

196 3382

UBCHEA ARCHIVES
COLLEGE FILES
KG 11

Nanking
Admin.
Land registration 1935-1936

MEMORANDUM

*Land
Registration*

Subject: The Minister's advice to members of the Missions Advisory Council relative to the reregistration of their properties in Nanking.

Time: April 23, 1935, 10:30 to 11:15 a.m.

Place: The Consulate General.

Present: Members of the Missions Advisory Council. The Minister, Mr. Johnson. Mr. Atcheson, Mr. Vincent, and Mr. Jenkins.

Mr. MacCallum and Mr. Mills presented the Missions' case along lines already familiar to the Consulate General. Application for reregistration of a few properties has already been made but no reply from the Municipal Government has been received. Application for the registration of the bulk of the mission property, located in the south section of the city, is due to be made by the end of April. The three obviously objectionable features of the new Land Lease Certificate form were described: Namely, provision for describing perpetual lease property as "nationally owned"; provision for the purchase of mission property by the Municipal Government at the "original price"; and the suggestion that Missions will be allowed to dispose of their property only to the Municipal Government.

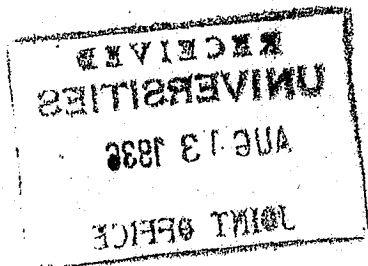
The Minister stated that use of the term "nationally owned" appeared to be a modern application of the old Chinese theory that all land belonged to the Emperor and added that the use of this term would not seem to be objectionable unless it were interpreted in such a way as to limit the present rights of persons holding deeds of perpetual lease. Regarding the other two features of the Certificate, the Minister stated that they should be taken on their face value; that the provision for purchase at the "original price" might rob the Missions of the value of unearned increment and of improvements made to properties, and the suggestion that the Municipal Government only might purchase property from the Missions constituted a possible and unwarranted limitation on the Missions' right to dispose of their properties. Both of these phases of the Certificate, the Minister said, were objectionable and would remain so until a responsible written statement was obtained that they would not be applied in such a way as to deprive the Missions of the right to use their property, dispose of it, and enjoy the benefits of unearned increment and improvements which might accrue.

The Minister said that decision as to whether the Missions were to reregister lands and accept the new Lease Certificate form in lieu of their present deeds of perpetual lease must lie with them. However, he pointed out that, as it was through the action of the American government that land holding rights had been obtained for Missions in China, the decision as to whether the regulations governing the reregistration of Mission property in Nanking were consistent with the rights which the treaties, by actual provision and by inference, guaranteed American land-holders must be made by the American government and that provisions which modified or interfered with the American lessee's rights to own, transfer, or otherwise dispose of his property was a concern of the American Government.

Mr. Johnson advised the Missions to prepare a statement of their position, requesting him to take up the case with the appropriate Chinese authorities with a view to clarifying points in doubt and protesting against any possible infringement of Missions present cadastral rights. Mr. Johnson stated that upon the receipt of such a statement he would as soon as possible make firm representations to the Chinese Government in the premises.

(Signed) Joh Carter Vincent
Second Secretary of Legation
and Consul.

JCV



Mr. Johnson advised the Mission to prepare a statement of their position, requesting him to take up the case with the appropriate Chinese authorities with a view to clarifying points in doubt and protesting against any possible infringement of Missions present civil and religious rights. Mr. Johnson stated that upon the receipt of such a statement he would as soon as possible make firm representations to the Chinese Government in the premises.

(Signed) John Carter Vincent
 Second Secretary of Legation
 and Consul.

100

RECEIVED
 UNIVERSITIES
 AUG 13 1936
 JOINT OFFICE

C O P Y

NANKING MISSIONS ADVISORY COUNCIL

Nanking, April 25, 1935.

Mr. Nelson T. Johnson,
American Minister to China,
American Legation,
Peiping.

Land Registration

Dear Sir:

In accordance with the regulations issued last year by the Municipality of Nanking, requiring the registration of all property within the Municipality, the American Missions holding property in the city have duly taken steps to register their deeds. Certain societies have already made formal application for the registration of certain of their properties, and all of the Societies have contemplated completing fully the process of registration within the near future. However, there has recently been brought to our attention the proposed new Lease Certificate, which we are informed, the Municipal Government intends to issue in place of the deeds formerly held by us. A copy of this certificate is submitted for your information. The form of this certificate, especially the wording in the section headed "Owner", seems to us to raise questions of so fundamental a nature that we cannot but refer them to you and request your good offices in obtaining from the Chinese Government a clear and definite interpretation of the points at issue. For the sake of convenience, we quote herewith that section of the new Lease Certificate to which reference is made.

"Owner: If the land is leased in perpetuity, and when in future the perpetual lessee does not need to use the land or when he dies and has no heir, the Nanking Municipal Government will purchase the land at the original price. If the land is leased for a short period, and if upon expiration of the lease the owner is financially unable to obtain the return of the land or if he has died and has no heir, the Nanking Municipal Government will take over the land according to the lease agreement."

It seems to us that this section raises three important questions.

1. Does the notation which the Government plans to make below the title "Owner" in the proposed Lease Certificate alter in any way previous treaty provisions under which property is held under perpetual lease in China? Before answering this question one minor point should be considered, namely, who is to be regarded as the owner. The section just quoted would seem to imply that the owner is the Nanking Municipal Government, since it is proposed that the Government should buy back property which might no longer be desired by the Missions. However on the application blank which certain of

us have filled out in the process of registration, the words "Republic of China" (Chung Hua Ming Kuo) or "China" (Chung Kuo) were inserted at the request of officials. It would seem that the practice to be followed in this respect should be uniform, and that the notation to be given under "Owner" on both the application blanks and the Lease Certificates should be identical. However, of far more importance than any phraseology as to who should be regarded as owner, is the question as to whether the notation at present given on the Lease Certificate involves any fundamental change in our present rights and privileges under the treaties. Before the Societies proceeded with registration we were assured both verbally and in writing that no change was contemplated. In support of this statement we submit herewith for your information copies of the letters exchanged between the Societies and the Nanking Municipal Government, dated January 15 and 22, 1935. Against these assurances, however, it now seems to us that the proposed new Lease Certificate does involve either directly or by implication certain fundamental changes in present treaty rights and privileges. These changes we shall deal with in the following paragraphs.

2. One important change that seems to be involved is that of freedom to sell, transfer or otherwise dispose of property held by the Societies. Heretofore the Societies have had full liberty to dispose of their properties as they saw fit, so long as they did not contravene any of the existing international agreements. However, the section quoted above seems to imply that the Missions, when they no longer desire to use a certain piece of property, can dispose of it only to the Nanking Municipal Government. If this is the case, it would certainly be an infringement of the rights and privileges hitherto enjoyed by us and freely granted by the Chinese Government. If, on the other hand, the language of this statement is intended to be permissive only, and not mandatory, then a possible interpretation would be that the Government might buy back only such land as was offered to it, while the Missions would still be free to dispose of their properties to others as they might desire, provided they did so in accordance with the existing treaties. To this interpretation of the section quoted above there would of course be no objection, but since the section as it stands is capable of more than one interpretation, it seems necessary to ask that its meaning and scope be clearly defined.

3. There is another phrase also in the above section which likewise needs clear definition. This is the statement that "the Nanking Municipal Government will purchase the land at the original price". It must here be asked, what is the "original price"? Is it the price at which the land was bought, say ten, twenty or thirty years ago, or is it the value declared at the time of the present registration? This last interpretation is the one which would seem to be implied in the land regulations proposed by Dr. Sun Yat Sen, and included in the new Land Law. (San Min Chu I, Part III, Section 2, F.W. Price's Translation pp 431-437. Land Law, Sections 4 and 5) However, even if it should be declared that the "original price" contemplated in this section is the value given at the time of the present registration, there would still be need of a definite statement as to whether or not the "original price" is that declared by the lessee at the time of registration, or that to be fixed later by the Commission on

the Equalization of Property Values (The Ping Chia Wei Yuen Hui). Moreover, in this connection it should also be made clear just what the interpretation of "original price" would be with respect to buildings erected on the properties since they were purchased, and to buildings which it may be desired to erect in future. In view therefore of the widely varying interpretations which may be and actually have been given to the phrase "original price", and in view also of doubt as to what provision would be made by the Government in regard to buildings and improvements on property purchased by it, the Societies feel that they should not proceed further with the registration of their properties until such time as the meaning of the phrase "original price" is made entirely clear. In regard to this whole matter indeed it may be said that what the Missions originally understood the Government contemplated was a simple re-registration of deeds, but it seems now from what has been said above that what is actually contemplated is in effect a change in conditions under which property is held by the Societies in China. With respect to such changes the Societies of course have no power to act. Changes of this nature can be made only by negotiations between the American Government and the Government of China. In view of this fact, we feel bound therefore, to refer the matter to you, and to ask that you bring the questions we have raised to the attention of both Governments, in order that the whole subject of land registration as it affects the Societies may be made clear.

In conclusion, in view of the fact that under the present regulations much Mission property in the city is due for registration by the end of April, we would request your good offices in informing the Chinese Government, and through them the Municipality of Nanking, of our inability at this time to proceed further with registration. We would ask you also to acquaint them with our reasons therefor. In this connection we desire to assure you and also to assure the Chinese Government and the Municipality that we do not in the least wish to obstruct or delay the process of land registration which they have begun. The very fact that we have already applied for the registration of our properties in part shows our good faith. We hesitate now to proceed further solely because it seems to us that the proposed Lease Certificate raises questions of such importance as to require consideration by both Governments concerned. Since complete information about this new Lease Certificate has not been previously available, we wish to claim exemption from any penalties due to delay while these points are being negotiated. As soon as these questions are satisfactorily settled we shall be happy to continue and complete registration of our properties.

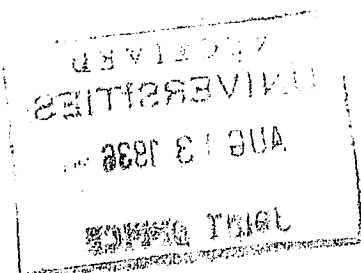
With highest regards, we are,

Yours sincerely,

NANKING MISSIONS ADVISORY COUNCIL

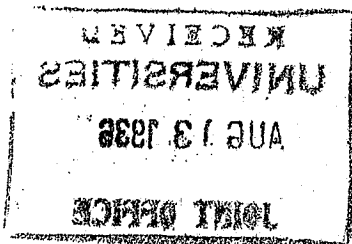
Chairman (Signed) J.H. McCallum
209 Peh Hsia Lu, Nanking.

Sec. pro tem _____



Members of MISSIONS ADVISORY COUNCIL.

American Presbyterian Mission, Miss Anna Moffet.
American Church Mission, Rev. W.P.Roberts.
Methodist Episcopal Mission, Rev. F.C.Gale.
Women's Foreign Missionary Society, M.E.Church.
Methodist Episcopal Church, Miss Anna Lulu Golish.
Seventh Day Adventist Mission, Rev. B. Peterson.
Friends Mission, Rev. Chas.A.Matti.
United Christian Missionary Society, Rev. Jas.H.McCallum
International Committee, Y.M.C.A. - Mr. R.S.Hall.
Nanking Theological Seminary, Rev. C.H.Plopper
Bible Teachers Training School, Miss Eva L. Smawley.



Members of MISSIONS ADVISORY COUNCIL.

Bible Teachers Training School, Miss Eva L. Smalley.
Peking Theological Seminary, Rev. C.H. Phipper
International Committee, Y.M.C.A. - Mr. R.S. Hall.
United Christian Missionary Society, Rev. Jas. H. McCallum
Friends Mission, Rev. Chas. A. Matti.
Seventh Day Adventist Mission, Rev. B. Peterson.
Methodist Episcopal Church, Miss Anna Lulu Gollish.
Women's Foreign Missionary Society, M.E. Church.
Methodist Episcopal Mission, Rev. F.C. Gale.
American Church Mission, Rev. W.P. Roberts.
American Presbyterian Mission, Miss Anna Moffet.

RECEIVED
UNIVERSITIES
AUG 13 1936
JOINT OFFICE

C O P Y

Legation of the United
States of America
Nanking Office,
April 27, 1935.

The Reverend James H. McCallum,
Chairman of the Nanking Missions
Advisory Council,
209 Peh Hsia Lu,
Nanking.

Sir:

The Minister has received your letter of April 25, 1935, in regard to the reregistration of land at Nanking, and I write to inform you that representations to the Ministry of Foreign Affairs are being made in this matter in the form of a formal Note dated April 26, 1935.

The Note refers to the provisions of treaty under which American missionary societies have acquired land in China under perpetual lease and points out that the recently promulgated regulations of the Nanking Municipal Government, calling for the reregistration of land titles, infringe upon the rights of American landholders. It requests that the heading "owner" on the new form of lease certificate be altered to "lessor" in order that the name of the person or persons from whom the land was acquired may be inserted thereunder. As regards the notation now appearing under the term "owner", the Note requests an assurance that, while making an offer to purchase the land in case the American landholder should in future desire to dispose of it, the Municipal Government will have no objection to the disposal of the land to Chinese citizens by sale or, by transfer of lease, to foreigners who may be entitled to lease it in perpetuity. An explanation of the term "original price" is also requested, with special reference to the matter of improvements and buildings placed upon the land and increases in property value which may result because of public improvements and other considerations.

The Note adds that there is no provision of treaty whereby land shall be acquired only from the Chinese Government or any treaty provision that such land shall be surrendered to the Chinese Government when no longer used for mission purposes. It states that the Legation is not prepared to acquiesce in any restrictions upon the rights under which the land was acquired under the treaties and asks that the new form of lease certificate be appropriately revised and that the regulations be applied to American landholders in a just and reasonable manner which will not infringe upon their rights.

For your information, there is enclosed a memorandum of the conversation on this general subject between the Minister and representatives of your council.

JOINT OFFICE

Very truly yours,

(Signed) George Atcheson, jr.,
Second Secretary of Legation.

Enclosure: 1. Memorandum, as stated.
Copy to Legation, Peiping. 852 GAjr:MCL

Legation of the United States of America, Peking Office, April 27, 1935.

The Reverend James H. McCallum, Chairman of the Banking Missions Advisory Council, 209 Peh Hais Lu, Nanking.

Sir:

The Minister has received your letter of April 25, 1935, in regard to the registration of land at Nanking, and I write to inform you that representations to the Ministry of Foreign Affairs are being made in this matter in the form of a formal Note dated April 26, 1935.

The Note refers to the provisions of treaty under which American missionary societies have acquired land in China under perpetual lease and points out that the recently promulgated regulations of the Nanking Municipal Government, calling for the registration of land titles, infringe upon the rights of American landholders. It requests that the heading "owner" on the new form of lease certificate be altered to "lessee" in order that the name of the person or persons from whom the land was acquired may be inserted thereunder. As regards the notation now appearing under the term "owner", the Note requests an assurance that, while making an offer to purchase the land in case the American landholder should in future desire to dispose of it, the Municipal Government will have no objection to the disposal of the land to Chinese citizens by sale or by transfer of lease, to foreigners who may be entitled to lease it in perpetuity. An explanation of the term "original price" is also requested, with special reference to the matter of improvements and buildings placed upon the land and increases in property value which may result because of public improvements and other considerations.

The Note adds that there is no provision of treaty whereby land shall be acquired only from the Chinese Government or any treaty provision that such land shall be surrendered to the Chinese Government when no longer used for mission purposes. It states that the Legation is not prepared to acquiesce in any restrictions upon the rights under which the land was acquired under the treaties and asks that the new form of lease certificate be appropriately revised and that the regulations be applied to American landholders in a just and reasonable manner which will not infringe upon their rights.

For your information, there is enclosed a memorandum of the conversation on the subject between the Minister and representatives of your Council.

CELESTIAL UNIVERSITY
6618 1935
JOINT OFFICE

Very truly yours,

(Signed) George Atcheson, Jr.,
Second Secretary of Legation.

Enclosure: I. Memorandum, as stated.
Copy to Legation, Peking. 822 GAJ:MCJ

Land Registration

Report of the special committee appointed by the Board of Directors to make recommendations concerning the registration of land, November 19, 1935.

President Chen also reported that he had sent a full statement to the Board of Founders in reply to questions they raised concerning the status of our property, but no answer had been received as yet.

After discussion it was voted:

1. To re-affirm our recommendation that it is necessary to register our land with the Nanking Municipal Government as quickly as possible, complying with their regulations and calling the attention of the Board to Article 6 and Article 37 of the regulations. (See statement following)

2. To recommend to the Board that careful consideration be given to the problem of the name to be used in the registration. The following points are called to the attention of the Board:

If Registered in the name of the Board of Founders:

1. A certificate showing the land is leased only will be issued. This does not indicate ownership and might be changed to a short term lease at any time.
2. Difficult to sell any land--- practically impossible to do so.
3. Subject to taxation.
4. If the country should be invaded, it might be a protection.

If Registered in the name of the Board of Directors:

1. The new certificate will be a certificate of ownership-- the land will be the permanent property of the Board of Directors.
2. Exemption from land taxes.
3. Right to dispose of the land at any time.
4. Makes it possible to ask for reduction in registration fees
5. Possible complications with land owned by Directors and Buildings owned by Founders.
6. Political disturbances might involve land complications.

Statement prepared by Dr. L. W. Han at the request of the Board of Directors (DEF-1075) concerning the regulations for the registration of land with the Nanking Municipal Government.

The Chinese authorities cannot properly insist upon re-registration of existing deeds as a condition precedent to the continued validity of title conferred by such deeds, nor may penalties be imposed upon American citizens for failure to effect re-registration under new regulations, but that there appears to be no adequate reason why American nationals should not be permitted to avail themselves of the opportunity (which under some circumstances might be of substantial value to them) to have their land titles re-registered under new regulations, for which service it would be proper for them to pay the Chinese authorities any reasonable fee that may be prescribed. In the opinion of the Legation, the decision as to re-registration should be left to the discretion of the interested American landholders.

If the Chinese authorities seek to collect from American citizens land value land taxes in lieu of, or additional to, the existing land taxes based on the area of the landholdings the matter should be referred for the consideration of the Legation.

HANGCHOW CHRISTIAN COLLEGE
Zakow, Che-, ——— China

November 5, 1935

President Y. G. Chen
University of Nanking
Nanking, China

Dear President Chen:

In reply to your letter of November 1st, inquiring about the registration of the college land, I take pleasure to inform you that we have just completed the registration of our land. The land was registered in the name of American Presbyterian Mission. At the time of re-registration a charge was made by the Municipal Land Office for a new deed. It was 6% of the appraised land value.

Since the land is registered in the name of the Mission the College is unable to enjoy the special reduced rate for the land tax levied by the Municipality. We have to pay the regular rate of tax. This adds a great deal to our burden every year. But as the Mission is unwilling to register the land in the name of the College, we have simply to pay much more unnecessary tax because of this ruling of the Mission. We do not know whether your University has to face the same difficulty or not. If you can register your land in the name of the University please let us know.

Very sincerely,

/s/ Baen E. Lee
President

Report of the special committee appointed by the
Board of Directors to make recommendations con-
cerning the registration of land: November 19, 1935

Present: Dr. L. W. Han, chairman, Mr. C. S. Smith, with President Chen, ex-officio.
Miss Priest was also invited to be present.

The meeting was opened with prayer, offered by Mr. Smith.

President Chen presented a letter from Dr. W. H. Wei, the third member of this
committee, who was unable to be present at the meeting.

President Chen read letters from various Christian institutions of whom he had
inquired concerning their experience in registering land. It was clear that every
institution intends to comply with the regulations, although Hangchow Christian
College is the only one that has completed registration at this time.

President Chen also reported that he had sent a full statement to the Board of
Founders in reply to questions they raised concerning the status of our property,
but no answer had been received as yet.

After discussion it was voted:

1. To re-affirm our recommendation that it is necessary to register our land
with the Nanking Municipal Government as quickly as possible, complying with their
regulations and calling the attention of the Board to Article 6 and Article 37 of
the regulations. (See statement following).
2. To recommend to the Board that careful consideration be given to the pro-
blem of the name to be used in the registration. The following points are called
to the attention of the Board:

If registered in the name of the Board of Founders:

1. A certificate showing the land is leased only will be issued. This
does not indicate ownership and might be changed to a short term
lease at any time.
2. Difficult to sell any land--practically impossible to do so.
3. Subject to taxation.
4. If the country should be invaded, it might be a protection.

If registered in the name of the Board of Directors:

1. The new certificate will be a certificate of ownership -- the land
will be the permanent property of the Board of Directors.
2. Exemption from land taxes.
3. Right to dispose of the land at any time.
4. Makes it possible to ask for reduction in registration fees.
5. Possible complications with land owned by Directors and Buildings
owned by Founders.

6. Political disturbances might involve land complications.

.....

Statement prepared by Dr. L. W. Han at the request of the Board of Directors (DEF 1075) concerning the regulations for the registration of land with the Nanking Municipal Government.

In regard to land registration, the following salient points contained in the Provisional Regulations for Land Registration promulgated by the Nanking Municipal Government demand consideration:-

1. All ownership of land in the municipality of Nanking can only be legally effective after proper registration has been made at the Nanking Municipal Government (Article 4)
2. There is a definite time limit for such registration (Article 6)
3. The fee for registration is calculated at 0.2% (2 per mille) of the land value reported or assessed. (Article 31)
4. The Municipal Government has the right to dispose of land if the same has not been properly registered within the time limit set for the registration. (Article 37)

It will be seen from the above stipulations that non-registration of the landed estate of the University of Nanking will be confronted with practical difficulties that should any controversy arise between the University and other land owners regarding boundary etc., or regarding any sale or lease of land to other parties, question on the legal ownership of the University will arise and, unless the lands of the University are properly registered, the University will not be able to take effective legal measures to safeguard its property.

It is evident, therefore, that the registration is necessary. But in connection with the registration there arises the question as to under what name shall the lands be registered; the name of the Board of Directors, or the Board of Founders. Under the former name, as the Board of Directors is registered with the Ministry of Education, no difficulties shall arise in securing certificates of ownership. But under the latter, the land can only be registered as leased land since members of the Board of Founders are American friends and for foreigners owning land the registration can only result in securing a certificate of lease. Under such circumstances, should any land of the University be sold, it could only be sold at cost price and the Municipal Government shall have the right to take over any excess funds received from the sale. Although, as I understand, the American Embassy has taken up this matter with a request to revise these regulations, no change has yet been made.

UNIVERSITY OF NANKING
Office of the President

Nanking, China

January 13, 1936

Dear Dr. Spoor and Mr. Garside:

When we sent you the minutes and the covering letter, the question of the registration of land was reported very briefly. We have not received your acknowledgment of our letter of October 18, but we feel that this letter must have reached you, as we sent two copies, and that letter will give you the background for the letter today.

You will know from the minutes and letters that we turned over the East Dormitory to the hospital last July, planning to construct the fourth dormitory in the McCormick Unit immediately. All arrangements were made for the work - the contract was given to the contractor, and we started to dig for the foundation. When we applied for the building permit, it was refused on the grounds that our land was not registered. Many hours have been spent in an attempt to secure this permit. We have not been successful. Recently we have received a document stating that our land is provisionally registered, and under the terms of this document, it may be possible to secure the permit. We are not entirely satisfied with the wording, and have not as yet accepted it. There may be no other way to proceed with the dormitory and other buildings, but we shall make one more attempt to have the wording changed in one or two places, or to have those phrases clearly explained, as not to hinder in any way our claims on the property of the University. This provisional registration will mean that formal registration must be completed within a year from January 1, 1936. This is a new regulation and applies to all mission property in the city.

