

UNIVERSITY OF NEWCASTLE ACT.

Act No. 72, 1964.

Elizabeth II, An Act to provide for the establishment and incorporation of a University at Newcastle; to constitute a Council of the University and define its powers, authorities, duties and functions; to vest certain property in the University; to dissolve the Newcastle University College; to amend the Technical Education and New South Wales University of Technology Act, 1949, the University of New England Act, 1953, the Superannuation Act, 1916, the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 18th December, 1964.]

BE

BE it enacted by the Queen's Most Excellent Majesty, by No. 72, 1964 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 "University of Newcastle Short title. Act, 1964".

2. This Act shall commence upon a day to be appointed Commence- by the Governor and notified by proclamation published in ment. the Gazette.

3. In this Act, unless the context or subject-matter other- Definitions. wise indicates or requires—

"Appointed day" means the day appointed by the Governor and notified by proclamation pursuant to subsection one of section ten of this Act.

"By-laws" means the by-laws of the University in force in pursuance of this Act.

"Council" means the Council of the University.

"Member" means member of the Council.

"Newcastle University College" means the Newcastle University College established under Part III of the Technical Education and University of New South Wales Act, 1949-1961.

"University" means University of Newcastle.

4. (1) There is hereby established the University of Establish- Newcastle. ment and

The University shall consist of a Council, Convocation, the incorpora- professors and such other classes of persons giving instruction tion of within the University and such superior officers within the University. University as may be prescribed and the graduates and under-graduates of the University.

(2)

(2) The governing authority of the University shall No. 72, 1964 be the Council.

9. (1) The first members of the Council shall be the persons who immediately before the commencement of this Act held office as members of the Newcastle University College Council. First members of the Council.

(2) Such members shall, subject to this Act, hold office until the Council duly constituted under section ten of this Act assumes office.

(3) Where a casual vacancy occurs in the office of any such member the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

(4) (a) Such members shall at their first meeting elect from their number a Chairman and Vice-Chairman.

(b) At every meeting of such members the Chairman or, if he is not present, the Vice-Chairman shall preside, but if both the Chairman and the Vice-Chairman are not present, the members present shall elect a person from their number to preside as chairman.

(5) Such members shall take all steps necessary to ensure that the Council is duly constituted under section ten of this Act so as to assume office on the appointed day.

10. (1) The Council, as from the appointed day, shall be constituted in accordance with this section. Constitution of Council other than first Council.

The Council constituted in accordance with this section shall assume office upon such day as the Governor may appoint in that behalf and notify by proclamation published in the Gazette.

(2) Six members shall be appointed by the Governor.

(3)

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(3) One member shall be elected by the members of the Legislative Council.

(4) One member shall be elected by the members of the Legislative Assembly.

(5) (a) Two members, being professors, shall be appointed or elected in the manner prescribed by the by-laws, by such members of the academic staff of the University, as may be so prescribed.

(b) One member, being a member other than a professor of the academic staff of the University, shall be appointed or elected in the manner prescribed by the by-laws, by such members of the academic staff of the University as may be so prescribed.

(c) One member, being a member of the staff other than the academic staff of the University, shall be appointed or elected in the manner prescribed by the by-laws by such members of such staff as may be so prescribed.

(6) One member shall be appointed or elected, in the manner prescribed by the by-laws, by the undergraduates of the University.

(7) Five members shall be appointed or elected, in the manner prescribed by the by-laws, by Convocation.

(8) The Vice-Chancellor shall be ex officio a member of the Council.

(9) Four persons shall be appointed or elected, in the manner prescribed by the by-laws, by the members for the time being referred to in subsections two to eight, both inclusive, of this section.

(10) A person who is a full-time member of the staff of the University shall be ineligible to be a member appointed or elected in terms of subsections six, seven and nine of this section.

(11)

(11) The members of the Council other than ^{No. 72, 1964} the Chancellor, Deputy Chancellor and Vice-Chancellor shall, subject to sections eleven and twelve of this Act, hold office for such period not exceeding four years as the by-laws may prescribe. Different terms of office may be prescribed in respect of different classes of members.

