

T4A
Hodd

DODD, MATHENY, WHAM & EDMUNDS

LAW OFFICES

105 WEST MONROE STREET

CHICAGO

TELEPHONE DEARBORN 8240

WALTER F. DODD
W. R. MATHENY
BENJAMIN WHAM
PALMER D. EDMUNDS

March 31, 1923

Mr. Wallace Heckman
Counsel and Business Manager
University of Chicago
Chicago, Illinois

Dear Sir:

I submit below answers to the questions raised by you:

1. Amendment of Charter. Power to amend the charter, or articles of incorporation, appears clear, and this power applies to all provisions, including those as to qualifications of trustees and president. In order to amend, the following steps should be taken:

(a) Adopt a rule by amendment to the by-laws, prescribing the method of change;

(b) Adopt the change in the method so prescribed;

(c) File a certificate thereof in the office of the secretary of state, and record such certificate in the office of the recorder of deeds, the certificate to be verified by the oath of the president and under the seal of the corporation.

2. Constitutionality of present provision. I have no doubt of the validity of the present charter qualifications. Article II, section 3 of the constitution of 1870 is in no way violated, and those who drew the charter had both the constitutional and legal power to impose such qualifications.

3. Effect of possible amendments on property rights. The present restriction is valid, and the power to change it by amending the charter is undoubted. The important issue is that as to the effect of such a change upon property.

The specific question presented to me is that as to the deed of the American Baptist Education Society to the University of Chicago, bearing date of August 24, 1891. This deed contains several conditions of which the following is here important:

DODD, MATHERY, WHAM & EDMUNDS

March 31, 1933

Mr. Wallace Heckman
Counsel and Business Manager
University of Chicago
Chicago, Illinois

Dear Sir:

I submit below answers to the questions raised
by you:

1. Amendment of Charter. Power to amend the charter, or articles of incorporation, appears clear, and this power applies to all provisions, including those as to qualifications of trustees and presidents. In order to amend, the following steps should be taken:

(a) Adopt a rule by amendment to the by-laws, prescribing the method of change;

(b) Adopt the change in the method as prescribed;

(c) File a certificate thereof in the office of the secretary of state, and record such certificate in the office of the recorder of deeds, the certificate to be verified by the oath of the president and under the seal of the corporation.

2. Constitutionality of present provision. I have no doubt of the validity of the present charter provisions. Article II, section 3 of the constitution of 1870 is in no way violated, and those who drew the charter had both the constitutional and legal power to impose such qualifications.

3. Effect of possible amendments on property rights. The present restriction is valid, and the power to change it by amending the charter is undoubted. The important issue is that as to the effect of such a change upon property.

The specific question presented to me is that as to the deed of the American Baptist Education Society to the University of Chicago, bearing date of August 24, 1891. This deed contains several conditions of which the following is here important:

"and upon the further express condition that the requirements, as set forth in the charter of the said party of the second part, that the President and two-thirds of the Board of Trustees of the same shall be members of regular Baptist Churches, shall be at all times complied with, and, in the event of the breach of any of these conditions, the title to the said premises shall revert to the said party of the first part or its successor."

This deed was from the American Baptist Education Society, incorporated under a special act of the New York legislature in 1889. By a special act of 1920, amending this special act of 1889, the members of the American Baptist Education Society were made a body corporate under the name of "The Board of Education of the Northern Baptist Convention". The same act before its amendment was the legal basis for the corporation known as the Education Society, and after its amendment was the legal basis for the corporation known as the "Board of Education." The one ceased to exist when the other was created. It will be noted that the amending act became law on April 27, 1920, and took effect immediately. Apparently after that date there was no charter of the Society and there were no members to constitute it.

But it will be noted that the deed says that "in the event of the breach of any of these conditions, the title to the said premises shall revert to the said party of the first part or its successors." It cannot be doubted that the Board is the successor of the Society, for it was created out of the members of the Society, by means of a legislative amendment of the charter of the Society, and much of the charter itself is substantially unchanged. The Society after this change appears to have completely disappeared so far as legal existence is concerned, and has no capacity to reconstitute itself for the purpose of claiming property. Upon the effort of a religious organization to reconstitute itself, see Miller v. Riddle, 237 Ill. 53 (1907).

It is my opinion that the reversion is in the Board of Education as the successor to the Society. It is well established that a condition subsequent such as that in this deed may be waived, and that the estate abides in the grantee unless and until it is terminated by the action of the grantor or his heirs. (Mott v. Danville Seminary, 139 Ill. 403, 415 (1889)).

Transfers of reversions are not looked upon with favor. It is possible, therefore, that the dissolution of the Society and its replacement by the Board did not transfer the reversion to the Board as its successor. If this should be the case, a

"and upon the further express condition that the requirements, as set forth in the charter of the said party of the second part, that the President and two-thirds of the Board of Trustees of the same shall be members of regular Baptist Churches, shall be at all times complied with, and, in the event of breach of any of these conditions, the title to the said premises shall revert to the said party of the first part or its successor."

This deed was from the American Baptist Education Society, incorporated under a special act of the New York legislature in 1888. By a special act of 1930, amending this special act of 1888, the members of the American Baptist Education Society were made a body corporate under the name of "The Board of Education of the Northern Baptist Convention". The same act before its amendment was the legal basis for the corporation known as the Education Society, and after its amendment was the legal basis for the corporation known as the "Board of Education". The one ceased to exist when the other was created. It will be noted that the amending act became law on April 27, 1930, and took effect immediately. Apparently after that date there was no charter of the Society and there were no members to constitute it.

But it will be noted that the deed says that "in the event of the breach of any of these conditions, the title to the said premises shall revert to the said party of the first part or its successors." It cannot be doubted that the Board is the successor of the Society, for it was created out of the members of the Society, by means of a legislative amendment of the charter of the Society, and much of the charter itself is substantially unchanged. The Society after this change appears to have completely disappeared so far as legal existence is concerned, and has no capacity to reconstitute itself for the purpose of claiming property. Upon the effort of a religious organization to reconstitute itself, see Miller v. Riddle, 227 Ill. 53 (1907).

It is my opinion that the reversion is in the Board of Education as the successor to the Society. It is well established that a condition subsequent such as that in this deed may be waived, and that the estate abides in the grantee unless and until it is terminated by the action of the grantor or his heirs. (Mott v. Danville Seminary, 129 Ill. 403, 415 (1889).)

Transfers of reversions are not looked upon with favor. It is possible, therefore, that the dissolution of the Society and its replacement by the Board did not transfer the reversion to the Board as its successor. If this should be the case, a

possibility of reverter will have vested in the original donors, and this interest in them cannot be alienated although it descends to heirs. (Dees v. Cheuvronts, 240 Ill. 486 (1909)). Although this view is possible, it is still my judgment that the reversion is now in the Board of Education.

The statements in this letter are based upon such investigation as I have been able to make since you spoke to me day before yesterday. So far as possible, they sum up the law of Illinois, but I should like to think over the whole matter more deliberately before final action is taken.

Very truly yours,

Walter F. Dodd

WFD:L

possibility of reverter will have vested in the original
donors, and this interest in them cannot be alienated
although it descends to heirs. (Dees v. Chervonts, 340
Ill. 488 (1909)). Although this view is possible, it
is still my judgment that the reversion is now in the
Board of Education.

The statements in this letter are based upon such
investigation as I have been able to make since you spoke
to me last night yesterday. So far as possible, they sum
up the law of Illinois, but I should like to think over
the whole matter more deliberately before final action is
taken.

Very truly yours,

Walter F. Wood

WFD:L

T 4 A
Hickman
00364

The University of Chicago

Office of the Counsel and Business Manager

ROOM 1204, 134 SOUTH LASALLE ST.
TELEPHONE FRANKLIN 214

APRIL NINTH
1 9 2 3

President E. D. Burton
The University of Chicago

My dear Dr. Burton:

I am sending with this a copy of the deed from Marshall Field and wife to The American Baptist Education Society for the South half ($S\frac{1}{2}$) of Lot Two (2) in Block Seven (7); block seven being the Southwest Quarter ($SW\frac{1}{4}$) of the Main Quadrangle; and the South half ($S\frac{1}{2}$) of Lot Two (2) being the South half ($S\frac{1}{2}$) of the Northwest Quarter of the Main Quadrangle. Also, deed of Block Three (3) and the North half ($N\frac{1}{2}$) of Block Two (2). Block Three (3) is the Northeast Quarter of the Main Quadrangle, and the North half ($N\frac{1}{2}$) of Block Two (2) is the North half ($N\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of the Main Quadrangle.