Perhaps it may seem to you that it is a simple matter to agree to complete registration of all land within a year. We know it involves a great deal of work in preparing maps, surveys, deeds and all the necessary blanks. Just before 1927, Dr. Bowen released two staff members to spend full time on the deeds in an attempt to put them into order for registration and record. They spent three months on the many papers covering the college campus alone - and decided it was a hopeless task to attempt to match the deeds with actual property. Eight years later the task is just as difficult. We have asked two of our older staff members to spend a considerable amount of their time on the deeds, and expect them to begin work during the winter holidays. At the same time we are having a re-survey made of all land in the city and will have new maps prepared.

This preliminary work will be done, but we cannot take very definite steps or make any application until we know the decision of the Board of Founders. We are enclosing a schedule showing the land that is owned by the University. This gives you the total area of all land within the city walls, and will indicate that the land is scattered over a large part of the city. If the land was in one block, or even in the four main compounds, the problem would not be so difficult, but as it is in many small lots entirely disconnected from each other, it is a task of many weeks of work.

You will find enclosed a copy of the report of the special committee appointed by the Board of Directors to make recommendations concerning the registration of land. There is no question concerning the advisability of registering the land with the Land Bureau. The only question concerns the method of registration. It will be possible to register the land under one of the following:

1. In the name of the Board of Founders (or a mission board)
2. In the name of the Board of Directors
3. In the name of a larger holding organization, either local or national, incorporated under Chinese law.

Before any definite progress can be made, we must know the decision of the Board of Founders. It is very important to have this reach us at the earliest possible date, and I am anxious that some word should be sent to me before the annual meeting of the Board of Directors, scheduled to be held the third Friday in March. This may necessitate a cable.

We wish the Board of Founders to give careful consideration to this question, and am giving you the various points under each heading.

1. If Registered in the Name of the Board of Founders.

There is no question in the minds of anyone in China concerning the ownership of the land and buildings. It is known and understood that all property belongs to the Board of Founders. Under the present regulations for the registration of land, there are serious consequences of the land is registered in the name of any foreign holding body. I will list a few of the obstacles.

1. A certificate showing that the land is leased only will be issued. This does not indicate ownership and might be changed at any time to a short term lease.
2. It will be impossible to sell any land.
3. Subject to taxation.
4. The ownership of the land will remain in the name of the Board of Founders, but the progress of the work for which the land was given will be seriously handicapped.

On the other hand, if the country should be invaded, it might be a protection to have the land owned by a foreign holding body.

2. If Registered in the Name of the Board of Directors.

1. The new certificate will be a certificate of ownership, and will indicate that the land is the permanent property of the Board of Directors.
2. Land taxes are exempt in total or largely so for all educational institutions registered as Chinese owned.
3. Right to dispose of the land at any time.
4. Possible to request a substantial reduction in registration fees.

At the same time there would be complications if the land/^{was} owned by the Board of Directors and the buildings remained the property of the Board of Founders. It was suggested by one of our directors that it might be a good plan to accept the certificate of ownership in the name of the Board of Directors, endorse it over to the Board of Founders and send it to New York. In this way the entire control would be in the hands of the Board of Founders. I feel this method might accomplish that one purpose, but would also present problems in case we had to present the certificate in any law case, or any dispute over any of our property. However, I mention it as one of the ways to solve this important problem of joint ownership.

Mr. Garside
Dr. Spoor

(Exhibit 2)
January 13, 1936

3. If Registered in the Name of a Larger Holding Organization.

This was proposed in the letter from the Associated Boards dated March 14, 1935. There has been no definite proposal made as yet in China, although the question has been referred to the Council of Higher Education. It is very vague in the minds of our group, and until something definite is proposed we feel we cannot give it very serious consideration. Perhaps the land problem of schools in different localities varies a good deal because of the locality and because of the school itself, and for that reason it may take quite some time for such a board to work out the problem of each individual institution.

I am enclosing a copy of a letter received from President Lee of Hangchow Christian College. Last November I wrote to each one of the Christian colleges and universities concerning this question of land registration, and found that Hangchow Christian College was the only one that had completed registration. This has not been entirely satisfactory according to President Lee. We have such large holdings that the annual taxes would cripple us. I do not see how we could meet this charge, unless it was interpreted to mean that if the land was registered in the name of the Board of Founders, that they would be responsible to secure additional funds to cover all taxes and charges against the land. It would be impossible to add it to our annual budget.

At the Board meeting in November, it was suggested that a straw vote should be taken merely to give some indication of the opinion of the board concerning registration of land. Nine members were in favor of registering the land in the name of the Board of Directors, four did not vote at all, one voted for a national organization constituted to hold property legally in China, while nobody voted in favor of registering in the name of the Board of Founders. The suggestion was made at the end of the afternoon when a number of members had been obliged to leave the meeting, but is perhaps of value in showing that the majority are thinking in terms of registration in the name of the Board of Directors in China.

We have many problems connected with our deeds. As I wrote you earlier, the majority of the deeds have never been stamped or registered by any official body. Many of the deeds are questionable concerning measurements, boundaries, and area. We are very sure that if the land is registered in the name of the Board of Founders, as will be the case with any mission board or foreign holding body, that the land bureau will be very exacting in requiring that the deeds must conform exactly to the present boundaries. We know this to be impossible. I presume you are familiar with old deeds in China and will know that it was customary to give the measurements in a vague way, or else to indicate that the area was considerably less than was actually true. If we are able to register in the name of the Board of Directors, it will be possible to appeal to the bureau on the basis of a registered school.

As I mentioned above, Dr. Bowen was much concerned over the condition of our deeds and just before 1927 made an attempt to put them in order for proper registration. It was not accomplished, and the years after 1927 were unsettled so we felt it was important to keep all valuable documents belonging to the institution in safekeeping in Shanghai. During the last year or so we have felt it was better to wait for definite regulations to be issued from the present government, but now that we have these new laws, it is imperative to begin work on the deeds.

I have tried to give you the various points connected with the registration of the land. You will know it is a very important question, and I am sure you will give it immediate attention.

Y. G. Chen

Dr. CHARLES E. PATTON'S LETTER TO Dr. ROBERT E. SPEERMay 25, 1936

It is scarcely necessary for me to point out that the issue raised in connection with the University of Nanking is one of more than local importance. The decision made by the University will stand as a precedent. The decision of this issue will affect property matters in connection with all our institutions and the policies of most if not all of the Mission Boards, inasmuch as the issue is a fundamental or basic one.

As to the necessity for re-registration of the land considered per se, it should be remarked

a). That the official attitude of the United States government is that once given a bona fide deed no further "registration", imposition of fees, or similar proceedings should be necessary, though it does not object if anyone decided to submit to such a demand of the Chinese government.

b). That it is generally conceded that the current re-registration, with consequent surveys, clearing up of irregularities, etc., is well worth while, provided the resultant deed or certificate of ownership is equally satisfactory with the one previously held.

It must, moreover, be admitted that Chinese government affairs do not always follow the path of logical consistency and that consequently there is some basis for expectancy in the hope expressed by the committee (top of page 2) that special treatment might be accorded such an institution. Old China's psychology viewed official matters as personal rather than strictly legal. Much of the old psychology doubtless carries forward into the new China.

Let me first comment more or less critically upon the resolution voted at Nanking and the explanatory statement which accompanied the resolution, after which I will try to be more constructive. Starting then with the resolution itself, I would comment that it suggests one of those trick signs which when viewed from one angle is this, from another angle is that. The resolution begs the question raised by New York. It makes no decision on the real issue. Stripped of all related feature the issue is whether these properties should stand in foreign title or in Chinese title.

1. I enclose (See Exhibit 3 - Editor) a memorandum of a special committee of the Board of Directors of the University on which I would remark, (a), that it is a purely ex parte statement, and, (b), that it is based upon a premature assumption, namely, that the perpetual lease has been abolished and that only time leases can be had, and, (c), that it takes for granted certain things which are only under discussion.

2. The paragraph at the bottom of page 2 of the statement of the committee is misleading in that it uses the United States Embassy issue as an argument for Chinese title. In fact it is exactly the opposite. The holdup by the Embassy is wholly in the interest of the safeguarding of foreign title, the preservation of existing rights. It is true that pending re-registrations of land are being held up but that is because of the effort of the central government to impose an objectionable form of deed and deprive the holders of their rights.

3. On pg. 3, the top paragraph, is raised the problem of taxation. The possibility of tax must be faced, in fact, it is probably true to say that the immediate chief concern not only of the University of Nanking but of other institutions, such as the Hangchow Christian College, Union Girls' School of Hangchow, lies in the addition of a tax item to the current budget. It may even be suspected that this has loomed so large in their eyes as to blind them to the sacrifice of title security. That the government has the right to tax land whether held in foreign or Chinese title must be admitted. The argument here for Chinese title lies in the expectation of greater favor in the way of tax exemption. There is probably something in this but one should consider the price one pays in other forms for such exemption.

Offsetting this possible exemption is the liability to extraordinary taxes which in many instances have been collected far into the future for war and similar purposes.

Moreover, it should be borne in mind that to have the land held in Chinese title other than the school itself, as proposed in some cases, would still make it liable to tax as in foreign title since ownership would be other than school.

4. The paragraph at the bottom of page 3 is a bit misleading unless one recognizes clearly that the "lease" given is the perpetual lease hitherto secured through treaty and considered by all as the equivalent of sale. The treaty provision for perpetual lease still stands. The limited period lease pertains only to Chinese citizens and non-extraterritorial aliens. The "certificate of ownership" has been secured by us for other property on re-registration of a perpetual lease, and free from the objectionable features which the Nanking municipal government seeks to impose.

The "Enforcement Regulations of the Land Law", passed by the Judicial Yuan on March 8, 1935, Sections 9, 10, 11, and 31, make clear that treaty provisions regarding perpetual lease still hold for the remaining Treaty powers, although for non-treaty aliens and all Chinese citizens the ten year lease limitation pertains.

As to the delay feature, it is well known that the holdup is with the Chinese authorities who are seeking to impose certain objectionable features regarding sale only to the government and at the original price, etc. The Embassy is pressing hard for an early decision, certainly prior to June 30th, so that re-registration can be proceeded with.

5. The second paragraph on page 4 deals with the reasons for urgency in connection with new buildings. It should be pointed out that this essentially is not involved in the issue raised. Everyone conceded that the so-called re-registration of land now going on all over China with consequent survey and the issuance of a new deed (if free from the imposition of new and objectionable features) should be complied with promptly everywhere. It is assumed ordinarily that the titles involved would not be altered in this procedure. Consequently unless a change in the form of title is desired in connection with the re-registration the question as to foreign versus Chinese title would not ordinarily arise.

Now for something more constructive:

In the first place, I would insist that decision as to whether the property should continue to stand in foreign title or be changed to Chinese title should be made by the donor or present owners rather than by any body on the field, chiefly because a change to Chinese title means a virtual relinquishment of the property.

The Board of Founders in merely asking field advice have by implication assumed this. What then shall we advise in aid of decision? Although all the

arguments pro and con on such a subject are well known to such an one as you; their recapitulation may have some little value and possibly bring out some relatively new factors.

Boiled down the question is, shall we trust in the treaty provisions or trust in the Chinese government, which?

In favor of the former (foreign title) we have the support of the American Government with all the implications of western law and clearly defined procedure.

Against it we have the evident and all too successful efforts of the Chinese Government to undermine and by indirect means to nullify the treaty provisions in order to constrain all to come under Chinese jurisdiction.

Logically, it is a fair presumption that ultimately, perhaps reasonably soon, the treaty provision will disappear and only the Chinese law prevail; though practically for the time being there is no reason why past reliance upon the treaty should not for a time be continued.

In favor of the latter (Chinese title) we have the ultimate alignment which brings certain immediate advantages such as:-

- Favor with Chinese authorities both national and local.
- Facility in procedure in property matters.
- Probable tax and other exemption for certain institutions.

Against the latter (the Chinese title) we have:

Probable discrimination against owners if foreigners. There are numerous indications of this, e.g., disposal of land to government only and at its original cost, etc. (Although these at present are being imposed against treaty aliens presumably in the hope of abolishing the treaties.)

Liability to special taxation, all too prevalent, and in some localities far into the future.

In involvements arising from the party form of government. An institution registered with the government lays itself open to all sorts of regulations, inspections and restrictions, e.g., the requirement of a government representative on the faculty, etc. This interference is likely in property matters as well. The government now claims the right to say whether all the land held is necessary to the purpose, forbids the rental of property for purposes of revenue under certain conditions, etc. Instead of a property title being considered legally merely as such, in China apparently property title is affected by association with the enterprise, e.g., educational property is involved in the regulations governing the educational institution.

It should, moreover, be recognized that by transfer to Chinese title, in itself a virtual relinquishment of ownership of the land, ownership of buildings erected thereon becomes involved. In Chinese law there is no deed for buildings. The owner of a building upon land of another is helpless and in case of issue can but remove this building. To transfer land title consequently means the virtual relinquishment of ownership in the buildings also.

Balancing all factors then, were I pressed for an immediate decision I feel that I would advise the continuance for some time to come at any rate of the foreign title, the perpetual lease.

However, in case the Founders should decide in favor of a Chinese title the following suggestion is submitted as affording a certain degree of security against defalcation or abuse of authority in regard to properties thus transferred. This arrangement would afford the stability to which the foreign donors are entitled, and at the same time respect the wish of the Chinese government as well as the natural desires of the Chinese directorates of these institutions, although by no means free from embarrassments concomitant with Chinese title.

a). Have the deeds transferred to the title of the institution and registered with the Chinese government as purely Chinese ownership, with consequent removal from American consular records, and

b). Have the title deeds and periodic tax receipts held by approved trustees, either a foreign organization or a body on which there would be a foreign representation of the Founders, without whose formal consent the deeds could not be used for sale, exchange or mortgage of the property.

In support of this plan is the fact that in Chinese law it is not the signature, as in the West, but the actual physical possession of the deed which makes for ownership and, next to the physical possession of the deed, the holding of the tax receipts as evidence of ownership.

But in doing this it must be fully recognized that foreign consular jurisdiction and protection with accompanying advantages are relinquished. Under Chinese title the properties will be subject wholly to Chinese law with the consequences of a party form of government. Both of these implications should be clearly recognized both by the Founders and the Institution.

In an effort to be helpful in the making of this far-reaching decision all this is humbly submitted.

Yours cordially,

/s/ Charles E. Patton

August 10, 1936
Chicago, Illinois

Dr. B. A. Garside
Associated Boards for Christian Colleges in China
150 Fifth Avenue
New York City

Dear Dr. Garside:

Shortly before I left Nanking (on July 10), the Municipal Government of Nanking, apparently with the approval of the National Government, issued a set of regulations in regard to registration of properties held by foreigners under term or perpetual lease. This new statement conceded two points which the representatives of the American Government had been attempting to defend and the approval of which they had been trying for over a year to secure from the Chinese government. The two points in brief were: The right of the holder of the perpetual lease to sell to purchasers other than the Chinese Government, and the right of the holder of the lease to the "unearned increment" of the land. I am enclosing a copy of the general "Application for Registration", of the Form of Certificate for Lease of Land by Foreign Missionary Organizations," for the term lease certificate, and for the perpetual lease certificate. You have already received several communications on this question of registration and, with these documents I would like to add a few comments which may be placed in the file with other observations on this theme.

You have received a copy of the Report of the Action of the Special Committee appointed by the Board of Founders of the University of Nanking which was taken at the meeting of the Committee on April 18, 1936. The chief question before that Committee appeared to be the choice between registration of the University of Nanking property under the Board of Founders, i.e. a foreign corporation, and the registration of the property under the Board of Directors, i.e. a Chinese corporation. You are familiar with the arguments for both decisions. They seemed to be in the main two on either side: In favor of registration under the Board of Founders, the obvious facts that the legal title to the property rested in the Board of Founders and that the property would be protected by the American Government if it were thus registered. In favor of registration under the Board of Directors were the two arguments; first, that the University would escape taxation which the Chinese Government would apparently enforce against foreign corporations and which it had already enforced in regard to Hangchow College which had registered as a foreign corporation not long before; and the right to the "unearned increment" of the land and to freedom of sale of the property, in accordance with Chinese law.

Before the Committee met I called up Mr. W. R. Peck, Counsellor of the American Embassy in Nanking, and reported to him that apparently there was quite a leaning on the part of the University of Nanking group to register under the Board of Directors, and I asked his opinion of the attitude of the American Government if this should be done. You doubtless have in your files copies of the Record of the "Ministers' Advice to Members of the Missions' Advisory Council relative to the re-registration of their properties in Nanking" dated April 23, 1935. At the meeting of the Missions' Advisory Council held on that day with the then American Minister, (now Ambassador) Mr. Johnson stated that the American Government was opposed to three features in the new land-lease certificate, namely "provision for describing perpetual lease property as nationally owned; provision for the purchase of Mission property by the municipal government at the 'original price'; and the suggestion that the Missions will be allowed to dispose of their property only to the municipal government". The American Government was particularly opposed to the last two provisions on the ground that these provisions abridged in an unwarrantable way the rights of the Missions already secured. On April 25, 1935, the Nanking Missions' Advisory Council wrote to Mr. Johnson stating their views and I assume you have a copy of their letter.

There was no change in the position of the Chinese Government and no answer to the representations of the American Government before the special Committee of the University of Nanking met on April 18, 1936.

In my conversation with Mr. Peck on the evening before the meeting of the Committee, I asked him for any further word that he would care to give. He said that the American Government had not changed its position in regard to the inadvisability of the Missions registering their leases, but he said that apparently the protest of the Government had not had any effect; he pointed out that if the University of Nanking registered as a Chinese corporation, it would lose any right it had to call upon the American Government for protection in case its property was threatened, but that if the Committee desired him to do so, he would ask the opinion of the Ambassador at Washington in regard to registration of the University property as a Chinese corporation and would report to us, assuming that no final decision would be made until after we had heard from both Peiping and Washington.

At the meeting of the Special Committee held next day, it seemed clear that a majority of the Committee were in favor of registering as a Chinese corporation. There were certain questions raised, however, as to the cost of such registration. Under the terms of registration already published by the Government, a fee of one-fifth of one percent of the value of the property is charged when it is registered, and one-tenth of one percent when sold or transferred. (Note in the "Statement Concerning the Registration of Land of the University of Nanking" sent out by the Special Committee after its meeting April 18, 1936, on page 3, paragraph 3, the statement is made that the official rate is "two percent" but this is an error as the rate is two-tenths of one percent. The cost of registration to the University is given as LC\$30,000 whereas it ought to be LC\$3,000 on a basis of the valuation of the land at LC\$1,500,000. As a matter of fact, the charge which would be made has been reported later by the Government to be approximately LC\$2,300.) There were also other questions which did not seem to be clear, and I made a motion that the Committee indicate that there appeared to be a majority in favor of registration as a Chinese corporation but that there were four points that needed to be cleared before any definite decision could be made;— the cost of the registration, the right of resale and to the unearned increment to the land, the right to maintain the property for the purposes for which the funds were originally given, and finally, that no action should be taken without conference with the representatives of the American Government and without their approval. In the motion I added the clause that further information should be sought on these four points and after it was secured and, if possible, within a month's time, the Committee should meet again and then try to reach a definite decision.

I still think that would have been the most sensible action to take. My motion, however, apparently seemed too involved and the need of making some definite decision was pressed and the motion of which you already have a record was passed that the land of the University should be registered "under the corporate name of the University of Nanking;" leaving to the Chinese government the decision as to whether or not this meant a foreign or Chinese corporation. The Special Committee was trying sincerely to follow the wishes of the Board of Founders, as they understood them, in taking this action.

When the action was reported to the Chinese Government, it replied that the University must choose whether it desired to register as a foreign or Chinese corporation.

Since then the municipal government has taken the action already indicated and has conceded the two points which the American Government was attempting to champion. A new element is introduced in the insertion of a charge for rent for

the land, and it has been indicated also that there will be a stamp tax when the University does register of approximately LC\$6,000 as penalty for failure to register at an earlier date.

I saw Mr. Peck just before I left Nanking and he said that the American Ambassador was preparing a statement on the whole situation and that he would prefer not to give any advice until after this statement was issued. You will doubtless be hearing soon from our representatives at the University in regard to this statement.

Mr. Peck said the American Government really had no basis in the treaties with China for pressing its claims in regard to the terms of registration but that they felt it was right for them to go forward along the lines already indicated and he was happy that an agreement had been reached with the Chinese Government.

Perhaps I should add that all the Presbyterian Mission property in Nanking except for one very small lot, is held under perpetual lease, the small lot related to Meng Teh being held on a term lease.

Dr. Y. G. Chen, President of the University of Nanking, is now in the United States and will be in New York early in September and will be of great help in trying to reach a judgment on this situation. Miss Priest, Field Treasurer of the University, can be relied upon to forward accurate information on any new points which may emerge.

I am sending a copy of this letter to Dr. Speer and to Miss Priest.

Sincerely yours,

W. Reginald Wheeler

Documents

Property Titles in China
Registration and Taxation

(This paper is prepared as a basis for discussion, is based upon available information, but is subject to correction in the light of fuller knowledge. Therefore it should not be quoted.)

1. Registration of Deeds. The government of China has undertaken the survey and registration of all land titles in the country. (See Legislative Record, Vol. IV, pp. 23-58, for laws governing land taxes promulgated on June 30, 1930.) This survey is progressing with various degrees of rapidity in different parts of the country. Pressure is not felt yet in some places and is very severe in others. The necessity and value of this survey is vividly stated in the following extract from "New Life Centers in Rural Kiangsi," special Bulletin Number Two of the Kiangsi Rural Welfare Centers, May 1936, p. 26:

1644
...The last registration of land in Kiangsi took place in the Ming Dynasty. As a matter of fact, today nobody save the present owner knows exactly how much land he owns, for the land tax is still collected according to the land deeds, and the original owners may be dead long ago. Much land was omitted from the last registration of titled deeds and new land since reclaimed has not paid its taxes. No one in the Province really knows the total acreage of arable land and the ownership thereof. In view of such chaotic conditions a survey of the whole Province is an urgent necessity. In May 1932 an aerial survey of the Nanchang hsien was started and completed in June 1934 including mapping, investigation and registration of land at a total cost of \$400,000. The result was the discovery of some 300,000 mow of arable land which had not paid taxes for hundred of years - this representing 23% of the total arable land of the hsien. Subsequently a comprehensive plan for an aerial survey of the whole province on a more economical basis was made but it called for a total budget of \$11,000,000. Because of the lack of this huge sum of money, progress in this work has been retarded and today about 10% of the whole province has been surveyed and mapped. Unless this fundamental work is completed, the problem of land tenure cannot be scientifically studied and a wise solution thereof suggested.

Is there any valid reason why property titles held by aliens should be exempted from such registration? Does such registration question in any way the validity of any lawful title held by a foreigner, or affect his rights under existing or earlier international treaties? May such registration not offer a good opportunity to legalize title deeds that are now more or less lacking in conformity with established legal requirements? Provided always that the newly registered deed does not adversely affect the existing title, are not the answers to such questions as these arguments in favor of registration? In cases

where property is to be sold or improved, or when building permits are required, the demand for the re-registration of title deeds is inescapable.

