

RELIGIOUS
CORPORATIONS:

Pension Board of the Methodist
Episcopal Church is not a reli-
gious corporation.

September 9, 1942

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The Reverend William K. Chatten
Minister and Commissioner
Fairfax, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you request an opinion from this department on whether or not "The Board of Pensions of the Methodist Church, Incorporated in Missouri" is authorized to be incorporated and to function under the Constitution and Laws of the State of Missouri.

Generally it has been the policy of this department to render official opinions only to certain officers and departments named in the statutes, but due to the importance of this question to your denomination and as it is more or less of a public nature we are giving this as an official opinion.

From your letter it appears that you are interested to know whether or not the formation of this corporation is in violation of the provisions of Section 6, Article 2 of the Missouri Constitution. This Section reads as follows:

"That no religious corporation can be established in this State, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages and cemeteries."

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A religious corporation is defined in 54 C. J., page 7, Section 3, as follows:

"A religious corporation is a corporation whose purposes as defined by charter or statute are directly ancillary to divine worship or religious teaching, although the scope and application of the term may be defined and restricted by the terms of the statute in which it is used. A corporation established for purely academic purposes, for education in literature and in the arts and sciences, is in no sense a religious corporation, even though engaged in educating youths for the ministry, or placed under the management of a religious body. Nor is a charitable society made into a religious corporation by being controlled by a church. * * * "

From an examination of the records in the Corporation Department of this State we find that your corporation was formed in 1918 under the authority of Article 10, Chapter 34, Revised Statutes of Missouri, 1909, which is contained in the same article and chapter in the 1939 Revised Statutes, and which relates to the incorporation of benevolent, religious, scientific, fraternal-beneficial, educational and miscellaneous associations. It was formed by a pro-forma decree from the Circuit Court of the City of St. Louis. The articles of incorporation were amended in 1940, in the same court, but the amended articles did not change the original purposes for which the corporation was formed.

Article 2 of the Articles of Incorporation of the Board of Pensions of the Methodist Church incorporated in Missouri, provides as follows:

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"The object and purpose of this association shall be to provide for the support and maintenance of the super-annuated, worn-out or permanently disabled preachers, their widows and orphans, of the Methodist Church, who otherwise would have no sufficient means for their support and maintenance."

Article 4 of said Articles of Incorporation provides as follows:

"Only such persons shall be eligible to become and continue members of this association who are and shall continue to be members of the Board of Pensions to be selected in such manner as may be authorized or provided by the general conference of the Methodist Episcopal Church."

Article 7 of said Articles of Incorporation provides as follows:

"All funds raised as herein provided and available for appropriation and distribution by this association shall be distributed to super-annuated, worn-out or permanently disabled preachers, their widows and orphans, of the Methodist Episcopal Church or others, according to the rules and regulations provided or enacted, from time to time, by the General Conference of the Methodist Episcopal Church, or as may be provided by the laws of said association."

The character of a corporation is to be

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judged by the objects of its creation as expressed by its charter. Wyatt v. Stillman Institute, 303 Mo. 94, 104.

Since a religious corporation can only be formed to hold title to real estate for church edifices, parsonages and cemeteries, then if this corporation is a religious corporation it would be functioning in violation of said Section 8 of Article 2 of the Constitution, supra. However, if it was validly incorporated for benevolent purposes then it is a valid organization. Section 5439 contained in said Article 10, Chapter 33 R. S. Mo. 1939, provides in part as follows:

"Any association formed for benevolent purposes, including any purely charitable society, hospital, asylum, house of refuge, reformatory and eleemosynary institution, fraternal-beneficial associations, or any association whose object is to promote temperance or other virtue conducive to the well-being of the community, and, generally, any association formed to provide for some good in the order of benevolence, that is useful to the public, may become a body corporate and politic under this article; * * * * "

In the case of Helpers of Holy Souls v. Law, 287 Mo. 667, the plaintiff corporation was attacked because it was alleged to be a "religious corporation". The purposes for which this corporation was formed were stated at local citation 673 as follows:

"Article (3): The purpose and object of

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said corporation shall be to maintain the establishment now under our charge in said city of St. Louis, known as "The Society of the Helpers of the Holy Souls," and also others that we may hereafter establish in said city or in the State of Missouri, and in connection with same, to gratuitously visit the sick poor daily, irrespective of creed or color, rendering them every assistance in our power by nursing them in their own homes; to organize in our convent, meetings and sewing classes for the working class and poor children and impart religious instruction to same, and assist said classes and children as best we can; to maintain a free circulating library and perform various other gratuitous works of charity and benevolence."