The latter deed, you will notice, contains a condition that for a period of One Hundred Years from this date the property should be exclusively used for educational purposes, as the site of the College or University.

In order to be certain as to the form of the waivers, I am asking Mr. Dickerson to send you a copy of one of them from the file of waivers.

Yours very truly,

WH:HF

Warren Fickerson

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Heckman

00405

The University of Chicago

Office of the Counsel and Business Manager

ROOM 1204, 134 SOUTH LASALLE ST.
TELEPHONE FRANKLIN 214

April Twelve
1923

Dr. E. D. Burton, President,
The University of Chicago,
Chicago, Illinois.

My dear Dr. Burton:

Referring to your inquiry of April 9th, it is correct that Senator Parker, Judge Baldwin and myself urged early action lest the American Baptist Education Society might go out of existence and there be no one who would have authority to release the University from the conditions imposed by the charter and deed.

You will notice that Mr. Dodd in the last two paragraphs of his opinion was not satisfied that he had exhausted the subject. I am sending with this a copy of a note I am writing him on that subject.

Yes, it is clear that the University can revise its Articles of Incorporation and is bound, if at all, to its present form only morally in the event some subscriber made a subscription relying upon the inchangeability of the charter. The reversionary clause is the impediment.

Very truly yours,

WH:AG
Enc.

Walter Dill

The University of Chicago

Office of the President and Executive Director

April 27, 1935

Room 1001, 101 South Dearborn St.
Telephone Exchange 112

Mr. J. C. Burpee, President,
The University of Chicago,
Chicago, Illinois.
My dear Mr. Burpee:

Reference is made to your inquiry of
April 25th, in which you asked for
information regarding the possibility of
a visit to the University of Chicago
by a representative of the National
Academy of Sciences.

The University of Chicago is pleased
to have a representative of the
National Academy of Sciences visit
the University and to discuss the
possibilities of a visit.

The University of Chicago is pleased
to have a representative of the
National Academy of Sciences visit
the University and to discuss the
possibilities of a visit.

Very truly yours,

Enc.

April Thirteen
1 9 2 3

Mr. Walter F. Dodd,
105 W. Monroe St.,
Chicago, Ill.

Dear Mr. Dodd:

Referring to your favor of the 31st, while we have the matter up perhaps it would be well for you now to satisfy yourself whether the American Baptist Education Society and the Board of Education of the Northern Baptist Convention are one identical corporation or whether they are two distinct and separate corporations one of which ceased to exist upon the organization of the other; and if they are not one identical corporation with merely a change of name, in that event what would become of the legal title in the event of a forfeiture, the precise question probably being: can there be a forfeiture and reversion without a person or corporation in existence to declare the forfeiture and to claim the reversion?

Also the further question: since the title is to revert to the American Baptist Education Society "or its successors" if it should now make a deed eliminating the clauses as to the presidency of the University and reducing the proportion of trustees who must be Baptists from two-thirds to a majority would that deed protect the University if, subsequent to that conveyance and prior to the act of the institution changing its Articles of Incorporation, the title should pass to another successor? If not, would a contract by the Board of Education of the Northern Baptist Convention to convey, in the event of a technical breach of the condition, protect the University? Of course where a reversion is to a grantor or his heirs the heirs at any particular date cannot make contract which shall bind those who are the heirs at the date of the breach of the condition.

Very truly yours,

WH:AG

April Thirteen
1 9 3

Mr. Walter F. Dodd,
108 W. Monroe St.,
Chicago, Ill.

Dear Mr. Dodd:

Referring to your favor of the 5th, while we have the matter up perhaps it would be well for you now to satisfy yourself whether the American Baptist Education Society and the Board of Christian Education of the Northern Baptist Convention are one identical corporation or whether they are two distinct and separate corporations one of which ceased to exist upon the organization of the other; and if they are not one identical corporation with merely a change of name, in that event what would become of the legal title in the event of a forfeiture, the precise question presently being: can there be a forfeiture and reversion without a person or corporation in existence to receive the forfeiture and so claim the reversion?

Also the former question: since the title is to revert to the American Baptist Education Society "or its successors" if it should now make a deed eliminating the clause as to the presidency of the University and reducing the proportion of trustees who must be Baptists from two-thirds to a majority would that deed protect the University if, subsequent to that conveyance and prior to the act of the institution changing its Articles of Incorporation, the title should pass to another successor? If not, would a contract by the Board of Education of the Northern Baptist Convention to convey, in the event of a technical breach of the condition, protect the University? Of course where a reversion is to a grantor or his heirs the heirs at any particular date cannot make contract which shall bind those who are the heirs at the date of the breach of the condition.

Very truly yours,

W.H.A.C.

The University of Chicago

Office of the Counsel and Business Manager

ROOM 1204, 134 SOUTH LASALLE ST.
TELEPHONE FRANKLIN 214

April Two
19 23

The Board of Education of
The Northern Baptist Convention:

The educational plan adopted by your Board and by the Denomination is inspiring. What is here proposed is, in our judgment, in line with it and in the direction of increasing its usefulness and importance. The purpose is the same as that declared by The American Baptist Education Society when the University was organized: "The University is to be conducted in a spirit of the widest liberality, seeking thus to secure the sympathy and co-operation of all public spirited men." At that time the donors had in mind a College with total funds of a million or two millions of dollars. It has developed into a University of high rank with close to sixty millions of dollars worth of property and with the work before it of completing its organization for higher education in its several departments involving a substantial addition to that amount. It has a student attendance of twelve thousand; a Divinity School attendance of five hundred, ninety-nine of whom are Baptists.

For the benefit of the cause of education generally and in the interest of the entire Middle West, it ought to be free to become the educational center of that large territory commanded by its situation and which depends upon it for educational advancement. In addition, it is an adequate basis and foundation for all of the Schools and Colleges comprising the Educational Plan of the Denomination.

The denominational interests are adequately protected in the fact that the Baptist Theological Union nominates the members of the Divinity Faculty, and a Baptist majority of the Board of Trustees will sufficiently guaranty the moral and spiritual direction of the institution for which the denomination has responsibility. That relationship will not be disturbed by the change here proposed.

The original founders of the University view the proposal in question with uniform favor. We ask leave to submit with this the waiver and letter of Mr. Rockefeller, and a list of Donors who have executed waivers in the form attached to the list. We submit also, the form of subscriptions made for the original gifts.

1906

The Board of Education of
The Northern Baptist Convention:

The educational plan adopted by your Board and
by the Convention is a plan which is now proposed in
our judgment, in line with it and in the direction of
increasing its usefulness and importance. The purpose is
the same as that declared by the American Baptist Education
Society when the University was organized: "The University
is to be conducted in a spirit of the widest liberality,
seeking thus to secure the sympathy and co-operation of all
public spirited men." At that time the donors had in mind a
College with total funds of a million or two millions of
dollars. It has developed into a University of high rank
with close to sixty millions of dollars worth of property and
with the work before it of completing the organization for
higher education in the several departments involving a sub-
stantial addition to that amount. It has a student attendance
of twelve thousand; a Divinity School attendance of five hun-
dred, ninety-nine of whom are Baptists.

For the benefit of the cause of education generally
and in the interest of the entire Middle West, it ought to be
free to become the educational center of that large territory
comprised by the attention and which depends upon it for edu-
cational advancement. In addition, it is an adequate basis
and foundation for all of the schools and colleges comprising
the Baptist and other of the denomination.

The denominational interests are adequately pro-
vided in the fact that the Baptist Theological Union main-
tains the support of the Divinity faculty, and a Baptist uni-
versity of the Board of Trustees will undoubtedly guarantee the
moral and spiritual direction of the institution for which the
denomination has responsibility. That relationship will not
be disturbed by the change here proposed.

The original founders of the University view the
proposed question with uniform favor. We ask leave to sub-
mit with this the writer and letter of Mr. Hooker, and a
list of persons who have endorsed writers in the form attached
to the list. We submit also, the form of subscription which
for the original list.

Changes proposed:

- A. Omit the provision that the President of the University shall be a Baptist.

It is not probable that any denomination could provide perpetually the strongest, ablest, best equipped man for the Headship of such an institution.

The experience and history of the great commercial and industrial concerns demonstrate the difficulty of securing great administrative ability alone. The salaries paid to Presidents of these great organizations are evidence of the rareness of this single quality. In addition to this qualification, the Headship of an institution of the rank of which this promises to be, requires other equally or more important qualifications, difficult to find in conjunction with it. Even with this freedom of choice the selection of out-standing men for the Headships of smaller institutions has been difficult.

- B. That the proportion of Baptists required on the Board of Trustees be changed from two-thirds to a majority.

