

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
19th July, 1938.*

Hon. Mr. Mason.

NEW ZEALAND COUNCIL OF LAW REPORTING.

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A BILL INTITULED

AN ACT to provide for the Incorporation and Reconstitution of the New Zealand Council of Law Reporting, and to define its Powers and Functions. Title.

- 5 WHEREAS the New Zealand Council of Law Reporting is an unincorporated association, consisting of the Attorney-General, the Solicitor-General, the President of the New Zealand Law Society, and eight other barristers representing the principal District Law Preamble.
- 10 Societies in New Zealand, and formed primarily for the purpose of publishing or arranging for the publication of the series of reports of legal decisions known as "The New Zealand Law Reports": And whereas it is desirable that the Council should be incorporated, that
- 15 its constitution should be altered, and that its powers and functions should be defined:

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

- Short Title. **1.** This Act may be cited as the New Zealand Council of Law Reporting Act, 1938. 5
- Interpretation. **2.** In this Act, unless the context otherwise requires, the expression “the Council” means the New Zealand Council of Law Reporting incorporated by this Act, and the expression “the existing Council” means the Council as existing immediately prior to the passing of this Act. 10
- Incorporation of Council. **3.** (1) The Council shall on the passing of this Act become a body corporate by the name of “The New Zealand Council of Law Reporting”, having perpetual succession and a common seal, being capable of holding real and personal property, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer. 15
- See Reprint of Statutes, Vol. IV, p. 1076 (2) The reference in section forty-five of the Law Practitioners Act, 1931, to the New Zealand Council of Law Reporting shall hereafter be read as a reference to the Council as incorporated by this Act. 20
- Contracts of Council. **4.** (1) Any contract which if made between private persons must be by deed shall, when made by the Council, be in writing under the common seal of the Council. 25
- (2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith may, when made by the Council, be in writing signed by any person acting on behalf of and under the express or implied authority of the Council. 30
- (3) Any contract which if made between private persons may be made verbally without writing may, when made by the Council, be made verbally without writing by any person acting on behalf of and under the express or implied authority of the Council. 35
- (4) The common seal of the Council shall not be affixed to any document except pursuant to a resolution of the Council, and the execution of any document so sealed shall be attested by two members of the Council. 40

5. (1) On the date of the passing of this Act all real and personal property of every description vested in any person or persons in the name or on behalf of the existing Council shall be deemed to be transferred to and vested in the Council as incorporated by this Act, without the necessity of any assignment, transfer, conveyance, or other assurance, but subject to all liabilities, charges, obligations, or trusts affecting that property, and all contracts, debts, liabilities, and obligations of the members of the existing Council, or any of them, in their capacity as such members, shall become contracts, debts, liabilities, and obligations of the Council as incorporated by this Act. All members of the existing Council and all former members are hereby declared to be released and discharged from all liability and responsibility whatsoever in respect of any property, contract, debt, liability, or obligation hereby transferred to or imposed on the Council.

Assets and liabilities of existing Council to become assets and liabilities of corporation.

(2) Where any property vested in the Council by this section consists of any registered estate or interest in land or other property it shall be the duty of every Registrar, or other person charged with the duty of keeping any register, on the application of the Council supported by such certificate or certificates under the *next succeeding* subsection as may be required, to register the Council in the appropriate register or registers as the proprietor of such estate or interest.

(3) A certificate signed by any person or persons registered as the proprietor of any estate or interest in land or other property that such estate or interest is held on behalf of the Council shall be accepted by every Registrar of Deeds, District Land Registrar, and other person concerned as conclusive proof of the facts therein certified to.

(4) No stamp duty under the Stamp Duties Act, 1923, shall be payable in respect of the transfer to the Council of any property in accordance with this section.

See Reprint of Statutes, Vol. VII, p. 402

6. (1) As soon as practicable after the passing of this Act, and thereafter from time to time as occasion may require, the Council of the New Zealand Law Society constituted under the Law Practitioners Act, 1931, shall appoint five members of the New Zealand Law Society (being barristers of the Supreme Court of New

Appointments by Council of New Zealand Law Society.

Zealand) to be members of the New Zealand Council of Law Reporting. The members so appointed shall come into office on a date to be fixed in accordance with the terms of their appointment.

(2) On the coming into office of the members first appointed under this section the members of the Council then in office shall go out of office, and the Council shall thereafter be constituted in accordance with the provisions of the *next succeeding* section. 5

Reconstitution of Council.

7. (1) As soon as the members first appointed by the Council of the New Zealand Law Society in accordance with the *last preceding* section have come into office in accordance with the terms of their appointment, the Council shall be reconstituted, and thereafter shall consist of— 10 15

(a) The person for the time being holding office as the Attorney-General:

(b) The person for the time being holding office as the Solicitor-General:

(c) The person for the time being holding office as the President of the New Zealand Law Society in accordance with the provisions of section sixty-five of the Law Practitioners Act, 1931: 20

See Reprint of Statutes, Vol. IV, p. 1084

(d) The persons for the time being appointed as members of the Council by the Council of the New Zealand Law Society in accordance with the provisions of the *last preceding* section. 25

(2) The powers of the Council or the validity of its acts shall not be affected by any vacancy in the membership thereof or by any defect or irregularity in the appointment or qualification of any member. 30

Provisions as to term of office of appointed members.