The principal question is the name under which the title is to be registered - should it be alien or Chinese? This is considered below.

2. Taxation. The fees for registration of deeds when there is no transfer of title are reasonable and moderate.

Regarding the levying of annual taxes on registered property, the principal question concerning missionary boards arises from the regulations providing for the reduction or exemption of taxes on certain classes of property under Chinese ownership. These regulations are to be found in the "National Government Gazette" of April 20, 1936, and may be summarized as follows:

Details of the regulations governing the reduction or exemption of land taxes for specified property were made known as follows: Land taxes are to be exempted for the following categories of property: (1) Private schools and academic organs which have already registered with the government and are considered to be up to the standard; (2) Registered charitable organizations which are considered to be of good standard; and (3) Public cemeteries. Land taxes are to be reduced for the following categories of property: (1) Registered civic organizations and public athletic grounds; (2) Registered agricultural experimental stations which have at least ten years' standing; and (3) Public hospitals which have at least 5 years' standing; and (4) Private-owned railways and highways. Chinese Economic Journal, May 1936, p.761. Reprinted in The Chinese Recorder, August 1936, p.518.

(See also the summary printed in "The Church," the bulletin of the Church of Christ in China, May 1936, p.10.)

This problem of taxation and the possibilities of reduction or exemption have become urgently critical issues in the case of several institutions. For example in Chekiang the tax is levied at the rate of \$8.00 per \$1,000, and Wayland Academy in Hangchow is taxed a total of \$920.

It seems to be clear that alien property owners cannot claim any reduction or exemption from taxes. It may be well to point out that the mistaken statement is made in some of the correspondence from China that the treaties granted freedom from taxation for mission-owned property. Article XIV of the 1903 Treaty between the United States and China is authoritative treaty provision regarding missionary property, and this Article does not mention taxes.

The possibility of obtaining reduction or exemption of taxes is the principal reason that is being urged at this time for the transfer of the titles of property to Chinese ownership. In judging of the reality of such possibilities, the legislation summarized above is to be considered, and also the precedent of the exemption of public schools. As has been pointed out by others, this financial problem has overshadowed other considerations to be kept in mind in deciding the question of transferring titles.

3. Actions Already Taken by Missionary Bodies. The National Convention of the Y.M.C.A. some years ago created a Board of Trustees, which was incorporated by the national government of China, which holds the title of properties in behalf of the Association. In some cases, however, local bodies have formed partnerships for the holding of local properties, and it has been found necessary to trust them without other than personal safeguards. The last biennial conference recommended that the national property holding board should be the custodian of the properties of the local associations.

The General Council of the Church of Christ in China in 1935 adopted a draft constitution for a Property Holding Corporation for the General Assembly. But it has not yet been found possible to obtain legal incorporation for this body.

The National Christian Council at the meeting of its Executive Committee on May 1, 1936, appointed a special committee "to devise a plan of action and to secure such assistance as may be necessary for investigation." In correspondence, we have requested this committee to send all available information to us.

The Executive Committee of the Associated Boards for Christian Colleges in China on July 3, 1936, addressed an inquiry to all the cooperating boards asking for information regarding registration and the policies to be adopted.

The Board of Directors of Nanking University have authorized the President of the University to proceed with the necessary steps for land registration, and have referred to the Board of Founders the question of the title under which the registration is to be made. A decisive answer is requested before September 25.

The Board of Founders of Ginling College is asked to answer similar questions.

The Board of Founders of Hua Chung College is also confronted with the question of the registration of newly acquired land, and this has raised the question of the relation of the Founders to the other properties now used by the College.

The Methodist Central Conference is reported to have put itself on record as favoring a central holding body, and is awaiting advice as to the form of organization. The attitude towards the ownership of institutional property has not been defined. Neither is there a clear understanding as to whether the property in China belongs to the Board of Foreign Missions, or is held by the Board in trust in whole or in part for the Methodist Church in China.

It is reported that the Baptist Mission (A.B.F.M.S.) is moving toward the creation of one central board for all their middle schools rather than to entrust ownership to local boards. Such a central board might also hold hospital and church property.

The churches in Hangchow have sent a petition to the Government asking for exemption from taxation on all church, hospital and school property quite apart from the question of registration and ownership.

(Here should be added reports of action by others.)

The Department of State on July 23, 1936, stated that the matter of reduction in taxes had not been referred to the Department, although incidental reference to a case in Nanking had been made in correspondence from the Embassy in China.

It may be important to add this note. Decisions regarding this issue by any one board will establish a precedent that will inescapably affect the position of every other board or institution. This is the reason for united consideration today. Although the authority of this meeting is advisory only, it may be of great assistance in the formation of a common mind that will result in action along similar lines by the various authoritative bodies.

4. The Present Status of Missionary Property Titles. A memorandum dated March 19, 1935, was circulated to all the North American boards calling their attention to the urgent necessity of action to safeguard their title to properties in China. This was based upon a detailed enquiry and information obtained from twelve boards, which was made at the suggestion of the Department of State, and which showed that the existing title deeds of missionary property have been governed largely by local customs and conditions with the result that there are about as many forms of title deeds as can be imagined, and very many of these deeds are not in complete accord with legal requirements, even if these are defined only by Article XIV of the 1903 treaty between the United States and China.

There has been serious difference in interpretation of the "perpetual lease" by which in accordance with the treaty all missionary property should be held. Whether recent cablegrams indicate that this question has been satisfactorily settled is not clear.

Moreover, it must be remembered that the revision of the 1903 treaty is now subject to revision. Both governments have agreed to enter upon the desired negotiations for such revision, and a new treaty will be signed at an opportune time. Some drafts of such a new treaty have been under consideration. It is impossible to state now what the new treaty will provide with reference to the holding of property by aliens in the interior of China. The American missionary boards to a large extent have placed on record their desire that in the future their rights and privileges in China should not be dependent upon international treaties, and that these should be governed by the laws of China and the goodwill of the Chinese people.

It would seem, therefore, that in the present discussion of the question of the transfer of title to Chinese ownership only well-considered reference to international treaty rights should be made.

5. Considerations for and against Transfer to Chinese Ownership. These considerations have been presented in a memorandum by Dr. Charles E. Patton, of which a few copies are available, and to which reference is made here.

6. Recommendations. In considering the advice that might be given to missionary boards, boards of founders, and others concerned, would it not be well at once to divide the subject, as follows:

- a. Property used by institutions
 - (1) Schools, colleges, universities
 - (2) Hospitals
 - (3) Other institutions
- b. Property used for missionary residences
- c. Property occupied by churches and chapels

As an example of incorporation under Chinese law, reference has been made above to the Property Holding Board of the National Convention of the Y.M.C.A. Another example to which attention might be given is that of the Charter of the "China Foundation," which is the body incorporated to administer the American share of the 1900 indemnities. Reference is made to these examples in order to raise the question of organizing other property holding corporations in China. Perhaps it should be pointed out that such action might not affect the question of taxation, as such a plan would not transfer the land occupied by a school or university to the institution itself. The plan, however, does have an important bearing upon the question of the security of title, and the continued use in accordance with the purpose of the owners.

9/21/36

UNIVERSITY OF NANKING
NANKING - CHINA

Report of the special committee appointed by the Board of Directors to make recommendations concerning the registration of land, November 19, 1935.

President Chen also reported that he had sent a full statement to the Board of Founders in reply to questions they raised concerning the status of our property, but no answer had been received as yet.

After discussion it was voted:

1. To re-affirm our recommendation that it is necessary to register our land with the Nanking Municipal Government as quickly as possible, complying with their regulations and calling the attention of the Board to Article 6 and Article 37 of the regulations. (See statement following)

2. To recommend to the Board that careful consideration be given to the problem of the name to be used in the registration. The following points are called to the attention of the Board:

If Registered in the name of the Board of Founders:

1. A certificate showing the land is leased only will be issued. This does not indicate ownership and might be changed to a short term lease at any time.
2. Difficult to sell any land--- practically impossible to do so.
3. Subject to taxation.
4. If the country should be invaded, it might be a protection.

If Registered in the name of the Board of Directors:

1. The new certificate will be a certificate of ownership--- the land will be the permanent property of the Board of Directors.
2. Exemption from land taxes.
3. Right to dispose of the land at any time.
4. Makes it possible to ask for reduction in registration fees
5. Possible complications with land owned by Directors and Buildings owned by Founders.
6. Political disturbances might involve land complications.

Statement prepared by Dr. L. W. Han at the request of the Board of Directors (DEF-1075) concerning the regulations for the registration of land with the Nanking Municipal Government.

Exhibit 2

JAN. 13, 1936

UNIVERSITY OF NANKING

Office of the President

Nanking, China

January 13, 1936



Land Registration

Dear Dr. Speer and Mr. Garside:

When we sent you the minutes and the covering letter, the question of the registration of land was reported very briefly. We have not received your acknowledgment of our letter of October 18, but we feel that this letter must have reached you, as we sent two copies, and that letter will give you the background for the letter today.

You will know from the minutes and letters that we turned over the East Dormitory to the hospital last July, planning to construct the fourth dormitory in the McCormick Unit immediately. All arrangements were made for the work - the contract was given to the contractor, and we started to dig for the foundation. When we applied for the building permit, it was refused on the grounds that our land was not registered. Many hours have been spent in an attempt to secure this permit. We have not been successful. Recently we have received a document stating that our land is provisionally registered, and under the terms of this document, it may be possible to secure the permit. We are not entirely satisfied with the wording, and have not as yet accepted it. There may be no other way to proceed with the dormitory and other buildings, but we shall make one more attempt to have the wording changed in one or two places, or to have these phrases clearly explained, as not to hinder in any way our claims on the property of the University. This provisional registration will mean that formal registration must be completed within a year from January 1, 1936. This is a new regulation and applies to all mission property in the city.

Perhaps it may seem to you that it is a simple matter to agree to complete registration of all land within a year. We know it involves a great deal of work in preparing maps, surveys, deeds and all the necessary blanks. Just before 1927, Dr. Bowen released two staff members to spend full time on the deeds in an attempt to put them into order for registration and record. They spent three months on the many papers covering the college campus alone - and decided it was a hopeless task to attempt to match the deeds with actual property. Eight years later the task is just as difficult. We have asked two of our older staff members to spend a considerable amount of their time on the deeds, and expect them to begin work during the winter holidays. At the same time we are having a re-survey made of all land in the city and will have new maps prepared.

This preliminary work will be done, but we cannot take very definite steps or make any application until we know the decision of the Board of Founders. We are enclosing a schedule showing the land that is owned by the University. This gives you the total area of all land within the city walls, and will indicate that the land is scattered over a large part of the city. If the land was in one block, or even in the four main compounds, the problem would not be so difficult, but as it is in many small lots entirely disconnected from each other, it is a task of many weeks of work.

Dr. Speer
Mr. Garside
Mr. Garside

-2-

Jan. 13, 1936

You will find enclosed a copy of the report of the special committee appointed by the Board of Directors to make recommendations concerning the registration of land. There is no question concerning the advisability of registering the land with the Land Bureau. The only question concerns the method of registration. It will be possible to register the land under one of the following:

1. In the name of the Board of Founders (or a mission board owned by the Board)
2. In the name of the Board of Directors
3. In the name of a larger holding organization, either local or national, incorporated under Chinese law.

Before any definite progress can be made, we must know the decision of the Board of Founders. It is very important to have this reach us at the earliest possible date, and I am anxious that some word should be sent to me before the annual meeting of the Board of Directors, scheduled to be held the third Friday in March. This may necessitate a cable.

We wish that Board of Founders to give careful consideration to this question, and am giving you the various points under each heading.

1. If registered in the name of the Board of Founders.

There is no question in the minds of anyone in China concerning the ownership of the land and buildings. It is known and understood that all property belongs to the Board of Founders. Under the present regulations for the registration of land, there are serious consequences if the land is registered in the name of any foreign holding body. I will list a few of the obstacles.

1. A certificate showing that the land is leased only will be issued. This does not indicate ownership and might be changed at any time to a short term lease.
2. It will be impossible to seal any land.
3. Subject to taxation.
4. The ownership of the land will remain in the name of the Board of Founders, but the progress of the work for which the land was given will be seriously handicapped.

1. On the other hand, if the country should be invaded, it might be a protection to have the land owned by a foreign holding body.

2. If registered in the name of the Board of Directors.

1. The new certificate will be a certificate of ownership, and will indicate that the land is the permanent property of the Board of Directors.
2. Land taxes are exempt in total or largely so for all educational institutions registered as Chinese owned.

Dr. Speer
Mr. Garside

-3-

January 13, 1936

... of the Board of Founders, as will be the case with any mission
... 3. Right to dispose of the land at any time, excepting
... that the deeds must conform exactly to the deed handed
... 4. Possible to request a substantial reduction in the basis for
... registration fees. ... in a vague
... that the area was smaller than actually
... At the same time there would be complications if the land is
owned by the Board of Directors and the buildings remained the property
of the Board of Founders. It was suggested by one of our directors that it
might be a good plan to accept the certificate of ownership in the name of
the Board of Directors, endorse it over to the Board of Founders and send
it to New York. In this way the entire control would be in the hands of the
Board of Founders. I feel this method might accomplish that one purpose, but
would also present problems in case we had to present the certificate in any
law case, or any dispute over any of our property. However, I mention it as
one of the ways to solve this important problem of joint ownership. ...
... to be in work on the deeds.

3. If registered in the name of a larger holding organization.

... This was proposed in the letter from the Associated Boards
dated March 14, 1935. There has been no definite proposal made as yet in
China, although the question has been referred to the Council of Higher Ed-
ucation. It is very vague in the minds of our group, and until something
definite is proposed, we feel we cannot give it very serious consideration.
Perhaps the land problem of schools in different localities varies a good
deal because of the locality and because of the school itself, and for that
reason it may take quite some time for such a board to work out the problem
of each individual institution.

I am enclosing a copy of a letter received from President Lee
of Hangchow Christian College. Last November I wrote to each one of the
Christian colleges and universities concerning this question of land registra-
tion, and found that Hangchow Christian College was the only one that had com-
pleted registration. This has not been entirely satisfactory according to
President Lee. We have such large holdings that the annual taxes would cripple
us. I do not see how we could meet this charge, unless it was interpreted to
mean that if the land was registered in the name of the Board of Founders, that
they would be responsible to secure additional funds to cover all taxes and
charges against the land. It would be impossible to add it to our annual budget.

At the Board meeting in November, it was suggested that a straw
vote should be taken merely to give some indication of the opinion of the board
concerning registration of land. Nine members were in favor of registering the
land in the name of the Board of Directors, four did not vote at all, one voted
for a national organization constituted to hold property legally in China,
while nobody voted in favor of registering in the name of the Board of Founders.
The suggestion was made at the end of the afternoon when a number of members had
been obliged to leave the meeting, but is perhaps of value in showing that the
majority are thinking in terms of registration in the name of the Board of
Directors in China.

We have many problems connected with our deeds. As I wrote
you earlier, the majority of the deeds have never been stamped or registered
by any official body. Many of the deeds are questionable concerning measure-
ments, boundaries, and area. We are very sure that if the land is registered

Dr. Speer
Mr. Garside

-4-

Jan. 13, 1936

in the name of the Board of Founders, as will be the case with any mission board or foreign holding body, that the land bureau will be very exacting in requiring that the deeds must conform exactly to the present boundaries. We know this will be impossible. I presume you are familiar with old deeds in China and will know that it was customary to give the measurements in a vague way, or else to indicate that the area was considerably less than was actually true. If we are able to register in the name of the Board of Directors, it will be possible to appeal to the bureau on the basis of a registered school.

As I mentioned above, Dr. Bowen was much concerned over the condition of our deeds and just before 1927 made an attempt to put them in order for proper registration. It was not accomplished, and the years after 1927 were unsettled so we felt it was important to keep all valuable documents belonging to the institution in safekeeping in Shanghai. During the last year or so we have felt it was better to wait for definite regulations to be issued from the present government, but now that we have these new laws, it is imperative to begin work on the deeds.

I have tried to give you the various points connected with the registration of the land. You will know it is a very important question, and I am sure you will give it immediate attention. I shall expect to hear from you not later than March 15.

Sincerely yours,

Y. G. Chen

Supplement to Report of Special Committee on
Taxation of Missionary Property in China

National Government Gazette
No.2026, April 20, 1936.

RULES GOVERNING REDUCTION AND EXEMPTION OF LAND TAX.

Chapter I

General Provisions

Promulgated by the
Executive Yuan on
April 17, 1936.

Article 1.

The present Rules are enacted in accordance with the provisions of Articles 327 and 328 of the LAND LAW.

Article 2.

Reduction of and exemption from land tax shall be governed by the provisions of the present Rules.

Article 3.

Reduction of or exemption from land tax shall be within limits determined according to the provisions of the present Rules. If the reasons for the reduction or exemption have altered in any case, the tax shall be collected as usual.

Chapter II

Standard of Reduction and Exemption of Tax

Article 4.

Publicly-owned land and land expropriated for public use shall uniformly be exempted from the tax.

Article 5.

Private schools which have been registered and private cultural organizations which are of the nature of schools, if they have achieved results and if the use of the land is not for profit-making purposes, may apply for exemption from the tax.

Article 6.

Private parks and athletic grounds which have been registered, if they are genuinely open to the public and are not conducted for profit-making purposes, may apply for reduction of the tax on the land used; but the reduction must not exceed one-half of the original amount of the tax.

Article 7.

Private agricultural and afforestation experimental stations, which have been registered and which have been in operation for ten years or more and have achieved results, may apply for reduction of the tax on the land used; but the reduction must not exceed one-half of the original amount of the tax.

Article 8.

Public hospitals which have been registered and which have been in operation for five years or more and have achieved results in public welfare may apply for reduction of the tax on the land used; but the reduction must not exceed one-half of the original amount of the tax.

Article 9.

Private charitable organs, which have been registered and which have been engaging in social relief enterprises for five years or more and have achieved results, if the use of land is not for profit-making purposes, may apply for exemption from the tax.

Article 10.

Private cemeteries for public use which have been registered, if they are not for profit-making purposes, may apply for exemption from the tax on the land used.

Article 11.

Reduction in and exemption from the tax of privately-owned land for afforestation use shall be governed by the provisions of the FOREST LAW and the RULES FOR THE ENFORCEMENT OF THE FOREST LAW.

Article 12.

Other public welfare enterprises undertaken by the people or by associations, if they are not for profit-making purposes, may apply for reduction in or exemption from the tax on the land used.

Article 13.

Private railways and motor roads, if they have an important bearing upon local communications and productive enterprises, may apply for reduction in or exemption from the tax on the land used.

Article 14.

The tax to be paid for privately-owned land for the use of the various enterprises stipulated in Categories 2 to 9 of Article 327 of the LAND LAW and for the land leased to private railways or motor roads shall be paid by the owner.

Article 15.

At any place where famine has been reported, the reduction or exemption shall be effected for the year during which the famine occurred in accordance with the percentages determined by the local governments.

At any place where the land tax has not been instituted according to law, reductions in or exemptions from the farm tax shall be granted as approved by the Ministry (of Interior) at the request of the Provincial or Municipal Government, according to precedent.

Article 16.

If the famine is due to the fall of a mountain, to the collapse of any land, or if land has been washed away by water or has been caused to sink by the pressure of sand, rendering the land permanently not arable, the land affected shall be exempted from the tax.

Chapter III

Procedure of Reduction in and Exemption from Tax

Article 17.

For any publicly-owned land or when any privately-owned land is converted to publicly-owned, the organization having custody shall prepare a list and shall request the District or Municipal Government to fix the tax rate. On the one hand, the collection of the tax shall be postponed. On the other hand, a concise tax-exemption table shall be prepared in sextuplicate and submitted to the Ministries of the Interior and Finance as well as other Ministries and Commissions concerned for joint consideration, after which the request shall be forwarded to the competent authorities for exemption.

Article 18.

In making a request for the reduction in or exemption from the tax according to the provisions of Articles 5-13 of the present Rules, the party undertaking the enterprises shall request the District or Municipal Government to fix the tax rate. On the one hand, the collection of the tax shall be postponed. On the other hand, a concise tax reduction and exemption table shall be prepared in sextuplicate and submitted to the Ministries of the Interior and Finance as well as other Ministries and Commissions concerned for joint consideration, after which the request shall be forwarded to the competent authorities for reduction or exemption.

Article 19.

In making a request for the reduction in or exemption from tax on any land according to the provisions of Articles 15 and 16 of the present Rules, the District or Municipal Government shall prepare one copy of a list and five copies of a concise tax reduction and exemption table and submit them to the Provincial Government for approval. On the one hand, the collection of the tax shall be postponed and, on the other, despatches shall be addressed to the Ministries of the Interior and Finance for joint consideration, after which the request shall be forwarded to the appropriate authorities for reduction or exemption.

If the land on which the tax is to be reduced or exempted, as referred to in the preceding paragraph, is located in a Municipality under the direct control (of the Executive Yuan), the Municipal Government may make decision itself and postpone the collection of the tax first. It shall address despatches to the Ministries of the Interior and Finance to take joint consideration, after which the request shall be forwarded to the competent authorities for reduction or exemption.

Article 20.

In the case of land on which the tax is to be reduced or exempted as an adjustment of social economic conditions, the District or Municipal Government shall prepare a list, in single copy, and a concise tax reduction and exemption table in quintuplicate as well as a statement of the facts in detail, and submit them to the Ministries of the Interior and Finance for joint consideration, after which the request shall be forwarded to the competent authorities for reduction or exemption.

Chapter IV

Appendix

Article 21.

The land appreciation tax and the tax on improvements in Municipal land shall be uniformly reduced or exempted in the same percentage as the land value tax.

At places where the land tax has not been instituted according to law, the farm surtaxes shall be uniformly reduced or exempted in the same percentage as the tax itself.

Article 22.

The present Rules shall take effect on the date of promulgation.

2 copies

MAY 15 1936

CANTON (KWANGTUNG) LAND SITUATION - Bearing on Nanking, etc.

May 15, 1936

A. H. Van Etten

The U.S. government has maintained and still does maintain that reregistration is unnecessary and illegal. However about all the good that does is to ensure U.S. support in case of confiscation.

The U.S. cannot help us when failure to reregister (often called merely register or tang ki) keeps our Hsopitals from getting the usual 50% or so reduction in taxes. It cannot get us a building permit, without which no Chinese contractor dare attempt to build or make major repairs for us, at least in the city. It cannot do anything for us in boundary disputes where the reregistration certificate and accompanying accurate map are taken as final. It cannot help us to exercise our supposed right to sell, whether we have or have not reregistered.

We now discover that the Canton government will no longer accept our perfectly regular, Republic red perpetual lease deeds for reregistration. They say it cannot be done without special permission of the government, and we have failed to get that after a year's full-time effort.

It would thus seem that one should reregister where at all possible, WHILE it is still possible from the Chinese govt. angle. Reregistration at the original cost (deed) value, excluding the value of the buildings - if finances make more impossible - is still much to be preferred to non-registration. The U.S. govt. will not admit the right of the Chinese to take away our property by paying this reregistered value, even though the Chinese regulations so read - so we are no worse off than before.