Experience has demonstrated that the amount and continuity of the work of the Trustees is such that they must be almost exclusively local men. It would be distinctly advantageous if a few more of the able alumni and great Donors to the University who do not happen to be Baptists could be elected to the Board. The former are deeply attached to their Alma Mater, and the latter have demonstrated their interest by substantial support.

Non-Baptists have contributed \$18,406,801 to the University. Mr. A. C. Bartlett, of Hibbard, Spencer & Bartlett contributed \$154,795, and was for twenty years a most able and valuable Chairman of the Finance Committee. Charles L. Hutchinson contributed \$72,813.25 and has been for thirty years Treasurer. Julius Rosenwald contributed \$976,607.34 and has been for ten years a Trustee of great value upon the Board and assiduous and able in Committee work. Martin A. Ryerson contributed \$834,788.19 and was for thirty years a most able and vigilantly efficient President of the Board of Trustees. It would be of advantage if the University could secure the same kind and quality of service from other non-Baptist Donors and alumni.

We beg leave to submit for your information:

Changes proposed:

A. Limit the provision that the President of the University shall be a Baptist.

It is not probable that any denomination could provide personally the strongest, ablest, best equipped man for the leadership of such an institution.

The experience and history of the great commercial and industrial concerns demonstrate the difficulty of securing great administrative ability from the ranks of these great organizations are evident. In addition, the leadership of an institution of this character, the leadership of an institution of this rank of which this provision is being proposed, requires other equally or more important qualifications, difficult to find in connection with it. Even with this freedom of choice the selection of outstanding men for the leadership of smaller institutions has been difficult.

2. That the proportion of Baptists required on the Board of Trustees be changed from two-thirds to a majority.

Experience has demonstrated that the amount and continuity of the work of the trustees is such that they must be almost exclusively local men. It would be distinctly advantageous if a few more of the ablest and greatest leaders of the University who do not happen to be Baptists could be elected to the Board. The latter have demonstrated their interest by substantial support.

Non-Baptists have contributed \$18,400,801 to the University. Dr. A. C. Bartlett, of Alhambra, Spencer, Bartlett contributed \$154,700, and for twenty years a most able and valuable Chairman of the Finance Committee. Charles L. Hutchinson contributed \$75,000 and has been for thirty years Treasurer. Julius Rosenwald contributed \$75,000 and has been for ten years a trustee of great value upon the Board and elsewhere and also in Committee work. Marvin A. Hansen contributed \$50,000 and was for thirty years a most able and vigorously efficient President of the Board of Trustees. It would be of advantage if the University could secure the same kind and quality of service from other non-Baptist leaders and alumni.

We beg leave to submit for your information:

- a. Articles of Incorporation of the University.
 - b. Copy of deed from the American Baptist Education Society to The University of Chicago.
 - c. Resolution adopted by the Executive Committee of the Board of Managers.
 - d. Communication from the Board of Managers to the Board of Trustees of the University.
- C. A deed to the West one-half ($W\frac{1}{2}$) and the Northeast one-quarter ($NE\frac{1}{4}$) of the original Quadrangle of the University will be required to effectuate these changes.

Respectfully,

WH:EB

*qualifying the
conditions under
which the property
is held in com-
munity with the
above suggestions*

- a. Articles of Incorporation of the University.
- b. Copy of deed from the American Baptist Education Society to The University of Chicago.
- c. Resolution adopted by the Executive Committee of the Board of Managers.
- d. Communication from the Board of Managers to the Board of Trustees of the University.
- e. A deed to the West one-half (W¹) and the Northeast one-quarter (NE¹) of the original grant of the University will be required to effectuate these changes.

Respectfully,

W:ED

W. 2 W. B. C.

T4A
Lites

66 S Mountain Ave

Montclair N J

Apr 13 1923

00432

Dear Dr. Burton

I had totally forgotten both letters. They were written for individuals, not for publication even the last paragraph to which you refer was designed to release the letter for private use, only. A letter for publication, even in my weakest moods, would have been revised and more reserved. Both letters bear the marks of haste in grammar in composition and immaturity of thought. I confess I disliked them both extremely. The historical facts only are worth attention and those and all of them are accessible in the official records and these will be marshalled more appropriately and more cordially aptly by the University itself.

J. J. Gates

W.B.C. 2002
Mountains

W.B.C. 2002
Mountains

00432

Dear Mr. Thurston

I have today found out

that letters they were written for

inches, and not for publication

even the last paragraph is what

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the letter for private use only. A letter

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est moments, would have been revised

and more reviewed. Both letters

from the records of books in your

man is a composition and a composition

of thought. I suppose I should have

but extremely. The letter, and first only

are worth attention and there are

all of them are accessible in the

official records and they will be made available
from appropriate and more carefully
open in the business itself.

April 30, 1923.

My dear Mr. Gates:-

Accept my thanks for your letter and telegram of April 13th. We are, of course, conforming wholly to your request in the matter. What you wrote in these two letters was very illuminating and helpful, but I can quite understand your wish respecting the use of them now. We, of course, have no thought of publishing them. We were only considering mimeographing them for use of the two committees.

The whole case of the University is now taking shape for presentation at Atlantic City. Whether it will actually be brought up will be determined at a meeting to be held in New York on May 8th. I am sure you will be interested to see the shape which the matter has now taken and I shall forward you soon a copy of the pamphlet which we are preparing.

Very truly yours,

Dr. F. T. Gates,
66 S. Mountain Ave.,
Montclair, N. J.

EDB:CB

April 30, 1923.

My dear Mr. Gates:-

Accept my thanks for your letter and telegram of April 13th. We are, of course, conforming wholly to your request in the matter. What you wrote in these two letters was very illuminating and helpful, but I can quite understand your wish respecting the use of them now. We, of course, have no thought of publishing them. We were only considering mimeographing them for use of the two committees.

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Very truly yours,

Mr. F. T. Gates,
66 S. Mountain Ave.,
Montclair, N. J.

EDB:GB

Minutes of Conference at Cleveland, Ohio

April 3, 1923

(Northern Baptist Convention)

The Committee of the Board of Education on Conference with the University of Chicago, met with a committee from the Board of Trustees of the University of Chicago, in all-day conference at the Hotel Cleveland, Cleveland, Ohio, on April 3, 1923. There were present from the Board of Education's Committee, President C.A. Barbour, Dr. H.F. Stilwell, President C.W. Chamberlain, Dr. F.E. Taylor and Mr. E.H. Rhodes (representing Mr. C.S. Shank). The Board of the University of Chicago was represented by Mr. C.R. Holden, Acting President E.D. Burton, and Rev. C.W. Gilkey. Dr. C.A. Barbour was elected Chairman of the conference and Mr. Gilkey secretary. Prayer was offered by Dr. Stilwell.

At the chairman's request, Dr. Burton reviewed the history of previous conferences between the Board of Education's Committee and the Board of the University of Chicago, covering several years.

Mr. Holden, speaking for the University, then presented the matters for present discussion. He offered copies of the Articles of Incorporation of the University (Appendix A attached) commonly though inaccurately called its charter; and of the deed to part of the University's present site (Appendix B attached). He laid emphasis on the fact that every member of both committees is a Baptist, and that all parties understand that the Board of Educa-

Minutes of Conference at Cleveland, Ohio

April 3, 1923

The Committee of the Board of Education of Con-

ference with the University of Chicago, met with a com-
mittee from the Board of Trustees of the University of
Chicago, in all-day conference at the Hotel Cleveland,
Cleveland, Ohio, on April 3, 1923. There were present
from the Board of Education's Committee, President C.A.
Burton, Dr. H.R. Stowell, President C.W. Chamberlain,
Dr. F.E. Taylor and Mr. E.H. Rhodes (representing Mr.
C.S. Shank). The Board of the University of Chicago was
represented by Mr. C.R. Holden, Acting President E.D.
Burton, and Rev. C.W. Gilkey. Dr. C.A. Burton was
elected-Chairman of the conference and Mr. Gilkey sec-
retary. Prayer was offered by Dr. Stowell.

At the chairman's request, Dr. Burton reviewed
the history of previous conferences between the Board of
Education's Committee and the Board of the University of
Chicago, covering several years.
Mr. Holden, speaking for the University, then
presented the matter for present discussion. He offered
copies of the Articles of Incorporation of the University
(Appendix A attached) commonly though inaccurately called
its charter, and of the deed to part of the University's
present site (Appendix B attached). He laid emphasis on
the fact that every member of both committees is a trustee
and that all parties understand that the Board of Educa-

tion's Committee is in this matter a trustee of denominational interests and responsibilities which it must carefully conserve.

