

1859-60.

VICTORIA.

UNIVERSITY OF MELBOURNE.

Ordered by the Legislative Assembly to be printed, 22nd May, 1860.

HENRY BARKLY,
Governor.

Message. No 11.

The Governor has received the Address of the Legislative Assembly, requesting him to consider the propriety of holding a Visitation of the University of Melbourne, for the purpose of enabling the question to be legally raised and determined whether the Council of the University, in adopting a statute prohibiting its Professors from sitting in Parliament, have exceeded the powers conferred upon them by law.

The Governor reminds the Legislative Assembly that though, by 16 Vic. No. 34, he is declared Visitor of the said University, with authority to do all things appertaining to that office, his position with regard to the statutes made by the Council is peculiar, inasmuch as under that Act they do not take effect until he has allowed and countersigned them.

Such allowance and countersignature was not accorded in the case of the statute in question, except after much deliberation and a long correspondence, the most important portion of which is herewith transmitted for the information of the Legislative Assembly.

If after perusal it be still deemed desirable that the Governor should review his former judgment, instead of leaving the legality of the statute to be tested before the ordinary tribunals, he is willing to accede to the wish of the House, and to hold a Visitation, so as to enable the Professors to be heard by counsel on this point.

Government Offices,
Melbourne, May, 1860.

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

=====

PHYSICS 311
LECTURE 10
THERMODYNAMICS
ENTROPY
REVERSIBLE PROCESSES
CARNOT CYCLE
HEAT ENGINES
SECOND LAW OF THERMODYNAMICS
ENTROPY AS A STATE FUNCTION
CALCULATION OF ENTROPY CHANGES
EXAMPLES
PROBLEMS

CORRESPONDENCE REFERRED TO IN THE GOVERNOR'S
MESSAGE, No. 11.

No. 1.

The Professors of the University to the Private Secretary.

The Professors of the University present their compliments to the Private Secretary, and beg that he will lay the enclosed before His Excellency the Governor.

The University,
18th February, 1859.

ENCLOSURE TO No 1.

To His Excellency SIR HENRY BARKLY, K.C.B., Captain-General and Governor-in-Chief of Victoria.

The Memorial of the undersigned, the Professors of the University of Melbourne:
SHEWETH—

That your Memorialists have heard, and believe, that the Council of the said University has adopted, and proposes to submit to Your Excellency for Your Excellency's allowance, as by law required, a statute prohibiting Professors therein from sitting in Parliament, or from joining any political association.

That your Memorialists being affected by this statute, pray that Your Excellency will be pleased to withhold your allowance therefrom.

That your Memorialists submit this prayer to Your Excellency on the following grounds, viz. :—

1. Because this statute, without sufficient reason, and contrary to the usage of other universities, interferes with the civil rights of your Memorialists, and imposes upon them a serious disability.

2. Because this statute relates to matters external to and unconnected with the University; whereas the Act to incorporate the University does not, as your Memorialists humbly submit, give to the Council any authority to make statutes on such subjects, but only on matters that appertain to the internal arrangements of the University.

3. Because this statute varies without the consent of your Memorialists the contract made between them and the Council. Your Memorialists accepted office on the terms defined by the existing statutes, c. IV. They gave to the Council so much, and so much only, of their time as the performance of their academic duties required; and they are subject to the authority of the Council to that extent, and no further. If the Council may now introduce new terms into that contract in one particular, they may do so in other particulars, and thus the security afforded by the statute, c. IV., sect. 2, will be taken away, and the tenure of the Professoriate will no longer be during good behaviour, but practically during the pleasure of the Council.

And your Memorialists will ever pray.

(Signed)

M. H. IRVING.
W. P. WILSON.
FREDERICK McCOY.
W. E. HEARN.

University,
18th February, 1859.

No. 2.

The Private Secretary to the Professors of the University.

GENTLEMEN,

Private Secretary's Office,
Melbourne, 18th February, 1859.

I am instructed by the Governor to acknowledge the receipt of your Memorial, and to state that the proposed statute, alluded to therein, has not yet been brought under His Excellency's notice by the Chancellor of the University; but you may rest assured that when it is submitted for confirmation, inquiry will be instituted into all the circumstances of the case, and the fullest consideration will be given to the arguments adduced against the justice and expediency of the rule laid down in the said proposed statute.

I have the honor to be,
Gentlemen,

Your most obedient servant,

(Signed) O. F. TIMINS,
Private Secretary.

The Professors of the Melbourne University,
Care of Professor Irving,

&c., &c., &c.

No. 3.

Registrar of University to Private Secretary.

SIR,

The University, May 4th, 1859.

I am desired by Mr. Justice Barry, the Chancellor of the University, to forward for the information of His Excellency the Governor, a copy of an amended statute passed by the Council, and to request that you will have the goodness to inform me when His Excellency will be pleased to afford the Chancellor an interview, to present the amended statute for his approval.

I have, &c.,

(Signed) JOHN F. JAMES,

The Private Secretary.

Registrar.

[ENCLOSURE TO No. 3.]

Copy of amended Statute passed by the Council of the University of Melbourne on the 31st of January, 1859, in lieu of the third section of the fourth chapter of the Statutes.

The Professors shall not sit in Parliament, nor become members of any political association; neither shall they in any case give private instruction, nor without the sanction of the Council deliver lectures to persons not being students of the University.

