

100-21-11-07.
Educational (1900) Department.

ORDINARY MS.

G.O., No. 263-4

DATED 17-5-10

15

[Despatch Abstract,]

University of Madras.

Appointing the Hon'ble Mr.
Justice J. E. P. Wallis to be an ordinary Fellow
and Vice Chancellor of the —

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

CURRENT FILE. ✓

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[959] University of Indiana	1721	9-5-10	142

PAPERS PUT UP WITH CURRENT No. _____

Papers of the department to which the current belongs.

Number.	Date.	Original (=O.) or spare copy (=S. C.)	Remarks. (In this column such of the papers as have been removed for copying, printing, etc., should be marked with a cross.)	Initials of Referencer with date in token of return to Reference department.
411 R	10-12-07	O		
217 R	16-5-08	O		

Papers of other departments.

Department.	Number.	Date.	Original (=O.) or spare copy (=S. C.)	Despatcher to note the return of the papers to the departments concerned.



University of Madras.



No. 172/

SENATE HOUSE, 9 - MAY 1910

Enclosures.

FROM

The Manager in Charge, Office of the

Registrar, University of Madras,

TO

The Secretary to Government,

Educational Department.

Sir, my Fellow as Vice-Chancellor in the "Body Corporate of

I have the honour, by direction, to invite your attention to the fact that, in accordance with the provisions of Section V of the Act of Incorporation, the tenure of office of the present Vice-Chancellor, the Hon'ble Mr. Justice J. E. P. Wallis, will terminate on the 19th instant.

I am, in this connection, to submit for the information of Government a copy of resolutions passed by the Syndicate relative to the position of Vice-Chancellors of the University especially with regard to the drawing by lot in November last of the names of the Ordinary Fellows under Section 12(m) of the Indian Universities Act, 1904. According to the interpretation of the Syndicate the Hon'ble Mr. Justice Wallis will cease to be a member of the "Body Corporate of the University" on the day he ceases to be Vice-Chancellor.

I have the honour to be,

Sir,

Your most obedient servant,

Wm. J. Henderson

Manager in Charge.

Extract from the Minutes of the Syndicate dated the 9th November 1909.

-oo00oo-

Considered the position of the Vice-Chancellor with reference to the drawing by lot of the names of Ordinary Fellows under Section 12(m) of the Indian Universities Act, 1904.

RESOLVED:-

(1) that, in the opinion of the Syndicate, a Vice-Chancellor nominated by the Governor of Fort St George in Council in accordance with Section V of the Act of Incorporation ceases to be an Ordinary Fellow of the University, but acquires a new position distinct from that of an Ordinary Fellow as Vice-Chancellor in the "Body Corporate of the University", which is, under section 4(1) of the Indian Universities Act, 1904, composed of the Chancellor, the Vice-Chancellor, and the Ordinary Fellows.

(2) that the name of a Vice-Chancellor after nomination as such should not be retained upon the Register of Ordinary Fellows of the University, he being no longer an Ordinary Fellow.

(3) that, consequently, neither the name of the present Vice-Chancellor, the Hon'ble Mr. Justice J. E. P. Wallis, nor the name of the late Vice-Chancellor, the Hon'ble Justice Sir R. S. Benson, should have been included in the list of Ordinary Fellows nominated by the Chancellor under section 12(b) of the Indian Universities Act, 1904, to be drawn by lot under section 12(m) of that Act.

(4) that the drawing by lot by the Vice-Chancellor at the meeting of the Syndicate held on 2nd November, 1909, is not vitiated by the wrongful inclusion in the list of Ordinary Fellows, nominated by the Chancellor under section 12(b) of the Indian Universities Act, 1904, of the names of

vide page 13

7th Nov 411 Ed. P
10-12-09

University of Madras.
the present and late Vice-Chancellors, inasmuch as the
Extract from the Minutes of the Syndicate dated the 22nd November
1909.
the drawing in these two cases already existed and the pro-
per number of other vacancies were created by the drawing
of a sufficient number of other names.
Considered the position of the Vice-Chancellor with
reference to the drawing by lot of the names of Ordinary Fellows
under Section 12(a) of the Indian Universities Act, 1904.
Registrar.

RESOLVED:-

- (1) That, the Vice-Chancellor of the Syndicate, a
Vice-Chancellor nominated by the Governor of Fort St George
in accordance with Section V of the Act of 1904
but occupies a new position distinct from that of an Ord-
inary Fellow as Vice-Chancellor in the "Body Corporate of
the University", which is, under section 4(1) of the
Indian Universities Act, 1904, composed of the Chancellor,
the Vice-Chancellor, and the Ordinary Fellows.
- (2) That the name of a Vice-Chancellor after
nomination as such should not be retained upon the Register
of Ordinary Fellows of the University, he being no longer
an Ordinary Fellow.
- (3) That, consequently, neither the name of the
present Vice-Chancellor, the Hon'ble Mr. Justice J. E. P.
Wallis, nor the name of the late Vice-Chancellor, the
Hon'ble Justice Sir R. S. Benson, should have been included
in the list of Ordinary Fellows nominated by the Chancellor
under section 12(b) of the Indian Universities Act, 1904,
to be drawn by lot under section 12(a) of that Act.
- (4) That the drawing by lot by the Vice-Chancellor
at the meeting of the Syndicate held on 2nd November, 1909,
is not vitiated by the wrongful inclusion in the list of
Ordinary Fellows, nominated by the Chancellor under section
12(b) of the Indian Universities Act, 1904, of the names of

the present and late Vice-Chancellors, inasmuch as the
vacancies in the list of Ordinary Fellows to be created by
the drawing in these two cases already existed and the pro-
per number of other vacancies were created by the drawing
of a sufficient number of other names.