Dr. Barbour called the attention of the conference to the vote of the Northern Baptist Convention at Minneapolis in 1916, instructing the then existing Committee of the Convention known as the Board of Education, to refer all proposals affecting the denominational control of educational institutions back to the Convention itself for final action.

Mr. Holden pointed out that by the laws of Illinois articles of incorporation in that state cannot be permanently unalterable.

Dr. Burton remarked that it is therefore the University's historical relation to the denomination and the deed to its land, rather than its articles of incorporation, that are the significant factors in the situation.

Mr. Holden then read a letter from Dr. F.T. Gates to Dr. T.W. Goodspeed dated March 6, 1914 (Appendix C attached) - prefacing the reading with the explicit statement that the Board of Trustees of the University does not hold all the positions set forth in this letter, and that the very large majority of the Board does not wish to sever its present close connection with the Baptist denomination and is not asking for the complete independence which Dr. Gates advocates in this letter. This at-

tion's Committee is in this matter a trustee of denominational interests and responsibilities which it must carry fully conservative.

Dr. Harbour called the attention of the conference to the vote of the Northern Baptist Convention at Minneapolis in 1916, instructing the then existing Committee of the Convention known as the Board of Education, to refer all proposals affecting the denominational control of educational institutions back to the Convention itself for final action.

Mr. Holmes pointed out that by the laws of Illinois articles of incorporation in that state cannot be permanently unalterable.

Dr. Harbour remarked that it is therefore the University's historical relation to the denomination and the deed to its land, rather than its articles of incorporation, that are the significant factors in the situation.

Mr. Holmes then read a letter from Dr. T. T. Gates to Dr. T. W. Goodspeed dated March 6, 1914 (Appendix C attached) - prefacing the reading with the explicit statement that the Board of Trustees of the University does not hold all the positions set forth in this letter, and that the very large majority of the Board does not wish to sever its present close connection with the Baptist denomination and is not asking for the complete independence which Dr. Gates advocates in this letter. This at-

titude of the University Board was further emphasized by explicit questions of Dr. Barbour on this point, answered by both Dr. Burton and Mr. Gilkey.

Mr. Holden then presented informally the experience of the University on two of its fundamental charter provisions, as it has become even more evident since Dr. Gates' letter was written in 1914: namely -

1. The requirement that two-thirds of the Board of Trustees shall be Baptists.

The Board is, with few exceptions, composed of residents of Chicago and vicinity, meets each month for a prolonged session, and carries on a large part of its work through sub-committees which meet frequently. The minutes of the last Board meeting cover 56 pages. It is thus a very active and responsible Board. Its seven non-Baptist members have knitted it close to the life of Chicago, and have been among its most liberal donors. Over \$18,000,000 has already been given to the University by non-Baptist donors. The alumni of the University, which is now thirty years old, are just coming to the point where they desire, and should receive, a larger representation on the Board. The limitation in the charter of non-Baptist members to one-third the membership of the Board, makes it difficult to secure a sufficient representation of both citizens of Chicago and alumni of the University, who ought from every other point of view to be more largely represented. The Board does not desire to abrogate denominational control; but suggests, in the light of years of experience, that the two-thirds proportion of Baptist trustees be reduced to a majority, and that this reduction be accompanied by corresponding changes in the deed.

Dr. Barbour asked whether this suggestion is in line with the opinion of the large majority of the Board, and whether the desire for complete independence expressed in Dr. Gates' letter is diminishing or increasing in the Board. Mr. Holden and Dr. Burton (the latter outlining Judge Baldwin's later opinion on this point, together with recent full discussions in the Board to the same

attitude of the University Board was further emphasized by explicit questions of Dr. Barbour on this point, answered by both Dr. Burton and Mr. Gilkey.

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effect) emphasized the fact that the Board does not seek absolute emancipation; though Mr. Holden pointed out that many of the waivers already secured by the University from its donors are of necessity absolute.

2. The restriction on the presidency of the University.

It has become more and more evident that this increasingly important office should be filled on the basis of ability rather than of denominational affiliation. The high standing of the Faculty, as well as the heavy responsibilities of the administration of the University, make it unfortunate to restrict so seriously the field of choice for a position of first magnitude in the educational world.

Dr. Burton emphasized this point in the light of the vain search of the Board, covering more than a year past, for a qualified Baptist who could be secured for a long term in the presidency; and pointed out that while the Baptist denomination perhaps possesses at least as many such qualified candidates as any other single denomination, the restriction of the field to any one denomination creates a serious difficulty for the University.

Mr. Gilkey spoke of the great difficulty which other large universities have recently found in securing qualified presidents even with no restriction in the field of choice - a difficulty which our own limitation severely accentuates.

Dr. Burton spoke of four great opportunities with which the University must deal in the near future, any one of which calls for the leadership of a specially qualified expert, and all of which together require in the President a combination of qualities exceedingly rare; the medical development, the field for research, the study of education itself, and the development of a new type of college within a metropolitan university.

Mr. Holden added as a fifth great opportunity the study of business administration.

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Dr. Barber pointed out that the removal of this restriction on the presidency is a more difficult problem from every point of view than the reduction in the proportion of Baptist trustees.

Mr. Holden then presented an informal and tentative statement of the desires of the University (Appendix D attached), emphasizing the point that this statement was prepared as a basis for discussion between the two Committees, rather than as a precise memorial. In connection with paragraph 3, the contractual relations between the Baptist Theological Union and the University of Chicago were explained in detail by Mr. Holden and Dr. Burton. The action of the Northern Baptist Convention at Minneapolis in 1916 (Appendix E attached) and the resolution of the Executive Committee of the Board of Managers of the American Baptist Education Society, dated September 27, 1916 (Appendix F attached) were then read.

Mr. Holden then read waivers by Mr. John D. Rockefeller Sr. dated February 24, 1909 (Appendix G attached) and by other donors original and later, whose gifts aggregated \$303,393 (Appendix H attached). The question of the exact proportion, which has been thus waived, of the original \$400,000 contributed by various donors to complete the first \$1,000,000 could not be answered by any one present.

Mr. Rhodes raised the question of the original purposes referred to in the deed to part of the University's site as having been stipulated in its gift to the American Baptist Education Society; and it was agreed that this point should be cleared up by the University.

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Dr. Taylor pointed out that the question of waivers is the University's responsibility and not a proper subject for discussion in this conference.

A second waiver by Mr. John D. Rockefeller, Sr., dated March 7, 1923 (Appendix I attached) was then read. The original forms of subscription to the first \$1,000,000 dated June 20, 1889 (Appendix J attached) were exhibited; and it was pointed out that the present charter restrictions were neither included in this form, nor in any other document then in existence. A letter from Dr. F.T. Gates to Mr. John D. Rockefeller, Jr., dated March 10, 1914 (Appendix K attached) was also read, stating that Judge Bailey of the Supreme Court of Illinois had first suggested these restrictions as a method of securing Baptist control of the institution.

Mr. Holden gave assurance that the situation as to both waivers and deeds should later be made specific and complete.

Mr. Holden and Mr. Rhodes agreed that the proposed action is not affected by the presence or absence of waivers among the donors to the original \$1,000,000, since there was no specification of any restriction as to trustees or presidency in the original form of pledge. They also agreed that the removal of these restrictions by consent of the Board of Education would in no way prejudice any rights, real or supposed, of individual donors to that fund. It was agreed that the University should submit

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information as to later subscriptions, which might have been made in consideration of the charter restrictions. It was also pointed out that waivers from original donors were less significant than from later donors, since the former could not have based their gifts on the charter restrictions whereas the latter may have done so.

In answer to Dr. Stilwell's question as to the moral responsibility involved in the situation, Dr. Burton pointed out that to sever all denominational relations might transgress the intention of the original donors; but that they do not prescribe the method and extent of this relationship, which was left to the discretion of the American Baptist Education Society.

The points raised in a letter from Mr. Shank explaining his inability to attend the conference, were then reviewed in detail by Dr. Barbour. It was unanimously agreed by both Committees that the minutes of this discussion, after review by the meeting, would be a sufficient report of its proceedings, since it is a preliminary and informal conference. Dr. Barbour gave it as his opinion that all points raised in the letter had either been covered or were in process of being covered; and to this the Committee of the Board of Education agreed. The secretary's minutes to this point were then read, amended, and approved, and the conference adjourned for lunch.

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The conference re-assembled at 2:00 P.M.

Prayer was offered by Dr. Burton.

Dr. Barbour then raised the whole question of the advisability of bringing the proposal before the Northern Baptist Convention at this time; pointing out that it would be much easier to secure a reduction in the proportion of Baptist trustees, than a removal of the Baptist qualification for the presidency; and saying that there had been general hope that the coming Northern Baptist Convention at Atlantic City might be a non-controversial gathering.