The Court, after analyzing and digesting the purposes for which this corporation was formed, held that it was a valid corporation formed for benevolent purposes even though religious instruction was imparted. At local citation 676 the Court, in discussing this contention, said:

"The second objection of appellant relates to the expression under subdivision 'b' of the powers given to the plaintiff to provide meetings and sewing classes for the working class and poor children and impart religious instruction to same, etc., it being claimed that these underlined words embraced a power which could not have been included in the charter. If, as is inferable from the agreed facts, these underlined terms, considered

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apart, implied the inculcation of a particular faith by teaching its tenets, then they are not an object for which a legal corporation may be exclusively formed under the Constitution of this State, and if the present corporation had been chartered for that purpose alone, or is carried on only for that object, then its franchise would be a nullity or subject to revocation at the suit of the State. (St. Louis v. Shields, 62 Mo. 1. c. 252; Haskell v. Worthington, 94 Mo. 1.c. 569; Black v. Early, 208 Mo. 1.c. 303; Klux v. St. Stanislaus Parish, 137 Mo. App. 1.c. 357.) But an inspection and analysis of the powers granted in plaintiff's charter do not sustain the position that it was only created to teach and propogate the Roman Catholic religion, nor that this has been its only employment. The specific powers and active duties prescribed in the charter of plaintiff, as has been shown, provide for the doing daily of many acts of diverse nature in helping the helpless and alleviating the sufferings that come from human poverty and want, purely from motives of charity and the sense of duty on the part of the doers of these acts. It is to such services that the corporation seems to have devoted its practical efforts. * * * * "

Comparing the purposes for which the Helpers of the Holy Souls was incorporated with the purposes for which the "Board of Pensions of the Methodist Church, Incorporated in Missouri", was incorporated it will be found that the purposes for which the Helpers of the Holy Souls was incorporated were much closer to being a religious corpora-

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tion than were the purposes for which the Board of Pensions of the Methodist Church was incorporated.

The fact that the beneficiaries of this pension fund are limited to members of the Methodist Church would not necessarily make it a religious corporation. In the case of State ex rel. Morris, Collector, v. Board of Trustees of Westminster College, 175 Mo. 52, 58, the Court, in discussing this principle, said:

"It has been held by this court that a corporation might lawfully be formed under our statute regarding fraternal beneficial societies, which limited its membership to members of a particular church, and that such was not a religious corporation. (Franta v. Bohemian R. C. Cent. Union, 134 Mo. 304.) And our St. Louis Court of Appeals has held that a colonization society limiting its membership to members of a particular church was not a religious corporation. (Colonization Society v. Hennessy, 11 Mo. App. 555.) In that case the court, per THOMPSON, J., said: 'Is this then a religious corporation? We do not think it is. . . It is apparent from these provisions that the primary object of this association is colonization, and not the propagation of religion. It is true that the scheme of colonization is confined to persons of a particular religious faith; but there is certainly nothing in the section of the Bill of Rights above quoted which prohibits persons of a particular religious faith from settling together so that they may be able to have a church in which to exercise the offices of their faith and a

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school in which to educate their children in the faith of their fathers, if they shall choose to do so.'"

The above authorities and facts clearly convince us that the incorporation of the Board of Pensions of the Methodist Episcopal Church, Incorporated in Missouri, and the purposes for which this corporation was formed do not violate the provisions of the State Constitution nor any of the laws of this State.

CONCLUSION

It is, therefore, the opinion of this department that the above mentioned pension fund corporation does not come within the restrictions mentioned in the Constitution of Missouri relating to religious corporations, and that it may legally function as such corporation in this State.

Respectfully submitted,

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APPROVED:

ROY MCKITTRICK
Attorney-General