

Mr. J. A. Nash.

NEW ZEALAND INSTITUTE OF CLERKS OF WORKS.

ANALYSIS.

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A BILL INTITULED

Title.	AN ACT to make Provision for the Registration of Clerks of Works.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—	5
Short Title.	1. This Act may be cited as the New Zealand Institute of Clerks of Works Act, 1934.	
Interpretation.	2. In this Act, if not inconsistent with the context,—	
	“ Board ” means Clerks of Works Registration Board constituted under this Act :	10
	“ Council ” means the Council of the Institute :	
	“ Institute ” means the New Zealand Institute of Clerks of Works incorporated under this Act :	
	“ The registered association ” means the Clerk of Works Association of New Zealand (registered) as existing at the passing of this Act :	15
	“ Prescribed ” means prescribed by this Act or by regulations made thereunder :	
	“ Member ” means a member of the Institute :	20
	“ Registered ” means registered under this Act, and the term “ registered member ” includes a person who on the passing of this Act is a member of the registered association.	
	<i>The New Zealand Institute of Clerks of Works.</i>	25
Establishment and purpose of the New Zealand Institute of Clerks of Works.	3. (1) The body registered under the provisions of the Incorporated Societies Act, 1908, and hitherto known as the Clerk of Works Association of New Zealand (registered), is hereby established and constituted a body corporate with perpetual succession and a common seal, to be called the New Zealand Institute of Clerks of Works.	30
	(2) Upon the passing of this Act all property of the Clerk of Works Association of New Zealand (registered) shall become vested in the Institute.	
	(3) The said body corporate (which is hereinafter referred to as the Institute) is established for the general advancement and application of civil architecture and for promoting and facilitating the acquirement of the knowledge of the various arts and sciences connected therewith, and in particular is established—	35 40

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- (a) To advance the knowledge and general capabilities of the members and to maintain their respectability and integrity :
 - 5 (b) To guard the public interest by competent supervision of building operations and ensure strict compliance with building regulations :
 - (c) To assist members who may be seeking employment to obtain suitable appointments as clerks of works otherwise than by advertising :
 - 10 (d) To make provision for examination and registration of persons practising or intending to practise the profession of clerk of works in New Zealand :
 - 15 (e) To grant or issue diplomas or certificates to members of the Institute or to other persons in recognition of their proficiency as clerks of works, or in any matter relating to the duties of a clerk of works :
 - 20 (f) To hold or assist in conferences on building construction and allied subjects :
 - (g) To publish a journal giving an account of the proceedings of the Institute and such other matters as may be of interest :
 - 25 (h) To acquire, form, and maintain an art and science library and museum :
 - (i) To establish, undertake, superintend, administer, and contribute to any charitable or benevolent fund from whence may be made donations or advances to deserving persons who may be or have been engaged in the building trade or connected with any person engaged therein, and to contribute to or otherwise assist any charitable or benevolent institution or undertaking :
 - 30 (j) To undertake and execute any trust which may seem to the Institute conducive to any of its objects :
 - 35 (k) To provide facilities for social intercourse between members of the Institute, and to neutralize as far as possible the disadvantages of enforced isolation under which so many clerks of works now labour :
 - 40 (l) To admit persons properly qualified for membership to be honorary members of the Institute

on such terms, and to confer on them such rights and privileges, as the Council of the Institute by resolution from time to time may deem expedient :

- (m) To borrow money required for the purposes of the Institute on such terms and on such security as may be determined in pursuance of the regulations of the Institute : 5
- (n) To purchase, take, lease, let, exchange, or otherwise acquire real and personal property of any description and any rights or privileges necessary or convenient for the purposes of the Institute : 10
- (o) To construct or maintain buildings required for the purposes of the Institute or for the purposes of turning to account the property of the Institute : 15
- (p) To invest the moneys of the Institute not immediately required in such securities or otherwise in such manner as may from time to time be determined : 20
- (q) To sell, manage, develop, lease, mortgage, or otherwise dispose of or turn to account or deal with all or any part of the property of the Institute : 25
- (r) Generally, to operate for the benefit and advancement of the members of the Institute and for the protection of the members of the Institute :
- (s) To do all such other lawful things as are incidental or conducive to the attainments of the above objects or any of them. 30

Business of the Institute to be carried on temporarily by officers of the registered association.