Mr. Holden suggested that a non-Baptist president of the University might conceivably leave the Divinity School of the University freer from theological partisanship and controversies than might otherwise be the case.

Dr. Stilwell suggested the possibility of protecting the presidency by the requirement that he be a member of an evangelical church; he favored adjustment as to the proportion of trustees by the enlargement of the Board to admit a quantitatively increased minority rather than by a reduction of ratio; he feared the effect of renewed controversy within the denomination at just this time.

Mr. Gilkey pointed out that there were considerations involved in the necessity of securing a successor to Dr. Burton not more than three years hence, which, from the University's point of view, make early consideration of the matter desirable though admittedly difficult.

Dr. Taylor favored an adjustment as to the trustees, but was not clear on the presidential issue, and somewhat fearful of the possible results of its discussion in the approaching Northern Baptist Convention. He deprecated any loosening of the bond between the University and the denomination.

Mr. Gilkey raised the question whether this has not proved an inevitable development in the history of practically every American university which, founded as a denominational college, has grown into a university of the first rank covering the whole field of education.

Dr. Burton raised the question whether the adjustment of the Board of Trustees might possibly be raised and settled now, and the question of the presidency raised now for a year's possible consideration before its

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final settlement. The value of ample time and opportunity for the discussion and settlement of this latter issue was generally agreed upon.

Dr. Chamberlain said he had hoped that the adjustment as to trustees might be made by increasing the size of both the non-Baptist minority and the total Board, in order to provide for the increase of alumni and citizens' representation, which he saw at once to be desirable; he felt strongly the difficulty of keeping all our colleges Christian - a difficulty due to several influences, among which he named the increasing number of non-Christian alumni, and the competition of different denominational and other groups for the control of college policy; he had an open mind as to the best method of safeguarding the Christian character of the University of Chicago.

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Mr. Rhodes (speaking for himself rather than for Mr. Shank, whom he represented) had not been familiar with the whole question until very recently. He recognized at once the seriousness of the Baptist limitation as to the presidency, and would be prepared (with whatever sentimental reluctance) to vote for its removal. He viewed the two proposals as closely bound up together, however, and could favor the adoption of both at once: he would vote either for the abolition of the presidential restriction and the retaining of the two-thirds Baptist majority on the Board, or for a Baptist majority on the Board with the retention of the presidential restriction - but not for the abolition of the presidential restriction combined with the reduction of the Baptist representatives on the Board to a bare majority of one. He feared the effect of any demonstration that college charters can be hastily or easily amended on the campaign for larger educational gifts by Baptists; and he liked the suggestion that larger representation of alumni and citizens be secured by increasing the Board, rather than diminishing the proportion of Baptists.

Mr. Gilkey suggested that there were some difficulties in the way of increasing the number of Baptist trustees, since it was already difficult to secure men of the high qualities desired who could give the large amount of time necessary; and since the addition of more non-resident Baptist members would inevitably exclude them from the frequent committee meetings and conferences where so much of the actual work of the Board is carried on.

Dr. Burton urged the consideration of the central question as to whether the obvious responsibilities of the

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denomination, and the equally obvious future needs of the University, can be met in a solution fair to both.

After a brief adjournment to confer as separate groups, it proved on re-assembly that there was unanimous agreement on these proposals:

(1) That the Board of Trustees of the University be increased to 25, and that the ratio of Baptists stipulated in the charter be changed from two-thirds to three-fifths of the whole (the ratio only to appear in the charter). This would increase the actual number of Baptists on the Board by only one - thus meeting the University's desire to keep its Board an active whole. The number of non-Baptists would be increased by three, giving the same opportunity for the inclusion of non-Baptist citizens and alumni which the original proposal had contemplated - while maintaining a Baptist majority of five.

(2) That the denominational restriction on the presidency be removed.

It was understood that the carrying of these proposals into effect would involve corresponding changes in the deed.

It was agreed that these proposals should be presented to the Convention in advance with a full statement of the reasons therefor; and that a joint committee representing the University and the Board of Education should be in charge of the debate, and should propose, if the course of the debate make it advisable, that one or

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both of these proposals be put on the table for a year.

Dr. Burton emphasized the desire of the University not to complicate the educational program or problem of the denomination as a whole. This desire, which all present shared, led to a general agreement that a final report should be published by the Committee of the Board of Education at least a week before the Atlantic City Convention, and that this report of the Committee should suggest that the Convention, meeting as the Board of Education, decide whether to act on these proposals, in whole or in part, this year or next year.

The method of further procedure agreed on was as follows. Copies of these minutes are to be sent at once to all members of both committees. The University is to formulate its proposals, with all available pertinent information included or appended, to be sent to all members of the Board of Education's Committee not later than April 25; accompanied by a statement by the Board of Education's Committee of their attitude. A further joint conference of the two committees is to be held in New York City on May 8. At this conference the judgment of all members of both committees on the University proposals should be available in full, and the proposals themselves then put in final form for release to the denominational press not later than May 11, in order to secure ample publicity before the Atlantic City Convention May 23-30.

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A final meeting of both committees should be held just before the Atlantic City Convention at such time and place as to assure the presence of Mr. Shank.

The minutes were then read and approved, and the secretary was instructed to send copies to all members of both committees, and also to Mr. Rhodes. The conference then adjourned.

CHARLES W. GILKEY

Secretary

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CHARLES W. GILKEY

Secretary

T H A
Hughes

April 25, 1923.

The Honorable Charles Evans Hughes,
Secretary of State,
Washington, D. C.

My dear Mr. Secretary:-

You will I am sure recall having been consulted by President Judson on several occasions with reference to the relation of the University to the Northern Baptist Convention, or, to speak more accurately, to the Board of Education of the Northern Baptist Convention, which was incorporated in 1889 as the American Baptist Education Society, but in 1920 took the new name above indicated.

On April 3rd of this year a meeting of the two committees on this matter, one representing the University and the other the Board of Education, was held in Cleveland, and after a day's discussion a proposal was formulated which seemed acceptable to both committees. In accordance with the action of that Conference the University prepared a statement of its case which, having received general approval by the Board of Trustees, will be reconsidered at a meeting of the two committees to be held in New York May 8th. It is the expectation that at that time the Committee representing the Board of Education will incorporate the statement of the University in a report of its own to be presented to the Board of Education of the Northern Baptist Convention at its annual meeting which will be held

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in Atlantic City on the afternoon of May 26.

I am enclosing with this letter 1) the Minutes of the Cleveland meeting of the two committees; 2) copies of the documents referred to in the Minutes of that meeting; 3) "A statement by the University."

To save your time may I call your attention especially to 2) of these enclosures. The documents of course you are already familiar with. The Minutes are important only to make clear precisely at what point in our negotiations we have arrived.

It is understood that the statement of the University (enclosure 3) is subject to still further revision as a result of its study by both committees. It has however been approved for substance by the Board of Trustees of the University and in principle by the committee representing the Board of Education.

You will of course recall you are yourself a member of the University Committee. We have not felt at liberty to trespass on your time up to this point, but now that there seems good hope that an amicable adjustment satisfactory to both parties may be arrived at if the matter is wisely handled your colleagues on the Committee greatly desire the privilege of a brief interview with you on the subject.

Would it be possible for you to see Mr. Gilkey and myself in Washington either just before the meeting in New York on the 8th of May or just after. Each day would have its

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advantages to us and we should be glad to adjust ourselves
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With great respect,

Sincerely yours,

EDB:CB

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T4 A
Rockefeller

April 24, 1923.

Mr. John D. Rockefeller;-
Golf House,
Lakewood, N. J.

My dear Mr. Rockefeller:-

In accordance with the letter of your secretary of April 21st I am enclosing herewith your letter of March 7, 1923 referred to in mine of April 9, 1923. Lest this latter may not be immediately at your hand I venture to repeat my suggestion that the last paragraph of your letter read as follows:-

In the light of these facts, while I by no means urge a change of policy on the part of the Board of Education of the Northern Baptist Convention (which I understand is now the legal name of the body which was incorporated in 1889 as the American Baptist Education Society) yet, if the Board of Education should think it wise to adopt measures for releasing the University from all or any of the denominational restrictions in its articles of incorporation and in the tenure of its property, such action would meet with my hearty concurrence.

Very truly yours,

EDB:CB

147
A
Rochester

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In the light of these facts, while I by no means
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Education of the Northern Baptist Convention (which I
understand is now the legal name of the body which was
incorporated in 1889 as the American Baptist Education
Society) yet, if the Board of Education should think it
wise to adopt measures for releasing the University
from all or any of the denominational restrictions in
its articles of incorporation and in the tenure of its
property, such action would meet with my hearty con-
currence.

