

Mr. Sidey.

MUSICIANS.

ANALYSIS.

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A BILL INTITLED

AN ACT to provide for the Registration of Musicians in New Zealand and for the Admission of Musicians to the Society to be incorporated as hereinafter provided. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Musicians Act, 1908.
2. In this Act, if not inconsistent with the context,—

“The Governor” means the Governor in Council :

10 “The Society” means the Incorporated Society of Musicians of New Zealand incorporated as hereinafter provided :

“The Council” means the members of the Society to be elected as hereinafter provided to conduct and manage the business of the same.

Short Title.
Interpretation.

“The Register” means the Register of Musicians of New Zealand to be kept by the Council :

“Minister” means the Minister of Education.

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Register of Musicians.

Qualifications of applicants for registration.

3. (1.) The following persons shall be entitled to have their names inserted on the register as members of the Society to be incorporated under this Act :— 5

(a.) All persons who are professional members of any of the societies following, that is to say,—

The Auckland Society of Musicians (Registered); 10

The Society of Professional Musicians of Hawke's Bay (Registered);

The Wellington Society of Professional Musicians (Registered);

The Nelson Professional Musicians' Association (Registered); 15

The Canterbury Society of Professional Musicians (Registered);

The Society of Musicians of Timaru (Registered);

The Oamaru Society of Musicians (Registered); 20

The Society of Musicians of Otago (Registered); and

The Society of Musicians of Southland (Registered) :

(b.) All persons who satisfy the Council both that they have been professionally and habitually engaged in composing, teaching, or performing for the period of five years or upwards immediately preceding the coming into operation of this Act, and that they are competent: 25

(c.) All persons of the age of twenty-one years or upwards who are, in the opinion of the Council, of established reputation in the musical profession : 30

(d.) All persons of the said age who possess a degree, diploma, certificate, license, or other proof that they have passed an examination recognised by the Council :

(e.) All persons of the said age of who shall have passed the examination that may be prescribed by the Council. 35

(2.) All the persons mentioned in paragraph (a) of this section shall *ipso facto* become members of the Society, and shall be registered without fee and without any application being made by them.

(3.) No person shall be registered under paragraph (b) of this section unless he shall apply to the Council within the period of six months from the time of the coming into operation of this Act. 40

(4.) No person shall be registered under paragraphs (b), (c), (d), and (e) of this section unless he signs a declaration in the form of that contained in the Third First Schedule hereto.

Applicants to be of good character.

4. No persons, unless they are of good character and reputation, shall at any time be entitled to be registered. 45

New clause.

4A. (1.) The register shall be kept in the registered office of the Society, and shall at all reasonable times remain open to public inspection without fee. 50

(2.) A complete list of the names and addresses of all members of the Society, under the hand of the President or Secretary, shall, in the month of January in every year, be sent to the Minister, and gazetted.

The Incorporated Society of Musicians of New Zealand.

5. (1.) Immediately upon the election of the Council the members of the Council, and all other persons who may thereafter be registered, shall become and they are hereby incorporated as a body corporate under the name of the Incorporated Society of Musicians of New Zealand, with perpetual succession and a common seal. Society of musicians incorporated.

(2.) All registered musicians shall *ipso facto* be members of the Society.

6. For the purposes of this Act New Zealand is hereby divided into the districts mentioned in the ~~First~~ *Second* Schedule hereto, and upon the application of the Council the Governor, in his discretion, may from time to time by *Gazette* notice vary or alter the boundaries of all or any of such districts, and may abolish any existing district or constitute any new district. Districts.

7. All the members of the Society residing in one district shall be associated together as a section of the Society, each having its own officers and governed by regulations to be made by the Council. Sections.

Struck out.

8. (1.) The headquarters and registered office of the Society shall be in the City of Wellington. Headquarters.

New.

8. (1.) The Society shall at all times have a registered office in the City of Wellington, and notice of the situation thereof and of any change in the situation thereof shall be given by the Council to the Registrar of Companies under the Companies Act, 1908, at Wellington, and shall be registered by him. New.

(2.) If any default is made by the Society or Council in the observance of the requirements of this section, each member of the Council shall be liable to a fine not exceeding *one* shilling for every day during which the default continues.