We cannot sell in any case if the Chinese authorities decide to make it impossible. Chinese buyers have to be able to arrange the matter of value increment in any case, so high valuation does not really pay from any angle. Also there are occasional opportunities to raise valuations - available to all - so this need not be done at once if impossible or doubtful.

As to reregistering as Chinese or as foreign - the only strictly legal thing to do is to reregister in the same way as the stamped deeds now read. If the deeds are perpetual leases and thus in foreign name - and if they are or can be stamped - the logical thing to do is to so reregister them. If not, they can only be reregistered as Chinese in any case. If a change is desired, the Chinese govt. will probably not admit the possibility - at least in practice. To do this in Canton, one must turn the deeds over to some responsible Chinese and let them arrange the matter without regard to Western modes or ethics, paying whatever overhead is needed. Any property sold by a foreigner in Canton is handled thus in any case. The practice is to disregard our documents and either declare the deeds lost or directly rewrite and have stamped a deed purporting to be a sale direct from the Chinese who sold to us to the Chinese who bought from us - disregarding in toto the period when we had de facto ownership on perpetual lease basis.

In case our deeds are in such shape that the U.S. Consulate does not recognize them as A-1 title, in Kwangtung the only hope is to have a new deed written for the Chang Lao Hui or Chang Lao Tang (elders society) or school name or some such. Of course the U.S. can take no interest in property held in such Chinese title. On the other hand, sale is much easier, and as long as nother is done to antagonize the Chinese, there is no reason to expect them to confiscate it recklessly.

THE CHINA COUNCIL
PRESYBTERIAN CHURCH IN THE U. S. A.
519 Missions Building
Shanghai

May 25, 1936

COPY



Dr. Robert E. Speer
156 Fifth Avenue
New York City

My dear Robert:

As you doubtless know, my name was proposed by the Nanking Board of Founders as one of the committee which met in Nanking recently to advise the Founders as to the form of title in which the University property should stand. Unfortunately I was on the broad of my back and could not go. Stanley Smith proxied for me. I have read the action of the committee together with the interpretive statement and have talked with members of the committee. I propose now to submit to you some of my own reactions to the problem. While I am quite prepared to admit that I may not be fully conversant with certain inner problems connected with the University, I think that I am probably in as good a position as any to speak of the problem in its general aspects. Then too we have recently held two meetings of what we call the Administrators Association here in Shanghai, something like fifteen representatives of as many organizations, for consideration of the same problem, and I have had the benefit of those discussions.

It is scarcely necessary for me to point out that the issue raised in connection with the University of Nanking is one not of mere local importance. The decision made by the University will stand as a precedent. The decision of this issue will affect property matters in connection with all our institutions and the policies of most if not all of the Mission Boards inasmuch as the issue is a fundamental or basic one.

As to the necessity for re-registration of the land considered per se, it should be remarked

a). that the official attitude of the United States government is that once given a bona fide deed no further "registration", imposition of fees, or similar proceedings should be necessary, though it does not object if anyone decided to submit to such a demand of the Chinese government;

b). that it is generally conceded that the current re-registration, with consequent surveys, clearing up of irregularities, etc., is well worth while, provided the resultant deed or certificate of ownership is equally satisfactory with the one previously held.

(Just here has crept in the issue taken up by the American Embassy, through protest against the attachment of objectionable feature to the new deed to be issued.)

It must moreover be admitted that Chinese government affairs do not always follow the path of logical consistency and that consequently there is some basis for expectancy in the hope expressed by the committee (top of page 2) that special treatment might be accorded such an institution. Old China's psychology viewed official matters as personal rather than strictly legal. Much of the old psychology doubtless carries forward into the new China.

Let me first comment more or less critically upon the resolution voted at Nanking and the explanatory statement which accompanied the resolution, after which I will try to be more constructive. Starting then with the resolution itself, I would comment that it suggests one of those trick signs which when viewed from one angle is this, for another angle is that. The resolution begs the question raised by New York. It makes no decision on the real issue. Stripped of all related feature the issue is whether these properties should stand in foreign title or in Chinese title.

1. I enclose a memorandum of a special committee of the Board of Directors of the University on which I would remark, (a), that it is a purely ex parte statement, and, (b), that it is based upon a premature assumption, namely, that the perpetual lease has been abolished and that only time leases can be had, and, (c), that it takes for granted certain things which are only under discussion.

2. The paragraph at the bottom of page 2 of the statement of the committee is misleading in that it uses the United States Embassy issue as an argument for Chinese title. In fact it is exactly the opposite. The hold up by the Embassy is wholly in the interest of the safeguarding of foreign title, the preservation of existing rights. It is true that pending re-registrations of land are being held up but that is because of the effort of the central government to impose an objectionable form of deed and deprive the holders of their rights.

3. On page 3, the top paragraph, is raised the problem of taxation. The possibility of tax must be faced, in fact, it is probably true to say that the immediate chief concern not only of the University of Nanking but of other institutions, such as the Hangchow Christian College, Union Girls' School of Hangchow, lies in the addition of a tax item to the current budget. It may even be suspected that this has loomed so large in their eyes as to blind them to the sacrifice of title security. That the government has the right to tax land whether held in foreign or Chinese title must be admitted. The argument here for Chinese title lies in the expectation of greater favor in the way of tax exemption. There is probably something in this but one should consider the price one pays in other forms for such exemption.

Offsetting this possible exemption is the liability to extraordinary taxes which in many instances have been collected far into the future for war and similar purposes.

Moreover, it should be borne in mind that to have the land held in Chinese title other than the school itself, as proposed in some cases, would still make it liable to tax as in foreign title since ownership would be other than school.

4. The paragraph at the bottom of page 3 is a bit misleading unless one recognizes clearly that the "lease" given is the perpetual lease hitherto secured through treaty and considered by all as the equivalent of sale. The treaty provision for perpetual lease still stands. The limited period lease pertains only to Chinese citizens and non-extraterritorial aliens. The "certificate of ownership" has been secured by us for other property on re-registration of a perpetual lease, and free from the objectionable features which the Nanking municipal government seeks to impose.

The "Enforcement Regulations of the Land Law", passed by the Judicial Yuan on March 8, 1935, Sections 9, 10, 11, and 31, make clear that treaty provisions regarding perpetual lease still hold for the remaining Treaty powers, although for non-treaty aliens and all Chinese citizens the ten year lease limitation pertains.

As to the delay feature, it is well known that the hold up is with the Chinese authorities who are seeking to impose certain obnoxious features regarding sale only to the government and at the original price, etc. The Embassy is pressing hard for an early decision, certainly prior to June 30th, so that re-registration can be proceeded with.

5. The second paragraph on page 4 deals with the reasons for urgency in connection with new buildings. It should be pointed out that this essentially is not involved in the issue raised. Everyone conceded that the so-called re-registration of land now going on all over China with consequent survey and the issuance of a new deed (if free from the imposition of new and objectionable features) should be completed with promptly everywhere. It is assumed ordinarily that the titles involved would not be altered in this procedure. Consequently unless a change in the form of title is desired in connection with the re-registration the question as to foreign versus Chinese title would not ordinarily arise.

Now for something more constructive:

In the first place, I would insist that decision as to whether the property should continue to stand in foreign title or be changed to Chinese title should be made by the donor or present owners rather than by any body on the field, chiefly because a change to Chinese title means a virtual relinquishment of the property.

The Board of Founders in merely asking field advice have by implication assumed this. What then shall we advise in aid of decision? Although all the arguments pro and con on such a subject are well known to such an one as you, their recapitulation may have some little value and possibly bring out some relatively new factors.

Boiled the question is, shall we trust in the Treaty provisions or trust in the Chinese government, which?

In favor of the former (foreign title) we have the support of the American government with all the implications of western law and clearly defined procedure.

Against it we have the evident and all too successful efforts of the Chinese government to undermine and by indirect means to nullify the treaty provisions in order to constrain all to come under Chinese jurisdiction.

Logically, it is a fair presumption that ultimately, perhaps reasonably soon, the treaty provision will disappear and only the Chinese law prevail, though practically for the time being there is no reason why past reliance upon the treaty should not for a time be continued.

In favor of the latter (Chinese title) we have the ultimate alignment which brings certain immediate advantages such as
Favor with Chinese authorities both national and local.

Facility in procedure in property matters
Probable tax and other exemption for certain institutions.

Against the latter (the Chinese title) we have:

Probable discrimination against owners if foreigners. There are numerous indications of this, e.g., disposal of land to government only and at its original cost, etc. (Although these at present are being imposed against treaty aliens presumably in the hope of abolishing the treaties.)

Liability to special taxation, all too prevalent, and in some localities far into the future.

In Involvements arising from the Party form of government. An institution registered with the government lays itself open to all sorts of regulations, inspections and restrictions, e.g., the requirement of a government representative on the faculty, etc. This interference is likely in property matters as well. The government now claims the right to say whether all the land held is necessary to the purpose, forbids the rental of property for purposes of revenue under certain conditions, etc. Instead of a property title being considered legally merely as such, in China apparently property title is affected by association with the enterprise, e.g., educational property is involved in the regulations governing the educational institution.

It should, moreover, be recognized that by transfer to Chinese title, in itself a virtual relinquishment of ownership of the land, ownership of buildings erected thereon becomes involved. In Chinese law there is no deed for buildings. The owner of a building upon land of another is helpless and in case of issue can but remove this building. To transfer land title consequently means the virtual relinquishment of ownership in the buildings also.

Balancing all factors then, were I pressed for an immediate decision I feel that I would advise the continuance for some time to come at any rate of the foreign title, the perpetual lease.

However, in case the Founders should decide in favor of a Chinese title the following suggestion is submitted as affording a certain degree of security against defalcation or abuse of authority in regard to properties thus transferred. This arrangement would afford the stability to which the foreign donors are entitled, and at the same time respect the wish of the Chinese government as well as the natural desires of the Chinese directorates of these institutions, although by no means free from embarrassments concomitant with Chinese title.

a). Have the deeds transferred to the title of the institution and registered with the Chinese government as purely Chinese ownership, with consequent removal from American consular records, and

b). Have the title deeds and periodic tax receipts held by approved trustees, either a foreign organization or a body on which there would be a foreign representation of the Founders, without whose formal consent the deeds could not be used for sale, exchange or mortgage of the property.

In support of this plan is the fact that in Chinese law it is not the signature, as in the West, but the actual physical possession of the deed which

makes for ownership and, next to the physical possession of the deed, the holding of the tax receipts as evidence of ownership.

But in doing this it must be fully recognized that foreign consular jurisdiction and protection with accompanying advantages are relinquished. Under Chinese title the properties will be subject wholly to Chinese law with the consequences of a Party form of government. Both of these implications should be clearly recognized both by the Founders and the Institution.

In an effort to be helpful in the making of this far-reaching decision all this is humbly submitted.

Yours cordially,

/s/ Charles E. Patton

CEP,R

C
O
P
THE CHINA COUNCIL
PRESBYTERIAN CHURCH IN THE U.S.A.
519 The Missions Building
SHANGHAI

May 27, 1936

Dr. Robert E. Speer
156 Fifth Avenue
New York

Dear Robert:

Partly to supplement my letter of May 25th and partly to clarify my own thinking on the subject I propose to set down a few thoughts on current property matters.

It should be noted that there are several things essentially differing, yet commonly confused.

1. The question of foreign title vs Chinese title as raised by Nanking University. This question is not involved in the current reregistration of land with new certificate of ownership. The title is supposedly unchanged except as change is brought in incidentally.

a). Properly in cases where among the numerous deeds to an extensive tract there are variations of title although the owner be the same. These variations must be ironed out with resultant simplifications and orderliness. (In one of our stations there were 20 variations of "Board's title").

b). Improperly in that the opportunity is seized in the process of registration to effect an actual change of ownership, thereby hoping to escape the customary transfer fee. In some cases this change of title may be quite justifiable and conform to fact, yet a change of title essentially is not involved in the re-registration process and should be a separate transaction. (The re-registration charge is trivial, the transfer of title fee is 9% of value or sale price.)

(Note: The question indirectly becomes involved when the Chinese authorities - as in Kwangtung - refuse to register or re-register land in the foreign Mission Board's name unless linked in the title with the name of a Chinese institution or individual.)

2. The efforts of the National Christian Council and Church of Christ to secure a property holding status concern only Chinese title. Such a status, if secured, would pertain purely to Chinese titles and would be of concern to foreign title, that is, to Mission and Board, only in relation to the transfer of property from foreign to Chinese title whether with or without compensation.

3. Even were there a competent Chinese body such as the National Christian Council or the Church (other than the institution itself) to hold title for Nanking and similar educational institutions their tax exception problem probably would not be solved inasmuch as the institution itself would not be the owner of the property.

4. Ownership of land and buildings thereon present two different problems. There is a title deed to land; there is nothing corresponding for the building. Contracts or agreements are effected between the builder and the land owner at times,

May 27, 1936

usually in the form of a lease or rental of the land for a term of years, with or without ultimate disposal of the building. Most commonly the lease of the land is reckoned as coterminous with the life of the building. In the end the builder may remove his building or let it go by default. I surmise that in purely Chinese life cases are few in which land owner and builder are not the same.

In our foreign Mission practice, however, a real question arises, for under treaty at best our land title is a "perpetual lease". True this is customarily interpreted as the equivalent of a sale, yet avowedly it is a lease. In a limited number of cases the Mission has secured an actual time lease of 50 years or so.

Essentially then all of our Mission buildings stand upon leased land, with all of the potential consequences. Hitherto this has been of little importance and we have felt comparatively secure. Of late, however, the Chinese authorities in various ways have sought to undermine this security. They have sought this in various ways.

a). By the imposition of a 10 year lease holding for all Chinese citizens and non-treaty aliens.

b). By endeavoring to apply the 10 year lease limitation to treaty aliens also. We have reports from various sections of our field that a perpetual lease can no longer be secured, only a 10 year lease. Chinese officials either through ignorance or misunderstanding of their own laws or through deliberate intent are thus blocking all efforts to secure further property under perpetual leases.

c). By seeking to impose restrictions in connection with the re-registration process. Witness the protest of the American Embassy against the new form of deed of Nanking city. Kwangtung Province anticipated this by a similar attempt.

(This new form assumes that the land is leased from the Government and can, therefore, be disposed of only to the Government at the original price, - all increment belonging to the Government).

What then is to become of our buildings? Theoretically I suppose the answer is that they will go or stay with the land. Granting this our problem resolves itself into one of title to the land, though its importance is thereby greatly enhanced. It also follows that in any transfer of land from foreign title to Chinese title, the fate of the buildings thereon should be given consideration.

5. The problem of the Church holding property is of concern at present. The National Christian Council and the Church of Christ both have committees at work on the problem. The Y.M.C.A. National Committee some years ago secured a Government status for holding Y.M.C.A. property in all parts of China but that was under the former Government regime.

As I understand it only a registered corporation which involves a Juridical Person, or an individual can hold property. At the moment the "easy way" proposed on all sides for solving our Mission property question is to have the title in a Chinese (individual) name, thereby avoiding corporate registry and facilitating sale.

The objection to title in a Chinese name is self-evident and needs no comment.

The objection to corporate registry lies chiefly in the accompanying Government requirements, involving inspection, supervision and to some extent, control. For the Church or any Christian organization to secure a Government property holding status without sacrifice of its freedom is the problem.

COPY

Dr. Speer

-3-

May 27, 1936

The present "easy way" is to employ a fictitious Chinese title avoiding the organizational difficulty on the one hand and the individual risk and embarrassment on the other. Technically it is not easy to see why this^{is} permitted by the Government but such is the case in some areas at least.

If a satisfactory property holding status can be secured our Mission question will be to what extent we can or should transfer property, land and buildings to that body.

Pending the attainment of that status apparently we can but depend upon foreign title under treaty and Consular support for all property belonging to the Mission and Board and such other property as they may hold in trust.

Respectfully submitted,

/s/ CHAS. E. PATTON

P;c

C
O
P
Y

THE CHINA COUNCIL
PRESBYTERIAN CHURCH IN THE U.S.A.
519 The Missions Building
SHANGHAI

May 29, 1936

Dr. Robert E. Speer
156 Fifth Avenue
New York

Dear Robert:

In addition to my two instalments of reflections on property matters I herewith submit some remarks on the subject of property transfer. In this case as in the former, I will I am sure be traversing ground all too familiar to you.

Although addressing this to you I am keeping the policy forming responsibility of the Council in mind. This summing up, therefore, is in some sense a result and report of work and study which I have done in connection with our property matters.

There is obvious need for the refacing of policy in regard to the transfer of Mission property to Chinese title in the light of existing conditions.

In its initial stages Mission property like Mission control of activities was necessarily one hundred per cent foreign.

Next, came the period of transfer - "devolution" - in the activities sphere with a to some extent corresponding transfer of properties. While this period or stage has not yet run its course, it is upon us to such an extent as to make necessary the anticipation of the next and final stage, - at least in principle.

Pressure is already being brought to bear in anticipation from Chinese Christian sources. Forces outside the Christian constituency, - Governmental restrictions, Nationalism, etc., - are likewise edging up upon us. It behooves us, therefore, to face frankly the future and to shape intermediate steps as they obtrude themselves in accord with a far-seeing policy.

Our Presbyterian Board assumes that all Mission property is its own, held in trust, for a world wide Mission enterprise, consequently transferable from one country to another. Is this theory longer tenable? Is it practicable? Can it be applied without at least large room for exceptional treatment?

Certain Missions like the American Board have already decided the question by an outright transfer to the Chinese Christian constituency.

Other Missions, like the Methodist North and the Baptist North, and to a lesser extent the Baptist South, have taken a half way but irrevocable step in the same direction in that on the field the foreign and Chinese elements have been merged in what to all intents and purpose is a Chinese controlling body. While it is true these have taken certain safeguarding measures in respect to property, in principle the property goes along with activities.

1. Reasoning the matter theoretically one's thought might run somewhat thus:

a). The Mission is temporary, the Chinese Church (Christian constituency under whatever form of organization) is permanent.

b).- The former exists for the latter and must decrease (and disappear) as the latter increases, with consequent transfer of prerogatives and possessions.

c). All Mission funds from western sources are gifts, i.e. there is no thought of reclaiming them. (We refer here to the primary donors. The intermediate agency, the Mission Board may, and quite properly, enforce regulations to a certain extent but that does not vitiate the principle. Many donors side-step the Board through insistence upon this principle.)

d). It is a fair presumption that the gift, bearing reason to the contrary, should be continued in its original designation for the completion of the task which it inaugurated.

(It might be noted that the mobility principle applies much more clearly to personnel than to property).

2. Question arises as to the speed of transfer and the accompanying conditions.

Assuming, as already pointed out, that control of properties moves correspondingly with control of activities, we note

a). That for years there was but little real transfer from foreign to Chinese shoulders.

b). That the evacuations period of 1926-27 brought about the beginning of a real transfer by doing two things:

- 1/ Opening the eyes of foreigners to Chinese potentialities and
- 2/ Revealing to the Chinese who were left in charge what they themselves could do.

c). That nationalism in its various forms has given great impetus to the transfer movement.

- 1/ Through Chinese Christian self-realization.
- 2/ Through increasing knowledge of the inner significance of the Mission enterprise due to increasing participation in its direction.
- 3/ Through a growing sense of national importance with corresponding governmental organization and effort to shake off or to undermine foreign dominance.

All of which means that today we have a strong Chinese Christian constituency which is convinced that Mission properties like all Mission activities are destined for the Christian cause in China and that the sooner they come into their own the better for the Cause. Board theories as to property disposal to the contrary notwithstanding this is what faces us today.

3. As to conditions of transfer, clearly stability of title and assurance as to continuity of purpose are the primary factors. Of stability of title I have

written fully in a former letter; in brief we do not yet have sufficient assurance regarding the stability of Chinese title. As to continuity of purpose, that is a matter for decision in any given case. In principle we favor the remote control principle in property matters, not nearer or lower than the Presbytery. The Church of Christ in developing a form of trusteeship for property holding in readiness for the time when a satisfactory property holding status can be secured from the Government.

4. There remains the question should transfer of property be with or without compensation? Theoretically, I should consistently have to say without compensation. Practically, however, insofar as possible, I can readily make place for compensation. Given a Christian group of ability to buy the property, appeal could reasonably be made upon the higher, altruistic ground upon which, essentially, our Presbyterian Board stands, namely, the strong helping the weak; the shifting of resources from the points in the line where no longer needed to the point of greatest need. It goes without saying, however, that such withdrawal (whether with or without compensation) must always be a matter of mutual accommodation and consideration.

A recent questionnaire reveals that in 18 of our Stations which to date have submitted returns, of \$479,569 worth of Church and Chapel property costing the Board at least \$3,500 in annual upkeep, it is proposed to transfer without compensation a total of \$184,858 worth of property. (A total of \$173,383 is with compensation.) (Although this is not official action by Station or Mission, it presumably represents a general consensus of Station opinion.)

(Of these properties proposed as without compensation nine are of \$142,040 value, the remaining 41 average just a shade over \$1,000 each. The table in detail follows:)

18	=	below	\$500		
4	=	between	\$500	and	\$1,000
11	=	"	\$1,000	"	\$2,000
8	=	"	\$2,000	"	\$5,000
4	=	"	\$5,000	"	\$10,000
5	=	over	\$10,000		

It is evident then that in addition to the natural (whether mistaken or not) expectation of the Chinese constituency we have a rather strong supporting inclination on the part of the foreign force.

Clearly, therefore, we must do either one or the other of two things:

- a). Convert the Board to a more generous interpretation of policy, or
- b). Convince both the field and Chinese Christians of their misapprehension as regards compensation in the transfer of property.

5. In this development of thought I have adhered to the general or abstract, so far as possible, dealing with the Church at large or the Christian constituency. Special questions naturally arise in certain departments of the Mission enterprise. For example, the educational institutions or the hospitals. I will not enter this realm save to say

- 1/ That certain types of property, as of activity, will be transferable much earlier than others.
- 2/ That in the educational institution property as in the case of the local congregation of the Church I would apply the remote

May 29, 1936

control principle. The Board of Directors as ordinarily constituted is scarcely to be trusted with these holdings, certainly not without satisfactory counterchecks.

3/ That unless Governmental regulation (as is probable and may close the hospital) constrains otherwise the hospital, because of its more highly specialized character should remain in foreign hands for a long time to come.

4/ That Mission residential property may more easily be held as purely foreign and consequently disposable with compensation. Where residences are unoccupied by the foreign missionary force, however, there is a natural demand for their use in connection with nearby Chinese activities. Herein, owing to our diminishing foreign force, lies the beginning of a problem already evident.

6. One of our immediate problems lies in the fate of our numerous country chapels. Under an impulse of expansion some years ago these properties, usually inexpensive plants, were secured in great number at Board expense. More recently the policy underwent change so that now no Board funds go into the housing of Christian groups.

The result is that the Board owns numbers of these country chapels; a few having grown up with a Christian group of responsible size; more still housing weak groups able to contribute little or nothing, even to the upkeep or repair of the building, while not a few have nothing to show for the outlay. What principle shall we apply in regard to these properties? I suggest

a). That the third class be offered to the Church of Christ without compensation or, if not desired, sold off at any price obtainable from outsiders.

b). That the second class be transferred to the Church of Christ without compensation and without restriction as to disposal in case the interest of the Cause warrants a transfer of activities.

c). That the first class, among which equities are likely to exist, be transferred to the Church of Christ upon some equitable financial adjustment; possible

1/ The Church buying out the equity of the Board, or

2/ The Board remitting its equity when exceeded by the equity of the local Christians, or when the Board's equity does not exceed a certain sum arbitrarily fixed.

