

NEWMAN UNIVERSITY BILL, 1951.

EXPLANATORY NOTE.

The object of this Bill is to provide for the constitution and incorporation of a University to be known as the Newman University.

The establishment of the University will be undertaken by the Roman Catholic Archbishop of the Archdiocese of Sydney with the assistance of the Society of the Priests of Holy Cross, which is a religious society of men formed under the auspices of the Roman Catholic Church.

The governing body of the University is to be the Council of the University, the constitution of which is set out in clause 8 of the Bill; and the functions of the University are set out in clause 6 of the Bill.

Provision is included to ensure that the standard for matriculation, and the standards for examinations for degrees, diplomas, certificates and honours, shall be comparable with those of the University of Sydney.

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1951.

A BILL

To provide for the constitution and incorporation of a University to be known as the Newman University; to make provision for and with respect to the management and control of that University; to confer upon that University certain powers and functions; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Newman University Act, 1951". Short title.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

10 "Board of trustees" means the board of trustees for the time being holding office as such in accordance with rules of the Society of the Priests of Holy Cross.

"By-laws" means by-laws made under this Act.

15 "Chancellor" means the Chancellor of the University appointed under this Act.

"Council" means the Council of the University.

"Deputy Chancellor" means the Deputy Chancellor of the University appointed under this Act.

20 "Society of the Priests of Holy Cross" means the religious society of that name consisting of men and formed under the auspices of the Roman Catholic Church.

"University" means the Newman University.

25 "Vice Chancellor" means the Vice Chancellor of the University appointed under this Act.

(2) A reference in this Act to the Society of the Priests of Holy Cross shall, until such time as a Province of that Society is established in Australia, be construed as a reference to the Society of the Priests of Holy Cross, Indiana Province.

3. (1) This section shall commence on the day upon which there is lodged with the Registrar-General a memorial signed by the Roman Catholic Archbishop of the Archdiocese of Sydney setting out— Incorporation of University.

(a) that for the purposes of the establishment and maintenance in New South Wales of a University to be known as the Newman University a board of

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of trustees consisting of persons named in the memorial as members of that board has been duly created under and in accordance with the rules of the Society of the Priests of Holy Cross; and

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(b) that the said rules contain adequate provisions in relation to the tenure of office of members of the said board of trustees, the circumstances in which vacancies in the offices of such members shall arise, the manner in which vacancies shall be filled, and the number of such members whose decision shall constitute the decision of the said board of trustees, and the manner in which such decisions shall be recorded and evidenced.

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(2) The board of trustees shall be and is hereby constituted a body corporate under the name of "The Newman University" and by that name shall have perpetual succession and a common seal, and shall be capable of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

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(3) The said body corporate shall have power to take, purchase, hold and manage real and personal property, and to grant, demise, alienate or otherwise dispose of the same.

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(4) The said body corporate shall continue notwithstanding any changes which may from time to time be made in the constitution of the board of trustees and notwithstanding any vacancies which may exist on the board of trustees, and the existence of such vacancies shall not affect any capacity, power or function of the said body corporate.

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4. (1) There shall be a Chancellor, a Deputy Chancellor and a Vice Chancellor of the University who shall be appointed by the board of trustees.

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Chancellor,
Deputy
Chancellor
and Vice
Chancellor.

The Chancellor, the Deputy Chancellor and the Vice Chancellor shall respectively exercise and discharge the functions and duties conferred and imposed upon them by this Act or the by-laws.

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(2) A person who is a member of the board of trustees shall be eligible for appointment as Chancellor, Deputy Chancellor or Vice Chancellor.

5 **5.** (1) The common seal of the University shall be kept in the custody of the Chancellor of the University, and shall not be affixed to any instrument except in the presence of the Chancellor and of either the Deputy Chancellor or the Vice Chancellor. Common seal.

10 The Chancellor and either the Deputy Chancellor or the Vice Chancellor, as the case may be, shall sign with his name every instrument to which the common seal is so affixed.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the University affixed to any instrument and shall presume that it was duly affixed.

(3) Section 51A of the Conveyancing Act, 1919, as amended by subsequent Acts, shall not apply to or in respect of any instrument executed by the body corporate constituted under this Act.