(23.) The first annual meeting of the Council shall be held in the City of Wellington, as provided by section *eleven* hereof, and thereupon each annual meeting shall determine the place of and otherwise arrange for each subsequent annual meeting.

(34.) An annual conference of the members of the Society shall be held immediately following and at the same place as the annual meeting of the Council.

9. The first Council shall be constituted in the following manner: First Council.
Within six weeks of the coming into operation of this Act each of—

40 The Auckland Society of Musicians (Registered);
The Wellington Society of Professional Musicians (Registered);
The Canterbury Society of Professional Musicians (Registered); and
The Society of Musicians of Otago (Registered),—

45 mentioned in paragraph (a) of section *three* of this Act, shall elect two members to be members of the Council, and each of the other Societies mentioned in the said paragraph shall elect one member; and the Governor may, if he in his discretion thinks fit, appoint one member of the Council.

10. Each society shall immediately after the election by it of the member or members of the Council give notice to the Registrar-General *Minister* of the names and addresses of the member or members so elected. Notice of election.

- First meeting 11. Upon the election and appointment of the Council, and within two months after the coming into operation of this Act, the Registrar-General *Minister* shall give notice in writing to those who have been so elected or appointed, and shall convene a meeting of the Council to be held in the City of Wellington at some place and date to be fixed by him during the last ten days of the month of January, nineteen hundred and *nine*. 5
- Expenses of Minister to be paid. 12. The Registrar-General *Minister* shall be paid all expenses incurred by him in connection with any duties devolving upon him under this Act out of the assets of the Society. 10
- Officers 13. (1.) At such first meeting the Council shall proceed to the election of five members of the Council—as president, two vice-presidents, honorary treasurer, and honorary secretary respectively—who shall all hold office until the date of the annual meeting to be held in January, nineteen hundred and *ten*. 15
- (2.) At all meetings the president shall have a deliberative but not a casting vote, and any resolution in respect to which upon a division there is an equality of votes shall be deemed to be lost.
- (3.) The secretary may be a salaried officer if the Council thinks fit.
- Quorum, 14. At all meetings of the Council six shall form a quorum. 20
- Term of office of first Council. 15. The first Council elected and appointed under the provisions of section *nine* of this Act shall hold office until the date of the annual meeting to be held in January, nineteen hundred and *ten*, when they shall all the members of the Council shall cease to hold office.
- Election of members of Council. 16. With respect to the Council to be elected after the first Council shall cease to hold office the following provisions shall apply :— 25
- (a.) The members of the Society in each of the districts of Auckland, Wellington, Christchurch, and Dunedin mentioned in the *First* Schedule to this Act shall elect two members to the Council, and the members in each of the other districts mentioned in the said schedule shall elect one member of the Council. 30
- (b.) If in any district there are at the date of such election less than ten members of the Society, the members of that district shall unite with the members of such one of the adjoining districts as the first or any subsequent Council shall determine in electing the member or members of the Council for such adjoining district; and if such united districts comprise forty members or upwards, they shall elect two members of the Council. 35 40
- (c.) The members so elected shall come into office on the date of the annual meeting to be held in January, nineteen hundred and *ten*. 40
- (d.) On the date of the annual meeting to be held in January, nineteen hundred and *eleven*, one-third of the members of the Council shall retire from office, the retiring members being ascertained by lot; on the date of the annual meeting to be held in January, nineteen hundred and *twelve*, a further one-third of the members to be selected by lot from those who have been longest in office shall retire; and on the date of every annual meeting thereafter one-third of the members, being those who have been longest in office, shall retire : 45 50
- When to come into office.

Provided that as between two or more persons whose term of office is equal in length, the order of their retirement shall be determined by lot.

- 5 (e.) Should the number of members of the Council at any time not be divisible into three, such number shall retire as is nearest to one-third of the whole number of members. Retirement of members.
- 10 (f.) Each district represented by a retiring, resigning, or deceased member or members shall elect a member or members in their stead, and all retiring members shall be eligible for re-election. If in such a district the number of members of the Society has fallen below ten, no election shall take place.
- 15 (g.) Every election of members of the Council shall be held and the union of districts (if required) shall be provided for in manner prescribed by regulations made by the Council and approved by the Governor as hereinafter provided. How election held.
- (h.) The member elected to fill any vacancy caused by the death or resignation of a member, or in case of any other extraordinary vacancy, shall hold office only for the residue of the term of the member in whose stead he is elected. Extraordinary vacancy.