(12) In the event of a casual vacancy in the office of any member, a member shall be appointed or elected in the same manner as that in which the member whose seat is vacant was appointed or elected, or, in such cases and in such circumstances as are specified in the by-laws in such other manner as is prescribed by the by-laws, and the person so appointed or elected shall hold office for the residue of his predecessor's term of office.

11. No person who—

Disqualifications.

- (a) is under the age of twenty-one years;
- (b) is an undischarged bankrupt, or has his affairs under liquidation by arrangement with his creditors;
- (c) has been convicted of an offence and sentenced to imprisonment, unless he has received a free pardon or has undergone the sentence; or
- (d) is a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts,

shall be capable of being or continuing to be a member of the Council.

12. A member of the Council shall be deemed to have vacated his office if he— ^{Vacation of office.}

- (a) dies;
- (b) declines to act;
- (c) by writing under his hand addressed to the Vice-Chancellor, resigns his office;

(d)

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- (d) is absent without leave of the Council from four consecutive meetings of the Council; or
 - (e) being a member of the Legislative Council or Legislative Assembly, ceases to be such a member.

Chairman. **13.** (1) The Chancellor shall preside at all meetings of the Council and of all committees at which he is present.

(2) At any meeting of the Council or of a committee at which the Chancellor is not present, the Deputy Chancellor shall preside, and in the absence of both the Chancellor and the Deputy Chancellor, the member elected by the members present from among their number, shall preside.

**Convoca-
tion.** **14.** (1) Convocation shall consist of the following persons, of or above the age of twenty-one years, namely—

- (a) all members and past members of the Council;
- (b) all graduates of the University;
- (c) all full-time members of the academic staff of the University and such other members of the staff of the University as the by-laws may prescribe;
- (d) such graduates of other Universities, or other persons, as are, in accordance with the by-laws, admitted as members of Convocation; and
- (e) without prejudice to the generality of paragraph (d) of this subsection, graduates of the University of New England or of the University of New South Wales, who spent at least three years as properly enrolled students of the Newcastle University College.

(2) Meetings of Convocation shall be convened and the business at such meetings shall, subject to the by-laws, be as determined by Convocation.

(3) A quorum at any meeting of Convocation shall be such number of members as the by-laws may prescribe.

(4)

(4) Convocation shall have and may exercise and discharge such powers, authorities, duties and functions as may be prescribed by the by-laws. No. 72, 1964

(5) The Council may establish a Standing Committee and such other committees of Convocation as it considers necessary.

15. (1) The Council shall, at its first meeting after the appointed day, and whenever a vacancy in the office of Chancellor occurs, elect one of its number to be Chancellor of the University. Election of
Chancellor.

(2) The Chancellor shall, unless he sooner ceases to be a member of the Council, hold office for such period not exceeding three years as the by-laws may prescribe.

16. (1) The Council shall, at its first meeting after the appointed day, and whenever a vacancy in the office of Deputy Chancellor occurs, elect one of its number to be Deputy Chancellor of the University. Deputy
Chancellor.

The Deputy Chancellor shall, unless he sooner ceases to be a member of the Council, hold office for one year from the date of his election and on such conditions as are prescribed by the by-laws.

(2) In the absence of the Chancellor or during a vacancy in the office of Chancellor or during the inability of the Chancellor to act, the Deputy Chancellor shall have and may exercise and discharge all the powers, authorities, duties and functions of the Chancellor.

17. (1) The first Vice-Chancellor of the University shall be the person who immediately before the commencement of this Act was the Warden of Newcastle University College and shall, unless he sooner ceases to be a member of the Council, hold office, as from the commencement of this Act, for a period of five years. Appoint-
ment of
Vice-
Chancellor.

(2)

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No. 72, 1964 (2) Wherever a vacancy occurs in the office of Vice-Chancellor, the Council shall appoint a person, not being a member, to be Vice-Chancellor.