Very truly yours,

EDB:CB

ROCHESTER THEOLOGICAL SEMINARY
OFFICE OF THE PRESIDENT
ROCHESTER, N. Y.

T4A
Rochester

April 30, 1923

Dr. Nathaniel Butler
Assistant to the President
The University of Chicago
Chicago, Ill.

My dear Dr. Butler:

I have your good letter of April twenty-sixth.

The Rochester Theological Seminary has no charter. I enclose you a copy of a letter from Dr. Augustus S. Downing, the Assistant Commissioner of the University of the State of New York and Director of Professional Education, under date of August sixth, 1920.

There was also filed, in the office of the State Department of New York State, the following Certificate for the Incorporation of the New York Baptist Union for Ministerial Education:

"To all to whom these presents shall come: Know Ye, that in conformity with the provisions of an act for the incorporation of benevolent, charitable, scientific and missionary societies passed by the legislature of the State of New York April 12th, 1848 and for the purpose of effecting an incorporation under the said act, we, the undersigned, do hereby certify that we and our associates have formed a society under a constitution adopted at the City of Rochester on the eleventh day of May in the year of our Lord one thousand and fifty to be known as the "New York Baptist Union for Ministerial Education." That the object of said society is 'to furnish means of instruction to such young men of the Baptist denomination as shall give satisfying evidence to the churches of which they are members, and to the trustees of the society, of their personal piety and of their call to the gospel ministry'. That the number of trustees to manage the affairs of the said society is twenty-four (later amended to read "thirty-three"), and that the names of the said trustees for the first year of the existence of the said society are these, viz: Henry Davis, Nehemiah W. Benedict, Ahira Fitch, Theron Brown, Luther F. Beecher, Sewall S. Cutting, Albert G. Smith, Charles N. Chandler, Avannah Moseley, H. E. Smith, Reuben P. Wisner, Lemuel G. Paine, Justin A. Smith, Hiram K. Stimson, Oren Sage, James P. Olcott, Marsena Stone, Gideon W. Burbank, Alvah Strong, Jirah Blackmer, J. S. Backus, Daniel Bowen, E.E.L. Taylor, Caleb Brown.

"The Business of the said society is to be conducted in the City of Rochester in the County of Monroe.

Dated, Rochester, May 13, 1850."

Henry Davis
Oren Sage
Nehemiah W. Benedict
Justin A. Smith
Alvah Strong "

Trustee

April 30, 1935

Dr. Nathaniel Butler
Assistant to the President
The University of Chicago
Chicago, Ill.

My dear Dr. Butler:

I have your good letter of April twenty-sixth.

The Rochester Theological Seminary has no charter. I enclose you a copy of a letter from Dr. Augustus G. Downing, the Assistant Commissioner of the University of the State of New York and Director of Professional Education, under date of August sixth, 1930.

There was also filed, in the office of the State Department of New York State, the following certificate for the incorporation of the New York Baptist Union for Ministerial Education:

"To all to whom these presents shall come: Know Ye, that in conformity with the provisions of an act for the incorporation of benevolent, charitable, scientific and missionary societies passed by the legislature of the State of New York April 18th, 1848 and for the purpose of effecting an incorporation under the said act, we, the undersigned, do hereby certify that we and our associates have formed a society under a constitution adopted at the City of Rochester on the eleventh day of May in the year of our Lord one thousand and fifty to be known as the 'New York Baptist Union for Ministerial Education'. That the object of said society is 'to furnish means of instruction to such young men of the Baptist denomination as shall give satisfactory evidence to the churches of which they are members, and to the trustees of the society, of their personal piety and of their call to the gospel ministry'. That the number of trustees to manage the affairs of the said society is twenty-four (later amended to read 'thirty-three'), and that the names of the said trustees for the first year of the existence of the said society are these, viz: Henry Davis, Nehemiah W. Benedict, Albert Fitch, Theron Brown, Luther F. Beecher, Sewall S. Cutting, Albert G. Smith, Charles W. Chandler, Avannah Mosseley, H. E. Smith, Reuben P. Warner, Lemuel C. Paine, Justin A. Smith, Hiram K. Stimson, Oren Sage, James P. Olcott, Marcella Stone, Gibson W. Burbank, Alvan Strong, J. S. Backus, Daniel Bowen, E. E. L. Taylor, Caleb Brown.

"The Business of the said society is to be conducted in the City of Rochester in the County of Monroe.
Dated, Rochester, May 13, 1850."

Henry Davis
Oren Sage
Nehemiah W. Benedict
Justin A. Smith
Alvan Strong

President Burton would also find some material which might be of use to him so far as Rochester is concerned, in the report of the Committee on Denominational Schools as presented in the meeting of the Northern Baptist Convention at Des Moines, June twenty-third, 1921.

I trust that this will give you the material which you desire.

With cordial regard,

Very sincerely yours,

Clarence A. Barbour

Clarence A. Barbour

President Burton would also find some material which might be of use to him as far as Rochester is concerned, in the report of the Committee on Denominational Schools as presented in the meeting of the Northern Baptist Convention at Des Moines, June twenty-third, 1931.

I trust that this will give you the material which you desire.

With cordial regards,

Very sincerely yours,

Clarence A. Barbour

Clarence A. Barbour

(COPY)

The University of the State of New York
The State Department of Education
Albany

Augustus S. Downing
Assistant Commissioner
and Director of Professional Education

August 6, 1920

My dear President Barbour:

Replying to your letter of July 31, in which you say that you have inquiry for a copy of the charter of Rochester Theological Seminary and ask if we have a copy of such charter, I beg to reply that Rochester Theological Seminary has never been incorporated either by the Board of Regents, by filing a certificate of incorporation with the Secretary of State or by act of the Legislature. The facts in the case are as follows;

The New York Baptist Union for Ministerial Education was organized May 11, 1850.

It was incorporated in the office of the Secretary of State September 5, 1850.

Chapter 308 of the Laws of 1854 relative to the New York Baptist Union, which was chartered under the provisions of Chapter 320 of the Laws of 1848, provided for an increase in the amount of property to be held by said corporation (the Baptist Union for Ministerial Education) to the sum of \$300,000, the same to be held in trust for the following purposes:

1. To found and maintain professorships and scholarships, and otherwise provide for the support and instruction of such young men as shall give satisfactory evidence to the churches of which they are members and to the trustees of the society of their personal piety and of their call to the gospel ministry.

2. To establish and maintain a satisfactory library for the use of the said Union.

3. For any other specific purposes comprehended in the general objects authorized by the act under which they are incorporated.

The General Act (Chapter 319 of the Laws of 1848) for the incorporation of general benevolent, charitable, scientific and missionary societies enumerates the general powers of each corporation formed under this act shall be those conferred by and be subject to the provisions and restrictions of the third title of the 18th Chapter of the third (first?) part of the revised statutes, which are as follows:

(COPY)

The University of the State of New York
The State Department of Education
Albany

August 8, 1930
Assistant Commissioner
and Director of Professional Education

August 8, 1930

My dear President Barbour:

Replying to your letter of July 31, in which you say that you have inquiry for a copy of the charter of Rochester Theological Seminary and ask if we have a copy of such charter, I beg to reply that Rochester Theological Seminary has never been incorporated under the laws of the State of New York, by filing a certificate of incorporation with the Secretary of State or by act of the legislature. The facts in the case are as follows:

The New York Baptist Union for Ministerial Education was organized May 11, 1850.

It was incorporated in the office of the Secretary of State September 8, 1850.

Chapter 308 of the Laws of 1854 relative to the New York Baptist Union, which was chartered under the provisions of Chapter 320 of the Laws of 1848, provided for an increase in the amount of property to be held by said corporation (The Baptist Union for Ministerial Education) to the sum of \$300,000; the same to be held in trust for the following purposes:

1. To found and maintain professorships and scholarships, and otherwise provide for the support and instruction of such young men as shall give satisfactory evidence to the trustees of which they are members and to the trustees of the society of their personal piety and of their call to the Gospel ministry.

2. To establish and maintain a satisfactory library for the use of the said Union.

3. For any other specific purposes comprehended in the general objects authorized by the act under which they are incorporated.

The General Act (Chapter 318 of the Laws of 1848) for the incorporation of general benevolent, charitable, scientific and literary societies enumerates the general powers of each corporation formed under this act shall be those conferred by and be subject to the provisions and restrictions of the third title of the 18th Chapter of the third (third) part of the revised statutes, which are as follows:

1. To have succession by its corporate name for the period limited in its charter and when no period is limited, perpetually.