No. 4.

The Private Secretary to Professor Irving.

SIR,

Private Secretary's Office,
Melbourne, 7th June, 1859.

I am directed by the Governor to inform you, that in conformity with the assurance given to the Professors of the Melbourne University in my letter of the 18th February, "that whenever the statute prohibiting them from taking part in politics was presented for allowance, their Memorial against it should receive full consideration." His Excellency requested the Chancellor, after a long conversation with His Honor on the subject, to bring that Memorial under the notice of the Council, which he has accordingly done. I am desired to add, that the Council has since informed His Excellency that it sees no reason to doubt the wisdom and necessity of the proposed statute, which is in conformity with the rules prescribed to the Professors in the Royal Colleges founded in Ireland on principles similar to the Melbourne University; and as the Chancellor has satisfied His Excellency that this condition was expressly insisted on in the letter authorising Sir John Herschell and other gentlemen at home to engage Professors, and notified, according to the statement of these gentlemen, to all candidates, His Excellency cannot see any ground for interfering with the Council's discretion in the matter, and has accordingly allowed the statute.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) O. F. TIMINS,

Private Secretary.

Professor Irving,
&c., &c., &c.

No. 5.

Professor Irving to the Private Secretary.

MY DEAR SIR,

The University, 28th July, 1859.

I have to request, on behalf of my colleagues and myself, that you will have the goodness to lay the enclosed Petition before His Excellency the Governor.

I have, &c.,

(Signed) MARTIN H. IRVING.

Captain O. F. Timins,
&c., &c., &c.,
Private Secretary.

[ENCLOSURE TO No. 5.]

The University, 28th July, 1859.

MAY IT PLEASE YOUR EXCELLENCY:

In accordance with the intention which we expressed to Your Excellency at the interview which you were graciously pleased to accord to us, we have taken the opinion of counsel on the statute prohibiting the Professors of the University from sitting in Parliament.

Counsel have advised that this prohibition is illegal, as being both in excess of the power to make statutes conferred on the Council of the University by the Act of Incorporation, and contrary to public policy, as impeding the discharge of a public duty; and have further advised that the courts of law can afford us no remedy until the statute be violated, and an attempt be made to enforce it against us.

Seeing, therefore, that no other course is open to us, we humbly pray that Your Excellency, in your judicial capacity as Visitor of the University of Melbourne, will be pleased to set aside so much of the statute as is contained in the words, "The Professors shall not sit in Parliament, nor become members of any political association;" and we further pray, that should Your Excellency deem it advisable to hold a Court of Visitation, we may be heard by counsel therein.

We have, &c.

(Signed) MARTIN H. IRVING,
" W. P. WILSON,
" W. E. HEARN.

To His Excellency Sir Henry Barkly, K.C.B.,
Governor in Chief of the Colony of Victoria,
Visitor of the University of Melbourne.

Messrs. J. Wilberforce
Stephen, J. D. Wood,
T. H. Fellows, in con-
sultation.

No. 6.

The Private Secretary to Professor M. H. Irving.

Private Secretary's Office,
Melbourne, 1st August, 1859.

SIR,

I am directed by the Governor to acknowledge the receipt of your communication of the 28th ultimo, forwarding a Memorial to His Excellency signed by yourself and two other Professors of the University, and to state that His Excellency proposes taking the opinion of the law officers of the Crown, both as to the statute itself and also as to the power of altering it by the course suggested in the Memorial.

I have the honor to be,

Sir,
Your most obedient servant,
(Signed) O. F. TIMINS,
Private Secretary.

Professor M. H. Irving,
Melbourne University,
&c., &c., &c.

No. 7.

Professor Irving to the Private Secretary.

MY DEAR SIR,

The University, 7th November, 1859.

In your letter of the 1st of last August, you mentioned that His Excellency proposed taking the advice of the law officers on the subject of the Memorial presented from two of my colleagues and myself.

We are naturally not a little anxious on the subject, and we should be very glad to know if His Excellency, as Visitor, has yet determined on the course to be pursued.

Believe me, &c.,

Capt. O. F. Timins,
&c., &c., &c.

(Signed) M. H. IRVING.

No. 8.

Private Secretary to Professor Irving.

MY DEAR SIR,

Private Secretary's Office,
Melbourne, 7th November, 1859.

I have shown your note to the Governor, who authorises me to inform you that the papers were sent back by the late Solicitor-General on leaving office, with an opinion to the

B.—No. 11, a.

effect that the prohibitory statute in question was illegal, and that it was competent for His Excellency to hold a Visitation for the purpose of setting it aside, though, as Visitor, he was not compellable thereto, the complainants not being members of the corporation, nor having sustained any damage by its operation.

The late Attorney General, Mr. Chapman, gave no written opinion on the subject, probably from his having become a Member of the Council of the University; but in conversation with the Governor prior to that event, he expressed himself very doubtful of the propriety of His Excellency's interference, on the ground that it might possibly bring him into collision with the Supreme Court, or at any rate revive the oft-mooted question of his subjection to its authority in matters where the Sovereign is not expressly represented.

The Governor directs me to add, that under these circumstances he is not disposed to interfere.

Believe me, &c.,

(Signed)

O. F. TIMINS,

Private Secretary.

Professor M. H. Irving,
&c., [&c., &c.