20 *Duties of Council.*

17. The Council shall, upon payment of the prescribed fee, enter in the register the names of any persons who may apply to the Council to be registered who, in the opinion of the Council, possess the qualifications prescribed by this Act. Register.

- 25 18. (1.) Within three months after the coming into operation of this Act the Council shall, by advertisement inserted in any one or more newspapers in at least one centre in each district, call for applications from persons desiring to be registered, and shall register the names of those persons applying who in their opinion possess the qualifications prescribed by this Act. Applications for registration.

30 (2.) No application shall be received unless it is in the form or to the effect of the ~~Third~~ *First* Schedule hereto, accompanied by the prescribed fees.

- 35 19. (1.) If the Council is of opinion that any applicant for registration does not possess the prescribed qualifications, the Council shall decline to register, and shall notify such applicant that they so decline, and shall give the reasons for so doing. Procedure when application declined.

40 (2.) Should any person feel aggrieved by the Council so determining he may, at any time within three months, either apply to be examined for membership, or issue a summons in the Supreme Court upon the president of the Council, and show cause before a Judge thereof in Chambers why such person should be registered.

45 (3.) Upon the hearing of such summons evidence may be given orally or by affidavit, or in any way the Judge may order; and the Judge may make an order dismissing the same, or may order that the name of such person shall be inserted upon the register, and may order such costs to be paid as the Judge may think fit without reference to the scale of costs provided by the Supreme Court Code, and may order such costs to be paid as between solicitor and client or otherwise.

- 50 20. (1.) The Council may at any time appoint a Board of Examiners to hold examinations in accordance with regulations which may be made by the Council. Board of Examiners.

New subclauses.

(2.) It shall be lawful for the Council to make arrangements with the University of New Zealand for the conduct by the University of all or any examinations prescribed by the regulations of the Council.

(3.) The Council may, by its regulations, recognise any examination prescribed by the University of New Zealand for the Degree of Bachelor of Music, or any part of that examination, as equivalent to and as a substitute for the examination referred to in paragraph (e) of section *three* of this Act, or any part of that examination. 5

Council may remove name from register when fees in arrear.

21. The Council may remove from the register the name of any person who is in arrear for six months with the payment of any fees due or payable by such person under this Act, or under any regulation made by the Council; and after posting notice of such removal to such person's registered address, it shall be unlawful for him to indicate that he is a member under this Act; and no member shall exercise his right to vote if he is in arrear with the payment of any such fees. 10 15

Surrender of member's certificate pending inquiry.

22. The Council may, at any time pending inquiry into any charge or complaint against a member of the Society, and before a final decision thereon, require him by notice in writing delivered to him personally or posted to his registered address to deliver any certificate of the Society which may have been issued to him into the custody of the president or a vice-president of the Society; and each member shall be guilty of an offence under this Act if he fails, unless he can show good cause for such failure, for fourteen days after receipt of such notice or of such posting to deliver the same. 20 25

Council may hold inquiry when member charged with misconduct.

23. The Council may call upon a member to appear before it and answer any charge involving moral turpitude or professional misconduct, or want of professional conduct; and may, if it finds the charge proved, remove such member's name from the register, subject to the right of appeal by such member to the Supreme Court or to a general meeting of the members; and no member shall resign his membership pending the hearing of any such charge. 30

Council may remove name from register in case of certain offences.

24. The Council may remove the name of any member who has been convicted of any offence for which the penalty may be imprisonment for any term, or who has been guilty of any breach of any regulations made by the Council under the powers and authorities conferred by this Act, or who has been guilty of unprofessional conduct or professional misconduct, or of any offence under this Act. 35

Reinstatement.

