concerned only with administration. As clearly proven by the above facts, the GAS is a society concerned with the nurture of all interests and goals of the anthroposophical movement.

The letterhead of the *Nachrichtenblatt* sheds much light on this issue, as well. Even though the newsletter is “only” for the members of the GAS, as of 2003 it had been in existence for 80 years. The count began in 1923, the year in which Rudolf Steiner founded the CCS. This, too, is important proof of the fact that the legal society CCS was completely fused into the GAS and lives on in that society.

The November 5, 1925 issue of the *Nachrichtenblatt* contains an invitation to the first ordinary general meeting of the GAS. The defendants always claim that the GAS is only the Society of the Goetheanum with its name changed. But that society clearly existed long before 1925 – in fact, it has existed since June 8, 1913. Following the defendants’ logic, the 1925 regular general meeting would have had to be the 13th, not the first meeting.

In the *Nachrichtenblatt* of November 29, 1925, we may read that “all old membership cards are now invalid; only the membership cards of the General Anthroposophical Society in Dornach are proof of membership”. There is never any mention of a possible second society in any of the documents submitted to the court or any historical document.

In another excerpt from the *Nachrichtenblatt* of March 22, 1925, the last paragraph is relevant. There is mention of “old” and “new” members. What is meant is, on the one hand, the members of the Society of the Goetheanum, and on the other, the more numerous members of the society founded in 1923, who were newcomers to the society resulting from the fusion undertaken in 1925. This indicates again that more than a name change took place – that administratively as well as spiritually and culturally the anthroposophical movement was completely restructured.

The 1999 annual report of the GAS is interesting here, too. First, it proves that the GAS was considered the society founded in 1923, showing once again that the CCS and the GAS were conceived of as belonging together. In non-technical language, it “found its way into” the GAS. Legally put, an implicit fusion took place. Second, the annual report proves that, contrary to the defendants’ claims, the terms GAS and Anthroposophical Society are used synonymously. Otherwise, why would the annual report of the GAS include an accounting of the year’s events within the Anthroposophical Society?

There can be no doubt that the CCS has not existed as an independent legal body for a long time (namely, since it was conclusively joined with the GAS in 1925), because the evidence is overwhelming. Nevertheless, we would like to comment on several more items the defendants have submitted as evidence.

The May 11, 1925 excerpt from the records of the registry office submitted by the defendants disproves their theory that the GAS merely took over the tasks of the Society of the

Goetheanum [*which were only administrative*]. Under the heading “Nature of the Business” we read “the nurture of artistic and scientific endeavors.” Administrative tasks are not even mentioned, even though by and by the GAS took on these tasks as one job among many, for the very reason that the GAS was the only remaining society. Incidentally, the name General Anthroposophical Society already points toward this conclusion. Why ever should a purely administrative society be given this name, which signifies that it is in charge of a wide range of activities?

Ms. Marjorie Spock’s statement demands closer examination, too, since the defendants referred to it during the main hearing. This piece of alleged evidence seems a little strange to the court. In this statement handed in by the defendants as evidence, Ms. Spock allegedly claims she joined the Society on December 28, 1923 as a founding member and that she is still a member today (at least she was as of May 17, 1962, when she signed the statement). This piece of evidence of the defendants includes an address, but not a copy of her membership card. Neither is there any mention of her age – a significant omission, since, if Ms. Spock is indeed still among the living (which the defendants did not state), she has reached a very advanced age. And, as if all this were not strange enough, in her statement she commissions the Board of the GAS to call a members’ meeting of the CCS. The defendants are acting in a contradictory manner. Why does an alleged member need to commission them to hold a meeting when, as they claim, they are already running the CCS by *negotiorum gestio* [*see Glossary*]? Moreover, the defendants say that, for the protection of Ms. Spock, they are assuming all responsibility for the invitation *vis a vis* the public at large. Because of these inconsistencies, and because the statement was not notarized and not sworn, the court considers this document to carry very little weight.

Finally, the defendants have submitted two membership cards as evidence. Both were signed by Albert Steffen, who presided over the GAS for almost 40 years, up to the time of his death on July 13, 1963. According to the defendants, these cards are proof of membership not in the GAS, but in the CCS. We cannot go along with this view, either. It has been proven that the terms GAS and Anthroposophical Society are used synonymously and the latter term clearly does not mean the CCS.

