

CHAPTER 315

RELIGIOUS CORPORATIONS AND ASSOCIATIONS

315.01 FORMATION; TRUSTEES; ELECTION, APPOINTMENT, DESIGNATION.

If the St. Paul Branch of the Salvation Army sees fit to and does incorporate within a reasonable time, the incorporation as far as the facts in the instant case are concerned would be in the nature of a church, and the devise contained in the Eaton will creates an absolute gift to the church and not a devise in trust and is valid. *Lane v Eaton*, 69 M 141, 71 NW 1031.

A spiritualistic church congregation incorporated under section 315.01, whose articles, constitution, and by-laws provide for affiliation with the State and National Spiritualistic Associations as part of the fundamental purpose for which the church was founded, cannot by a majority vote, as against a dissenting member, amend its charter to effect a transfer of affiliation to another organization or divert the use of its property to a purpose outside the purposes of its organization; and this notwithstanding the court cannot question the wisdom of the church founders regarding religious doctrine; and the mere act of affiliating with the State and National Associations vests no property rights in said State or National Associations. *Trinity Church v First Spiritualist Church*, 221 M 15, 20 NW(2d) 535.

In matters spiritual, as distinguished from matters temporal, the court will not question the wisdom of the church founders in their choice of religious doctrine, sect, ecclesiastical organization, or government. The mere act of affiliating with state or national religious associations on the part of local congregation does not thereby vest in such state or national association a property right in local congregation's realty. *Trinity Church v First Spiritualist Church*, 221 M 15, 20 NW(2d) 535.

315.05 TRUSTEES, ERECT AND REPAIR CHURCHES AND OTHER BUILDINGS, GENERALLY MANAGE TEMPORAL AFFAIRS.

Defendant church corporation was formed to establish and maintain a church which should adhere to the orthodox doctrines of the Swedish Evangelical Lutheran Church. The evidence sustains a finding that defendants placed in the pulpit of the church as its regular pastor ministers of the denomination of "Mission Friends" who taught its teachings and adhered to its forms and rejected many of the teachings and ceremonies of the Lutheran church. Such acts constituted an unwarranted diversion of the church property, and proper relief was granted to those members who adhered to the doctrines of the Swedish Evangelical Lutheran Church. *Lindstrom v Tell*, 131 M 203, 154 NW 969.

315.09 GENERAL POWERS OF RELIGIOUS CORPORATIONS.

Where the conditions under which a religious society is formed and its property acquired require adherence to a particular creed or system of doctrine and church polity, a minority of the membership may insist upon carrying out the purposes for which the society was organized, and a majority will not be permitted to divide the common property to other uses or to use it for the support and maintenance of doctrines or a polity essentially at variance with its original constitution. The trust must be administered substantially in accordance with the intention of the founders, but changes in matter of form in the conduct of the worship or in administration of the ordinances not affecting the substance of doctrine or discipline may be made by congregations, and in the absence of any other lawfully established rule may be determined by the majority of the members entitled to vote. In the instant case, *German Lutheran St. John's Church* may transfer its affiliation from the Buffalo Synod to the Ohio Synod. *Schradi v Dornfeld*, 52 M 465, 55 NW 49.

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Members who secede from a religious society forfeit their rights in church property; but in case the members separate because of honest differences of opinion but both parties adhere to the doctrines of the church, the court may divide the property between them in proportion to their numbers at the time of the separation. *Lost River Cong. v Thoen*, 149 M 379, 183 NW 954.

Testator being domiciled in Minnesota and there being no statute forbidding bequests to foreign religious or charitable organizations, Minnesota courts will award a bequest to such foreign organizations whenever it appears by proper proof that under the law of the domicile of such legatee, the legatee is competent to take and use the bequest for the purposes intended by the testator. *Henrikson v Swedish Baptist Mission*, 163 M 176, 203 NW 778.

The property, being owned by an incorporated Lutheran church, cannot be devoted, as against the objection of any member, to a faith or doctrine which is not fundamentally Lutheran and in harmony with the faith and doctrine set forth in its articles and constitution. *Rock Dell Cong. v Mommsen*, 174 M 207, 219 NW 88.

Charitable institutions in Minnesota are liable for the negligence of their officers and employees on the same basis as other corporations and individuals. *Geiger v Simpson Church*, 174 M 389, 219 NW 463.