4. (1) The business of the Institute shall, until the constitution of the Council as hereinafter provided, be carried on by the persons who on the passing of this Act are officers of the registered association. On the date of such constitution the said officers (hereinafter referred to as the governing body) shall cease to act. 35

(2) The rules of the registered association in force at the passing of this Act shall be and remain the rules of the Institute, in so far as they are not inconsistent with the provisions of this Act, until other rules of the Institute have been adopted. 40

5. All members of the registered association at the time of the passing of this Act and also such persons as are from time to time registered as members in accordance with the provisions of this Act shall be members of the Institute.

Members of the Institute.

6. (1) A member of the Institute may at any time resign his membership by writing under his hand delivered to the secretary.

Registration and expulsion of members.

10 (2) A member may have his certificate of membership suspended for such time and in such manner as may be prescribed by the regulations of the Institute which are for the time being in force.

15 (3) A member may be expelled from the Institute in the cases and in the manner prescribed by the regulations of the Institute which are for the time being in force.

Clerks of Works Registration Board.

7. (1) A Clerks of Works Registration Board is hereby established, consisting of six persons, three of whom shall be appointed by the Governor-General in Council, and three of whom shall, within two months after the passing of this Act, be appointed by the governing body under section *four* hereof.

Constitution and meeting of Registration Board.

25 (2) If any member of the Board dies, retires, or becomes disqualified to act, the vacancy so created shall within two months from the occurrence thereof be filled by the authority entitled to fill the vacancy.

30 (3) Where any appointment to the Board is to be made or any vacancy therein is to be filled by the governing body aforesaid and the governing body fails to make an appointment or to fill such vacancy within the time limit in that behalf, the Governor-General in Council shall thereupon make the appointment or fill the vacancy, as the case may be.

35 (4) The first meeting of the Board shall be held at such time and place as may be determined by the Registrar-General.

40 (5) At every meeting of the Board four members thereof shall form a quorum, and no business shall be transacted at any meeting unless a quorum is present.

(6) The Board shall at its first meeting choose one of its members to be chairman, who shall have both a deliberative and in the case of an equality of votes a casting vote.

(7) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board.

(8) A meeting of the Board may be demanded at any time by notice signed by two members thereof and sent to the Chairman who shall thereon convene the meeting. 5

(9) Until the establishment of a Council under the provisions of this Act, the registration of members of the Institute shall be effected by the Board. 10

Registration of Members of the Institute.

Persons
entitled to
be registered as
members of the
Institute.

8. Every person shall be entitled to be registered by the Board as a member of the Institute who—

(a) Holds some recognized certificate as hereinafter defined ; or 15

(b) Has attained the age of thirty-five years and has been engaged for a period of not less than three consecutive years before the passing of this Act *bona fide* as a clerk of works in New Zealand, and who makes application for registration within twelve months after the passing of this Act ; or 20

(c) Has attained the age of forty-five years and has been engaged *bona fide* as a clerk of works for a period of five consecutive years at some former period before the passing of this Act, and who makes application for registration within twelve months after the passing of this Act ; or 25

(d) Has attained the age of thirty-five years and has been engaged during a period of not less than seven years before the passing of this Act in acquirement of experience and general knowledge as a *bona fide* general foreman, and has completed a course of study in building construction and sanitation at any college, school, or educational institution,— 30 35

and has, in addition to either of the foregoing qualifications, such practical experience either in buildings or architecture as in the opinion of the Board or the Council will fit him to become a member of the Institute. 40

Definition of "Clerks of Works".

9. The term "clerk of works" in this Act is intended to include superintendent of works and any other person engaged in a similar capacity and not employed by a builder or contractor.

Definition of "clerks of works".

10. For the purposes of this section the term "recognized certificate" means a certificate, diploma, membership, degree, license, letters, testimonial, or title, status, or document granted by university, college, or other public institution in British possession or foreign country which is recognized by the Board as entitling the holder thereof to practise as clerk of works in that possession or country, and as furnishing guarantee of the possession of the requisite knowledge and skill for the practice of supervising building construction and sanitation.

Recognized certificate.

11. No person shall register as a member of the Institute if he is less than thirty-five years of age, or if in the opinion of the Board, as the case may be, he is not of good character and reputation.

Age limit.

12. (1) Every application by any person to the Board to be registered as a member of the Institute shall be in writing, and the statement made therein shall be verified by statutory declaration made by the applicant.

Application for registration.

25 (2) Every such application shall be accompanied by a registration fee of three guineas, which shall be returned to the applicant if the application is refused.

