Act To Incorporate The Inhabitants Of The City Of Washington

Source unknown...bits and pertinent pieces, but cites are unvetted !
Always check cites and information before using !

BODY POLITIC OR CORPORATE. A social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good, Uricich v. Kolesar, 54 Ohio App. 309, 7 N.E.2d 413, 414.

A term applied to a corporation.

County. Bazzoli v. Larson, 40 Ohio App. 321, 178 N.E. 331, 332; Lindburg v. Bennett, 117 Neb. 66, 219 N.W. 851, 855.

Municipality. Middle-States Utilities Co. v. City of Osceola, 1 N.W.2d 643, 645, 231 Iowa 462; Lindburg v. Bennett, 117 Neb. 66, 219 N.W. 851, 855.

School district. Patrick v. Maybank, 198 S.C. 262, 17 S.E.2d 530, 534.

State or nation or public associations, Utah State Building Commission, for Use and Benefit of Mountain States Supply Co., v. Great American Indemnity Co., 105 Utah 11, 140 P.2d 763, 767.

BODY CORPORATE. A corporation public or private.
School districts, Commonwealth v. School Dist. of Pittsburgh, Allegheny County, 343 Pa. 394, 23 A.2d 496.
State Building Commission, Utah State Building Commission, for Use .and Benefit of Mountain States Supply Co., v. Great American Indemnity Co., 105 Utah 11, 140 P.2d 763, 767.

[*Above definitions from Black's Law Dictionary, 4th Ed.*]

Begin Act of 1871...

Act to incorporate the inhabitants of the City of Washington, in the District of Columbia (May 3, 1802, 2 Stat. 195) "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the city of Washington be constituted a body politic and

corporate, by the name of a mayor and council of the city of Washington, and by their corporate name, may sue and be sued, implead and be impleaded, grant, receive, and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of the said city; and may have and use a city seal, which may be broken or altered at pleasure; the city of Washington shall be divided into three divisions or wards, as now divided by the lefy court for the county, for the purpose of assessment; but the number may be increased hereafter, as in the wisdom of the city council shall seem most conductive to the general interest and convenience."

Sec. 7 says "And be it further enacted, That the corporation aforesaid shall have full power and authority to pass all by-laws and ordinances"

This act is continued, altered and amended in additional acts, such as on February 24, 1804, 8th Congress, Sess. I, Ch. 14, 4 Stat. 254; the 16th Congress, Sess. I, Ch. 104, May 15, 1820, page 583 and additional acts.

An Act to incorporate the trustees of the Female Orphan Asylum in Georgetown, and the Washington City Orphan Asylum in the District of Columbia. (May 24, 1828; 20th Congress, Sess. I, Ch 88; 6 Stat. 381) This Act incorporated the trustees and "their successors in office" and "declared and constituted a corporation and body politic in law and in fact, to have continuance forever".

An Act to continue, alter and amend the Charter of the City of Washington. (13th Congress, Sess. I, Ch. 42; May 17, 1848; Page 223) "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of May fifteenth, eighteen hundred and twenty, entitled "An Act to incorporate the inhabitants of the city of Washington, and to repeal all acts heretofore passed for that purpose," and the act of May twenty-sixth, eighteen hundred and twenty-four, entitled " An Act supplementary to 'An Act to incorporate the inhabitants of the city of Washington,' passed the fifteenth of May, one thousand eight hundred and twenty, and for other purposes," and the act or acts supplemental or additional to said acts which were in force on the fourteenth day of May, eighteen hundred and forty, or which may, at the passing of this act, be in force, be and the same

are hereby continued in force for the term of twenty years from the date hereof, or until Congress shall by law determine otherwise"

An Act to provide a Government for the District of Columbia (41st congress. Sess. III. Ch 61, 62., February 21, 1871, page 419-429) Sec. 1 states "That all that part of the territory of the United States included within the limits of the District of Columbia be, and the same is hereby, *created into a government by the name of the District of Columbia*, by which name it is hereby constituted a body corporate for municipal purposes, and may contract and be contracted with, sue and be sued, plead and be impleaded, have a seal, and exercise all other powers of a municipal corporation"

Sec. 28 states "That the said legislative assembly shall have power to create by general law, modify, repeal, or amend, within said District, corporations aggregate for religious, charitable, educational, industrial, or commercial purposes, and to define their powers and liabilities: Provided, That the power of corporations so created shall be limited to the District of Columbia."