The importance of immediate attention to this lies

1/ In the danger of having properties lying idle, and

2/ In the growing problems of equities as the Christian constituency becomes stronger.

7. Another problem which is developing lies in the realm of equities mainly in connection with our educational institutions. The Mary Farnham Girls' School of Shanghai will serve well to illustrate. The land and most of the buildings came from Board resources. Several buildings have recently been erected by the Chinese supporters of the School thereby creating an equity, a Chinese owned building upon Board owned land. (Incidentally a reversal of the conditions to which I called attention in the discussion of the perpetual or limited land lease.)

May 29, 1936

This is the beginning of a tendency which will increase through increased Chinese support of the institution. (Note: in C.C. policy attempt has been made to minimize this problem in the medical or hospital sphere.)

What is to be the ultimate solution? Most naturally one would think of the Chinese buying (or redeeming, - according to the point of view) the land beneath their buildings as the solution. No so with the Chinese, however, nor with many of the foreign force as well. When recently the Council Ad Interim Committee informally proposed the sale of a small isolated tract to the school in order that both land and building might be of one ownership, the protest of foreign astonishment at thought of asking the Chinese to buy the land was sufficiently strong (and supported by the Mission Executive Committee) as to indicate what the Chinese protest would probably be.

In a word it is fair to assume that all the Chinese and not a few of the foreign force believe that such land at present "leased" in the formal agreement between Board and School should and doubtless will ultimately be transferred to the Chinese. If it is not to be transferred at all the Chinese should not be permitted to erect buildings upon the land.

If to be transferred, whether sooner or later, the question of compensation, whether with or without, should be mutually understood at the beginning or at an early date.

Granting that it be with compensation, a question arises as to increment, enhanced value of land through development of the neighborhood, etc. One cannot but feel some sympathy with a commonly expressed Chinese view that the increment should belong to the Chinese, that is to say, the institution, - which of course would mean that the Board would not withdraw its original investment in the land.

Thus ending the third instalment!

Yours cordially,

/s/ CHAS. E. PATTON

P;c

"In order to help you to understand the whole situation, I shall try to give a brief account of the problem. The Municipality of Nanking required all the land owners to register their title deeds. It was for the purpose of clearing the deeds (many of which had been inaccurate since the time of the Taiping Rebellion), but it was also for the purpose of levying land taxes. The time limit for owners to apply for registration expired at the end of December 1935. At the Executive Committee meeting last November it was therefore decided that Ginling should follow the lead of the University of Nanking in this matter, and that I should get in touch with the Land Bureau before the expiration of the time. Accordingly, I went to see the Head of the Land Bureau, and he told me there would be plenty of time for the College to attend to this process because starting from January 1, 1936 they were going to consider all land still unregistered as 'presumably registered.' In a special set of regulations governing "presumed registration" the calendar year 1936 was set for completing the process of regular registration. So the College will have nine more months to work on this.

"At the November meeting of the University Board a report was submitted on the advantages and disadvantages in registering the University land in the name of the Board of Founders or in the name of the Board Directors. At the meeting last week the answer had come from the University Board of Founders. Enclosed I am sending you copies of that report and the reply from New York. The present situation of the University is this, that they have started on the preliminary process of registration without raising the question as to the official name that is to be used as the holding body.

"The important point involved is the nationality of the legal body that will hold the property, so paragraph 2 in the minutes of the Nanking Executive Committee, February 20, 1936, did not answer exactly this point. If the holding body is considered of foreign nationality, then the property is to be held on lease, while if by the Board of Directors, which is considered a Chinese legal person, then the land will be held as a straight ownership. This will put a mission educational institution in the same status as other Chinese private institutions, and that institution may enjoy the privileges of reduced land tax or be exempt from it entirely.

"At the Ginling Board meeting on March 7, the Board did not make definite recommendations to the Founders as to what name Ginling should use in registering the land, but passed one action to ask if the Board of Founders would express their willingness or unwillingness to transfer the ownership to the Board of Founders. This is for the purpose of getting some guidance from you as to how to proceed in the future. It seems to me that Dr. Speer and Mr. Lobenstine will have valuable advice to give on this point.

"One other factor I should explain. You remember the case when Ginling bought a small piece of land on perpetual lease and had to use the name of the Presbyterian Board. This was because the Municipal Government recognizes Mission Boards only as mission bodies and not an educational institution supported by missions. This will mean that if we are to register our land under a foreign legal body, we shall have to use the name of some Mission Board again. Here the complication comes. The various missions in Nanking had a special committee appointed to handle the registration of mission property in the city, but the form proposed by the Municipal Government for such land on lease is found unsatisfactory by Ambassador Johnson, and he has asked that they withhold the process until a more satisfactory form can be worked out. We all know that such a process through the Ambassador and our Ministry of Foreign Affairs usually takes

many years. So far as I know nothing has happened since the mission committee stopped the registration process. Mr. Plummer Mills is on this committee and made a report to the Presbyterian Kiangan Mission Meeting last year. If you look up the mission reports you will understand the situation from that angle.

"After telling you all these difficulties, I wish to add that I am not worried over the situation. Both the Mayor and the General Secretary of the Municipal Government know me well, and in the immediate future I hope to start on the preliminary details of registration as the University is doing. I think these two persons at least will understand the factors involved and how the College is not able to apply officially for a new certificate."

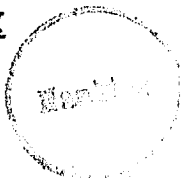
*Send
Admission Money*

COPY

3 Hsi-Chiao Hutung
Peiping, China

July 14, 1936

INDEXED



Dear Dr. Speer:

Thanks for your letter of May 26th. It is my opinion that the effect of depositing the deeds of the property of the University of Nanking with the Board of Founders would leave the ownership in the hands of the Board of Founders just as it is at the present time. We have a peculiar situation in China on account of extra-territoriality. Chinese who hold property in the foreign concessions such as Shanghai or Tientsin do so in the name of a foreigner who issues to the owner a Deed of Trust. Foreigners (not missionaries) who hold property in the interior of China do so in the name of a Chinese who issues to them either a Deed of Trust or gives them a certificate of mortgage. In the case of the University property all that would be necessary would be for the Board of Directors of the University in its letter covering the deposit of the deeds with the Board of Founders to state that the property is held in trust for the Board of Founders. The Board of Founders would then have the same protection as is generally recognized in China and which could not be broken without an entire upheaval of general business conditions. You will be able to talk over the whole matter with Dr. Chen during his visit and reach a basis of agreement.

With kind regards to Mrs. Speer and yourself.

Yours sincerely,

(signed) * John C. Ferguson

Dear Mr. Gault,

Mr. Speer asked that we share this letter with you. Here is a copy!

Sincerely,

Frances Graham

RECEIVED
UNIVERSITIES
AUG 20 1936
JOINT OFFICE

Exhibit 3

August 10, 1936.

Chicago, Ill.

Dr. B. A. Garside,
Associated Boards of Christian Colleges,
150 Fifth Avenue,
New York, N. Y.

Dear Dr. Garside:

Shortly before I left Nanking, (on July 10), the Municipal Government of Nanking, apparently with the approval of the National Government, issued a new set of regulations in regard to registration of properties held by foreigners under term or perpetual lease. This new statement conceded two points which the representatives of the American Government had been attempting to defend and the approval of which they had been trying for over a year to secure from the Chinese government. The two points in brief were: The right of the holder of the perpetual lease to sell to purchasers other than the Chinese Government, and the right of the holder of the lease to the "unearned increment" of the land. I am enclosing a copy of the general "Application for Registration", of the Form of Certificate for Lease of Land by Foreign Missionary Organizations, for the term lease certificate, and for the perpetual lease certificate. You have already received several communications on this question of registration and, with these documents, I would like to add a few comments which may be placed in the file with other observations on this theme.

You have received a copy of the Report of the Action of the Special Committee appointed by the Board of Founders of the University of Nanking which was taken at the meeting of the Committee on April 18, 1936. The chief question before that Committee appeared to be the choice between registration of the University of Nanking property under the Board of Founders, i. e. a foreign corporation, and the registration of the property under the Board of Directors, i.e. a Chinese corporation. You are familiar with the arguments for both decisions. They seemed to be in the main two on either side: In favor of registration under the Board of Founders, the obvious facts that the legal title to the property rested in the Board of Founders and that the property would be protected by the American Government if it were thus registered. In favor of registration under the Board of Directors were the two arguments; first, that the University would escape taxation which the Chinese Government would apparently enforce against foreign corporations and which it had already enforced in regard to Hangchow College which had registered as a foreign corporation not long before; and the right to the "unearned increment" of the land and to freedom of sale of the property, in accordance with Chinese law.

Before the Committee met I called up Mr. W. R. Peck, Counsellor of the American Embassy in Nanking, and reported to him that apparently there was quite a leaning on the part of the University of Nanking group to register under the Board of Directors, and I asked his opinion of the attitude of the American Government if this should be done. You doubtless have in your files copies of the Record of the "Ministers' Advice to Members of the Missions' Advisory Council relative to the re-registration of their properties in Nanking" dated April 23, 1935. At the meeting of the Missions' Advisory Council held on that day with the then American Minister, (now Ambassador) Mr. Johnson stated that the American Government was opposed to three features in the new land-lease certificate, namely "provision for describing perpetual lease property as nationally owned; provision for the purchase of Mission property by the municipal government at the 'original price'; and the suggestion that the Missions

will be allowed to dispose of their property only to the municipal government". The American Government was particularly opposed to the last two provisions on the ground that these provisions abridged in an unwarrantable way the rights of the Missions already secured. On April 25, 1935, the Nanking Missions' Advisory Council wrote to Mr. Johnson stating their views and I assume you have a copy of their letter.

There was no change in the position of the Chinese Government and no answer to the representations of the American Government before the special Committee of the University of Nanking met on April 18, 1936.

In my conversation with Mr. Peck on the evening before the meeting of the Committee, I asked him for any further word that he would care to give. He said that the American Government had not changed its position in regard to the inadvisability of the Missions registering their leases, but he said that apparently the protest of the Government had not had any effect; he pointed out that if the University of Nanking registered as a Chinese corporation, it would lose any right it had to call upon the American Government for protection in case its property was threatened, but that if the Committee desired him to do so, he would ask the opinion of the Ambassador at Washington in regard to registration of the University property as a Chinese corporation and would report to us, assuming that no final decision ~~will~~ ^{will} be made until after we ^{had} ~~had~~ from both Peiping and Washington.

At the meeting of the Special Committee held next day, it seemed clear that a majority of the Committee were in favor of registering as a Chinese corporation. There were certain questions raised, however, as to the cost of such registration. Under the terms of registration already published by the Government, a fee of one-fifth of one percent of the value of the property is charged when it is registered, and one-tenth of one percent when sold or transferred. (Note in the "Statement Concerning the Registration of Land of the University of Nanking" sent out by the Special Committee after its meeting April 18, 1936, on page 3, paragraph 3, the statement is made that the official rate is "two percent" but this is an error as the rate is two-tenths of one percent. The cost of registration to the University is given as ^(China) \$30,000, whereas it ought to be ^(China) \$3,000, on a basis of the valuation of the land at ^(China) \$1,500,000. As a matter of fact, the charge which would be made has been reported later by the Government to be approximately ^(China) \$2,300.) There were also other questions which did not seem to be clear, and I made a motion that the Committee indicate that there appeared to be a majority in favor of registration as a Chinese corporation but that there were four points that needed to be cleared before any definite decision could be made;—the cost of the registration, the right of resale and to the unearned increment to the land, the right to maintain the property for the purposes for which the funds were originally given, and finally, that no action should be taken without conference with the representatives of the American Government and without their approval. In the motion I added the clause that further information should be sought on these four points and after it was secured and, if possible, within a month's time, the Committee should meet again and then try to reach a definite decision.

I still think that would have been the most sensible action to take. My motion, however, apparently seemed too involved and the need of making some definite decision was pressed and the motion of which you already have a record was passed that the land of the University should be registered "under the corporate name of the University of Nanking," leaving to the Chinese government the decision as to whether or not this meant a foreign or Chinese corporation. The Special Committee was trying sincerely to follow the wishes of the Board of Founders, as they understood them, in taking this action.

When the action was reported to the Chinese Government, it replied that the University must choose whether it desired to register as a foreign or Chinese corporation.

Since then the municipal government has taken the action already indicated and has conceded the two points which the American Government was attempting to champion. A new element is introduced in the insertion of a charge for rent for the land, and it has been indicated also that there will be a stamp tax when the University does register of approximately \$6,000, as penalty for failure to register at an earlier date.

I saw Mr. Peck just before I left Nanking and he said that the American Ambassador was preparing a statement on the whole situation and that he would prefer not to give any advice until after this statement was issued. You will doubtless be hearing soon from our representatives at the University in regard to this statement.

Mr. Peck said that the American Government really had no basis in the treaties with China for pressing its claims in regard to the terms of registration but that they felt it was right for them to go forward along the lines already indicated and he was happy that an agreement had been reached with the Chinese Government.

Perhaps I should add that all the Presbyterian Mission property in Nanking, except for one very small lot, is held under perpetual lease, the small lot related to Ming Teh being held on a term lease.

Dr. Y. G. Chen, President of the University of Nanking, is now in the United States and will be in New York early in September and will be of great help in trying to reach a judgment on this situation. Miss Priest, Field Treasurer of the University, can be relied upon to forward accurate information on any new points which may emerge.

I am sending a copy of this letter to Dr. Speer and to Miss Priest.

Sincerely yours,

W. Reginald Wheeler

W. Reginald Wheeler.

P.S. I am enclosing also copies of (1) memorandums of the Minister's advice to members of the Missions Advisory Council relative to the negotiation of their properties in Nanking dated April 23, 1935; letter of the Nanking Missions Advisory Council to Mr. Johnson, dated April 25, 1935; letter of George Atcheson, Jr., Second Secretary of the American Legation to Mr. James H. McCallum, dated April 27, 1935. In case you do not have these in your files.

When the action was reported to the Chinese Government, it replied that the University must choose whether it desired to register as a foreign or Chinese corporation.

Since then the municipal government has taken the action already indicated and has conceded the two points which the American Government was stipulating to abandon. A new element is introduced in the transaction of a change for rent for the land, and it has been indicated that there will be a stamp tax when the University does register of approximately \$2,000, a penalty for failure to register at an earlier date.

I saw Mr. Peck just before I left Hanking and he said that the American Ambassador was preparing a statement on the whole situation and that he would prefer not to give any advice until after this statement was issued. You will doubtless be hearing soon from our representatives at the University in regard to this statement.

Mr. Peck said that the American Government really had no basis in the matter with China for pressing the claims in regard to the terms of registration but that they felt it was right for them to go forward along the lines already indicated and he was happy that an agreement had been reached with the Chinese Government.

Perhaps I should add that all the Presbyterian Mission property in Hanking, except for one very small lot, is held under perpetual lease, the small lot related to King Park being held on a term lease.

Dr. Y. G. Chen, President of the University of Hanking, is now in the United States and will be in New York early in September and will be of great help in trying to reach a judgment on this situation. Miss Priest, Field Treasurer of the University, can be relied upon to forward accurate information on any new points which may emerge.

I am sending a copy of this letter to Dr. Chen and to Miss Priest.

Sincerely yours,

H. Reginald Wheeler.

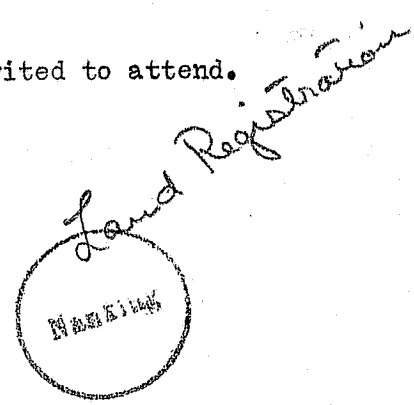
RECEIVED
UNIVERSITIES
AUG 13 1936
JOINT OFFICE

N.B. This is notice of an important meeting which you are invited to attend.

Tentative Agenda

September 23, 1936, 9:30 A. M.
Room 824, 156 Fifth Avenue, New York

Property Titles and Taxation in China



1. Prayer
2. Appointment of Temporary Chairman
3. What are the government's regulations?
The aim will be to provide an authoritative statement of the requirements of the government regarding
 - a. Registration of property titles
 - b. Taxation - Reductions and Exemptions
4. What actions have already been taken by missions and boards with reference to the transfer of property titles?
It will be helpful to all to know the facts regarding the policies already adopted by others. Each board representative will be asked to report.
5. What is the present status of property titles held by American missionary boards? What can be said about future developments?
6. What common policy may be recommended?
 - a. Considerations in favor of transfer of titles to Chinese ownership
 - b. Considerations in favor of continuation of leases as provided in the American treaty with China
 - c. Other considerations - Possibility of incorporation in China. Property-holding foundations
 - d. Can we distinguish between
 - (1) institutions
 - (2) missionary residences
 - (3) churches and chapels
 - e. Conclusion
7. Other Business
8. Adjournment

Office of the Director of the National Archives and Records Administration

Administrative

Washington, D.C. 20540
September 15, 1936

University of California

100

Department of Geography

University of California

San Diego, California

Dear Sir:

Reference is made to your letter of August 28, 1936.

The enclosed report contains the information requested.

Very truly yours,
Director

Enclosure

Very truly yours,
Director

Very truly yours,
Director

Very truly yours,
Director

Very truly yours,
Director

Very truly yours,
Director

Very truly yours,
Director

Very truly yours,
Director

RECEIVED
UNIVERSITIES
SEP 15 1936
JOINT OFFICE

F

Report of a Meeting of Representatives of
Mission Boards Having Work in China
Held on September 23, 1936, at
156 Fifth Ave., New York, N.Y.
For the Discussion of Problems Related to
Property Titles and Taxation in China

1. Attendance.

Mr. Harold B. Belcher (ABCFM)
Dr. A. V. Casselman (RCUS)
Dr. W. C. Fairfield (ABCFM)
Dr. C. H. Fenn (Presby.USA)
Miss Jessie R. Ford (So.Bapt.Convention)
Dr. B. A. Garside (ABCCC)
Miss Margaret Hodge (Ginling)
Miss Florence Hooper (WFMS,ME) - morning session only
Dr. E. H. Hume (China NCC) - morning session only
Dr. G. B. Huntington (ABFMS)
Dr. P. W. Koller (United Luth.)
Rev. E. C. Lobenstine (China NCC)
Miss R. B. Lustgarten (PE)
Mr. Oliver S. Lyford (Yale) - morning session only
Miss Bessie MacMurchy (WMS,Can.Presby.)
Miss Elizabeth McFarland (YWCA)
Rev. H. Spenser Minnich (Brethren)
Dr. Alexander Paul (UCMS)
Dr. F. M. Potter (RCA) - morning session only
Dr. Frank Rawlinson (Chinese Recorder)
Mrs. C. K. Roys (Presby.USA) - morning session only
Dr. G. T. Scott (Presby.USA)
Rev. C. Stanley Smith (Theol.Sem.,Nanking U.)
Dr. George Sutherland (ME) - morning session only
Miss Florence G. Tyler (FMC) - morning session only
Rev. A. L. Warnshuis (IMC)

2. Election of Chairman. Dr. W. C. Fairfield was elected to serve as chairman of the meeting.

3. Prayer. The meeting was opened with prayer.

4. Purpose of the Meeting. Communications from China received by a number of the boards had made clear the necessity for a meeting in which representatives of the boards could together discuss the problems involved in the re-registration of deeds to mission property in China, so that policies adopted by the boards would be arrived at in the light of the total situation. Decisions reached independently by any one board would establish a precedent that would inescapably affect the position of every other board or institution. Although the conclusions of the meeting could be advisory only, the discussions might be of great assistance in the formation of a common attitude that would result in action along similar lines by the various authoritative bodies.

Mr. Warnshuis presented a paper summarizing the available data. This paper was used as a basis for discussion.

5. Registration of Deeds. It was reported that the government of China has undertaken the survey and registration of all land titles in the country. (See Legislative Record, Vol. IV, pp. 23-58, for laws governing land taxes promulgated on

June 30, 1930.) This survey is progressing with various degrees of rapidity in different parts of the country. Pressure is not felt yet in some places and is very severe in others. The necessity and value of this survey is vividly stated in the following extract from "New Life Centers in Rural Kiangsi," special Bulletin Number Two of the Kiangsi Rural Welfare Centers, May 1936, p. 26:

...The last registration of land in Kiangsi took place in the Ming Dynasty (ending in 1644). As a matter of fact, today nobody save the present owner knows exactly how much land he owns, for the land tax is still collected according to the land deeds, and the original owners may be dead long ago. Much land was omitted from the last registration of titled deeds and new land since reclaimed has not paid its taxes. No one in the Province really knows the total acreage of arable land and the ownership thereof. In view of such chaotic conditions a survey of the whole Province is an urgent necessity. In May 1932 an aerial survey of the Nanchang hsien was started and completed in June 1934 including mapping, investigation and registration of land at a total cost of \$400,000. The result was the discovery of some 300,000 mow of arable land which had not paid taxes for hundreds of years - this representing 23% of the total arable land of the hsien. Subsequently a comprehensive plan for an aerial survey of the whole province on a more economical basis was made but it called for a total budget of \$11,000,000. Because of the lack of this huge sum of money, progress in this work has been retarded and today about 10% of the whole Province has been surveyed and mapped. Unless this fundamental work is completed, the problem of land tenure cannot be scientifically studied and a wise solution thereof suggested.

The following questions were raised by the group: (1) Is there any valid reason why property titles held by aliens should be exempted from such registration? (2) Does such registration question in any way the validity of any lawful title held by a foreigner, or affect his rights under existing or earlier international treaties? (3) May not such registration offer a good opportunity to legalize title deeds that are now more or less lacking in conformity with established legal requirements? It was pointed out that in cases where property is to be sold or improved, or when building permits are required, the demand for the re-registration of title deeds is inescapable.

In consideration of these questions it was brought out definitely that the efforts of the Chinese Government to re-register title deeds are in no way discriminatory against foreigners, and it was

- VOTED (1) That the boards be advised to continue their efforts to regularize all their property titles, a procedure which has been and continues to be a matter of utmost importance.
- (2) That with reference to re-registration of deeds, it is recommended that the initiative should be on the part of the Chinese governmental authorities and not on the part of the missions.
- (3) That, whenever in the process of a re-survey of a given area the Chinese authorities request the re-registration of deeds to mission property and after consultation with the consular authorities involved, property should be re-registered, provided always that the newly registered deed does not adversely affect the existing title.

The question as to the name under which the title should be registered is considered below. (See Item 8)

6. Invitation to Dr. Wu and Dr. Chen. Feeling the need of the assistance in the consideration of the questions involved which could be given by Dr. Wu Yi-Fang and Dr. Y. G. Chen, who were in the city, the group extended an invitation to them to attend the meeting. Dr. Wu was unable to come. Dr. Chen was present for part of the morning session and presented clarifying data at many points.

(The meeting adjourned at 12:45 to reconvene at 2:00 P.M.)