2. To sue and be sued, complain and defend in any court of equity or law.

3. To make and use a common seal, and alter the same at pleasure.

4. To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter.

5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.

6. To make by-laws not inconsistent with any existing law for the management of its property, the regulation of its affairs and for the transfer of its stock.

Chapter 90 of the Laws of 1878 amends Chapter 308 of the Laws of 1854 by increasing the real or personal property that may be held by the Baptist Union for the same purposes to \$1,000,000 and the accumulations thereof.

I enclose herewith copy of the certificate of incorporation of the New York Baptist Union, which was filed September 5, 1850 in the office of the Secretary of State.

From the foregoing facts, you will see that the Rochester Theological Seminary, as such, has never been incorporated and therefore no charter exists.

If any of these matters are not clearly understood by you, I shall be very glad to have you make further inquiry.

Respectfully yours,

(Signed) Augustus S. Downing.

To

Rev. Clarence A. Barbour, D.D.
President, Rochester Theological Seminary
Rochester, New York

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3. To make and use a common seal, and after the same at pleasure.

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From the foregoing facts, you will see that the Rochester Theological Seminary, as such, has never been incorporated and therefore no charter exists.

Will any of these matters are not clearly understood by you, I shall be very glad to have you make further inquiry.

Respectfully yours,

(Signed) Augustus S. Downing.

To
Rev. Clarence A. Barlow, D.D.
President, Rochester Theological Seminary
Rochester, New York

W.C. & N.B.C.

also to Welfkin ^{T4A}
Abernethy
Arbuckle.

May 3, 1923.

My dear Dr. Abernethy:-

Mr. Gilkey and I are to be in Washington on Monday to confer with Secretary Hughes with reference to a matter of importance to the University and to our denomination. It has a long history, but to state it in a nut shell it is this.

The University desires to secure the consent of the Board of Education of the Northern Baptist Convention (the corporation organized in 1889 as the American Baptist Education Society) to certain changes in the organic law of the University, namely, a) change of the Board of Trustees from 21 to 25, and the proportion of the Baptists from two-thirds (of 21) to three-fifths (of 25); b) the omission of the word regular before the word Baptist in the Act of Incorporation; ~~the~~ the removal of the denominational restriction upon the presidency, thus releasing the University from the necessity that the President should be a Baptist.

Mr. Gilkey and I would very much like to have the opportunity of explaining to you as a Baptist and as an alumnus of the University the reasons which lead the University to make this request. We shall be glad also to make the explanation to any other Baptist in Washington to whom such

Wofford
Church
T+A

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W.C. W.C.

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Mr. Gilkey and I would very much like to have the opportunity of explaining to you as a Baptist and as an alumnus of the University the reasons which lead the University to make this request. We shall be glad also to make the explanation to any other Baptist in Washington to whom such

an explanation would seem to you desirable.

Would it be possible for you to arrange a luncheon of such number of persons as you please, probably not more than five or six besides ourselves, at which we might state the case and explain the situation. This would, of course, be at our expense. As the time is very short I will ask you to telegraph me, our expense, telegraphing to the University if you find it convenient to do so. If not, we will call you on the telephone on our arrival. We come on the Broadway Limited Monday morning.

Very truly yours,

Dr. W. S. Abernethy,
Calvary Baptist Church,
Washington, D. C.

EDB:CB

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to telegraph me, our expense, telegraphing to the University
if you find it convenient to do so. If not, we will call you
on the telephone on our arrival. We come on the Broadway
Limited Monday morning.

Very truly yours,

Dr. W. S. Abernethy,
Galveston Baptist Church,
Washington, D. C.

EDB:GB

W.C. & N.B.C.

T4A
Rockefeller

May 2, 1923.

My dear Mr. Rockefeller:-

I am taking the liberty of enclosing with this letter a galley proof of the material which the University has prepared for the presentation of its case to the Board of Education of the Northern Baptist Convention at its meeting in Atlantic City. As I indicated in my previous letter the whole matter is still subject to the action of a committee of the Board of Education which will meet with a committee from the University in New York May 8th. We have thought it wise, however, to be forehanded in the matter of putting our material in type.

Should the action on May 8th be favorable we can contemplate putting all this material into a pamphlet which will be sent by mail to important people and freely circulated at Atlantic City.

The particular occasion for this letter is to enquire whether you are willing that we should include in the appendix under the historical documents your waiver of February 24th, 1909, and your letter of March 27th, 1923, the latter as you may revise it. We have listed them pro-

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of
we are of

AT
Rockefeller

W.C. & N.B.C.

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The particular occasion for this letter is to enquire whether you are willing that we should include in the appendix under the historical documents your waiver of February 24th, 1909, and your letter of March 27th, 1923, the latter as you may revise it. We have listed them pro-

visionally as you will see by referring to galley 7, and we are of the opinion that the inclusion of them in the documents would materially strengthen our case. I await your decision in the matter, however. We shall, of course, not print them without your consent.

Very truly yours,

Mr. John D. Rockefeller,
Golf House,
Lakewood, N. J.

EDB:CB

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Very truly yours,

Mr. John D. Rockefeller,
Golf House,
Lakewood, N. J.

EDB:CB

File carefully.

T 4 A
Rockefeller
00725

26 Broadway
New York

May 14, 1923.

Dear Dr. Burton:

I am in receipt of your letter of May 2nd, enclosing the galley proofs of material which the University has prepared for the presentation of its case to the Board of Education of the Northern Baptist Convention at its meeting in Atlantic City.

You are at liberty to include in the appendix, under "Historical Documents," as you suggest, my waiver of February 24th, 1909, and my letter to you of March 7th, 1923, as revised.

Very sincerely,

John D. Rockefeller

President E. D. Burton,
University of Chicago,
Chicago, Illinois.

May 18, 1923.

My dear Mr. Rockefeller:-

I beg to acknowledge with thanks the receipt of your letter of May 14th giving your consent to the printing of your waiver of February 24, 1909, and your letter of March 7, 1923 in the pamphlet setting forth the request of the University to the Board of Education of the Northern Baptist Convention. I shall take the liberty of sending you one or two copies of the pamphlet as soon as it is off the press. We here feel that it is a document of considerable historical interest apart from the question whether the request of the University is granted by the Board of Education or not.

Very sincerely yours,

Mr. John D. Rockefeller,
Golf House,
Lakewood, N. J.

EDB:CB

26 Broadway
New York

May 18, 1923.

My dear Mr. Rockefeller:-

I beg to acknowledge with thanks the receipt of your letter of May 14th giving your consent to the printing of your waiver of February 24, 1909, and your letter of March 7, 1923 in the pamphlet setting forth the request of the University to the Board of Education of the Northern Baptist Convention. I shall take the liberty of sending you one or two copies of the pamphlet as soon as it is off the press. We here feel that it is a document of considerable historical interest apart from the question whether the request of the University is granted by the Board of Education or not.

Very sincerely yours,

Mr. John D. Rockefeller,
Golf House,
Lakeview, N. Y.

EDB:CB

N. Y. C. + N. B. C.

T 4 A
later

May 15, 1923.

My dear Dr. Gates:-

I am sure you will be interested to know what progress we are making in the matter of the presentation of the request of the University to the Board of Education of the Northern Baptist Convention (American Baptist Education Society under its new name) at the meeting at Atlantic City.

The two Committees, one representing the Board of Education, and the other, the University, which have met annually without result (except postponement) since the original appointment at Denver in May 1919, met again this year, April 3rd in Cleveland, vacancies by death and by resignation having been filled by new appointments. Out of that meeting there grew the suggestion of the modified proposal which had this effect at least, that it secured for the proposal of the University the approval of all the members of the Board of Education Committee who were present. Mr. Gilkey and I had an interview with Secretary Hughes in Washington on May 7th and the following day met the Committee of the Board of Education again in New York, laying before them our proposal and our arguments and documents in printed form. The result of this meeting was a still more definite and cordial approval of our proposition, but also

W. B. C. + C. B. C.

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a decision that in view of the abwnce from both meetings of Mr. Shank, whose attitude and influence were likely to be important factors in the situation, it was unadvisable to carry out our original plan of publishing our proposal in the Baptist papers that would appear the week before the Convention. In view of these facts it was agreed that the two Committees would meet at Atlantic City on May 22nd, at which time Mr. Shank could be present, and reach a final decision as to the course to be pursued.