Sec. 41 states "And upon the repeal of the charters of the cities of Washington and Georgetown, the District of Columbia be, and is hereby, declared to be the successor of said corporations, and all the property of said corporations, and of the county of Washington, shall become vested in the said District of Columbia,"

An act providing a permanent form of government for the District of Columbia. (June 11, 1878; 45th Congress, Sess. II, Ch. 180; 20 Stat. 102) "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the territory which was ceded by the State of Maryland to the Congress of the United States **for the permanent seat of the government of the United States shall continue, to be designated as the** District of Columbia**. Said District and the property and persons that may be therein shall be subject to the following provisions for the government of the same, and** also to any existing laws applicable thereto not hereby repealed or inconsistent with the provisions of this act. **The** District of Columbia shall remain and continue

a municipal corporation, **as provided in section two of the Revised Statutes relating to said District, and the Commissioners herein provided for shall be deemed and taken as officers of such corporation; and all laws now in force relating to the District of Columbia not inconsistent with the provisions of this act shall remain in full force and effect." This act explained the powers for running the municipal corporation known as the District of Columbia.**

Sec. 6 (20 Stat. 102, Ch. 180) says "the board of metropolitan police and the board of school trustees shall be abolished; and all the powers and duties now exercised by them shall be transferred to the said Commissioners of the District of Columbia, who shall have authority to employ such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act.

AN ACT To amend an Act entitled "An Act to incorporate the trustees of the Female Orphan Asylum in Georgetown, and the Washington City Orphan Asylum in the District of Columbia," approved May 24, 1828, as amended by Act of June 23, 1874. (Pub. L. 363, 47 Stat. 858; Feb. 20, 1933) "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to incorporate the trustees of the Female Orphan Asylum in Georgetown, and the Washington City Orphan Asylum in the District of Columbia," approved May 24, 1828, as amended by Act of June 23, 1874 (relating to the amount of annual income from property belonging to the trustees of either of said corporations), is amended by striking out "to a sum not exceeding $25,000 per annum" and inserting in lieu thereof "and such clear annual income of each of said corporations shall be applied to and for the purposes for which it was incorporated."”

Civil Incorporation of Church Property
http://www.newadvent.org/cathen/07719b.htm

Christianity at its very beginning, found the concept of the corporation well developed under Roman law and widely and variously organized in Roman society. It was a concept that the early Christians soon adapted to their organization and, as a means of protection in the periods of persecution. Whether we attach to the burial corporations (*collegia tenuiorum* or *funeraticia*) of the early Christians the importance that De Rossi and other archæologists do, there can be no doubt that in the second and third centuries of the Christian era the corporation was generally resorted to as a means of holding, and transmitting church property. In later times this concept fitted in naturally with the genius of the religious orders, and the great monastic establishments of the Middle Ages were organized on that plan. "In the Middle Ages, all life", says Dr. Shahan (Middle Ages, p. 346), "was corporate. As religion was largely carried on by the corporations of monks and friars, so the civic life and its duties were everywhere in the hands of corporations." The mortmain legislation of the Middle Ages indicates that the corporation, as adapted for the holding of ecclesiastical property, was not only a secure, but a prosperous method of tenure in times of feudal warfare. In one instance, the Middle Ages improved upon the Roman concept of the corporation. The corporation sole was a refinement of the canon lawyers. Its most familiar instance in English law is the bishop, the vicar, or the pastor, who succeeds to the rights of an office and by consequence to the sole custody of its temporalities. Blackstone's division of corporation into lay and ecclesiastical (Commentaries, Book II, ch. 18) has no application in the United States where all incorporated religious societies are treated as private civic corporations.

In the United States

While in England corporations exist or are created by prescription, royal charter, or Act of Parliament, in the United States they are created by the state legislature, either by special Act or under the provisions of general statutes. Congress may create corporations only as incident to its powers of government, as set forth in the federal constitution, and not in any case, religious corporations. General provisions for the incorporation of religious societies are found, at an early date, in the laws of most of the states (as New York, in 1784). And provisions for the incorporation of the churches of special denominations soon followed (in New York, for the Protestant Episcopal Church in 1813; for the Society of Friends in