25. (1.) Any person who has been removed from the register may apply to be reinstated, and unless he has been removed for any cause affecting his character or reputation, or for professional misconduct, or for want of professional conduct, or for breach of any regulations made by the Council, he shall be entitled as of right to be reinstated upon payment of any fees which may be prescribed by the Council; in all other cases the Council shall have a discretionary right to reinstate such person. 40 45

(2.) If the Council shall refuses to reinstate the applicant, he may petition a Judge in Chambers to grant such reinstatement; and the Judge in considering and deciding such petition may, if such person has been removed for wilful and continuous breach of the said regulations, order such person to be reinstated upon payment of a penalty not exceeding *twenty* pounds to the Council, and in all other cases may 50

act upon the same principles as are applied by the Court in considering applications by barristers or solicitors for reinstatement who have been removed from the rolls for any offence or for professional misconduct.

26. The Council shall remove from the register the name of any person who has resigned his membership of the Society, but such person shall at the discretion of the Council be entitled to be registered again at any time upon payment of the prescribed fees.

Resignation of member.

27. All proceedings against the Society shall be in the name of or against the president, who shall appear and sue and be sued for and on behalf of the Society. Service of any proceedings shall be good if made upon the president or a vice-president, or any other member of the Council of the Society. Any judgment or order against the president under which money is to be paid shall bind and be enforceable against the property and assets of the Society, *but the president shall not be personally liable in respect of any such proceedings.*

Proceedings against Society.

28. It shall be lawful for the Society to acquire sufficient freehold or leasehold land in any part of New Zealand upon which to erect offices for the purpose of the Society, and to let or sell such parts of the same as shall not be required for their immediate occupation.

Society may hold lands.

29. The Council shall have power to borrow any sum or sums of money for the purpose of erecting offices or buildings for the use of the Society, and to give mortgages over any of its freehold or leasehold property for the purpose of securing the repayment of such sum or sums so borrowed, or to issue debentures charged upon all the property of the Society of whatsoever kind; and no mortgagee shall be called upon to inquire as to the object for which such moneys are borrowed, or shall be affected by any defect or irregularity in any proceedings of the Council or Society authorising such money to be borrowed; and the execution by the Council in the prescribed form of any such mortgage or debentures shall be conclusive evidence of the right of the Council or Society to borrow the moneys purporting to be secured.

Council may borrow money and give mortgages.

30. The Council may at any time sell and convert into money any of its lands, and make and execute in the name of the Council effectual conveyances and other assurances thereof to the purchaser.

Council may sell lands of Society.

31. The Council shall have full discretion to deal with the funds and property of the Society, and (i) to invest the same in any manner in which trustees are authorised by any law for the time being in force in New Zealand to invest trust moneys; and (ii) to use such funds for the following purposes:—

Application of funds of Society.

(a.) For paying the salaries and general expenses incurred by the Council in managing and conducting the Society, including the expenses incurred by the Registrar-General under this Act:

(b.) For the payment of the travelling and other expenses of members of the Council or any delegates of members:

(c.) For the payment of the fees and other remuneration and the travelling-expenses of the members of the Board of Examiners:

(d.) For the payment of the expenses of any prosecution instituted under the authority of the Council in respect of any offence believed to have been committed against the provisions of this Act:

- (e.) To provide and keep up any library for the use of the members of the Society :
- (f.) To publish any newspaper or magazine in the interests of music, and to assist with funds any such paper published by any outside person : 5
- (g.) For acquiring or erecting premises for the purposes of the Society :
- (h.) To assist any section of the Society constituted under section *seven* of this Act :
- (i.) To grant prizes for scholarships at any school or university, 10 or to offer prizes to be competed for by members of any society of students of music :
- (j.) To assist in any manner in the advancement of the profession of music :
- (k.) To pay the fees of any member of the Society who is unable 15 in the opinion of the Council through poverty to pay the same :
- (l.) To pay the annual fee of any member :
- (m.) For providing money for carrying out any scheme which may be set on foot by the Council for a Benevolent Fund to assist 20 any member of the Society, or the wife or children of any member, or the widow or children of any deceased member, or any young musician of exceptional talent where the circumstances may in the opinion of the Council render assistance necessary. 25

Powers of the Council.

Council may
make regulations.