Just preceding and following this meeting of the two Committees, Mr. Gilkey and I had conferences with groups of Boston ministers and laymen in Washington, New York, Boston, Kansas City and Chicago. The result of these conferences, at which there had been present perhaps a total of 65 persons, is that with one exception, in Boston and two in Chicago all those called in conferance heartily approved our proposition as a reasonable one and recommended its presentation to the Convention, and expressed with varying degrees of confidence the hope that it will carry without postponement. The one exception in Boston is a pastor of a church in New England who was born and brought up in the West, is a graduate of the college at Pella, Iowa, and deprecated the removal of the restriction on the presidency. The two in Chicago were Secretaries who said the proposition was fair, but they were

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of Mr. Shank, whose attitude and influence were likely to
a decision that in view of the absence from both meetings

reluctant to have our present state of peace disturbed. They did not vote in the negative.

I am enclosing you a proof sheet of the document which we are proposing to present at Atlantic City. It will be circulated in pamphlet form very probably two days before the meeting of the Board of Education, which occurs on Saturday afternoon May 26th, provided the Committees in their meeting on the 22nd decide on this course of action, as I anticipate they will.

I think you, who have played so large a part in the history of this matter will be interested to know what progress we are making. But I wish also to raise the question whether you will not feel like being present at Atlantic City on the 26th and perhaps a few days before that. Perhaps you will feel it wise to take part in the debate if there should be any, but I have thought that in any case you might be interested to be present. I am hoping that Dr. Goodspeed will go with us. I shall be staying at the Strand Hotel where I expect to arrive on the morning of the 21st.

I am not sure that you will feel that we have achieved all that we ought to have tried for. The Board of Trustees, with only two exceptions so far as I know, and both these are Baptists, feel that we are gaining all that is important. Mr. Hughes and Mr. Shull would like to dissolve the relations to the Baptists altogether. But most of us think this is

nt to have our present state of peace disturbed. They

and not vote in the negative.

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undesirable and we are all convinced that to try for more than we are asking for would be to get nothing and that it is wiser to get this return now and let the future care for the rest.

Cordially yours,

Dr. Frederick T. Gates,
66 S. Mountain Ave.,
Montclair, N. J.

EDB:CB

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Dr. Frederick T. Gates,
66 S. Mountain Ave.,
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EDB:CB

Prepared by Mr. Wickman
for Conference
Committee at
Cleveland Apr. 3, 1923
Revised from

MARCH THIRTIETH
1 9 2 3

T4B

The Board of Education of
The Northern Baptist Convention:

The educational plan adopted by your Board and by the Denomination is inspiring in its dimensions and its direction. What is here proposed is, in our judgment, in line with it and in the direction of increasing its usefulness and importance. The purpose is the same as that declared by The American Baptist Educational Society when the University was organized: "It (the University) is to be conducted in a spirit of the widest liberality, seeking thus to secure the sympathy and co-operation of all public spirited men." At that time the donors had in mind a College with total funds of a million or two millions of dollars. It has developed into a University of high rank with close to sixty millions of dollars worth of property and with the work before it of completing its organization for higher education in its several departments involving a substantial addition to that amount.

With a student attendance of twelve thousand; with a Divinity School attendance of five hundred, ninety-nine of which are Baptists, not only for the benefit of the cause of education generally and for the interest of the entire Middle West it ought to be free to become the educational center of that large territory commanded by its situation and which depends upon it for its educational development, but in addition, as the basis and foundation for all of the Schools and Colleges comprising the Educational Plan of the Denomination.

The denominational interests are adequately protected in the fact that the Baptist Theological Union nominates the members of the Divinity Faculty, and a Baptist majority of the Board of Trustees will sufficiently guaranty the moral and spiritual direction of the institution for which the denomination has responsibility. That relationship will not be disturbed by the change here proposed.

The original founders of the University view the proposal in question with uniform favor. We ask leave to submit with this the waiver and letter of Mr. Rockefeller, and a list of Donors who have executed waivers in the form attached to the list. We submit also, the form of subscriptions made for the original gifts.

MARCH TWENTY
1 2 3

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The denominational interests are adequately pro-
vided in the fact that the Baptist Theological Union holds
also the records of the Divinity Faculty, and a Baptist pa-
trist of the Board of Trustees will sufficiently guarantee the
moral and spiritual direction of the institution for which the
denominational has responsibility. That responsibility will not
be disturbed by the change here proposed.

The original founders of the University view the
proposed question with warm favor. We can leave to you
all with this the writer and latter of Mr. Rockefeller, and a
list of persons who have extended waivers in the form of
to the list. We submit also, the form of suggestions made
for the original gifts.

Changes proposed:

- A. Omit the provision that the President of the University shall be a Baptist.

It is not probable that any denomination could provide perpetually the strongest, ablest, best equipped man for the Headship of such an institution.

The experience and history of the great commercial and industrial concerns demonstrate the difficulty of securing great administrative ability alone. The salaries paid to Presidents of these great organizations are evidence of the rareness of this single qualification. In addition to this qualification, the Headship of an institution of the rank of which this promises to be requires other equally or more important qualifications, difficult to find in conjunction with it. Even with this freedom of choice the selection of out-standing men for the Headships of smaller institutions has been difficult.

- B. That the proportion of Baptists required on the Board of Trustees be changed from two-thirds to a majority.

Experience has demonstrated that the amount and continuity of the work of the Trustees is such that they must be almost exclusively local men. It would be distinctly advantageous if a few more of the able alumni and great Donors to the University who do not happen to be Baptists but the former of whom are deeply attached to their Alma Mater, and the latter who have demonstrated their interest by substantial support could be placed on the Board.

Non-Baptists have contributed \$18,406,801 to the University. Mr. A. C. Bartlett, of Hibbard, Spencer & Bartlett contributed \$ and was for twenty years Chairman of the Finance Committee. Charles L. Hutchinson contributed \$ and has been for thirty years Treasurer. Julius Rosenwald contributed \$ and has been for years a Trustee of great value upon the Board and assiduous and able in Committee work. Martin A. Ryerson contributed \$ and was for thirty years a most able and vigilantly efficient President of the Board of Trustees. It would be of advantage if the University could secure the same kind and quality of service from other non-Baptist Donors and alumni.

We beg leave to submit for your information:

Changes proposed:

A. Omit the provision that the President of the University shall be a Baptist.

It is not probable that any denomination could provide perpetually the strongest, ablest, best equipped man for the leadership of such an institution.

The experience and history of the great commercial and industrial concerns demonstrate the difficulty of securing great administrative ability alone. The salaries paid to presidents of these great organizations are evidence of the rareness of this single qualification. In addition to this qualification, the leadership of an institution of the rank of which this University is to be requires other capacity or more important qualifications. Difficult to find in connection with it. Even with this freedom of choice the selection of out-standing men for the leadership of similar institutions has been difficult.

That the proportion of Baptists represented on the Board of Trustees be changed from two-thirds to a majority.

Experience has demonstrated that the amount and constancy of the work of the Trustees is such that they must be almost exclusively local men. It would be distinctly advantageous if a few more of the ablest and greatest leaders of the University who do not happen to be Baptists but the former of whom are deeply attached to their Alma Mater, and the latter who have demonstrated their interest by substantial support could be placed on the Board.

Non-Baptists have contributed \$14,400 to the University. Mr. A. B. Bartlett, of Hingham, Spencer & Bartlett contributed \$ and was for twenty years Chairman of the Finance Committee. Charles L. Hutchinson contributed \$ and has been for thirty years Treasurer. Julius Rosenwald contributed \$ and has been for years a Trustee of great value upon the Board and zealous and able in committee work. Martin A. Hyson contributed \$ and was for thirty years a most able and vigorously efficient President of the Board of Trustees. It would be of advantage if the University could secure the same kind and quality of service from other non-Baptist leaders and alumni.

We beg leave to submit for your information:

- a. Articles of Incorporation of the University.
 - b. Copy of deed from the American Baptist Educational Society to The University of Chicago.
 - c. Resolution adopted by the Executive Committee of the Board of Managers.
 - d. Communication from the Board of Managers to the Board of Trustees of the University.
- C. A deed to the West one-half ($W \frac{1}{2}$) and the Northeast Quarter ($NE\frac{1}{4}$) of the central Quadrangles of the University will be required to effectuate these changes.

Respectfully,

WH:HF

- a. Articles of Incorporation of the University.
- b. Copy of deed from the American Baptist Educational Society to the University of Chicago.
- c. Resolutions adopted by the Executive Committee of the Board of Managers.
- d. Communication from the Board of Managers to the Board of Trustees of the University.
- e. A deed to the West one-half (W $\frac{1}{2}$) and the North-east quarter (NE $\frac{1}{4}$) of the central quadrangle of the University will be required to effectuate these changes.

Respectfully,