1839; for the Catholic Church in 1863). Prior to the Revolution, when the Catholic Church was without civil rights in the colonies, title to its property was held in the name of individuals. The Jesuit estates in Maryland were so held for one hundred and fifty years. With the establishment of the United States, Catholic bodies proceeded after the fashion of their fellow citizens of other denominations, to incorporate. The religious orders were among the first: the Augustinian Fathers at Philadelphia, in 1796; the Sulpicians at Baltimore, in 1805; the Jesuits at Georgetown, in 1815; some years later the Dominicans, by Act of legislature in Ohio, etc. With the acquiescence of Archbishop Carroll many parishes also incorporated; St. Mary's and Holy Trinity, two Philadelphia congregations, as early as 1788. There was no uniform plan followed in these articles of incorporation, and no sufficient safeguarding of ecclesiastical discipline. In the ensuing years a number of disedifying controversies arose between lay trustees on the one hand and the bishop or his representative, the pastor, on the other, chiefly relating to the right of the bishop to designate for the congregation a pastor not of their preference, or (as in the case of the famous Hogan schism in Philadelphia, 1821-2) to exclude a pastor deemed unfit or disqualified. Troubles of this kind led to a Brief dated August 22, 1822, from Pius VII to Archbishop Ambrose Maréchal, in which "the immoderate and unlimited right which trustees or the administrators of the temporal properties of the Church assume independently of the diocesan bishops", is condemned. As a further consequence, the fifth decree of the First Provincial Council of Baltimore (1829), orders: "Since lay trustees have too often abused the power given them by the civil law, to the great detriment of religion, we greatly desire that in the future no church shall be built or consecrated unless it shall have been assigned, by written instrument to the bishop in whose diocese it is to be built, wherever this can be done." This policy, in a general way, governed the tenure of Catholic church property in the United States for the ensuing generation, and by 1855 Catholic churches in the United States (except those held by religious orders) were almost wholly in the name of the bishops.

But in the meanwhile, it appears to have been recognized that the holding of church property in the name of the bishop, under the rules of canon law, was fraught with some dangers and inconveniences. In 1855 the New York legislature had passed a law providing that "no interest in property, real or personal, should be conveyable or descendible to any ecclesiastic or his successor in any ecclesiastical office". There was similar legislation in Pennsylvania and Ohio. Such legislation, with the waning of the anti-Catholic spirit which had fostered it, was

soon repealed; but in 1863, a measure for the incorporation of Catholic church property, drawn by the eminent lawyer, Charles O'Conor, at the request of Archbishop Hughes, was enacted by the New York legislature. This measure may be regarded as another deviation in the policy of the hierarchy, away from the plan of vesting in fee simple the large temporalities of great dioceses in one man, even though subject to the trusteeship prescribed in the canon law, and a return to some of the features of lay trusteeship, limited and safeguarded however by the rules of ecclesiastical discipline.

Meanwhile such instances as the attempt of European relatives in 1868 to contest the will of Bishop Baraga, devising the church property of the Marquette Diocese to his successor, and the Purcell failure in 1879 (involving two hundred pieces of church property and a long period of litigation), were so persuasive that "the Third Plenary Council of Baltimore (1884), in its decrees on the subject of church property, urges the bishops to place all church property under the protection of legal incorporation, where it can be done safely, as in the State of New York; where such incorporation cannot be made it requests the bishop to have himself made a corporation sole and thus hold the property as any other corporation would; and where this cannot be done it permits him to hold the property in fee simple" (Rev. J. M. Farley, now Archbishop Farley, in "The Forum", June, 1894). Justice Strong, formerly of the United States Supreme Court, says: "Almost all, if not all, the questions mooted in the civil courts of this country, relating to church polity, discipline, officers or members, have arisen incidentally in controversies respecting church property" (Relation of Civil Law to Church Polity, p. 40). It is recognized in numerous decisions of American courts (Am. and Eng. Ency. of Law, XXIV, 330), that the terms "church" and "incorporated religious society" are not identical. The former is the larger term — its objects and purposes are moral and religious, the church corporation is subsidiary, having to do chiefly with the care and control of the temporalities. While for various, and no doubt sufficient reasons, the title to church property continues in the bishop in fee simple as heretofore, in a number of states, e.g. Ohio, Pennsylvania, the tendency is towards incorporation, either by special acts making the bishop a "corporation sole" or under the terms of general provisions drawn especially to suit the needs and circumstances of the Catholic Church, e.g. the New York law of 1863, or agreeable thereto, as the Michigan law of 1897. In Maryland the Archbishop of Baltimore holds all church property as a corporation sole. This title was obtained from the legislature of Maryland by Archbishop Whitfield; its powers and scope