32. Without limiting any general authority to make such regulations as it may think necessary or advisable, the Council shall have full authority to make regulations as follows:—

- (a.) Providing for the conduct of all elections of the Council except 30 the first, for which provision has been made by this Act, and for the union of two districts when required under the provisions of section *sixteen* of this Act :
- (b.) Providing for the convening, conduct, and good order of the meetings of the Council and of members of the Society, and 35 of all things incidental thereto :
- (c.) Providing when and at what date each person whose name is on the register shall pay to the Council the annual fees prescribed by the schedule of fees set out in the *Second Third* Schedule hereto, and for issuing annual certificates to such 40 persons on payment of such fees :
- (d.) Providing that each member shall have a registered postal address to which notices may be posted, and as to the manner in which any notices required by this Act shall be given :
- (e.) Providing for the formation, control, and general management 45 of the sections of the Society to be formed in the various districts under section *seven* of this Act :
- (f.) For the setting-up, control, management, and application of a Benevolent Fund for the benefit of members, their wives and families, and young musicians of exceptional talent who 50 may require assistance, and for the appointment of a special Board for that purpose :

- (g.) For holding examinations of persons who wish to qualify for the insertion of their names upon the register, and for holding public examinations, and to fix the fees payable in respect of all such examinations :
- 5 (h.) To compile examination-papers for candidates for registration and candidates at such public examinations, to fix the subjects in which they are to be examined, and to decide what proportion of marks shall be obtained to enable the candidate to pass :
- 10 (i.) To fix the times and places at which such examinations shall take place :
- (j.) For promoting harmony and goodwill among the members personally :
- 15 (k.) For the settlement of disputes and differences between members personally or by referring the same to arbitration or in any other manner, and for the settlement of any disputes between the Council or the Society and any person or persons :
- (l.) For promoting any act, measure, or thing which will tend to benefit the profession of music :
- 20 (m.) For defining professional misconduct or what shall be a want of professional conduct on the part of any member, or what business or professional occupations may be inconsistent with the integrity of the musical profession :
- 25 (n.) For the holding of inquiries into any charges brought against members of the Society, and for the conduct of such inquiries :
- (o.) For regulating inquiries into the professional conduct or misconduct of members :
- 30 (p.) For suspending any member during the hearing of any charge brought against him in any Court of law :
- (q.) For striking off the register the name of any person who has been persistently guilty of any breach of the regulations, or who has refused to comply with the same, and who has been cited to appear before the Council and has had an opportunity of defending himself :
- 35 (r.) For renting offices, for engaging and paying clerks, retaining counsel, engaging a solicitor or solicitors or any other person or persons whose services they may require, and for dismissing any person :
- 40 (s.) For the issue of certificates of membership to members, such certificates to clearly set forth the subject or subjects the holder is considered by the Council competent to teach, and for fixing the fee (being not more than twenty-one shillings) in respect of same :
- 45 (t.) Providing for the custody of the seal of the Society, and the method in which instruments requiring to be executed by the Society shall be executed, by whom the seal of the Society is to be affixed to any document, and the number of witnesses to attest the seal of any document on which the seal is used :
- 50 (u.) For the repeal, alteration, or variation from time to time of any of the Schedules appended hereto or of any regulation made under the powers herein conferred :

(v.) Providing for the doing of anything which will tend, directly or indirectly, to promote the objects of this Act :

Provided that no such regulation shall have any effect until it has been approved by the Governor and published in the *Gazette*, and the Governor may from time to time suspend the operation of any such regulation. 5

Evidence of regulations.

33. In any legal proceedings the production of a copy of the *Gazette* purporting to contain such regulations shall be, until the contrary is proved, conclusive evidence that such regulations have been duly and properly made, and that such regulations are valid and are in full force and effect. 10

Offences.

Offences.

34. After six months from the time of the coming into operation of this Act, no person other than a registered musician shall hold himself out to the public as a registered musician or member of the Society, or suggest that he is a registered musician, or shall directly or indirectly do anything which in the opinion of the Court tends to convey to the public that such person is a registered musician under this Act. 15

What constitutes an offence.

35. Anything done or left undone in contravention of this Act or of the regulations made by the Council shall be an offence. 20

Penalties.