7. Taxation. It was reported that the fees for registration of deeds when there is no transfer of title are reasonable and moderate. In Nanking the terms of registration published by the Government provide for a fee of one-fifth of one per cent of the value of the property when it is registered and one-tenth of one per cent when sold or transferred.

Regarding the levying of annual taxes on registered property, the principal question concerning missionary boards arises from the regulations providing for the reduction or exemption of taxes on certain classes of property. These regulations are to be found in the "National Government Gazette" of April 20, 1936, and may be summarized as follows:

Details of the regulations governing the reduction or exemption of land taxes for specified property were made known as follows: Land taxes are to be exempted for the following categories of property: (1) Private schools and academic organs which have already registered with the government and are considered to be up to the standard; (2) Registered charitable organizations which are considered to be of good standard; and (3) Public cemeteries. Land taxes are to be reduced for the following categories of property: (1) Registered civic organizations and public athletic grounds; (2) Registered agricultural experimental stations which have at least ten years' standing; (3) Public hospitals which have at least five years' standing; and (4) Private-owned railways and highways. - Chinese Economic Journal, May 1936, p. 761. Reprinted in The Chinese Recorder, August 1936, p. 518.

(See also the summary printed in "The Church," the bulletin of the Church of Christ in China, May 1936, p. 10.)

This problem of taxation and the possibilities of reduction or exemption have become urgently critical issues in the case of several institutions. For example, in Chekiang the tax is levied at the rate of \$8.00 per \$1,000, and Wayland Academy in Hangchow is taxed a total of \$920.

It was pointed out that the mistaken statement has been made in some of the correspondence from China that the treaties granted freedom from taxation for mission-owned property. Article XIV of the 1903 Treaty between the United States and China is authoritative treaty provision regarding missionary property, and this Article does not mention taxes. The requirements, under this Treaty, to complete the legal title to property held by American missionary boards are as follows

- (1) The title must be in the name of a Missionary Society in the United States.
- (2) The title must be in the form of a rental contract or of a perpetual lease.
- (3) The title deeds must be approved and stamped by the local authorities.
- (4) The property must be used for missionary purposes.

It was stated that the possibility of obtaining reduction or exemption of taxes is the principal reason that is being urged for the transfer at the present time of titles of property to Chinese ownership. In this connection, the following points were made:

a. Taxation of foreign owned property is based upon Chinese customs and laws and not upon international treaty.

b. The national law of April 20, 1936, contains no clause which would prevent foreign owned property from obtaining the exemptions allowed under the special classifications cited. Local interpretation of the national law, however, would seem to eliminate foreign owned property from these exemptions. This may be a question that should have further consideration.

c. Taxation of foreign owned property upon which are located private educational institutions recognized by the Chinese Government seems to be on the basis that the educational institution is not being taxed, since it does not own the property. The owner of the property, being other than the institution, is the party who is asked to pay the tax. To obtain exemption of taxation it seems that it would be necessary for the property to be held by the institution itself. It was felt that further information on and clarification of this point were necessary.

d. The legislation of the Chinese Government has made clear that property used for philanthropic purposes and property of benevolent institutions recognized by the Government and with good accomplishment may ask for exemption of taxation. So far none of the mission organizations has been exempted. The feeling is that property the title to which is registered in the name of a private Chinese corporation as contrasted to a mission will have a better chance of obtaining exemption from taxation and also exemption, in whole or in part, of the registration fee.

e. There is no evidence of adverse discrimination against foreigners in the matter of taxation. The requests of the Chinese Government for the re-registration of deeds is not an attempt to force the transfer of titles to Chinese ownership but is an effort to discover exactly where the titles are held - whether in China or in other countries. The action of the Government is not to be interpreted as expressing an unfriendly attitude toward Protestant missions, churches, or other institutions.

f. It should be clearly understood that the titles of property holdings of missions outside of treaty ports which cannot be fairly interpreted as being used for missionary purposes are subject to question.

The group was agreed that this financial problem has overshadowed other considerations in deciding the question of transferring titles to Chinese ownership and that this aspect should not be given consideration to the exclusion of others.

8. Transfer of Titles.

a. Actions already taken by missionary bodies. The National Convention of the Y.M.C.A. some years ago created a Board of Trustees, which was incorporated by the national government of China, which holds the title of properties in behalf of the Association. In some cases, however, local bodies have formed partnerships for the holding of local properties, and it has been found necessary to trust them without other than personal safeguards. The last biennial conference recommended that the national property holding board should be the custodian of the properties of the local associations.

It is the desire of the Y.W.C.A. to turn over all property to the National Committee of the Y.W.C.A. in China. In accordance with the request of the National Committee, however, the Board in America holds the deeds here, although they are covered by a declaration of trust lodging responsibility for the property with the National Committee in China. Whenever the National Committee expresses the willingness to accept them, the Board in America will turn the deeds over to the Committee in China.

The General Council of the Church of Christ in China in 1935 adopted a draft constitution for a Property Holding Corporation for the General Assembly. But it has not yet been found possible to obtain legal incorporation for this body.

The National Christian Council at the meeting of its Executive Committee on May 1, 1936, appointed a special committee "to devise a plan of action and to secure such assistance as may be necessary for investigation." In response to a request addressed to this committee for all available information, a memorandum prepared by Dr. Charles E. Patton was received. Copies of this memorandum were given to the secretaries of the boards represented in the meeting.

The Executive Committee of the Associated Boards for Christian Colleges in China on July 3, 1936, addressed an inquiry to all the cooperating boards asking for information regarding registration and the policies to be adopted.

The Board of Directors of Nanking University have authorized the President of the University to proceed with the necessary steps for land registration, and have referred to the Board of Founders the question of the title under which the registration is to be made. A decisive answer is requested before September 25. (See Appendix to these Minutes.)

The Board of Founders of Ginling College is asked to answer similar questions. (See Appendix)

The Board of Founders of Hua Chung College is also confronted with the question of the registration of newly acquired land, and this has raised the question of the relation of the Founders to the other properties now used by the College.

The Methodist Central Conference is reported to have put itself on record as favoring a central holding body, and is awaiting advice as to the form of organization. The attitude towards the ownership of institutional property has not been defined. Neither is there a clear understanding as to whether the property in China belongs to the Board of Foreign Missions, or is held by the Board in trust in whole or in part for the Methodist Church in China.

It is reported that the Baptist Mission (A.B.F.M.S.) is moving toward the creation of one central board for all their middle schools rather than to entrust ownership to local boards. Such a central board might also hold hospital and church property.

The churches in Hangchow have sent a petition to the Government asking for exemption from taxation on all church, hospital, and school property quite apart from the question of registration and ownership.

b. The present status of missionary property titles. A memorandum dated March 19, 1935, was circulated to all the North American boards calling their attention to the urgent necessity of action to safeguard their title to properties in China. This was based upon a detailed enquiry and information obtained from twelve boards, which was made at the suggestion of the Department of State, and which showed that the existing title deeds of missionary property have been governed largely by local customs and conditions with the result that there are about as many forms of title deeds as can be imagined, and very many of these deeds are not in complete accord with legal requirements, even if these are defined only by Article XIV of the 1903 treaty between the United States and China.

There has been serious difference in interpretation of the "perpetual lease" by which in accordance with the treaty all missionary property should be held. Recent cablegrams seem to indicate that this question has been satisfactorily settled, although details are not available.

The need was felt for further information on the following questions:

- (1) What is the interpretation of ownership rights under perpetual lease?
- (2) To whom does the unearned increment on land accrue?
- (3) When property is re-registered, what valuation is to be put in the deeds - the present value or the original purchase price?

The close relation between the question of property holdings under perpetual lease and that of extraterritoriality was pointed out. There can be no final, legal settlement of the questions arising from perpetual lease until a new treaty settles the question of extraterritoriality. It has been claimed that, under perpetual lease, if the land can be sold at all it must be sold at the original price, but here again there is a question as to what is the original price. Is it the price at which the land was originally bought or the price at which it was registered? The generally accepted opinion is that original price refers to the price at which the land was registered. This makes it important for the boards to look ahead and decide now upon a reasonable price for the land, re-register at that price, pay the taxes, and so have the deeds in order for possible sale or other disposal. With the Government of China looking now to the land as a source of revenue, it is necessary to be careful about registration and to have a clear understanding as to who is the owner of each piece of property.

The group was reminded that the 1903 treaty is now subject to revision. Both governments have agreed to enter upon the desired negotiations for such revision and a new treaty will be signed at an opportune time. Some drafts of such a new treaty have been under consideration. It is impossible to state now what the new treaty will provide with reference to the holding of property by aliens in the interior of China. The American missionary boards to a large extent have placed on record their desire that in the future their rights and privileges in China should not be dependent upon international treaties, and that these should be governed by the laws of China and the goodwill of the Chinese people.

It was agreed that in the present discussion of the question of the transfer of title to Chinese ownership only well-considered reference to international treaty rights should be made.

c. Considerations for and against transfer to Chinese ownership.

The attention of the group was called to the statement prepared by Dr. Charles E. Patton summarizing the considerations for and against the transfer of titles to property to Chinese ownership. In discussion, the group brought out the following points:

For transfer to Chinese ownership:

- (1) Exemptions from registration fees and taxation or reductions in might be more easily obtained.
- (2) If the land is definitely owned and not held under perpetual lease, it can be developed in the most effective way. This is particularly true of educational institutions, whose development has been handicapped in some instances by inability to purchase and dispose of land in accord with the needs of the institutions.
- (3) Evidence of willingness to cooperate with the Chinese would have an excellent psychological effect on the Chinese.
- (4) The American trustees would be turning over their trust to a body of trustees who happen to be Chinese rather than Americans; they would be carrying out in regard to property the same procedure which has been followed in connection with far more significant matters. The trust of safeguarding the Christian inheritance has been turned over to the Chinese Christians.

Against transfer, at this time, to Chinese ownership:

- (1) Financial obligation involved in transferring titles. The liability for registration fees has been referred to above, but other taxes may be imposed in cases of transfer of title. (It was pointed out, however, that in many instances the transfer would not be considered a "transfer of title" but a "definition of title.")
- (2) Much of the property has been developed with American aid to a place far beyond the economic ability of the Chinese to maintain it.
- (3) Danger of foreign influence - e.g., Japanese and Communist. The educational institutions, particularly, would probably be in a stronger position in case of foreign invasion of China, if the property were held by Americans or English.
- (4) There is no body in China above the local church, except in the YMCA, which is competent to hold property.
- (5) There is danger in transferring responsibility to a small body that development of the work as a whole will be restricted.

- (6) Development of boards of directors holding property in individual educational institutions will tend to strengthen local alumni loyalties and hold up the development of a correlated educational program for all of China.
- (7) In case a school ceases to function as an educational institution, it reverts to the Government. If this refers to property, a board of founders transferring property to a Chinese board of directors would do so in the realization that in case of difficulty the property would not revert to the board of founders but to the government of China. (Dr. Chen said, in his opinion, this clause regarding the right of the Ministry of Education to take over a school which had ceased to function as an educational institution referred only to the management of the school and not to the ownership of the property.)
- (8) The severing of direct connections with the financial control of educational institutions now maintained by ownership of the property would check investments by Americans in plants in China.
- (9) What is involved with the Board of Regents of the University of the State of New York, under which these educational institutions are registered, if the board of founders no longer holds the property?
- (10) Can the American boards abdicate their trusteeship of a sacred trust? There is no assurance that the constitution of the boards of directors will remain as it is, with Christian representation. The Nanking Government can change the basis of representation and cause the loss of the Christian influence.
- (11) The Chinese laws concerning trust corporations are not sufficiently clear so that the American boards can be sure that they are turning responsibility over to a group comparable in legal protections and limitations to similar groups in this country.
- (12) The holding of property of educational institutions by American boards of founders is the only legal basis of control that the boards in this country and the donors have as to the carrying out of the original purpose of the institutions. The boards in America can well afford to carry a little longer the financial burden of increased taxation in order to be better assured that the transfer, when made, will be of such character and on such basis as to insure the carrying out of the purpose of the founders of these institutions.

The group gave careful attention to the following resolution, but in view of the foregoing considerations, the question was not put to a vote:

In the further development of transfer of administrative responsibility to the boards of directors and for the sake of equitable treatment in matters of taxation as well as

in order to facilitate the acquisition and sale of property when desired, we are favorably inclined toward the transfer of title to the boards of directors of the union universities and colleges in China in situations where a decision in the matter is necessary. We further recommend that, if possible, such transfers include a reversionary clause that would be legal under the laws of China and that would protect the moral trusts imposed by donors in America in the event of a dissolution of the institution or its ceasing to function in accordance with its present purpose.

It was

VOTED That the secretary be requested to communicate to the college and university boards and the individual supporting mission boards the accumulation of facts brought before the meeting with such report of discussions as may be available.

VOTED That the group approves of the ultimate transfer of titles to property to the union colleges and universities in China when the holding bodies in this country are satisfied that it is possible for those groups to execute the trusts these bodies in America now hold.

With reference to property of institutions other than the union colleges and universities, it was pointed out that when transfer is made of property of a kind distinctly related to the program of the church, it should be made to a body representing a larger area than a local church; ownership and control of middle schools should be in regional educational bodies; the ownership of hospitals should be through some plan worked out by the Council on Medical Missions. It was

VOTED That with reference to questions related to missionary property used by institutions other than the union colleges and universities, for missionary residences, and for church and other purposes, the chairman be requested to name a committee of three to five members to continue study of the whole subject and to report back to a conference which they will call, the results of their study to be placed at the disposal of the separate boards.

The Chairman appointed Mr. A. L. Warnshuis (convenor), Mr. E. C. Lobenstine, Dr. B. A. Garside, Dr. G. B. Huntington, and Dr. G. T. Scott.

9. A "Christian China Foundation." The suggestion was made that an incorporated body similar to the "China Foundation," which was organized to administer the American share of the 1900 indemnities, might be formed to hold property in China. It was pointed out that such action might not affect the question of taxation, as such action would not transfer the land occupied by a school or university to the institution itself, but it might have an important bearing upon the question of security of title, and the continued use in accordance with the purposes of the owners. The group felt that such a plan would meet with opposition from the Chinese alumni of the colleges and universities.

10. Distribution of Report of Meeting. The secretary was requested to send a copy of the results of the group's deliberations to the boards of founders of all the Christian colleges and universities in China and to the mission boards in North America having work in China.

11. Adjournment. The meeting adjourned at 4:00 P.M.

A.L.Warnshuis,
Secretary

The Board of Founders of Nanking University met on the next day, September 24, and we are permitted to quote from their Minutes as follows:

LAND REGISTRATION

With the docket of the meeting was distributed an extensive digest of information on this subject, including a resume of actions already taken by the Board of Directors and the Board of Founders and their various committees. The findings of a conference of missionary executives dealing with the general subject of land registration in China held on September 23rd, was distributed. President Chen, Mr. Wheeler, and Dr. Smith made statements. There followed a general discussion, dealing chiefly with the question of whether the proposed registration of the property of the University with the Chinese government should be carried out in the name of the Board of Directors or the Board of Founders. Following the discussion, it was unanimously

BF-848 VOTED that the Board of Founders of the University of Nanking authorize the Board of Directors of the University to register the property, including both land and buildings, of the University of Nanking with the Chinese Government in the name of the Board of Directors, with the understanding that the Board of Directors will give the Board of Founders, representing the original donors, formal assurance of their acceptance of the trust to carry on the University in accordance with the purpose for which it was founded.

BF-849 VOTED to instruct the Secretary to report this action of the Board of Founders on land registration to each of the four Mission Boards cooperating in the University.

BF-850 VOTED to instruct the Secretary to file a copy of this action of the Board of Founders on the subject of land registration with the American Embassy in Nanking and with the Department of State of the United States Government.

Dr. Chen pointed out that in connection with the process of land registration, the University would probably have to pay not only the registration fee but also a fee for stamping a large proportion of the deeds to the individual plots comprising the University campus. He estimated roughly that the total of these costs might amount to as much as US\$6,000, although it is possible that some portion of the fees might be remitted. He asked whether the Founders would approve the sale by the Board of Directors of certain small and isolated plots of land belonging to the University which are not adjacent to the campus and probably would never be of any direct use to the University. It was pointed out that under action BF-848 the authority for the disposal of such pieces of land in order to pay the costs of registration lies in the hands of the Board of Directors. It was, however,

BF-851 VOTED that it is the judgment of the Board of Founders that the sale of certain small and isolated plots of land belonging to the University, in order to provide funds to cover the cost of registration of the property, is in accordance with the purpose set forth in action BF-848.

--

The Board of Founders of Ginling College met on September 25, and we are informed that they voted for action in terms identical with those of Nanking University Founders, quoted above.

A.L.Warnshuis

Documents

Secretaries of
Resolutions approved by a Meeting of/Boards having Work in China and Others
Concerned with the Christian Movement in China

September 23, 1936

Registration of Deeds

1. The group would advise the boards to continue their effort to regularize all their property titles, a procedure which has been and continues to be a matter of utmost importance.
2. With reference to re-registration, the group recommends that the initiative should be on the part of the Chinese Governmental authorities and not on the part of the mission.
3. Whenever, in the process of a re-survey of a given area the Chinese authorities request the re-registration of deeds to mission property and after consideration with the consular authorities involved, property should be re-registered, provided always that the newly registered deed does not ^{adversely} affect the existing title.

Transfer of Titles

1. The group asked the secretary to communicate to the college boards and to the individual supporting boards the accumulation of facts that were brought before the meeting with such report of discussions as can be made available.
2. The group ~~was agreed~~ expressed approval of the ultimate transfer of titles to property to the union universities and colleges in China, when the holding bodies in this country are satisfied that it is possible for those groups to execute the trusts which these bodies in America now hold. ~~was agreed~~ The group gave sympathetic consideration to the following proposal though for the present the group felt it could not take this action:

In the further development of administrative responsibility to

the board of directors and for the sake of equitable treatment in matters of taxation as well as in order to facilitate the acquisition and sale of property when desired, we are favorably inclined toward the transfer of title to the boards of directors of the union universities and colleges in China in situations where a decision in the matter is necessary.

We further recommend that, if possible, such transfers include a reversionary clause that would be legal under the laws of China and that would protect the moral trusts imposed by donors in America in the event of a dissolution of the institution or its ceasing to function in accordance with its present purpose.

3. With reference to questions related to missionary property used by institutions other than the union universities and colleges and for missionary residences and for church and other purposes, we request a committee to be named by the chairman (committee of five recommended) to continue the study of the whole subject and to report back to a conference which they will call, the results of their study to be placed at the disposal of the separate boards.



Land Registration

The Chinese authorities cannot properly insist upon re-registration of existing deeds as a condition precedent to the continued validity of title conferred by such deeds, nor may penalties be imposed upon American citizens for failure to effect re-registration under new regulations, but that there appears to be no adequate reason why American nationals should not be permitted to avail themselves of the opportunity (which under some circumstances might be of substantial value to them) to have their land titles re-registered under new regulations, for which service it would be proper for them to pay the Chinese authorities any reasonable fee that may be prescribed. In the opinion of the Legation, the decision as to re-registration should be left to the discretion of the interested American landholders.

If the Chinese authorities seek to collect from American citizens land value land taxes in lieu of, or additional to, the existing land taxes based on the area of the landholdings the matter should be referred for the consideration of the Legation.

NANKING

October 7, 1936

The Honorable Nelson T. Johnson
American Ambassador
Peiping, China

My dear Mr. Johnson:

At a meeting of the Board of Founders of the University of Nanking held on September 24th, 1936, very thorough consideration was given to the important questions involved in the latest request of the Chinese Governmental authorities for the registration of the real estate belonging to and occupied by the University of Nanking. As the outcome of its deliberations the Board of Founders adopted the following action:-

***VOTED** that the Board of Founders of the University of Nanking authorize the Board of Directors of the University to register the property, including both land and buildings, of the University of Nanking with the Chinese Government in the name of the Board of Directors, with the understanding that the Board of Directors will give the Board of Founders, representing the original donors, formal assurance of their acceptance of the trust to carry on the University in accordance with the purpose for which it was founded."

The Board of Founders instructed me to transmit a copy of this action to the United States Department of State in Washington and to the American Embassy in Peiping.

Respectfully yours,

B A GARSIDE

Secretary

BAG:MP

INTERNATIONAL MISSIONARY COUNCIL

Composed of the following Organizations

NATIONAL MISSIONARY COUNCIL OF AUSTRALIA
SOCIÉTÉ BELGE DE MISSIONS PROTESTANTES AU CONGO
NATIONAL CHRISTIAN COUNCIL OF CHINA
CONSEIL PROTESTANT DU CONGO
DANSK MISSIONSRAAD
DEUTSCHER EVANGELISCHER MISSIONSBUND
SOCIÉTÉ DES MISSIONS ÉVANGÉLIQUES DE PARIS
CONFERENCE OF MISSIONARY SOCIETIES IN GREAT
BRITAIN AND IRELAND

NATIONAL CHRISTIAN COUNCIL OF INDIA, BURMA, AND
CEYLON
NATIONAL CHRISTIAN COUNCIL OF JAPAN
KOREAN NATIONAL CHRISTIAN COUNCIL
COMMITTEE ON COÖPERATION IN LATIN AMERICA
NEAR EAST CHRISTIAN COUNCIL
NEDERLANDSCHE ZENDINGRAAD
NETHERLANDS INDIA
NATIONAL MISSIONARY COUNCIL OF NEW ZEALAND
NORSK MISSIONSRAAD

FOREIGN MISSIONS CONFERENCE OF NORTH AMERICA
(UNITED STATES AND CANADA)
NATIONAL CHRISTIAN COUNCIL OF THE PHILIPPINE
ISLANDS
NATIONAL CHRISTIAN COUNCIL OF SIAM
MISSIONARY SOCIETIES OF SOUTH AFRICA
SUOMEN LÄHETYSNEUVOSTO
SVENSKA MISSIONSRADET
ASSOCIATION OF MISSIONARY SOCIETIES IN SWITZER-
LAND

Chairman: JOHN R. MOTT, 230 Park Avenue, New York City
Secretaries: J. H. OLDHAM; WILLIAM PATON, 2 Eaton Gate, London, S.W.1
A. L. WARNSHUIS, 156 Fifth Avenue, New York City

SUITE 1219
156 FIFTH AVENUE
NEW YORK, N. Y.

CABLEGRAMS: INTMISSION, NEW YORK
MISSIONS CODE
TELEPHONE: CHELSEA 3-0973

November 9, 1936.



To the Secretaries of
the North American Missionary Boards
Working in China:

Enclosed herewith please receive an important report concerning
taxation of property in China.

You will probably desire to bring this report to the attention
of your missions in China, with the recommendations of the Board. In
many cases, it may be desirable to ask the missions to report fully
to the Board regarding the status of their property titles.

The last section calls for early action by your Board. Please
send information of that action to the undersigned.

Yours faithfully,

A. L. Warnshuis

ALW:D

RECEIVED
UNITED STATES
NOV 25 1936
JOINT OFFICE

NOV 25 1936

UNITED STATES

TO THE DIRECTOR, BUREAU OF INVESTIGATION
FROM THE SAC, [illegible]
SUBJECT: [illegible]
[illegible text follows]

NOV 25 1936

Supplementary Report on Property Taxes in China



To the North American Missionary Boards Working in China:

The Conference of representatives of North American missionary boards working in China on September 23, 1936, in New York, concerning Property Titles and Taxation in China, referred to the undersigned subcommittee a number of questions for further study. After enquiry and discussion regarding additional factual data and opinion obtained since the Conference, we make the following report, which is to be regarded as a supplement to the report of the September Conference.