(3) The Vice-Chancellor (other than the first Vice-Chancellor) shall, unless he sooner ceases to be a member of the Council, hold office for such period as the Council determines.

(4) The Vice-Chancellor shall be the chief executive officer of the University and shall have and may exercise and discharge such powers, authorities, duties and functions as may be prescribed by the by-laws and, subject to the by-laws, as the Council determines.

Quorum. **18.** At any meeting of the Council one-half (or where one-half is not a whole number the whole number next higher than one-half) of the total number of members for the time being of the Council, shall form a quorum.

**Re-appoint-
ment or
election.** **19.** Nothing contained in this Act shall prevent any person from being immediately, or at any time, re-appointed or re-elected to any office or place under this Act if he is eligible and otherwise qualified, for the time being, to hold that office or place.

**Validity of
acts and
proceed-
ings.** **20.** (1) No act or proceeding of the Council or any committee of the Council, or of the Vice-Chancellor or any person acting pursuant to any direction of the Council shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy or vacancies in the office or offices of any member or members of the Council.

(2) All acts and proceedings of the Council or any committee of the Council, or of the Vice-Chancellor or any person acting pursuant to any direction of the Council shall, notwithstanding the subsequent discovery of any defect in the appointment

appointment or election of any member of the Council, or that any such member was disqualified from acting as or incapable of being a member of the Council, be as valid as if such member had been duly appointed or elected and was qualified to act as or capable of being a member and had acted as a member of the Council and as if the Council had been properly and fully constituted.

21. (1) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any member, and a member shall not, as such member, be subject to the provisions of any such Act.

(2) In the event of an officer within the meaning of the provisions of the Public Service Act, 1902, as amended by subsequent Acts, being appointed a member pursuant to subsection two of section ten of this Act such member may appoint a deputy to act on his behalf at any meeting of the Council at which he is unable to attend, and a deputy so appointed shall be entitled to act, and while so acting, shall be deemed to be a member.

22. (1) Subject to this Act and the by-laws, the Council—

- (a) may provide such courses at university standard as it deems fit and in conferring and awarding degrees and diplomas issue such certificates in the nature of degrees, diplomas or otherwise as it thinks fit;
- (b) may appoint and terminate the appointment of academic and other staff of the University;
- (c) shall have the entire control and management of the affairs and concerns of the University and may act in all matters concerning the University in such manner as appears to it best calculated to promote its objects and interests;

(d)

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- (d) may acquire by gift, bequest or devise any property for the purposes of this Act and may agree to carry out the conditions of any such gift, bequest or devise;
- (e) may borrow money for the purpose of carrying out and performing any of its powers, authorities, duties and functions, for the renewal of loans or the discharge or partial discharge of any indebtedness to the Treasurer or to any bank within such limits, to such extent and upon such conditions as to security or otherwise as the Governor upon the recommendation of the Treasurer may approve;
- (f) may invest any funds belonging to or vested in the University in such securities as may be prescribed by the by-laws; and
- (g) shall have the control and management of all real and personal property at any time vested in or acquired by the University, and may dispose of real or personal property in the name and on behalf of the University :

Provided however that the Council shall not, except with the approval of the Governor, alienate, mortgage, charge or demise any lands of the University, except by way of lease for any term not exceeding twenty-one years from the time when the lease is made, in and by which there is reserved during the whole of the term, the highest rent that can reasonably be obtained without fine.

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

Delegation
by Council.

23. (1) The Council may, in relation to any matter or class of matters, or in relation to any activity or function of the University, by resolution, delegate all or any of its powers, authorities,

authorities, duties and functions under this Act (except this No. 72, 1964 power of delegation) to any member or to any committee of its members, or to any officer or officers of the University.

(2) Every delegation under this section shall be revocable by resolution of the Council, and no delegation shall prevent the exercise of any power, authority, duty or function by the Council.