(sd) Francis Dewsbury,
Registrar.

(sd) J. E. P. Wallis,
Vice-Chancellor.

(1) (True Extract)

Senate House,
9th May, 1910.

Wm. J. Newman
Manager in Charge.

NOTES.

the present and late Vice-Chancellors, inasmuch as the vacancies in the list of Ordinary Fellows to be created by the drawing in these two cases already existed and the pro- per number of other vacancies were created by the drawing of a sufficient number of other names.

Francis Dewbury, Registrar.
J. E. P. Wallis, Vice-Chancellor.

(Two Extracts)

Senate House, 25th May, 1910. Manager in Charge.

C.No. 959 from the University of Madras, No.1721, dated 9th May 1910.

S u b j e c t.

Appointment of Vice-Chancellor of the
University of Madras.

The Syndicate of the University of Madras reports that the tenure of office of the present Vice Chancellor, the Hon'ble Mr. Justice Wallis, will terminate on the 19th instant.

2. The Hon'ble Mr. Justice Wallis was appointed Vice-Chancellor in G.O.R.No.217 Educational, dated 16th May 1908 and his appointment was notified in the Gazette of the 19th May. Under section V of the Madras University Act, 1857, the Office of Vice-Chancellor is held for two years. The appointment is made by the Governor in Council; the person nominated to be Vice-Chancellor should be one of the Fellows of the University.

3. The Hon'ble Mr. Justice Wallis will cease to be a member of the "Body Corporate of the University" on the day he ceases to be Vice-Chancellor (Section 4 of the Indian Universities Act 1904) and according to Resolution (1) of the Syndicate dated 9th November 1909, which is supported by the opinion of the Advocate General, the Hon'ble Mr. Wallis ceased to be a Fellow of the University when he was nominated to the office of Vice-Chancellor.

4. If it is decided to reappoint Mr. Wallis as Vice-Chancellor, it will be necessary to appoint him first as an ordinary Fellow of the University under section 10 of the Indian Universities Act VIII of 1904, before he can be appointed Vice-Chancellor.

7.6.
12.5.10

O.T.O.

Page 17 of the University
Calendar for 1910

Page 17 of G.O. no. 411R P
10.12.09

Pages 17 & 18 D.O.

Please see Section V of the Act of Incorporation of 1857. The appointment of Vice-Chancellor has to be made by the Governor in Council and the person appointed as Vice-Chancellor should be a Fellow. The Advocate General has expressed the opinion that a Fellow appointed as Vice-Chancellor ceased to be a Fellow - Vide p. 17 of G.O. No. 411 R. dated 10.12.09. The Honble Mr. Wallis thus ceased to be a Fellow on his appointment as Vice-Chancellor, and ceases to be Vice-Chancellor on the 19th Instant. He cannot be reappointed Vice-Chancellor unless he is first nominated a Fellow.

Rs
12.5.10

Sec 7

Submitted

Sum

13.5.10.

Under the proviso to Section V of the Act of Incorporation (1857) H.B. The Governor in Council can reappoint a Vice-Chancellor who vacates office & efflux of time and it is not necessary to appoint him as an ordinary fellow first - the fact if there were already 100 ordinary fellows is the max^m allowed

of the Act of 1904 s. 6 - such an appointment could not be made.

This also seems to be the opinion of the Advocate General (vide para 2 of Opinion of 23.11.09 at p 17 of note file P.) who treats the Reg. appointment of a Vice Chancellor as an exception to the rule that the V.C. must be chosen from amongst the body of Fellows.

Please find up a blank form of Minute for H.E.'s signature -

Leah
18/5/10

A blank minute of appointment is submitted below.

RA
13.5.10

H.E. the Governor.

~~Leah~~
14/5/10

P.T.O.

Circ. in Box No. 19.

17-19. Routine file
of 10.11.09. May I.

21. ditto.

I submit a blank minute of appointment and in accordance with the opinion of the Advocate General, Mr. Wallis may be reappointed Vice-Chancellor without previous appointment as an Ordinary Fellow.

The Advocate General's opinion has been accepted and acted on by Government but with all deference I submit that Sir Ralph Benson is right and the Advocate General wrong.

The Advocate General bases his opinion on two grounds--

- I. That the Body Corporate consists of
the Chancellor
the Vice-Chancellor, and
the Fellows.