1. Attached to this report is an English translation of the "Rules Governing Reduction and Exemption of Land Tax," promulgated on April 17, 1936, by the Executive Yuan in China. This translation has been obtained through the courtesy of the Department of State in Washington, but it should always be remembered that only the Chinese text of the law is official and authoritative.

2. This national law does not distinguish between property owned by Chinese and that owned by foreigners. If any case arises, in which such discrimination is made or attempted, it would seem that the question should be referred to higher authorities for settlement.

3. Several Articles of this law (e.g., 5,8,9,12) provide that property used for philanthropic and benevolent purposes may be exempted from taxation, or may obtain a reduction of taxes. Again, no distinction is made between properties of Chinese and foreign organizations. It would seem that when land taxes are imposed upon missionary property, or the property of missionary institutions, it would be in order to apply through the proper channels for exemption or reduction of taxes under the terms of this law.

4. If a case should arise in which a private institution (e.g., a Christian school or hospital), fully registered, is refused exemption or reduction of taxation on the ground that the land is not owned by the school and that the taxes are imposed, not on the school, but on the owner of the land, it would seem that this point might well be contested. In such a case, it is suggested that competent counsel in China should be consulted. Before any formal action is taken, it would be advisable to confer informally with the American Consul-General in Shanghai and with the American Embassy.

5. With reference to the question of land taxes, the Ministry of Foreign Affairs in Nanking in a note dated July 23, 1936, wrote the American Embassy as follows:

"It may be observed (1) that the taxes on land paid by foreign-missions have been called by the term 'Laing Fu' (taxes in grain), a designation handed down through long usage. Since this term is no longer suitable for use, the Ministry of Finance some time ago decided to replace it with the term 'Ti Tsu' (land rent) and starting from the places where land reforms are made, to collect taxes under that designation. The amounts to be paid shall be equivalent to the land taxes paid by Chinese. The two characters 'Ti Tsu' appearing in the 'remark' on the form of lease certificate covering land leased to missions in the Nanking Municipality had their origin in the change mentioned above. It means the amount of taxes which the lessee is obligated to pay on the land. It is not the rent paid by the lessee to the lessor. This procedure was put into force in Hangchow long ago and no inconvenience has been discovered."

6. The interpretation of ownership rights under "perpetual lease" has now received authoritative statement in the following "Excerpt of translation of a Formal Note Addressed by the Chinese Minister for Foreign Affairs to the American Ambassador under date May 22, 1936":

"This Ministry some time ago referred the matter to the Nanking Municipal Government for its consideration and action. A reply has now been received from it stating as follows:

'The supplementary statement appearing in the Lease Certificate has been completely eliminated. The heading "owner" has been altered to read "Date of acquisition of right and source of acquisition."

'However, the last section of Article XIV of the Sino-American Commercial Treaty of 1903 clearly provides that "Missionary societies of the United States (shall be permitted to) rent and (to) lease in perpetuity, as the properties of such societies, buildings or lands in all parts of the Empire for missionary purposes." Therefore, land in the interior leased by missions is limited to one particular use. If a transfer of the land is necessary, it must either be transferred by sale to Chinese citizens or by lease to another mission, with the limitation that it shall continue to be used for missionary purposes only.'

"I have the honor to make this reply for your information,"

This is an authoritative statement of the judgment of the National Government, which was officially transmitted to the American Government as an interpretation of the relevant clause in the Sino-American treaty. This interpretation confirms the position that "perpetual lease" is equivalent to "sale and ownership," and that when the ownership is again wholly subject to Chinese law the legal fiction of "perpetual lease" is no longer pertinent.

It may be well to note that these treaty provisions regarding the permission for missionary societies to obtain property are applicable to all China, excepting only in the foreign concessions and treaty ports where they may be modified by local regulations or other treaty provisions. However, a question that may demand further study is to what extent, if at all, are the provisions of Article XIV of the 1903 Treaty, referred to above, affected by Article 449 of the Civil Code of China promulgated in 1929. This Article is

"The period of a lease cannot exceed ~~twenty~~ years. If it is made for a longer period, such period is to be reduced to twenty years."

The question will divide itself into two parts. (a) With reference to "perpetual leases" obtained in accordance with the treaty prior to 1929, it may be held that these are of the nature of a transfer of property and not a lease, and Article 449 is not applicable. This would seem to be in accordance with the above interpretation. Whether the laws of China provide, as do the laws of the United States, that rights, once having been vested in property, cannot be divested by any subsequent legislative act or other proceeding, we have not been able to determine as yet. (b) With reference to "perpetual leases" obtained subsequent to 1929, it may be questioned whether Article 449 was intended to modify the provisions of the Treaty. If so, such unilateral modification of the Treaty would be a subject in which the United States Government might be interested. If these questions are raised, they

13

should be a subject of thorough-going enquiry with competent legal counsel.

7. Missionary societies should also note the condition in the interpretation quoted in the preceding paragraph which clearly states that the last three words of the sentence quoted from the Treaty - "for missionary purposes" - are understood to limit definitely the purposes for which property may be "leased" by them. If cases arise in which the right to hold property is questioned, the societies and their missions should be prepared to show that it is being used "for missionary purposes."

8. The statement in paragraph six above is understood to dispose also of the question of "unearned increment," in so far as this question may arise in connection with any sale or transfer of title to property. If a "perpetual lease" in effect conveys a complete title, of which a "sale" may be made to a citizen of China, or which may be transferred to another mission, there can hardly be a claim for reversionary rights other than any that may be specifically stated in the deed.

9. Whether the present value or the original purchase price of property should be stated when the title deeds are re-registered is a question on which this committee has not succeeded in obtaining sufficient information on which to base an answer. So far as taxation is concerned, it would depend upon the methods adopted locally in making assessments for such a purpose. With reference to the price at which land might be sold, it would seem that the question is no longer relevant to the sale or transfer of "perpetual leases" in view of the interpretation in paragraph six above.

10. This committee is not now able to give a determinative answer to the question as to whether the regulations of the Ministry of Education relative to a school which has ceased to function as an educational institution include the authority of government to take over not only the management of the school but also the ownership of the property. It would seem that this question should be referred to competent legal authorities in China.

11. Regarding questions related to the form and content of "reversionary clauses," which it may be desirable to include in deeds of transfer from missionary to Chinese bodies, with the purpose of safeguarding the moral and legal trusts imposed, explicitly or implicitly, by the donors of the funds with which missionary property has been acquired, this committee cannot at this time express any definite opinion. As a necessary basis for the drafting of such clauses, competent legal advice in America and especially in China should be obtained.

12. With reference to the transfer of missionary property used for schools, hospitals, and other institutions other than the union colleges and universities, and of property used by churches and chapels and for other purposes, when that is found to be advisable, this committee after further enquiry and study finds the opinion to be strongly supported that such a transfer should as a rule be made to a body representing a large area, preferably nation-wide. In many, if not most, cases it is probably true that even a body representative of the Christian Church in a province might not be fully competent to exercise the trusteeship involved in such a transfer of ownership. It seems desirable that in the first instance the possibilities should be still further explored of establishing one or more substantial bodies, legally incorporated under the laws of China, that might be formed for the purpose of holding the title of property used for church and missionary purposes in any part of China. The necessary steps to authorize such a responsible enquiry on behalf of the cooperating missionary boards should be taken now. The enquiry should include the question whether such an incorporated body, which would be wholly subject to the laws of China, could include in its membership a certain number of foreigners, as in Japan and other countries.

13. The committee considers it desirable, in the light of its enquiries, to repeat here the following resolutions adopted by the Conference on September 23; namely,

- (1) That the boards be advised to continue their efforts to regularize all their property titles, a procedure which has been and continues to be a matter of utmost importance.
- (2) That with reference to re-registration of deeds, it is recommended that the initiative should be on the part of the Chinese governmental authorities and not on the part of the missions.
- (3) That, whenever in the process of a re-survey of a given area the Chinese authorities request the re-registration of deeds to mission property and after consultation with the consular authorities involved, property should be re-registered, provided always that the newly registered deed does not adversely affect the existing title.

To this last resolution, the comment may be added that any governmental condition stamped on the deed that may restrict the right to sell and transfer the title would in effect "adversely affect the existing title."

14. Finally this committee agreed:

a. To send this report direct to the North American missionary boards concerned, requesting that it be accepted as the completion of the work of the September Conference and of the task assigned to this committee.

b. To call to the attention of the boards that in the above report

- (1) paragraphs 3 and 4 propose certain further action in China,
- (2) paragraphs 10 and 11 express the need for competent legal counsel,
- (3) paragraph 12 suggests an important enquiry about an incorporated holding body.

c. To recommend, in view of the preceding paragraph and because of the importance of united action in this matter, (various separate enquiries about the above-mentioned questions would be wasteful of our energies and confusing), the appointment for an indefinite period of a committee of five to seven persons to serve as a Committee for Legal Counsel on Property Titles in China. It will be understood that this committee, if appointed, would take the necessary steps to deal in a united way with the matters referred to in the preceding paragraph, and would probably arrange for a competent consultative committee in China for this purpose. The committee would be advisory in power, and would deal only with such questions as may be referred to it. In the course of a short time, it would accumulate data and experience that would be readily available for all. This special committee seems desirable because its members should be persons having first-hand knowledge of Chinese matters, such as the Committee on Missions and Governments may not have. The personnel of the committee would be appointed by the chairman of the Committee of Reference and Counsel. To make this plan effective it would be important for the cooperating boards to make use of the committee by asking for its counsel before taking independent action.

d. To ask the boards receiving this report to give early consideration to the above recommendation, and to send information of their action as indicated below. The question to be submitted is - Do you approve of the appointment of a special Committee for Legal Counsel on Property Titles in China, and will your board cooperate in the work of such a Committee?

The above report has been prepared by the following committee:

B. A. Garside
G. B. Huntington
E. C. Lobenstine
G. T. Scott
A. L. Warnshuis

Please send information in response to
paragraphs 14. c and d to

A. L. Warnshuis
Suite 1219, 156 Fifth Avenue
New York, N.Y.

42
 Excerpts from
 Executive-Finance Committee Meeting
 Board of Directors
 September 26, 1936

Registration of Land

The extended date for registration of all mission land expires on September 30th, 1936. Registration of the land of the University whether under perpetual lease or in the name of the Board of Directors was held in suspension pending final word from the Board of Founders. The decision of the Board of Founders was received by the University on September 25, as follows:-

NANKING UNIVERSITY NANKING FOUNDERS UNANIMOUSLY AUTHORIZE DIRECTORS REGISTER PROPERTY UNIVERSITY WITH CHINESE GOVERNMENT IN NAME BOARD OF DIRECTORS WITH UNDERSTANDING DIRECTORS WILL GIVE FOUNDERS AS REPRESENTATIVES INDIVIDUAL DONORS FORMAL ASSURANCE THEIR ACCEPTANCE OF THE TRUST TO CARRY ON UNIVERSITY IN ACCORDANCE WITH PURPOSE FOR WHICH IT WAS FOUNDED. GARSIDE

DEF-1195 VOTED to authorize the Administration to proceed with the registration of all properties of the University on the basis of a perpetual lease in the name of the Board of Founders as follows:-

Mei Kuo Gin Lin Tah Hsich Chuang Pan Ren Wei Yuen Hwei.

DEF-1196 VOTED to appoint the following committee to represent the Board of Directors and Administration in carrying out the registration of land:

Dr. Han Lih-wu, chairman, Mr. Kao Ping-fang, Dr. Ralph Ward, Dean K. C. Liu, Mr. C. T. Gee, Miss E. M. Priest, and the Chairman of the Administration Committee.

DEF-1197 VOTED that, looking to the ultimate registration of the property under the name of the Board of Directors and carrying out the desire of the Board of Founders that safe-guards shall be given for the continuance of the use of the property for the purpose for which it is given, we appoint Dr. Han and Mr. Cressy to draft for presentation at the next meeting of the Board of Directors plans for such safe-guards.

Proposed New Building Program

Freshmen Dormitory

In view of the urgent need for a new dormitory for the freshmen students, the Administration Committee recommended that a new freshmen dormitory be erected southwest of Tiao Ching Dormitory, the total cost not to exceed thirty thousand dollars. The following reasons were presented, substantiating this request:-

1. The West Dormitory in the East Compound is an old building and will only house 48 students at present. This is only one-fourth of the number to be housed in the freshmen group. The old dormitory could be used to great advantage for the assistants and young staff members who are now unable to secure rooms on the campus.

* The cable should have been read "ORIGINAL".

BOARD OF FOREIGN MISSIONS
OF THE PRESBYTERIAN CHURCH IN THE U. S. A.
156 Fifth Avenue
New York City

My dear Mr. Garside:

Your letter of October 6th with regard to the registration of the title of the property of the University of Nanking was presented to our Board at its meeting on Monday and the following action was taken:

"The action of the Board of Founders of the University of Nanking with regard to the registration of the property of the University was reported to the Board as follows:

'Voted that the Board of Founders of the University of Nanking authorize the Board of Directors of the University to register the property, including both land and buildings, of the University of Nanking with the Chinese Government in the name of the Board of Directors, with the understanding that the Board of Directors will give the Board of Founders, representing the original donors, formal assurance of their acceptance of the trust to carry on the University in accordance with the purpose for which it was founded.'

"It was voted to suggest to the Board of Founders the addition of a provision to the effect that if it should be found impossible at any time to continue the University or to maintain its Christian character and influence and missionary purpose, the equity of the Board of Founders in the land and buildings of the University should be returned to the Board of Founders.

"The Ginling Board of Founders reported that it had taken action identical with that of the Board of Founders of Nanking University and it was voted to extend this action of the Board of Foreign Missions to cover the situation in Ginling, and to agree to the inclusion in the transfer of title the one piece of property held for Ginling College in the name of the Presbyterian Board of Foreign Missions.

"The question was raised in the Board as to where the responsibility should reside for determining in the future whether the University was carrying on its work in accordance with the purpose for which it was founded and in maintenance of its Christian character and influence and missionary purpose, if doubt should arise. It was voted to inquire from the Board of Founders, and through it from the Board of Directors, whether this responsibility would reside in the courts in China or in the Board of Founders in its responsibility to the original donors and to the cooperating Boards."

Very cordially yours,

ROBERT E. SPEER

2. Under military regulations, all freshmen students should be housed in one building in order that they may live under military discipline.

3. The present dormitory capacity is 404, but there are about 600 students who require rooms on the campus. It is becoming increasingly difficult to find available rooms for rent near the institution.

DEF-1198 VOTED to approve of the immediate construction of a new three-story dormitory to be erected southwest of Tiao-ching Dormitory, the total cost not to exceed \$30,000.00

DEF-1199 VOTED to approve of the use of \$10,000 now available for the new dormitory and to borrow temporarily the remaining \$20,000 from University funds, to be refunded as soon as additional gifts are received.

DEF-1200 VOTED to request Mr. W. Reginald Wheeler, who is doing promotional work in America this year on behalf of the University, to make every effort to secure the sum of Chinese \$20,000 for the new dormitory to cover the loan from University funds.



EMBASSY OF THE
UNITED STATES OF AMERICA

*Chinese
Legation*

Peiping, November 17, 1936.

T



Mr. B. A. Garside,
Secretary, Board of Founders,
University of Nanking, New York Office,
150 Fifth Avenue,
New York, New York.

Sir:

The receipt is acknowledged of your letter of October 7, 1936, informing me that the Board of Founders of the University of Nanking has decided to register the property of the University with the Chinese Government in the name of the Board of Directors. I have taken note of this, and of your statement that you are communicating the same information to the Department of State at Washington.

Very truly yours,

Robert H. Anderson

THE PROBLEM OF LAND REGISTRATIONUNIVERSITY OF NANKING*Documents*

The problem of land registration has been increasingly active during the past year. It has now reached a stage where some definite decision must be reached without further delay.

1. Recommendations of First Committee of Board of Directors.

Attached hereto as Exhibit 1 is a copy of the report and recommendations prepared by the first committee on land registration appointed by the Board of Directors on November 19, 1935.

2. Action of Directors, November 22, 1935. After reviewing the report of this special committee, the Directors adopted on November 22nd, 1935 the following action (D-1132):-

"VOTED that the administration be asked to present the problem of the registration of land to the Board of Founders at the earliest opportunity, stating the arguments for and against various types of registration:

1. Under the name of the Board of Founders
2. Under the name of the Board of Directors
3. Under the name of some larger holding organization either local or national incorporated under Chinese law."

3. Covering Letter by President Chen. Attached hereto as Exhibit 2 is the covering letter written on January 13, 1936, in pursuance of the above action.

4. Action of Founders' Executive Committee, February 19, 1936. After reviewing the minutes and correspondence referred to above, the Founders' Executive Committee adopted on February 19, 1936 the following action (EC-812):-

"VOTED that whereas the Board of Trustees is conscious of the fact that many of the donors of the property of the University of Nanking have expressed a desire that title of this property be held in the name of the corporate body, "The University of Nanking"; and

"Whereas the title of this property, both land and buildings, is for the most part vested at present in this corporate body and any legal transfer of title at this time would be difficult if not impossible; and

"Whereas experience has at various times in the past shown that under some conditions of disturbance and political change there are many advantages in the present type of ownership of the University's property;

"Therefore it is the general opinion of the Board of Trustees that the property of the University should continue for the present to be held under the corporate title of "The University of Nanking" unless there are very definite reasons for doing otherwise.

"It is, however, the earnest desire of the Board of Trustees to follow whatever course seems wisest to the leaders actually on the ground in

"Nanking, and to that end they suggest the appointment of a special committee to make recommendations to the Board of Trustees on the wisest procedure in registering the land belonging to the University, and further suggest that the personnel of this special committee be as follows:- President Y. G. Chen, Mr. W. R. Wheeler, Dr. Charles E. Patton, Dr. Ralph E. Ward, Dr. L. C. Hylbert, one member to be nominated by the United Christian Missionary Society, and one member to be nominated by the Board of Directors."

5. Action of Directors, March 20, 1936. The Directors, after taking notice of the above minutes of the Founders Executive Committee, took the following actions (D-1186 to 1188):-

"VOTED to complete the committee as appointed by the Board of Founders and to ask them to act at once. Dr. Han Lih-wu was appointed as the member from the Board of Directors.

"VOTED to authorize the President to proceed with the necessary steps for land registration and to secure legal advice in relation to the many problems relating to registration.

"VOTED to request the President to present the problems of land registration to the Board of Founders when he meets with them during his trip to the United States."

6. Report of Second Special Committee on Land Registration. The special committee created as indicated above gave further study to these problems and on April 18, 1936 prepared the report and recommendations attached hereto as Exhibit 3.

7. Correspondence from Dr. Ferguson. On April 16, 1936, Dr. John C. Ferguson sent a cablegram reading as follows:-

"AFTER CAREFUL CONSIDERATION ADVISE DEEDS UNIVERSITY NANKING BE REGISTERED NAME OF BOARD OF DIRECTORS AND DEPOSITED WITH FOUNDERS FOR SAFEKEEPING."

On July 14th Dr. Ferguson wrote Dr. Speer as follows:-

"Thanks for your letter of May 26th. It is my opinion that the effect of depositing the deeds of the property of the University of Nanking with the Board of Founders would leave the ownership in the hands of the Board of Founders just as it is at the present time. We have a peculiar situation in China on account of extra-territoriality. Chinese who hold property in the foreign concessions such as Shanghai or Tientsin do so in the name of a foreigner who issues to the owner a Deed of Trust. Foreigners (not missionaries) who hold property in the interior of China do so in the name of a Chinese who issues to them either a Deed of Trust or gives them a certificate of mortgage. In the case of the University property all that would be necessary would be for the Board of Directors of the University in its letter covering the deposit of the deeds with the Board of Founders to state that the property is held in trust for the Board of Founders. The Board of Founders would then have the same protection as is generally recognized in China and which could not be broken without an entire upheaval of general business conditions. You will be able to talk over the whole matter with Dr. Chen during his visit and reach a basis of agreement."

8. Correspondence from Dr. Patton. Dr. Charles E. Patton, Secretary of the Presbyterian China Council, has written several long letters to Dr. Speer on this subject. Attached hereto as Exhibit 4 is Dr. Patton's letter of May 25, 1936, in which he summarizes most of his discussion of the subject.

9. Correspondence from Mr. Wheeler. Mr. W. R. Wheeler's letter of August 10th, 1936, is attached hereto as Exhibit 5.

10. Cables from China. The latest communications from China bearing on this subject are the following cablegrams:-

August 28, 1936:- "CHEN YU-GWAN - EMBASSY APPROVES PROPERTY LEASE URGES REGISTRATION ALL MISSION LAND IMMEDIATELY. MUST PRESENT APPLICATION THIRTY-FIRST. SEND CABLE BASIS REQUEST EXTENSION TIME LIMIT".

September 4, 1936:- "LAND REGISTRATION EXTENDED MONTH. CABLE DECISION BEFORE SEPTEMBER TWENTY-FIFTH."

Statement concerning the Registration of Land of the University
of Nanking

The University of Nanking owns 54,710 tang or approximately 912 mow (152 English acres) of land within the city wall of Nanking and about 1200 mow (200 English acres) in farm land outside the wall near Taipingmen and Hopingmen. The Municipal Government of the city of Nanking has issued orders that all land inside the wall must be registered before December 31, 1936.

President Chen has taken the preliminary steps for the registration of land and has advised the Land Bureau officially that the University will register the land as soon as possible. The land is in scattered lots and has been carefully surveyed. A map showing each lot with the exact area has been presented to the Land Bureau, and representatives from the University have seen the map with the official stamp of the Land Bureau against the measurements. As yet no deeds have been presented to the Bureau. Approximately forty mow of land around the College campus has been officially posted by the Land Bureau, in order to establish definite ownership to the property. If no claim is presented by the end of three months, there shall be no further question concerning the ownership of these lots. It may seem wise to have all land posted in this way and thus establish ownership.

The Board of Directors appointed a special committee for the registration of land, who met November 19, 1935 to consider the various problems, calling to the attention of the Board of Directors the advantages and disadvantages to be gained if the land was registered (1) in the name of the Board of Founders, (2) in the name of the Board of Directors, and (3) in the name of a central holding body in China. This information was referred to the Board of Founders in a letter from President Chen dated January 13, 1936. The Board of Founders considered this matter on February 19, 1936, and took action to request that a special committee on the field, appointed by them, should study the whole question and make recommendations at an early date. In their action and in the cable they stressed the advisability of registering in the name of the "University of Nanking." When the special committee met on April 18, 1936, very careful consideration was given to this proposal. If the corporate name of the "University of Nanking" is used in registration, it can be interpreted to mean two things:

- (1) the corporate title under the charter secured from the state of New York and held by the Board of Founders.
- (2) the corporate title under the registration of the institution with the Ministry of Education in Nanking.

In the first case, the ownership would be held in America and would be interpreted to mean the Board of Founders. In the second case, the ownership would be clearly in China and would mean the Board of Directors, who are officially registered as the controlling body of the University of Nanking.