were enlarged in the time of Archbishop Spalding, and again in the time of Archbishop Bayley and also under Cardinal Gibbons. By an act of the Massachusetts legislature (ch. 506; 1897) "the present Roman Catholic Archbishop of the Archdiocese of Boston, and his successors in office, shall be and are made a body politic and corporation sole" to receive, take and hold, by sale, gift, lease, devise or otherwise real and personal property of every description for religious, charitable and burial purposes. There are similar Acts for the other dioceses in Massachusetts. In the Chicago Archdiocese all diocesan property is held by "the Catholic Bishop of Chicago" as a corporation sole; he is responsible for all matters pertaining to its administration. This is in accordance with the statutes of the State of Illinois. Under the provisions of the California code, the church property in the several Catholic dioceses within the state is held by the bishop or archbishop as a corporation sole. Section 602 of the California code provides: "Whenever the rules, regulations or discipline of any religious denomination, society or church so require, for the temporalities thereof, and the management of the estate and property thereof, it shall be lawful for the bishop, chief priest, or presiding elder of such religious denomination, society or church to become a sole corporation, in the manner prescribed in this title, as nearly as may be, and with all the powers and duties, and for the uses and purposes in this title provided for religious incorporation and subject to all the provisions, conditions and limitations in said title prescribed." By the terms of the New York Act of 1863 (ch. 45), the Roman Catholic archbishop or bishop, the vicar-general, the pastor of the congregation and two laymen, the two last being selected by the three first mentioned or by a majority of them, form the board of trustees. The two laymen hold office for one year and their successors are appointed in the same manner as provided for the original selection. The New York law has furnished the model for like statutes in Minnesota, North and South Dakota, and other states. In Wisconsin (Sec. 2001-10, m. S., ch. 37; Laws of 1883) "the bishop of each diocese being the only trustee of each Roman Catholic church in his diocese, may cause any or all congregations therein to be incorporated by adding four more members as trustees as hereinafter provided. The bishop and vicar-general of each diocese, the pastor of the congregation to be incorporated together with two laymen, practical communicants of such congregation (the latter to be chosen from and by the congregation) shall be trustees." It is provided that the bishop and vicar-general may be represented by proxy at any meeting of the board of trustees. The trustees or directors, may, by unanimous vote, adopt by-laws not contrary to the statutes of the diocese and the discipline of the Roman Catholic Church.

In Michigan an Act to revise, amend, and consolidate the laws for the incorporation of ecclesiastical bodies, passed in 1897, was regarded by the late Rev. P. A. Baart, an eminent canonist, as "the most liberal of any law in the country" on the subject. He says that "being a general law which fits all denominations, it will not be easily changed in the future." Some of the provisions of this enactment are as follows: "Section 1. The people of the state of Michigan enact, That it shall be lawful for any five or more persons of full age to become incorporated as a church, religious society, Sunday school or other society for the purpose of diffusing moral or religious knowledge by complying with the following conditions. . . ." (These relate to the statements to be contained in the articles of association and the filing of such articles with the registrar of deeds and the secretary of State.) "Section 4. The persons forming such corporations shall adopt by-laws, and execute and acknowledge them in the same manner as the articles of association above provided for, and such by-laws shall be recorded in the office of the registrar of deeds of the county where such corporation is to hold its regular meetings. Such by-laws shall prescribe the qualifications of members; the manner in which they shall be admitted, suspended or expelled; the officers of such corporations, their official title, their term of office; the manner of their election and removal from office; their official duties; the time and manner of calling and holding meetings, etc." The constitution of one state, West Virginia, prohibits the granting of charters of incorporation to religious societies. It may be said that as a rule, all Catholic educational and charitable institutions throughout the United States which have attained any importance or permanence are incorporated, usually under the provisions of general statutes for the incorporation of civil corporations. In states, such as Indiana, California, Michigan, Wisconsin and New York (especially prior to 1893), where the principle of the statute of charitable uses is not recognized, bequests to unincorporated institutions have frequently been declared invalid because of the uncertainty of the beneficiary (Ruth and others *vs*. Oberbrunner and another: 40 Wis. 238). In many states, such as New York and Pennsylvania, legacies to religious corporations are exempt from the inheritance tax; whereas a bequest to an unincorporated body, even though religious in its purposes, would be charged with the inheritance tax. Thus, in New York, a bequest to a missionary society, known as "The Paulist Fathers" was held liable to the tax [In *ré* Kavanaugh estate (Surr.), 6 N. Y., Supp. 619]. The inheritance tax legislation which is now coming to be practically general, may, in states where the title to Catholic church property is still held by the bishops in fee simple, raise

issues of some financial importance when it comes to transferring the estate of a deceased bishop to his successor. The policy of the law evidently favours the incorporation of religious societies. This is also shown in the extra safeguards which the statutes of many states throw about the incorporated cemetery.