In the instant case there were two separate organizations bearing the name "Minnesota Annual Conference" of the Methodist Episcopal Church, both having the same membership, one being a corporation which is the defendant in this case, and the other being an unincorporated association. The defendants in this case contend that the contract was with the unincorporated association. Where members of a church organization become incorporated for the purpose of carrying on their business, the organization does not necessarily become merged in the corporation for all purposes; in the instant case, the question as to which organization has the right to sue is a question of fact. The transaction in question was a business transaction, a transfer of property and property rights, and the jury properly found the transaction within the power of the defendant corporation and not ultra vires. *Parker College v Minnesota Annual Conference*, 182 M 501, 235 NW 12.

Where the laws of the church provide that the election of trustees of a local church shall be effective only upon confirmation of the bishop or other church authority, such confirmation must be had to make such an election effective. A church organization may establish tribunals to decide questions within the organization; and even though a local church is incorporated under the state laws, such incorporation does not necessarily make a church independent of the rules and regulations of the parent church. *Russian Orthodox Church v Kulik*, 202 M 560, 279 NW 364.

315.10 POWERS OF CERTAIN CORPORATIONS.

The court in the exercise of its equitable powers has jurisdiction to determine whether the repose of the dead may be disturbed; but as between those deciding removal and those opposing it, the proceeding in substance follows the familiar pattern of an adversary contest. The essential elements of the proceedings are common to those of other equitable proceedings. *Uram v St. Mary's Russian Church*, 207 M 569, 292 NW 200.

315.14 LANDS HELD IN TRUST.

The court found that the action of defendants constituted a schism in the church and that defendants had separated themselves from the church. The evidence sustains the finding. In the event of a schism in a church, any church property devoted to the propagation of particular doctrines remains with the organization that remains loyal to those doctrines. *Lindstrom v Tell*, 131 M 204, 154 NW 969.

A church corporation cannot amend its articles so as to change the fundamental faith or religion for the promotion of which it was organized without the consent of all the members. Courts will prevent the violation of the trust with which its property is impressed. By a majority vote the church may amend its articles in regards of administrative and temporal matters or mere forms of worship not

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affecting religious doctrine or discipline. *Mattson v Saastamoinen*, 168 M 178, 209 NW 648.

To create a de facto corporation there must be a law under which such a corporation may lawfully be created, a colorable and bona fide attempt to organize a corporation thereunder, and the exercise of corporate functions by the organization so formed. Under that definition the unincorporated church society in the instant case having made no attempt to incorporate prior to its consolidation was not a de facto corporation and could not acquire title by adverse possession. *Mabel Lutheran Church v Cadwallader*, 172 M 471, 215 NW 845.

Charitable trusts. 14 MLR 589.

315.22 EXISTING CHURCHES MAY INCORPORATE; REINCORPORATION; PROPERTY TO VEST.

Unincorporated church societies and their right to incorporate: *Lane v Eaton*, 69 M 141, 71 NW 1031; *Mabel Lutheran Church v Cadwallader*, 172 M 471, 215 NW 845.

315.26 CONSOLIDATION OF PARISHES, CONGREGATIONS, OR CHURCHES.

In matters not of doctrine or faith but relating to the conduct of the temporal affairs of a corporation and the disposition of its property for church purposes, the courts will not interfere with the action of a legal majority unless it is clearly shown that such action is unlawful and contrary to the constitution of the congregation or the synodical body with which it is affiliated. *Spenningsby v Norwegian Evangelical Cong.* 152 M 164, 188 NW 217.

315.29 RIGHT TO HOLD PROPERTY.

See, *Spenningsby v Norwegian Evangelical Church*, 152 M 164, 188 NW 217; *Mabel Lutheran Church v Cadwallader*, 172 M 471, 215 NW 845.

315.30 AMENDMENT OF CERTIFICATE.

Where the petition charged that respondents were wrongfully usurping the office of trustees of the First Unitarian Society, on respondents motion the court properly vacated an ex parte order issuing a writ of quo warranto directing respondents to show by what warrant they claimed the right to act as trustees of a named religious corporation organized under the laws of Minnesota, for it conclusively appears from the petition, writ, and affidavits filed that respondents were in fact and law such trustees, and hence the writ had been improvidently issued. *Dollenmayer v Ryder*, 205 M 207, 286 NW 297.

315.34 CONSOLIDATION OF RELIGIOUS CORPORATIONS.

Consolidation of qualified with unqualified units. 12 MLR 297.