6. The functions of the University shall include the following:— Functions of the University.

25 (a) to provide facilities for university education for persons who elect to avail themselves of those facilities and are eligible so to do; and cf. Cwth. Act, 1946, No. 22, s. 6.

(b) to establish or cause to be established within the University colleges for the persons referred to in paragraph (a) of this section; and

30 (c) to encourage and provide facilities for post-graduate research and study; and

(d) subject to the by-laws, to award and confer the several degrees of Bachelor, Master, and Doctor, and such other degrees (including ad eundem degrees and honorary degrees) and such certificates and diplomas in the nature of degrees as the by-laws may prescribe.

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7. (1) subject to subsection two of this section the Governing authority. Governing authority of the University shall be the Council of the University which shall have the entire management and superintendence of the University.

5 (2) (a) In the exercise and discharge of its powers, authorities, duties and functions the Council shall be subject in all respects to the control and direction of the board of trustees.

10 (b) Where in any case the Council neglects or refuses to comply with any direction of the board of trustees, the board of trustees may in the name and on behalf of the Council do or perform any act, matter or thing which may be necessary for the purpose of carrying the direction into effect, and any act, matter or thing
15 so done or performed shall for all purposes of this Act be deemed to have been done or performed by the Council.

8. (1) The Council of the University shall consist of the following Fellows:— Constitution of Council.

20 (a) the Chancellor, the Deputy Chancellor and the Vice Chancellor;

(b) the Deans of the respective Faculties into which the University is for the time being divided as prescribed by the by-laws;

25 (c) a number of Fellows equivalent to the number of Faculties into which the University is for the time being divided as prescribed by the by-laws; and

30 (d) such Fellows, if any, as may be co-opted by the Fellows referred to in paragraphs (a), (b) and (c) of this subsection.

(2) The Fellows referred to in paragraph (c) of subsection one of this section shall be graduates of the University of such standing as may be prescribed by the by-laws, and shall be elected in accordance with the by-laws to represent the graduates of the University.

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The term of office of every such graduate Fellow shall, unless it sooner becomes vacant by reason of the death or resignation of the holder or by reason of any other cause specified in the by-laws, expire at the end of three
5 years from the date of his election to the office.

Where the office of a graduate Fellow becomes vacant before the expiration of his term of office, the vacancy shall be filled by election in accordance with the by-laws, and the person elected shall hold office for the residue of
10 his predecessor's term of office.

Every graduate Fellow who ceases to hold office as such by reason of the expiration of his term shall be eligible for re-election.

(3) Not more than two Fellows co-opted under
15 paragraph (d) of subsection one of this section shall hold office on the Council at any one time.

The term of office of a co-opted Fellow shall, subject to any by-laws made in relation thereto, be as determined
20 by the Council in and by the resolution by which he is co-opted.

(4) (a) Until such time as the division of the University into Faculties as prescribed by the by-laws has taken place and university education in such Faculties is actually being provided, the places on the Council of
25 the Fellows referred to in paragraph (b) of subsection one of this section shall be taken by two Fellows who shall be appointed from time to time as occasion may require by the board of trustees.

(b) Until such time as there are not fewer than
30 one hundred graduates of the University, the places on the Council of the Fellows referred to in paragraph (c) of subsection one of this section shall be taken by two Fellows who shall be appointed from time to time as occasion may require by the board of trustees.

(c) The conditions of appointment and term of
35 office of Fellows appointed under this subsection shall be as determined by the board of trustees.

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9. At every meeting of the Council the Chancellor or, Meetings
in his absence, the Deputy Chancellor shall preside as of the
chairman, but if the Chancellor and Deputy Chancellor Council.
are both absent the Fellows present shall elect one of
5 their number to preside as chairman.

10. (1) All questions which come before the Council Questions,
shall be decided at any meeting duly convened, at which how
a quorum is present, by a majority of the votes of the decided.
Fellows present.

10 (2) The chairman at any such meeting shall have
a vote, and in the case of an equality of votes a second or
casting vote.

15 (3) The quorum for the purposes of any such
meeting shall, unless the by-laws otherwise provide, be
five members.