It seemed wise to the members of the special committee to proceed to register the land in the name of the University of Nanking, telling the land bureau frankly that it could be interpreted in two ways. By making a trail proposal it would bring the issue more clearly toward a decision: or it might prove possible and desirable to leave the ownership undefined and somewhat ambiguous for the present. The Committee would be glad to find it possible to act within the rules governing the registration of land without breaking the direct connection of the Board of Founders to the land. In the present legal experimentation and uncertainty, officials might be willing to approve such a position for a well-known institution. This action was taken, and is recommended to the Board of Founders as follows:

VOTED to recommend to the Board of Founders that all the land of the University of Nanking shall be registered as soon as possible under the corporate name of the University of Nanking, with legal instruments which safeguard the future use of the property for the purposes for which the property has been given, said instruments to be recorded with the Ministry of Foreign Affairs, and the embassies concerned, as well as with the Nanking Municipal Government.

If a sharp choice between American holding and Chinese holding becomes necessary, a majority of the members of the committee would probably favor registration in the name of the Board of Directors. No vote, however, was taken on this question. It was felt that careful exploration should be made of possible ways of making definite explanation of the trusteeship involved in case such a transfer is necessary and advisable.

It may be possible to register the land in the name of the University of Nanking, it being clearly understood that this means the Board of Directors in China, and to have some form of a Trustee document, that states clearly the obligation of the Board of Directors, in carrying out the wishes and desires of the Board of Founders. The question will always come up whether moral obligations can be made legal or semi-legal, but a trust agreement would be an attempt to protect to the utmost the obligations of the Board of Founders to carry out the purpose for which the land was given.

There are practical problems in carrying out plans for registration. In the first place, if the land is to be registered in the name of the University of Nanking meaning the Board of Founders in America, registration may be seriously delayed. Definite instructions have been received that the American Embassy objects to the registration of any land under the present form of regulations and on the terms proposed for foreign property. All mission authorities in Nanking have urged repeatedly that the American Embassy should attempt to secure a clear interpretation of the laws and a form of lease that is acceptable. The question has been pending decision for more than a year, but is no nearer solution than on April 11, 1935, the date of the formal request to all Americans not to register land under existing regulations and lease.

Meanwhile the Embassy orally advises Americans not to press for rulings which might form strict and unfavorable precedents. So progress may be tedious and irregular.

If registered in the name of the Board of Founders, or a foreign holding body, the property may be subject to taxation. In Chekiang province mission property has been registered and heavy taxes have been demanded. In Hangchow, the property of the Baptist Middle School, Wayland Academy is registered and pays annual taxes of \$900.00 (C. S.) on a lot of 46 mow. President Lee of Hangchow Christian College has written that the taxes they have been obliged to pay are a heavy burden. On the basis paid by the Baptist Board, the taxes for the land owned by the University of Nanking within the city wall, would cost approximately \$18,000.00 (C.S.) annually. It is probable that property owned by the Board of Directors as a corporation for university purposes already recognized by the Ministry of Education, will be exempted or privileged in regard to land taxes.

In addition to taxes, there will be heavy fees for registration. According to President Lee, Hangchow Christian College paid 6% of the appraised land value. Their land is registered under the name of the Board of Foreign Missions of the Presbyterian Church in the U. S. A. President Chen has had informal conversation with members in the Land Bureau, who have intimated that if the land is registered in the name of a Chinese holding body, it will be possible to have the registration fee reduced, or perhaps cancelled completely. Under the Provisional Regulations for Land Registration, promulgated by the Nanking Municipal Government, article 31 reads as follows:

"The fee for registration is calculated at 0.2% (2 per mille) of the land value reported or assessed."

It is difficult to give the value of the land, or to know if the original value will be accepted. If we use an average rate of C. S. \$30 per feng or C. S. \$1800 per mow the value of the land inside the city will be considerably over one million dollars. At the official rate given of 2% the fee for registration would cost over thirty thousand dollars. One of the first problems will be the decision as to the valuation of the land.

If the land is registered under the Board of Directors, the regulations provide that a certificate of ownership will be issued, while under the Board of Founders a lease will be given. There are reports, not confirmed, that this new lease will be for a limited period, and subject to being cancelled at any time. Under the present regulations, it will be impossible to sell the land if held by the Board of Founders: or at least to sell freely at market values. It may be years before definitive legislation, administrative rulings, and court decisions will clear up the present groping for adequate land laws.

All the above mentioned considerations in favor of registration in the name of the Board of Directors should be carefully weighed against the possible disadvantages arising from civil or international disorder. The committee felt that such disadvantages were not very real and that the main question was rather one of securing the future use of the property for the purposes for which it was given. This would involve an element of trust on the part of the Founders, but no more so at present than at some future time.

There are two reasons for urgency. In the first place the permit to build the new buildings, under construction at present, was given after a long delay, with the definite understanding that the land would be registered within the prescribed period of one year. The second reason is the problem caused by many scattered lots in the new residential district. This land cannot be used for agricultural purposes, and as soon as the land is registered, it would seem wise to prepare to sell many of the scattered lots and concentrate the holdings. These scattered lots may also involve us in disputes over boundaries and are likely to cause serious difficulties for the whole institution.

In view of all these considerations, the committee agreed that it was best to proceed along the lines suggested by the Board of Founders and attempt to register in the name of the "University of Nanking" without too clearly defining the question of ownership. It was realized, however, that this may not be possible and that the decision will have to be made as to registration in the name of the Board of Founders or in the name of the Board of Directors. If this decision has to be made, the general consensus of opinion, although no formal vote was taken, was that in view of all the circumstances it would be advisable to register under the name of the Board of Directors with such safeguards as to future use as it would be possible to secure. The Board of Founders, therefore, should understand that, while the University administration is making every effort to register under the name of the "University of Nanking," without defining that name too clearly, it may have to ask for a decision on the question of foreign or Chinese holding at any time in the near future.

4/18/36

Special Committee, Appointed by the Board of Founders, on
Registration of Land

The Special Committee appointed by the Board of Founders of the University of Nanking to consider the question of registration of land met on Saturday, April 18, 1936, at the home of President Chen.

Present: Messrs. L. C. Hylbert, M. S. Bates, R. A. Ward, C. S. Smith (proxy for Mr. C. E. Patton) W. R. Wheeler, L. W. Han, and Y. G. Chen.

Dr. E. E. Walline of the Presbyterian China Council and Miss E. M. Priest were also present.

Mr. C. Stanley Smith was elected chairman and Dr. R. A. Ward secretary of the committee.

The meeting was opened with prayer by Dr. Hylbert.

President Chen reported the present status of the registration of land, outlining the steps that have been taken and calling the attention of the committee to the problems involved in registering the land under present regulations.

After careful consideration and discussion, it was decided that the committee favored a method of registration that would secure the benefits likely to inhere in use of the position of the Board of Directors as a Chinese organization, and would at the same time protect adequately the responsibilities and purposes of the Board of Founders. The Committee recommended an attempt to register as "The University of Nanking" indicating to the authorities the exact situation of ownership, purpose, and administration. Therefore, it was

VOTED to recommend to the Board of Founders that all the land of the University of Nanking shall be registered as soon as possible under the corporate name of the University of Nanking, with legal instruments which safeguard the future use of the property for the purposes for which the property has been given, said instruments to be recorded with the Ministry of Foreign Affairs, and the Embassies concerned, as well as with the Nanking Municipal Government.

Mr. Smith, Dr. Ward, and President Chen were requested to prepare a detailed statement giving clearly the facts concerning registration of land, this statement to be forwarded with the minutes to the Board of Founders.

attached

COPY

HANGCHOW CHRISTIAN COLLEGE
Zakow, Che. China

Office of the President

November 5, 1936

President Y. G. Chen
University of Nanking
Nanking

*Sent by
Pres. Chen's
letter 1/2/36*

Dear President Chen:

In reply to your letter of November 1st, inquiring about the registration of the college land, I take pleasure to inform you that we have just completed the registration of our land. The land was registered in the name of ~~the~~ American Presbyterian Mission. At the time of re-registration a charge was made by the Municipal Land Office for a new deed. It was 6% of the appraised land value.

Since the land is registered in the name of the Mission the College is unable to enjoy the special reduced rate for the land tax levied by the Municipality. We have to pay the regular rate of tax. This adds a great deal to our burden every year. But as the Mission is unwilling to register the land in the name of the College, we have simply to pay much more unnecessary tax because of this ruling of the Mission. We do not know whether your University has to face the same difficulty or not. If you can register your land in the name of your University, please let us know.

Yours very sincerely,

(Signed) BAEN E. LEE
President

Box 4 ✓

RECEIVED
FEB 10 1936

November 3, 1935

Faded typed text, likely the main body of a letter or report. The text is mostly illegible due to fading and low contrast.

Faded text at the bottom of the page, possibly a signature or footer.

RECEIVED
UNIVERSITIES
FEB 10 1936
JOINT OFFICE

UNIVERSITY OF NANKING
Nanking, China

Registration of Land
with the Municipal Government:

The preliminary steps for the registration of land have been taken by presenting to the Land Bureau a map and statement showing the exact location and area of each lot owned by the Institution. The statement is as follows: (The letters indicate the symbols used on map)

A.	College campus (Kuleo) inc. residence lot on Pao Tai Chiai	9,173.05 fang
B.	Hutcheson and Mrs. Meigs (compounds)	749.70
C.	Lot between Tientsin and Tou Chi Cha roads and lot between Tou Chi Cha and Hankow roads	4,342.38
D.	Residence section on Hankow Road inc. gardens south of Hankow Road	4,183.13
E.	Tao Yuen compound inc. land at the west and pon, at the south	5,820.24
F.	Middle School compound	5,684.93
G.	Wu Tai Shan land	1,474.40
E.	Agriculture land, northeast of athletic field (inc. Butchard land)	3,483.00
H.	Residence No. 10 and 15 (lots)	625.16
J.	Residence lots on and near Gin Ying Chai and surrounding land	1,519.25
K.	Ping Tsang Hsiang residence compounds	2,989.90
L.	Sericulture compound and surrounding land	2,134.12
M.	Agriculture land--Rural Leaders Training School	3,820.86
N.	" " west of College campus	780.45
O.	Scattered pieces of land west of College campus	1,946.24
P.	" " " " " " " "	1,398.60
	Hospital--all hospital property (except Daniles' residence compound--see D)	4,539.75
	Middle School residence at Tao yuen	45.00
TOTAL	54,710.16 fang 911.83 mow

Recommendation from the administration:

There are a number of scattered pieces of land, especially at the west of the college campus. It is recommended that the following lots be sold or turned over to the city in payment of the registration fee:

Lot A-11: --small lot near Kuleo	161.35 fang
*Lot E-3 : --pond outside Tao Yuen compound	156.00
Lots P-1 to 10: --all in 4th residential district	1,398.60
**Lots N-1 to 8: --near new Shanghai Road	780.45
***Lots O-5, 6, 7, 11, 12: --near Ginling College	959.25
	<u>3,455.65 fang</u>

Notes:

- *Lot E-3: --about one-half of the pond has been taken by the new Kwangchow Road, but no settlement has been made as yet.
- **Lot N-1 to 8: --the new roads take nearly all these lots - no settlement has been made as yet.
- ***Lots O-1, 2, 3, 4, 8, 9, and 10: --are to be reserved for residences.

UNIVERSITY OF NANKING
Nanking, China

Report of the special committee appointed by the Board of Directors to make recommendations concerning the registration of land: November 19, 1935

Present: Dr. L. W. Han, chairman, Mr. C. S. Smith, with President Chen, ex-officio. Miss Priest was also invited to be present.

The meeting was opened with prayer, offered by Mr. Smith.

President Chen presented a letter from Dr. W. H. Wei, the third member of this committee, who was unable to be present at the meeting.

President Chen read letters from various Christian institutions of whom he had inquired concerning their experience in registering land. It was clear that every institution intends to comply with the regulations, although Hangchow Christian College is the only one that has completed registration at this time.

President Chen also reported that he had sent a full statement to the Board of Founders in reply to questions they raised concerning the status of our property, but no answer had been received as yet.

After discussion it was voted:

1. To re-affirm our recommendation that it is necessary to register our land with the Nanking Municipal Government as quickly as possible, complying with their regulations and calling the attention of the Board to Article 6 and Article 37 of the regulations. (See statement following.)

2. To recommend to the Board that careful consideration be given to the problem of the name to be used in the registration. The following points are called to the attention of the Board:

If registered in the name of the Board of Founders:

1. A certificate showing the land is leased only will be issued. This does not indicate ownership and might be changed to a short term lease at any time.
2. Difficult to sell any land--practically impossible to do so.
3. Subject to taxation.
4. If the country should be invaded, it might be a protection.

If registered in the name of the Board of Directors:

1. The new certificate will be a certificate of ownership--the land will be the permanent property of the Board of Directors.
2. Exemption from land taxes.
3. Right to dispose of the land at any time.

Report of the special committee--registration of land:

4. Makes it possible to ask for reduction in registration fees.
 5. Possible complications with land owned by Directors and Buildings owned by Founders.
 6. Political disturbances might involve land complications.
- . . .

Statement prepared by Dr. L. W. Han at the request of the Board of Directors (DEF 1075) concerning the regulations for the registration of land with the Nanking Municipal Government.

In regard to land registration, the following salient points contained in the Provisional Regulations for Land Registration promulgated by the Nanking Municipal Government demand consideration:-

1. All ownership of land in the municipality of Nanking can only be legally effective after proper registration has been made at the Nanking Municipal Government (Article 4)
2. There is a definite time limit for such registration (Art. 6)
3. The fee for registration is calculated at 0.2% (2 per mille) of the land value reported or assessed. (Article 31)
4. The Municipal Government has the right to dispose of land if the same has not been properly registered within the time limit set for the registration. (Article 37)

It will be seen from the above stipulations that non-registration of the landed estate of the University of Nanking will be confronted with practical difficulties that should any controversy arise between the University and other land owners regarding boundary etc., or regarding any sale or lease of land to other parties, question on the legal ownership of the University will arise and, unless the lands of the University are properly registered, the University will not be able to take effective legal measures to safeguard its property.

It is evident, therefore, that the registration is necessary. But in connection with the registration there arises the question as to under what name shall the lands be registered; the name of the Board of Directors, or the Board of Founders. Under the former name, as the Board of Directors is registered with the Ministry of Education, no difficulties shall arise in securing certificates of ownership. But under the latter, the land can only be registered as leased land since members of the Board of Founders are American friends and for foreigners owning land the registration can only result in securing a certificate of lease. Under such circumstances, should any land of the University be sold, it could only be sold at cost price and the Municipal Government shall have the right to take over any excess funds received from the sale. Although, as I understand, the American Embassy has taken up this matter with a request to revise these regulations, no change has yet been made.

Report of the special committee on registration of land

- 4. Make it possible to ask for reduction in registration fees.
- 5. Possible complications with land owned by Directors and Buildings owned by Founders.
- 6. Political disturbances might involve land complications.

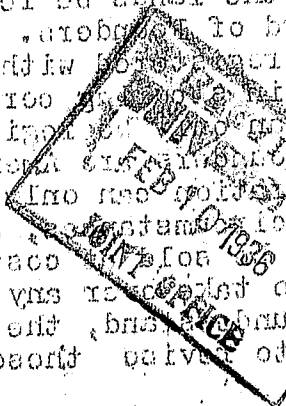
Statement prepared by Dr. L. W. Han of the request of the Board of Directors (D.M. 1075) concerning the registration for the registration of land with the Working Municipal Government.

In regard to land registration, the following points are considered in the Provisional Regulations for Land Registration proposed by the Working Municipal Government demand considerations:-

- 1. All ownership of land in the municipality of Working can only be legally effective after proper registration has been made at the Working Municipal Government (Article 4)
- 2. There is a definite time limit for each registration (Article 5)
- 3. The fee for registration is calculated at 0.2% (2 per mille) of the land value reported or assessed. (Article 31)
- 4. The Municipal Government has the right to dispose of land if the same has not been properly registered within the time limit set for the registration. (Article 32)

It will be seen from the above stipulations that non-registration of the landed estate of the University of Working will be considered with practical difficulties that should any controversy arise between the University and other land owners regarding boundary, etc. or regarding any sale or lease of land to other parties, question on the legal ownership of the University will arise and unless the lands of the University are properly registered, the University will not be able to take effective legal measures to safeguard the property.

It is evident, therefore, that the registration is necessary. But in connection with the registration there arises the question as to under what name shall the lands be registered; the name of the Board of Directors, or the Board of Founders. Under the former name, as the Board of Directors is responsible with the Ministry of Education, no difficulties shall arise in connection with the registration, but under the latter, the land registered as landed land shall mean the Board of Founders' American friends and for the sake of owning land the registration can only result in securing a certificate of lease. Under such a certificate, should any land of the University be sold, it could only be sold at a cost price and the Municipal Government shall have the right to take over any excess funds received from the sale. Although, said land, the American Embassy has taken up this matter with a request to revise these regulations, no change has yet been made.



永 租 照

外國教會地產租照樣式
 南京市地政局據某某國某某教會申請租用後開土地業第
 登記各行發給承租照以資証信

計開

承租人

某某國某某教會

取得權利年月及來源

土地管轄機關

南京市地政局

土地坐落

某某區某某段某某街某某號門牌

四至

東南西北

種類及面積

地計畝分厘毫絲

使用範圍

土地價值

計國幣

定着物情形及現值

登記原因及年月

登記號數及年月

附註

每年應納地租數目由南京市地政局於
 開征前先期通知

附發某某字某某號地圖一紙

右給承租人

中華民國

年 月

日

局長

定期租照

外國教會地產租照式樣

南京市地政局據某(國)某(某)教會聲請租用後土地業予登記
合行發給定期租照以資証信

計開

承租 人

某國某某教會

取得權利年月及來源

土地管轄機關

南京市土地局

土地坐落

第某區第某段某某街 第某某號門牌

四 至

東 南 西 北

種類及面積

地計 畝 分 厘 毫 絲

使用範圍

租用期限

土地價值

計國幣

定着物情形及現值

登記原因及年月

登記號數及年月

附 註

租期屆滿原業無力收回或戶絕時由南京市地政局
照約收回每年應納地租數自由南京市地政局於開
征前先期通知

附發某字第某某號地圖一紙

右給承租人

中華民國

年

月

日

局長

登記聲請書

字第

號

年

月

日

收

承租人

取得權利年月及來源

土地管轄機關

土地坐落

四至

種類及面積

使用範圍

租期期限

土地價值

定着物情形及現值

登記原因及年月日

附註

右呈
南京市地政局

聲明人

代理人

證明人

性別

性別

性別

年齡

年齡

年齡

籍貫

籍貫

籍貫

住址

住址

住址

中華民國

年

月

日

RECEIVED
UNIVERSITIES
AUG 10 1936
JOINT OFFICE

APPLICATION FOR REGISTRATION

Trans. Hsi:WRP

No. _____ - _____

Received: _____
(Date)

Lessee:

Year and month when
the right was acquired
and origin:

Organization having
jurisdiction over
the land:

Land Administration Bureau of
the Municipality of Nanking.

Location of land: No. _____, _____ Street, _____
Section, _____ District.

Four boundaries: East - _____ South - _____
West - _____ North - _____

Kind and area: _____ land.
_____ mow _____ fen _____ li _____ hao _____ sze.

Scope of use:

Term of lease:

Value of land:

Status and present
Value of land fixtures:

Reasons for and date
of registration:

Remarks:

To
Land Administration Bureau of
the Municipality of Nanking.

Applicant - _____, _____, _____, _____.
(Sex) (Age) (Birthplace) (Address)

Representative - _____, _____, _____, _____.
(Sex) (Age) (Birthplace) (Address)

Witness - _____, _____, _____, _____.
(Sex) (Age) (Birthplace) (Address)

_____ day of _____, _____ year of the Republic of China.

PERPETUAL LEASE CERTIFICATE

TRANS.Hsi:WRP

The Land Administration Bureau of the Municipality of Nanking is in receipt of an application from _____, an (Nationality) missionary organization, for the lease and use of the following land. The registration has been effected and this Perpetual Lease Certificate is hereby issued to serve as an evidence.

The following is a statement of the particulars:

Lessee: _____, _____
(Nationality) (Name of Missionary Organization)

Year and month when
the right was acquired
and origin:

Organization having
jurisdiction over the
land:

Land Administration Bureau of
the Municipality of Nanking.

Location of land: No. _____, _____ Street, _____
Section, _____ District.

Four boundaries: East - South -
West - North -

Kind and area: _____ land.
_____ mow _____ fen _____ li _____ hao _____ sze.

Scope of use:

Value of land: _____ National Currency.

Status and present
value of land fixtures:

Reasons for and date
of registration.

Registration number
and year and month:

Remark: Regarding the amount of rent for the land to be paid each year, the Land Administration Bureau of the Municipality of Nanking will give notification prior to the commencing of collection.

Enclosure: a plan No. _____ - _____.

To _____, Lessee.

_____ day of _____, _____ year of the Republic of China.

Director of the Bureau

(Form of Certificate for Lease of Land by Foreign Missionary Organizations)

TERM LEASE CERTIFICATE

The Land Administration Bureau of the Municipality of Nanking is in receipt of an application from _____, an (Nationality) missionary organization, for the lease and use of the following land. The registration has been effected and this Term Lease Certificate is hereby issued to serve as an evidence.

The following is a statement of the particulars:

Lessee: _____, _____
(Nationality) (Name of missionary organization)

Year and month when the right was acquired and origin:

Organization having jurisdiction over the land: Land Administration Bureau of the Municipality of Nanking.

Location of land: No. _____, _____, Street _____
Section, _____ District.

Four boundaries: East - South -
West - North -

Kind and area: _____ land.
_____ mow _____ fen _____ li _____ hao _____ sze.

Scope of use:

Term of lease:

Value of land: _____ National Currency.

Status and present value of land fixtures:

Reasons for and date of registration:

Registration number and year and month:

Remark: When the lease expires, if the owner is financially unable to obtain the return (of the land) or if he dies and has no heir, the Land Administration Bureau of the Municipality of Nanking will take back (the land) according to the agreement.

Regarding the amount of rent for the land to be paid each year, the Land Administration Bureau of the Municipality of Nanking will give notification to the commencing of collection.

Enclosure: a plan No. _____ - _____.

To _____ Lessee.

_____ day of _____ year of the Republic of China.

Director of the Bureau.

TERM LEASE CERTIFICATE

The Land Administration Bureau of the Municipality of Nanking is in receipt of an application from _____ an (Nationality) missionary organization for the lease and use of the following land. The registration has been effected and this Term Lease Certificate is hereby issued to serve as an evidence.

The following is a statement of the particulars:

Lessee: _____ (Nationality) _____ (Name of missionary organization)

Year and month when the right was acquired and origin:

Organization having jurisdiction over the land: _____ Land Administration Bureau of the Municipality of Nanking.

Location of land: _____ No. _____ Street _____ Section _____ District _____

Four boundaries: East - _____ West - _____ South - _____ North - _____

Kind and area: _____ Land _____ Area _____

Scope of use:

Term of lease:

Value of land: _____ National Currency.

Status and present value of land fixtures:

Reasons for and date of registration:

Registration number and year and month:

Remark: When the lease expires, if the owner is financially unable to obtain the return (of the land) or if he dies and has no heir, the Land Administration Bureau of the Municipality of Nanking will take back (the land) according to the agreement.

Regarding the amount of rent for the land to be paid each year, the Land Administration Bureau of the Municipality of Nanking will give notices prior to the commencing of collection.

Enclosure: a plan No. _____ Lessee.

Year of the Republic of China.