30 (3) All moneys so received by the Board shall be paid into a bank to the credit of an account in the name of two members of the Board. All expenses incurred by the Board in the execution of its functions shall be paid over by the Board to the Council on its establishment.

35 13. (1) It shall be the duty of the Board to receive, consider, and determine all applications so made to it for registration.

Board or Council to determine all applications.

(2) Any applicant who is dissatisfied with the determination of the Board may appeal from that determination to the Supreme Court. Notice of appeal shall be lodged in the Supreme Court within fourteen days from the date of the determination aforesaid.

Appeal.

(3) Any such appeal may be by motion for an order directed to the Board and its secretary that the person applying be registered, and the facts may be proved by affidavit unless the Court or Judge shall order witnesses to be examined *viva voce*, and the Court may order that the person applying shall be registered or that he shall be registered conditionally or upon terms, or may decline to make an order with or without costs, and the Court may in such case make such order as may be proper with or without costs as it thinks fit.

Method of
effecting
registration.

14. (1) The registration of members of the Institute by the Board shall be effected by the entry of the following particulars in a book or books to be kept for that purpose :—

- (a) The name of the member : 15
- (b) The qualifications by virtue of which he is registered :
- (c) The district within the meaning of subsection *four* hereof in which he resides :
- (d) His postal address : 20
- (e) Such other particulars (if any) as the Board or Council thinks fit.

(2) When and as often as it is proved to the satisfaction of the Board that any member has transferred his residence from one district to another or has altered his postal address a corresponding alteration shall be made in the registration of those particulars. 25

(3) The name and address of every person from time to time registered by the Board shall be forwarded to the governing body within the meaning of subsection *four* hereof, and they shall enter his name and address in a book or books for that purpose. 30

(4) For the purposes of this Act and for the time being New Zealand is divided into five districts as follows :— 35

- (a) Auckland : Comprising the Provincial District of Auckland, excepting the County of Cook ;
- (b) Wellington : Comprising the Provincial Districts of Wellington, Taranaki, Hawke's Bay, Marlborough, Nelson, and the County of Cook ; 40
- (c) Canterbury : Comprising the Provincial Districts of Canterbury and Westland ;

(d) Otago: Comprising the Provincial District of Otago, excepting the County of Southland; and

(e) Southland: Comprising the County of Southland.

5 (5) The Council may, at its discretion and from time to time, alter, enlarge, or subdivide such districts or create new ones whenever the development of the Institute renders such a course necessary or desirable.

The Council.

10 15. (1) The Institute shall be governed by a Council Council of the Institute. consisting (until and unless the regulations of the Institute otherwise provide) of the following persons, that is to say:—

(a) All past presidents of the registered association;

15 (b) All past presidents for the time being of the Institute;

(c) The vice-presidents of the Institute for the time being; and

20 (d) Twelve persons to be elected annually by the members from amongst their number in the following proportions: Three to represent the Auckland District; three to represent the Wellington District; three to represent the Canterbury District; two to represent the Otago District; and one to represent the
25 Southland District:

30 Provided that the Council may at its discretion vary the number of representatives provided for under paragraph (d) of this subsection if at any time a new district is created or any existing district is altered, enlarged, or subdivided as provided in subsection *five* of section *fourteen* of this Act.

(2) The members of the Council so representing any district shall be elected from time to time by the members of the Institute registered as residents in that
35 district.

(3) In the event of the Council being reduced in number by the death, resignation, or otherwise of a member elected under paragraph (d) of subsection *one* hereof the Council may, upon the recommendation of
40 the district concerned, elect a past president of the Institute in his stead, who shall hold office only for the unexpired portion of the term of office of his predecessor.

Acts of the Council not invalidated because of informality.

Election of Council.

16. The constitution or acts of the Council shall not be invalidated or questioned on the grounds that the number of the members of the Council is incomplete or because of any error or irregularity in the election of any member thereof.

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17. (1) It shall be the duty of the Board to hold and conduct the first election of the Council so soon as practicable after the month of April, nineteen hundred and thirty-four. Subsequent elections of the Council shall be held annually in the month of March or April in which Easter occurs in each year.

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(2) For this purpose the Board or the Council, as the case may be, shall appoint a day for receiving nominations of candidates for the Council and a subsequent day for the holding of the said election. The day appointed for holding the election shall not be less than twenty days after the day appointed for receiving nominations. The Board or the Council, as the case may be, not less than ten days before the day appointed for receiving such nominations shall, after the month of February in each year, post to every member of the Institute at his postal address a list of all members of the Institute and of their registered postal addresses, together with a notice of the day appointed for receiving nominations for the said election.