24. (1) The Council may make by-laws, not inconsistent with this Act, with respect to all or any of the following matters :—

- (a) all matters under this Act for which provision is to be made or which are to be prescribed by by-law or are otherwise necessary or convenient for giving effect to this Act;
- (b) the management, good government and discipline of the University;
- (c) the use and custody of the common seal;
- (d) the method of appointment or election of members of the Council who are to be appointed or elected;
- (e) the procedure for convening and holding meetings of the Council;
- (f) the convening and holding of meetings of any committee and the conduct of proceedings of any committee;
- (g) the matriculation and enrolment of students;
- (h) the fees and charges to be paid including fees and charges for entrance, tuition, lectures, residence and conferring of degrees and diplomas; and the exemption from payment of fees and charges;
- (i) the courses of lectures for such degrees and diplomas as the University confers and awards and the terms and conditions upon which degrees, diplomas, scholarships and prizes may be conferred or awarded;

(j)

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- (j) the number, stipend, manner of appointment and termination of services of academic and other staff of the University;
- (k) the establishment or affiliation of residential colleges and halls of residence within the University and their conduct;
- (l) the affiliation with or admission to the University of any educational or research establishment where-soever situated;
- (m) the provision of a scheme of superannuation for the professors of the University; and
- (n) the form and use of academic costume.

(2) Every by-law made by the Council shall be sealed with the common seal of the University and shall be transmitted by the Chancellor for the consideration and approval of the Governor, and when so approved, shall—

- (a) be published in the Gazette; and
- (b) take effect from the date of publication or from a later date to be specified in the by-law.

(3) A copy of every such by-law shall be laid before each House of Parliament within fourteen sitting days after the publication thereof in the Gazette if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) Any such by-law may be proved in any court by the production of a verified copy under the common seal or by production of a document purporting to be a copy of such by-law and to be printed by the Government Printer.

Treasurer
to meet
certain
costs.

25. (1) There shall be paid to the University in respect of the year commencing upon the first day of January of the year of commencement of this Act, and in respect of each succeeding year, such sum as the Treasurer may determine. In making any such determination the Treasurer shall take into consideration the University's estimated expenditure requirements and income from all sources which is capable of being applied towards meeting such expenditure requirements.

(2)

(2) To enable the Treasurer to exercise and perform ^{No. 72, 1964} the powers and functions conferred upon him by subsection one of this section, the University shall, in respect of the year commencing upon the first day of January of the year of commencement of this Act, as soon as practicable after such commencement, and in respect of each succeeding year either before or as soon as practicable after the commencement of such year, submit to the Treasurer estimates of the expenditure and income of the University for such year and such other information as the Treasurer may deem necessary.

(3) Any moneys payable by the Treasurer under this section shall be paid out of moneys provided by Parliament.

26. The Treasurer may for the temporary accommodation of the University advance such moneys to the Council as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon. ^{Advance by Treasurer.}

27. The Council shall cause to be kept proper books of account in relation to the funds of the University and shall, as soon as practicable after the thirty-first day of December in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the University. ^{Accounts to be rendered.}

28. The accounts of the University shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law now or hereafter in force relating to the audit of public accounts; and the Audit Act, 1902, and any Acts amending the same, shall apply to the members of the Council and to the officers and employees of the University in the same manner as they apply to accounting officers of public departments. ^{Audit.}

29. (1) As soon as practicable after the first day of January in each year, the Council shall prepare and furnish to the Minister a report upon the proceedings of the University during the period of twelve months immediately preceding ^{Report of proceedings.}

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No. 72, 1964 preceding that day. Such report shall include a summary of the work, researches and investigations carried out by the University during such period.

(2) A copy of such report shall be laid before both Houses of Parliament as soon as practicable after it has been received by the Minister.

No religious test or political discrimination.

30. No religious test shall be administered to any person in order to entitle him to be admitted as a student of the University, or to hold office therein, or to graduate thereat, or to enjoy any benefit, advantage or privilege thereof, and no person shall be denied admission as a student of the University or be ineligible to hold office therein or to graduate thereat or to enjoy any benefit, advantage or privilege thereof by reason of his political views or beliefs.