The relationship of the GAS statutes to the document known as the Principles was a frequent point of dispute. According to the plaintiffs, the Principles are the original statutes of the society founded in 1923 – of the Society as a legal body. It has been conclusively shown that these Principles could not be entered in the commercial register, and that therefore the [*registered*] statutes of the Goetheanum Society were changed into the statutes of the GAS. According to this view, the Principles, though distinct from the registered statutes, are a basic GAS document. The defendants, however, see the Principles as the statutes of the CCS. The court finds that a quick perusal of the “pink booklet” [*a basic anthroposophical handbook containing both the Statutes and the Principles*] resolves this conflict. This booklet makes clear that the Principles do indeed date back to 1923. The statutes of the GAS, on the other hand, “meet the legal requirements for publicly recognized associations. On the basis of the Statutes and By-Laws [*meaning Principles and Statutes*] the Society can set to work ever and again on the fulfillment of its task: the cultivation of true esotericism in complete openness.” [*Existing translation; emphasis added by court*]. It is clear, then, that the Principles and the Statutes of the GAS exist side by side; the Principles in unregistered, but the Statutes in registered form. This is confirmed by a passage from the Nachrichtenblatt of December 15, 1963, which clearly states that the original statutes of the Society of the Goetheanum were altered, with the goal of bringing them as close as legally possible to the 1923 statutes – the Principles we have been speaking of. The material collected by archivist Uwe

Werner is of decisive importance here, as well. It clearly proves that the original statutes of the society founded at Christmas in 1923, after they turned out to be unregistrable, were re-christened Principles in order to distinguish them from the statutes of the GAS, which have been valid from 1925 to the present. We find no evidence for the defendants' claim that the Principles are the unregistered statutes of the CCS.

The piece of evidence # 8 [*the "pink booklet"*] is further noteworthy in confirming that the terms GAS and Anthroposophical Society were always used synonymously. At first, it speaks of the Principles of the Anthroposophical Society, then of the Principles of the GAS. Finally it states, "on the basis of the Statutes and the By-Laws [*i.e., Principles and Statutes*] the Society ..." [*Existing translation, emphasis added by court*]. Here, once more, is confirmation of what the entire legal proceeding has proved again and again: We may – indeed, we must – recognize that there is only one society. And that is the GAS, bearing two interchangeable names, the GAS and the Anthroposophical Society.

In conclusion, we find that legally an implicit fusion [*konkludente Fusion*] is not only entirely possible but in this case actually took place. We refer to the Riemer Legal Opinion. The CCS, founded by Rudolf Steiner at Christmas in 1923 as a civil society according to Article 60 ff of the Swiss Book of Civil Law was, in 1925, fused with the GAS, also a society according to Article 60 ff of the Swiss Book of Civil Law, and from that point on it has been living on in this, the only remaining general society of Anthroposophy. The evidence handed in by the plaintiffs and the Riemer Legal Opinion, as well as the conviction of all Board members of the GAS up to very recent times – prove that the GAS is the society founded at Christmas in 1923. This last consideration shows that the Board of the GAS could not possibly have been executing the affairs of the CCS in a case of *negotiorum gestio*."

IX Determination of Costs

[*The clerk of court mistakenly uses the same number, IX, twice in a row.*]

"According to # 101 Paragraph 1 in the Book of Civil Law the defendants as losers in the suit are responsible for the entire court costs and the costs of the opposing party." *The translator summarizes a lengthy explanation here: The costs of the opposing party were determined according to the guidelines of the court of Kanton Solothurn for lawsuits of this nature. In setting the costs, detailed below, the court also took into consideration the considerable difficulty of the case, the amount of time it consumed, and the financial position of the parties. The damages have accordingly been set at 34,000 franks and the charge for the judgment at 20,000 franks. [The plaintiffs, at this point, had spent 180,000 franks to mount the suit].*

“This Court of Law has **decreed**:

1. That the General Anthroposophical Society (Christmas Conference) is not a society according to Article 60 ff in the Swiss Book of Civil Law.
2. The registry office of Kanton Solothurn in 4710 Klus-Balsthal, Schmelzihof, is directed to delete the defendant 1 [the GAS (CC)] from the commercial register as soon as this judgment goes into effect.
3. The defendants are jointly responsible for damages in the extent of 34,000 Swiss francs.
4. The defendants are jointly responsible for the court costs of 4,200 francs and a 20,000 frank fee for the judgment, which comes to a total of 24,200 francs.

I verify that this record is faithful and accurate.

Dornach, March 9, 2004

Signed by Thomas Fischer, Clerk of the Court.”

Commentary and Translation by Christiane Marks (cbmarks@taconic.net).

Both the German and the English text, as well as background information about the constitution issue will be available at the website 888GOYA.org starting in mid-December, 2004.