Under section 6 the number of Ordinary Fellows is limited to 100 and reading sections 4 and 6 together the Vice-Chancellor is not to be counted as one of the 100.

- II. That the proviso to section V of the Act of Incorporation is an exception to the rule that on the occurrence of a vacancy one of the Fellows shall be nominated as Vice-Chancellor.

As regards (I) the Advocate General seems to have overlooked clause (h) of section 12 of the Act of 1904. Under this clause the Body Corporate was declared to have been duly constituted as soon as the Ordinary Fellows had been nominated and elected.

But if the Vice-Chancellor is a separate entity in addition to the Ordinary Fellows, the Body Corporate was not complete for the Vice-Chancellor ~~became~~ became functus officio under clause (j) - on the publication of the declaration, unless under clause (o) he was a member of the Senate as constituted under the Act of 1904. *i.e. unless he was a*

The inference seems to me to be clear that

of the newly nominated or elected Fellows.

the Vice-Chancellor must not only be a Fellow at the time of his appointment but must continue to be a Fellow. Otherwise why should he have ceased to be Vice-Chancellor on the publication of the declaration? Clause (c), under the Advocate General's interpretation, should simply have said that the Vice-Chancellor holding office at the commencement of the Act shall continue to hold office for the remainder of the term for which he was originally appointed.

The Advocate General's opinion that the Vice-Chancellor's membership of the Body Corporate is due to his status as Vice-Chancellor and not to any status as a Fellow is, I submit, irreconcilable with clauses (h) and (c) of section 12 of the Act.

Under clause (h) the Body Corporate was complete on the nomination and election of the Fellows because the Governor ^{was} Chancellor under the Act of 1857 and the body of Fellows includes a potential Vice-Chancellor.

It is nowhere stated in the Act of 1904 that an Ordinary Fellow ceases to be a Fellow upon appointment as Vice-Chancellor. On the other hand clause (c) seems to me to point distinctly to the inference that a Vice-Chancellor ceases to be Vice-Chancellor when he ceases to be a Fellow and to negative the Advocate General's inference that a Fellow ceases to be a Fellow on appointment as Vice-Chancellor.

As regards the Advocate General's second argument the proviso to section V of the Act of 1857 amounts I submit to nothing more than the statement that an outgoing Vice-Chancellor is eligible for reappointment.

It would perhaps be safer to nominate Mr. Wallis

as a Fellow in addition to reappointing him as Vice-Chancellor, and the soundness or otherwise of the Advocate General's opinion might then be reconsidered.

There are only 83 ordinary Members at present. The maximum is 100.

Lump.

14/5/10

Bestie nominated Mr. W. as a Fellow as well as appointing him as V. Chancellor.

[Signature]
15.5.10

Circ. in Box No 21

~~Gazette~~ Created & M.

Lump.
16/5/10

Minute initiated.

[Signature] 16.5.10

[Signature] 16/5/10

Gazette
Lump.
17.5.10

[Gos. 263.264 R. d 17.5.10]

The notifications have been sent to the Gazette.
The file may now be circulated to the Honble
Mr Hammick for perusal.

RD
18.5.10

Sm
18.5.10

Circd in Box No 24.

The Honble Mr Hammick, C.S.I., C.I.E.,

WMB
21/5

Thanks
ks
20 V. 10

Put away -

11
Government House,
Ootacamund,
May 1910.

Order No 263 of 17.5.10
vis

Notification.

In exercise of the power conferred by section 10 of the Indian Universities Act, 1904 (Act VIII of 1904), the Chancellor of the University of Madras is pleased to appoint the Hon'ble Mr. Justice John Edward Power Wallis to be an Ordinary Fellow of the University of Madras with effect from the date on which his present tenure of the office of Vice Chancellor ceases.

John Lawley

Published in Part I-B.
of the Fort St. George Gazette
of 17.5.10. No. 54.

Telegraphed to Secy P.
17/5

To

The Registrar of the
University of Madras. *Slcpd*
17/5/10.

Spiller
ans

12
Order No 262 of 17-5-10
mis

MINUTE.

H. E. THE GOVERNOR (through the
Private Secretary) and Circ.

Ootacamund.
~~FORT ST. GEORGE~~

190

THE PRESIDENT proposes the following
appointment.—

Under section 5 of the Madras
University Act, 1857, His Excellency
the Governor in Council has been
pleased to appoint *The Hon. Mr. Justice*
John Edward Bruce Wallis
to be Vice-Chancellor of the University
of Madras.

Published on p. 255 in
the Fort St. George Gazette
Notn. No. 55.

Telegraphed 17/5
S.P.

W. H. J. Justice

pe

To
The Registrar of the
University of Madras. ✓

Despd
17/5/10
Erskine

[Signature]

DEPARTMENT.

190 .

MINUTE OF APPOINTMENT.

When given for copying
When copied
When examined
When signed

190 .

READ AGAIN G.O., No. , DATED
190 ,

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DISPATCH
IN ORIGINAL.

N.B.—

- A = Copy in full
- B = Not to be copied.
- P = Copy abstract only
- Q = Copy heading only.