Visitor.

31. The Governor of New South Wales shall be the Visitor of the University with full authority and jurisdiction to do all such things and entertain such causes as may pertain to or be exercised by visitors as often as he deems meet.

Teachers' college students and school teachers.

32. (1) The Council shall allow such students of teachers' colleges established under the Public Instruction Act of 1880, as amended by subsequent Acts, such teachers in schools established under that Act, as so amended, and such other members of the Public Service of New South Wales as the Minister may approve to attend, for the purpose of proceeding to a first degree, University lectures and receive tuition for the period required for admission to that degree without the payment of lecture, class or tuition fees: Provided that all such students, teachers and members of the Public Service of New South Wales shall be qualified to be enrolled as students as prescribed by the by-laws.

(2) Nothing in subsection one of this section shall exempt any person referred to in that subsection from the payment of such fees, other than lecture, class or tuition fees, as may be prescribed by the by-laws.

33.

33. (1) Upon the commencement of this Act the Newcastle University College shall cease to exist.

Provisions
re Newcastle
University
College.

(2) (a) All real and personal property which immediately before the commencement of this Act was held by or vested in the University of New South Wales or any other body in trust for or on behalf of the Newcastle University College shall by virtue of this Act be divested from the University of New South Wales or such other body and shall, as from such commencement, vest in the University and shall, subject to paragraph (b) of this subsection, be applied by the University for the objects and purposes for which the University is established.

(b) All property vested in the University by this subsection shall be held by it subject to the conditions or trusts on which it was held immediately before such vesting: Provided that any reference in any such conditions or trusts to the Newcastle University College shall, as from the commencement of this Act, be read and construed as a reference to the University.

(c) All rights accruing or accrued to the University of New South Wales in respect of any property vested in the University by operation of this subsection are hereby vested in the University and may be enforced by the University.

(d) All liabilities of the University of New South Wales in respect of any property vested in the University by operation of this subsection may be enforced against the University.

34. (1) This section shall apply to real and personal property, other than real and personal property vested in the University pursuant to section thirty-three of this Act, which was held by or vested in the University of New South Wales for the use of the Newcastle University College.

Transfer by
University
of New
South Wales
of certain
property to
University.

(2) There shall be transferred to the University by the University of New South Wales—

- (a) such of the property to which this section applies as is the subject of a determination relating to its transfer to the University under this section; and
(b)

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(b) such debts and liabilities and rights accrued or accruing in respect of such property as are determined in accordance with this section.

(3) (a) There shall be a Joint Committee consisting of five members, as follows :—

- (i) the Auditor-General (or his nominee) who shall be chairman and who shall convene all meetings of the Joint Committee and preside at such meetings;
- (ii) two members who shall be appointed by the Council of the University of New South Wales to be representatives of that University; and
- (iii) two members who shall be appointed by the members of the Council referred to in section nine of this Act to be representatives of the University.

(b) In the case of any difference between the representatives of the University of New South Wales and representatives of the University, such difference shall be determined as the Auditor-General shall direct.

(4) (a) The functions of the Joint Committee shall be to determine as soon as practicable after the commencement of this Act—

- (i) what assets of the University of New South Wales are to be transferred to the University;
- (ii) what debts and liabilities in respect of such assets of the University of New South Wales are to be transferred to the University;
- (iii) how the expense of meeting payments on account of leave or upon retirement or death of a member of the academic and other staff of the University of New South Wales transferred to the University by this Act should be apportioned between the University of New South Wales and the University;
- (iv) what books, documents, records and papers are to be handed over to the University; and
- (v) such other matters as the Joint Committee may consider necessary or expedient in relation to the foregoing.

(b)

(b) Where a determination has been made No. 72, 1964 under this subsection on the matters referred to in paragraph (a) of this subsection, a sufficient record thereof shall be filed in the offices of the University of New South Wales and the University and a copy transmitted to the Minister for record purposes.

(5) Any determination of the Joint Committee shall have effect according to its tenor.