36. Every person who commits any offence under this Act shall be liable upon conviction to a penalty fine not exceeding twenty pounds, unless otherwise specially provided.

Penalties.

37. Every person who wilfully procures or attempts to procure himself to be registered under this Act by means of any false or fraudulent representation or declaration, and every person who aids or assists therein, is liable to a penalty fine not exceeding twenty pounds, or to imprisonment for any term not exceeding twelve months. 25

How offences heard and determined.

38. All offences under this Act shall be heard and determined dealt with summarily by or before a Magistrate in accordance with the *Justices of the Peace Act, 1908, on the information of any person.* 30

Penalties and fees to be paid to treasurer.

39. All penalties recovered and all fees received under this Act shall be paid to the treasurer and shall form part of the funds of the Society. 35

Corporate Seal.

Seal.

40. The seal of the society shall have on its face "The Incorporated Society of Musicians of New Zealand" in a circle, and in the centre the words "Incorporated 1908."

Contracts not under seal.

41. Any contract which if made between private persons does not require to be under seal may, if made between the Society and any person or persons, be signed for and on behalf of the Society by any two members of the Council duly authorised for that purpose by resolution. 40

Fees, when payable.

42. The annual fees may after the first year of the coming into operation of this Act be made payable upon a specific date in each year, and such fees shall be payable by every member of the Society upon the date so named, and all members upon the register shall become indebted as upon that date to the Society for the amount of such fees; and the same may be sued for and recovered by the Council in any Magistrate's Court. 50

SCHEDULES.

Schedules.

THIRD FIRST SCHEDULE.

The President of the Council of the Incorporated Society of Musicians of New Zealand.

SIR,—

I hereby make application to be registered as a member of the Society. I declare that I earn my living entirely either by the practice of music by itself, or by the teaching of such other subjects in addition to music as are necessary to the proper equipment of a musician. I claim to be entitled to registration under paragraph of section 3 of the Act.

My qualifications to be registered are as follows: [*State facts showing application comes within the paragraph he names*].

I enclose my registration fee of . . .

My registered address will be as under:—

Signature :

Residence :

What branch or branches of music engaged in :

FIRST SECOND SCHEDULE.

DISTRICTS.

THE District of Auckland shall include the Provincial District of Auckland, except Cook County.

The District of Hawke's Bay shall include the Provincial District of Hawke's Bay, together with Cook County.

The District of Taranaki shall include the Provincial District of Taranaki, together with the Provincial District of Wellington except the Counties of ~~Hutt, Horowhenua, Eketahuna, Masterton, Akitio, Castlepoint, Wairarapa, and Featherston~~.
New.

counties included in the District of Palmerston North hereinafter mentioned, and except also the Counties of Makara, Hutt, Horowhenua, Eketahuna, Masterton, Mauriceville, Akitio, Castlepoint, Wairarapa South, and Featherston.

The District of Palmerston North shall include the Counties of Kairanga, Manawatu, Oroua, Pohangina, Kiwitea, and Rangitikei.

The District of Wellington shall include that part of the Provincial District of Wellington excepted from the District of Taranaki aforesaid, and not included in the said District of Palmerston North.

The District of Nelson shall include the Provincial District of Nelson, except the County of Cheviot.

The District of Marlborough shall include the Provincial District of Marlborough.

The District of Christchurch shall include the Provincial District of Westland, the County of Cheviot, and the Provincial District of Canterbury except the counties included in the District of Timaru.

The District of Timaru shall include the Counties of Ashburton, Geraldine, Levels, Waimate, and Mackenzie.

The District of Oamaru shall include the Counties of Waitaki and Waihemo.

The District of Dunedin shall include the Provincial District of Otago, except the counties included in the Districts of Oamaru and Invercargill.

The District of Invercargill shall include the Counties of Southland, Lake, Wallace, Fiord, and Stewart Island.

SECOND THIRD SCHEDULE.

FEES PAYABLE TO THE SOCIETY INCORPORATED UNDER THIS ACT.

					£	s.	d.
1. Registration fee	..	..	..	..	..	1	1 0
2. Annual membership fee	..	..	..	..	..	1	1 0