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(3) Every such nomination shall be made in writing, and shall be signed by the person nominated and by two other members of the Institute registered as residents in the district for which the nomination is made, and shall be delivered to the Board or the Council on or before the day so appointed.

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(4) After the day so appointed for the receipt of nominations and not less than ten days before the day appointed for the election, the Board or the Council shall post to each member of the Institute at his registered postal address a list of all persons so nominated to represent the district in which that member resides, together with a voting-paper and statement as to the number of persons to be elected for the district, and a notice stating the day appointed for the said election; and every voting-paper must be returned to and received by the Board or the Council on or before the last-mentioned day.

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(5) Every member of the Institute shall be entitled to vote for the number of members to be elected to represent the district in which he resides or for any less number.

5 (6) So soon as may be after the day so appointed for the return of the voting-papers the Board or the Council shall hold a meeting, and shall there examine and count the voting-papers duly returned, and shall by resolution declare the result of the election.

10 (7) The resolution so passed by the Board or the Council shall be conclusive proof that the election has been in all respects validly conducted, and that the persons so declared to be elected are the members of the Council.

15 (8) On the passing of the said resolution the Council shall be deemed to be established and constituted as from the date of the resolution.

(9) If in respect of any district the number of persons nominated for election does not exceed the
20 number to be elected it shall not be necessary to send or return any voting-papers in respect of that district, and the Board or the Council shall at the meeting hereinbefore in this section referred to declare by resolution in the manner and with the effect aforesaid
25 that the persons so nominated for that district have been duly elected.

(10) In any case in which two or more candidates receive the same number of votes the Board or the Council shall determine by lot in such manner as it
30 thinks fit which of those candidates is to be elected.

18. The first meeting of the Council shall be held at such time and place as may be appointed by the Board for that purpose. First meeting of Council.

19. The first general meeting of the members of the
35 Institute shall be held in Wellington at such time and place as may be appointed by the Council, not being later than three months after the date of the first meeting of the Council. First general meeting.

20. (1) At the first meeting of the Council, or as
40 soon thereafter as may be, and thereafter from year to year, the Council shall elect two of its members of the Institute to be respectively the honorary secretary and Appointment of officers.

the honorary treasurer thereof, who shall be *ex officio* members of the Council in addition to the number elected under section *fifteen* of this Act.

(2) In case the office of president, honorary secretary, or honorary treasurer becoming vacant the Council shall appoint a member to such vacant office. The president so appointed shall be chosen from the members of the Council. 5

(3) All appointments under the *last preceding* subsection shall remain in force only until the next election by the Council pursuant to subsection *one* hereof. 10

(4) The Council may also appoint a secretary to the Institute, who shall not be a member of the Council. The Council may pay to the secretary out of the funds of the Institute such salary as it thinks fit. 15

Officers to remain in office until election or appointment of successors.

21. The Council, president, vice-presidents, honorary secretary, and honorary treasurer elected or appointed under the provisions hereinbefore contained shall hold office until the election or appointment of their successors in accordance with this Act and the regulations of the Institute. 20

Meetings of Council and Institute.

Quorum at meeting of Council and Institute.

22. (1) At every meeting of the Council seven shall form a quorum, and no business shall be transacted at any meeting unless a quorum is present. 25

(2) At every general meeting of the members of the Institute, until and unless the regulations of the Institute otherwise provide, ten shall form a quorum, and no business shall be transacted at any meeting unless a quorum is present. 30

(3) If within half an hour after the time appointed for any meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, and if at such adjourned meeting a quorum is not present, then, notwithstanding anything in the foregoing provisions of this section, the members who are present shall form a quorum and may transact the business for which the meeting was called. 35

Regulations.