35. (1) Every person who, immediately before the commencement of this Act, held any salaried office or employment at the Newcastle University College shall become and be officers and employees of the University on such terms and conditions (including terms and conditions as to remuneration and duration of appointment) as the Council may determine, but not less favourable than those upon which he so held that office or employment :

Persons holding office in the Newcastle University College.

Provided that the foregoing provisions shall not preclude the Council from determining in the case of the title, duties or status of the offices or employment terms and conditions less favourable than those upon which he held office or employment at the Newcastle University College :

Provided further that this subsection shall not apply to or in respect of a person who immediately before the commencement of this Act held office at the Newcastle University College as a part-time lecturer, temporary lecturer, temporary tutor or temporary demonstrator, or to or in respect of any other person who was not, immediately before such commencement, a permanent member of the staff of the University of New South Wales.

Nothing in this subsection shall affect the rights conferred by section thirty-five of the Technical Education and University of New South Wales Act, 1949-1961, upon a person to whom that section applies and who becomes an officer or employee of the University under this subsection.

(2)

No. 72, 1964 (2) A person referred to in subsection one of this section shall not have any right to damages or compensation in respect of the termination, in consequence of this Act coming into operation, of his tenure of any office or employment at the Newcastle University College.

Amendment of Act No. 41, 1919. **36.** The Local Government Act, 1919, as amended by subsequent Acts, is amended by inserting next after paragraph (fii) of subsection one of section one hundred and thirty-two the following new paragraph :—

Sec. 132. (Definition of ratable land.) (fiii) land which is vested in the University of Newcastle or in a college thereof and is used or occupied by the University or college, as the case may be, solely for the purposes thereof; and.

Amendment of Act No. 11, 1938. **37.** (1) The Hunter District Water, Sewerage and Drainage Act, 1938-1964, is amended by inserting next after paragraph (k) of subsection one of section ninety-one the following new paragraph :—

Sec. 91. (Lands exempted from rates.) (1) land which is vested in the University of Newcastle, or in a college thereof, and is used or occupied by the University or college, as the case may be, solely for the purposes thereof.

(2) The Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Hunter District Water, Sewerage and Drainage Act, 1938-1964.

Amendment of Act No. 28, 1916. **38.** (1) The Superannuation Act, 1916-1964, is amended—

Sec. 3. (Interpretation.) (a) (i) by inserting in the definition of "Employee" in subsection one of section three after the words "Macquarie University," the words "or a professor of the University of Newcastle,";

(ii) by inserting next after paragraph (g) of subsection three of the same section the following new paragraph :—

(h) The provisions of this subsection shall apply, mutatis mutandis, to and in respect of professors of the University of Newcastle.

(b)

(b) by inserting at the end of Schedule III the following words :—

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(2) The Superannuation Act, 1916, as amended by subsequent Acts, by the Governor pursuant to section ninety-two of that Act, as so amended, and by this Act, may be cited as the Superannuation Act, 1916-1964.

39. (1) The Technical Education and University of New South Wales Act, 1949-1961, is amended by omitting from subsection one of section twenty-nine the word "Newcastle,"

Amendment of Act No. 11, 1949. Sec. 29.

(Power to establish and maintain branches, departments or colleges.)

(2) The Technical Education and New South Wales University of Technology Act, 1949, as amended by subsequent Acts and by this Act, may be cited as the Technical Education and University of New South Wales Act, 1949-1964.

40. (1) The University of New England Act, 1953, is amended by omitting section thirty-two.

Amendment of Act No. 34, 1953.

(2) The University of New England Act, 1953, as amended by this Act, may be cited as the University of New England Act, 1953-1964.

(Special provision for Arts courses at Newcastle.)

41. The Macquarie University Act, 1964, is amended by omitting from subparagraph (ii) of paragraph (a) of subsection one of section thirty-four the words "the same subsection" and by inserting in lieu thereof the words "subsection three of the same section".

Amendment of Act No. 29, 1964. Sec. 34. (Amendment of Act No. 28, 1916.)