

Register January 5<sup>th</sup> 1888

### THE UNIVERSITY.

There are several lawyers on the Council of the University, but they have failed to bring to bear in aid of that corporation the watchfulness and judgment with which it is to be hoped they protect the interests of their private clients. The result is in some respects painful, and in others ridiculous, being no less than the absence of a Chancellor lawfully appointed. By the Act of 1874, by which the University was founded, it is provided that the first Chancellor and Vice-Chancellor shall hold office for five years, and their successors are to hold office "for such other term as shall be fixed by the statutes and regulations of the University made previously to the election." The "statutes and regulations" here referred to are not Acts of Parliament, but are by-laws made by the University, to which by ancient custom the name "statute" is given. Chapter xii. of these, passed in 1881, enacts that "each Chancellor who shall hereafter be elected shall hold office until the 9th day of November in the fifth year from the date of his election, and no longer." Being in operation prior to the election of the Chief Justice as Chancellor, this "statute" regulates his term of office. The Chief Justice was elected Chancellor on January 26, 1883, and therefore went out of office on November 9 last. Not having been re-elected since then, he has never since then been Chancellor. But, unconscious of the defect of his position, he has continued presiding and voting at meetings of the Council, and has done other acts in his capacity of head of the University.

The things so done are of course invalid, which is matter of regret as regards such as are wise and ground for joy in respect of such as were foolish. Any failure which may have happened in respect of the sealing of the deed purporting to accept the liberal gift for the Angas Engineering Scholarship and exhibitions, or in respect of the other conditions demanded of the University by the donor, is a proper subject for condolence. But if, presiding at the Council when he was not legally so much as a member of it, the Chief Justice gave his vote as a member of the Council, and then as President, when he was not legally President, he gave his second or casting vote on a tie in favour of an unwise appointment, the failure of this appointment is beneficial to the public. The choice of Mr. Pennefather to the office of Law Lecturer comes, we believe, within this category, and it is therefore a source of satisfaction that the Council will have an opportunity of reviewing its decision, and of doing justice to the highly qualified gentleman who, but for the illegal voting, might have been successful. There are other matters of detail no doubt in which the mistake may have caused much trouble and dubiety, for there must have been many acts done and many documents approved and signed irregularly. And it is easy to imagine that, as is usual on such occasions, each occupant of the *pons asinorum* strives to throw the blame on somebody else.

Where so many learned and capable persons are at fault it is not for us to judge between them. If they had appointed a conscience-keeper or remembrancer, that functionary would

feel his withers wrung; but the Council have no such officer, and it is better to let them bear the blame equally. It is not a question of anything being done *ultra vires* of the corporation; it is one of sheer vacuity and illegality of what purports to have been done. The first step to the rectification of the mistake will probably be an acknowledgment of the error committed; the next, the election of a Chancellor; the third, the lawful performance of such things as ought to have been done, and, let us hope, a wise abstention from such as ought not to have been done. We have already hinted at one item belonging to each of these classes, but there is another which peculiarly affects persons admitted to degrees at the recent ceremonial. The eighth statute provides that successful students are to be admitted to their degrees at a meeting of the Council and Senate, and that the form of presentation shall be "Mr. Chancellor, Mr. Vice-Chancellor, &c., I present to you A B as a fit and proper person, &c.," and that the form of admission shall be "by virtue of the authority committed to me I admit you to the rank and privileges of a [Bachelor of Arts] in the University of Adelaide." Now, inasmuch as the learned gentleman to whom the presentation was made, and who purported to confer rank and privileges by virtue of the authority committed to him, had had no authority committed to him at all; this verbal formulary scarcely satisfies the demands of the statute. How far the defect is cured by the affixing of the corporate seal to a certificate of the admission is a question for the lawyers, of whom there are plenty. All that need be said here is that the seal is, by the statutes, to be kept in the custody of the Chancellor, and there was no Chancellor, and the signature of the Chief Justice at the foot of the parchment was not the signature of the Chancellor. The repetition of the conferment of degrees after the election of a real Chancellor might be an interesting public recantation of error and would be a confirmation of "rank and privileges" which their owners may now regard themselves as holding by a precarious tenure. Corporate bodies cannot neglect their legal duties without causing a good deal of trouble to others as well as themselves.

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#### THE ADELAIDE UNIVERSITY.

TO THE EDITOR.

Sir—The condition of the ground around this handsome building is the cause of daily remark and sarcasm. Cannot something be done to raise the Board of Directors from their lethargic sleep? It seems nothing less than an insult to the donor of this splendid and useful edifice (Sir W. W. Hughes) to allow it to remain as at present. Eighty or one hundred pounds would probably go a long way towards paying the cost of laying them out and planting them as the grounds of the Exhibition adjoining are. Agitation awakened "the powers" to erect a beautiful fence; agitation may have the same good effect in improving the grounds enclosed by it.

I am, Sir, &c., R. T. H.  
Kent Town, December 29, 1887.

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