In Great Britain

The state does not consider the Catholic Church as a corporation. Neither is a Catholic bishop made a corporation sole. Catholic Church property is usually held by trustees under a trust deed, or by joint ownership, where no trust has been declared. The mere purpose of holding or administering Catholic church property would not be admitted by the Registrar-General as a purpose which would warrant the registering of a corporation under the Companies Act. Up to 1832, when the Roman Catholic Charity Act was enacted, the only way the English Catholics had of securing bequests and foundations was to place the property or money in the names of private persons who could be depended upon to apply it as desired by the donor. If these private parties appropriated the property or money or in any manner disregarded the trust, there was no remedy, as in the eyes of English law it was held to be their private property. A great deal of Catholic church property at the present day is simply invested in names, generally three, without mentioning any trust. When the Roman Catholic Charities Act of 1860 was before Parliament the question of declaring trusts was referred by the English bishops to the Holy See. Cardinal Wiseman was of opinion that owing to bequests for Masses, etc., and conditions which the courts would hold as superstitious there was great danger of losing the property altogether. The Holy See took the opinion of the majority of the bishops, and in 1862 decided that trusts might be declared in accordance with the Act except in cases where there would be danger to the property. As a rule, however, the implied trust is generally recognized even to the extent of excusing such property from inheritance or succession duty. There is a charity Trust Act (1853, with later amendments) authorizing the registration of mission, school and conventual property as a means of securing it for the purpose intended; but owing to the powers of the government department over such registered property and the publicity involved, many bishops and superiors have not availed themselves of the advantages of the Act.

HUMPHREY J. DESMOND.

In Canada

Corporate bodies may be created in Canada either by authority of the Dominion Parliament or of the Legislature of any of the provinces. The respective powers as to incorporation are derived from the "British North America Act," 1867, under which the Dominion was constituted. Section 91 of that Act sets out the powers of the Parliament of Canada, and Section 92 the exclusive powers of the provincial Legislatures. To the latter was given the right to make laws in relation to "municipal institutions in the province", "local works and undertakings" (with certain specified exceptions), "the incorporation of companies with provincial objects", "property and civil rights in the province", and "generally all matters of a merely local or private nature in the province". Bodies corporate falling within any of the above classes can be created by provincial charter. In all other cases the charter must be procured from the federal authorities. The sections of the "British North America Act" dealing with the distribution of the legislative powers, and very particularly in their application to commercial corporations, have been subjected to judicial interpretation in many cases decided in the Canadian Courts and in the judicial committee of the Privy Council. A provincial legislature may pass Acts enabling corporations to carry on certain operations within that particular province, and the Dominion Parliament may pass Acts empowering corporations to carry on the same operations throughout the whole Dominion. If a Dominion corporation should decide to confine its operations to one province only, its status as a corporation is not thereby affected. On the other hand, it has been decided that a fire insurance company created under authority of a provincial Act is not inherently incapable of entering, outside its province of origin, into a valid contract of insurance relating to property also outside of those limits (Can. Pac. Ry. Co. *vs*. Ottawa Fire Ins. Co., 39 Sup. Ct. Rep. 405). Corporations, whether federal or provincial, may be created in two ways, — by special Act or by letters patent. When the former mode is adopted, the Bill to create the corporation is introduced and passed through Parliament or the Legislature, as the case may be, in the same manner as other Bills, and subject to the rules of procedure of the legislative body. Religious corporations are created by special Act. Commercial companies are generally created by letters patent; and application therefor is made by petition, setting forth the proposed name of the company, the objects for which it is sought to be incorporated, the amount of the capital, number of shares, and information of a like nature. After examination of the petition and payment of a prescribed fee, the Governor-General of Canada or

the Governor of the province, as the case may be, issues letters patent to the applicant. All corporations must comply with the provincial regulations, as to payment of license to do business within any particular province, and with municipal regulations as to payment of taxes, etc. Foreign corporations are permitted to exercise their functions within any of the provinces of Canada under the comity of nations, but they must also comply with all local regulations.