8. (1) With respect to the five members first appointed by the Council of the New Zealand Law Society, pursuant to section *six* hereof, the following provisions shall apply:— 35

(a) One such member, to be selected by lot at a meeting of the Council of the New Zealand Law Society, shall be due to retire on the first Monday in March, nineteen hundred and forty: 40

(b) Two of the remaining members, to be selected by lot as aforesaid, shall be due to retire on the first Monday in March, nineteen hundred and forty-one:

(c) The remaining two members shall be due to retire on the first Monday in March, nineteen hundred and forty-two.

5 (2) Except as provided in the *last preceding* subsection, members shall be appointed for such term, not exceeding *four* years, as the Council of the New Zealand Law Society may from time to time determine.

10 (3) Any member who retires from office on the expiration of the term of his appointment may be reappointed.

(4) Notwithstanding anything in the foregoing provisions of this section, every appointed member of the Council, unless he sooner vacates his office in accordance with the *next succeeding* section, shall
15 continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

20 9. (1) The office of an appointed member of the Council shall become vacant in any of the following circumstances—

(a) If he dies; or

25 (b) If he resigns his office, by writing under his hand addressed to the Chairman of the Council or to the principal administrative officer of the Council; or

(c) If he becomes bankrupt, or makes any composition with his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his creditors; or

30 (d) If he becomes of unsound mind; or

35 (e) If, in the opinion of the Council of the New Zealand Law Society, he has been guilty of any gross misconduct (in which case he may be removed from office by resolution of the Council of the said Society).

(2) On the vacation of office by any appointed member of the Council in accordance with the *last preceding* subsection, the Council of the New Zealand Law Society shall appoint a qualified person to hold
40 office as his successor for the residue of the term for which the first-mentioned member was appointed.

10. (1) The Attorney-General shall be the Chairman of the Council and shall preside at all meetings at which he is present.

Extraordinary
vacancies.

Proceedings
of Council.

(2) In the absence of the Attorney-General from any meeting of the Council, the Solicitor-General, if present, shall preside. In the absence from any meeting of both the Attorney-General and the Solicitor-General, the members present shall elect one of their number to be the chairman for the purposes of that meeting. 5

(3) At any meeting of the Council *four* members shall form a quorum.

(4) Except as otherwise provided in section *fourteen* hereof, every question before the Council shall be decided by a majority of the votes of the members present at a meeting of the Council. On every such question the Chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote. 15

(5) If the President of the New Zealand Law Society is absent from any meeting of the Council the Vice-President of that Society shall be entitled to attend, and while so attending shall be deemed to be a member of the Council. 20

(6) Except as provided in the foregoing provisions of this section, the Council shall govern its own procedure.

Appointment of officers.

11. The Council may from time to time, for such period and on such other terms and conditions as it thinks fit, appoint such officers and servants as it deems necessary for the efficient discharge of its functions under this Act. 25

Functions of the Council.

12. (1) The principal function of the Council shall be to prepare, publish, and sell or to arrange for the preparation, publication, and sale of reports of such judicial decisions, given in New Zealand or elsewhere, as may, in its opinion, be necessary or of value to persons engaged in the administration or practice of law in New Zealand. The Council may also if it thinks fit prepare, publish, and sell or arrange for the preparation, publication, and sale of any other legal works, and may on such terms as it thinks fit buy and sell copies of law reports or other legal publications. 30 35

(2) The Council may if it thinks fit, on such terms as may be mutually agreed upon, purchase the business of any person, firm, or company engaged in the preparation, publication, or sale in New Zealand of any series of law reports (to the extent to which such business 40

relates to the preparation, publication, or sale of such reports), and may as it thinks fit discontinue any such business or continue it wholly or in part.

5 (3) It shall not be lawful after the passing of
this Act for any person, firm, or company other than
the Council to commence the publication of or to publish
a new series of reports of decisions of the Supreme Court
or Court of Appeal (either separately or in conjunction
10 with reports of any other judicial decisions) except
with the consent of the Council of the New Zealand
Law Society, which may be given on the ground
that the New Zealand Council of Law Reporting has
failed to publish or to arrange for the publication
15 purchasers of adequate reports of the decisions of
the Supreme Court or Court of Appeal, but shall not
be given on any other ground.

13. The Council may out of its funds reimburse to
any member of the Council the travelling and other
20 expenses reasonably incurred by such member in
attending any meeting of the Council or otherwise in
connection with the business of the Council.

Refund of
travelling-
expenses
to members
of Council.

14. (1) The Council may from time to time, as it
thinks fit, make grants in accordance with the provisions
25 of this section to the New Zealand Law Society or to
any District Law Society established under the Law
Practitioners Act, 1931.

Council
may make
payments to
New Zealand
Law Society
or to District
Law Societies.

(2) Except in the case of contributions made to the
New Zealand Law Society in respect of the salary of
30 the Secretary to that Society, no grant shall be made
under this section otherwise than out of the profits of
the Council and with the concurrence of at least
three-fourths of the members of the Council. In making
any grant out of profits in accordance with this section,
35 resort shall not be had to any profits accrued for more
than three years prior to the date of such grant.

(3) Section seventy of the Law Practitioners Act,
1931, is hereby repealed.

Repeal.

15. Any moneys belonging to the Council that are
40 not immediately required for expenditure by the Council
may be invested in any manner in which trustees are
for the time being authorized to invest trust funds.

See Reprint
of Statutes,
Vol. IV,
p. 1085

Investment of
moneys not
immediately
required for
purposes of
Council.

Subsidiary
powers of
Council.

16. Nothing in the foregoing provisions of this Act shall be construed to restrict the power of the Council to expend any moneys belonging to the Council for any purpose that in its opinion is ancillary to the principal functions of the Council as defined in section *twelve* 5 hereof.