(4) The procedure for the calling of meetings of
the Council and for the conduct of business at such
meetings, shall, subject to this Act and to any by-laws
in force in relation thereto, be as determined by the
20 Council.

11. (1) The Council may make by-laws, not By-laws.
inconsistent with this Act, with respect to—

- (a) the management, good government and discipline
of the University;
- 25 (b) the manner and time of convening, holding and
adjourning the meetings of the Council; the
manner of voting at such meetings; the powers
and duties of the chairman thereof; the conduct
and record of the business; the appointment of
30 committees of the Council, and the quorum,
powers and duties of such committees;
- (c) the number, stipend, manner of appointment and
dismissal of deans, professors, lecturers,
examiners, and other officers and servants of the
35 University;

(d)

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- (d) the entrance standard for students: Provided that such standard shall be comparable to the standard required for matriculation in the University of Sydney;
- 5 (e) the examinations for and the granting of degrees, diplomas, certificates and honours: Provided that the standard for such examinations shall be comparable to the standard of examinations for like degrees, diplomas, certificates and honours in the University of Sydney;
- 10 (f) generally, all other matters authorised by this Act or necessary or convenient for giving effect to this Act.

15 (2) Every by-law made by the Council shall be submitted for the consideration and approval of the board of trustees, and upon being so approved shall be sealed with the common seal of the University and shall take effect from the date upon which it is so sealed or

20 from a later date to be specified in the by-law.

(3) Any such by-law may be proved in any court by the production of a copy verified under the common seal of the University.

25 **12.** The Roman Catholic Archbishop of the Arch-diocese of Sydney shall be the visitor of the University, with authority to do all things that pertain to visitors as often as he deems meet. Visitor.

30 **13.** (1) As soon as practicable after the lodgment with the Registrar-General of the memorial referred to in section three of this Act the Chancellor shall cause to be registered in the office of the Registrar-General in the manner prescribed by regulations made under the conveyancing Act, 1919, as amended by subsequent Acts, an instrument certified under the hand of the Chancellor

35 to be a copy of such of the rules of the Society of the Priests of Holy Cross as relate to the creation of the board of trustees, the tenure of office of members of that board,

Certain rules to be registered with Registrar-General.

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board, the circumstances in which vacancies in the offices
of such members shall arise, the manner in which such
vacancies shall be filled and the number of such members
whose decision shall constitute the decision of the said
5 board of trustees, and the manner in which such decisions
shall be recorded and evidenced; and upon any alteration
or replacement of such rules there shall be registered
in the said office in like manner an instrument certified
under the hand of the Chancellor setting forth the terms
10 of the said alteration.

(2) A copy of any instrument so registered,
certified by the Registrar-General or a deputy registrar-
general, shall be received in all courts as conclusive
evidence of the contents of such instrument; and in
15 favour of any person dealing bona fide and for value
with the University shall, together with this Act, be
conclusive evidence of the objects and powers for the
time being of the University unless such person shall
have notice to the contrary.

20 **14.** (1) The University shall have power to acquire
any property by gift, bequest or devise and to agree to
carry out the conditions of any such gift, bequest and
devise. Power to accept gifts, &c.

(2) The rule of law relating to perpetuities shall
25 not apply to any condition of a gift, bequest or devise to
which the University has agreed.

15. (1) The Local Government Act, 1919, as amended
by subsequent Acts, is amended by inserting next after
paragraph (f) of subsection one of section one hundred
30 and thirty-two the following new paragraph:— Rating exemption provisions. Act No. 41, 1919, s. 132.

(f1) land which is vested in the Newman University
and is used or occupied by that University solely
for the purposes thereof, and land which is used
or occupied solely for the purposes of a college
35 established within that University pursuant to
section six of the Newman University Act, 1951.

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(2) The Metropolitan Water, Sewerage, and Drainage Act, 1924, as amended by subsequent Acts, is amended by inserting next after paragraph (f) of subsection one of section eighty-eight the following new paragraph:—

- 10 (f1) land which is vested in the Newman University and is used or occupied by that University solely for the purposes thereof, and land which is used or occupied solely for the purposes of a college established within that University pursuant to section six of the Newman University Act, 1951.
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