23. (1) At any general meeting of the members of the Institute it shall be lawful for the members present thereat 40

to make regulations consistent with this Act relating to any of the matters following—

- (a) The constitution of the Institute :
- 5 (b) The admission of members of the Institute and the modes in which persons cease to be members thereof :
- (c) The constitution, election, and tenure of office of the Council :
- 10 (d) The election, appointment, resignation, or removal of the president, vice-presidents, and other officers and servants of the Institute :
- (e) The qualifications and disqualifications of members of the Institute or of the Council thereof, or of any officer or servant thereof :
- 15 (f) The holding of meetings of the Council or of the members of the Institute :
- (g) The use and custody of the common seal of the Institute :
- 20 (h) The fees payable to the Institute by members thereof :
- (i) The powers, duties, and functions of the Council and of the president, vice-president, officers, and servants of the Institute :
- 25 (j) The examination of candidates for admission as members of the Institute and the fees payable for such examination, the establishment of scholarships and prizes, et cetera, and the granting of diplomas or certificates :
- 30 (k) The custody, investment, and expenditure of the funds and property of the Institute :
- (l) The manner of voting at any meeting of the Council, or of the members of the Institute, or at any election :
- 35 (m) The regulation and good government of the Institute in all matters within its powers :
- (n) The establishment of branches of the Institute in the several districts, establishing branch Councils, defining the powers and duties of branch Councils, and the framing of rules and regulations governing their proceedings.
- 40 (2) No such regulations shall come into force until they have been approved by the Governor-General in Council and gazetted.

(3) No regulation shall be made pursuant to this section and no regulation of the Institute shall be altered or revoked unless notice in writing of the proposed regulation, alteration, or revocation has been given at a previous general meeting or has been forwarded to the secretary of the Institute fourteen days at least before the date of the meeting at which the proposed regulation, alteration, or revocation is to be brought forward. Forthwith on receipt of a notice under this subsection the secretary shall transmit a copy thereof to every member of the Institute.

Powers of Council.

24. Subject to this Act and to any regulation made thereunder, the Council shall have the sole and entire management of the Institute and of the income and property thereof, and may exercise on behalf of the Institute all the powers and functions thereof not required by this Act or any regulations to be exercised by resolution of a general meeting.

Copy under seal to be proof of regulations.

25. In any legal proceedings the production of any document purporting to be a copy of any regulation made by the Institute sealed with the seal of the Institute shall, until the contrary is proved, be sufficient proof that those regulations have been duly made and are in full force and effect.

Examinations.

Examinations.

26. It shall be lawful for the Institute to make arrangements with the Council of the New Zealand Institute of Architects for the conduct of all or any examinations prescribed by the regulations of the Institute.

Offences.

Offences by persons not members of the Institute.

27. (1) Every person commits an offence, and is liable to a fine not exceeding *fifty* pounds who, not being a member of the Institute, uses or causes to be used in connection with his business, trade, calling, or profession any written words, titles, initials, or abbreviation of words, titles, or initials intended or likely to cause any person to believe that he is a member of the Institute.

(2) Every person who, not being a member of the Institute, uses in connection with his name or with the name under which he carries on business the title "registered clerk of works", or the initials "F.N.Z.I.C.W.",

or "A.N.Z.I.C.W.", or "H.M.N.Z.I.C.W.", or any abbreviation of such title or initials, or any words liable to be understood by any person as indicating that he was a member of the Institute, commits an offence and is liable 5 to a fine not exceeding *fifty* pounds unless it is proved that the said titles, initials, or abbreviations were used under such circumstances that they were not capable of being (or were not likely to be) understood by any person as a reference to the practice of a clerk of works.

10 (3) Every person who wilfully makes or causes to be made any false entry in or falsification of the register or procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or 15 fraudulent representations or declaration either verbally or in writing, and every person who aids or assists therein, is liable to a fine not exceeding *fifty* pounds for each offence.

(4) In every prosecution for an offence against this 20 section the burden of proving that the defendant was at the time when the offence was committed a member of the Institute shall be upon the defendant.

Miscellaneous.

25 28. Every student who has passed such examination for students as may be prescribed by the Institute, and has satisfied such other requirements as the Council may from time to time prescribe as applying to students, shall be entitled to be registered as a member of the Institute, subject to such conditions and to such restrictions as to 30 continuance as the Council may determine, and a register shall be kept setting forth the students' names in the chronological order in which they have passed.

Register of students.

29. Until and unless the regulations of the Institute otherwise provide the common seal of the Institute shall 35 be in the custody of the Council, and shall not be affixed to any document except at a meeting of the Council or by the authority thereof, and the execution of any document to which the said seal is so affixed shall be attested by two members of the Council.

Execution of documents under seal.

40 30. (1) Every contract made by the Institute which if made by a private person would require to be made by deed shall be made under the common seal of the Institute.

Mode of entering into contracts by the Institute.

(2) Every contract made by the Institute which if made between private persons would require to be made in writing may be made in writing signed by any person thereunto duly authorized on behalf of the Institute.

(3) Every contract made by the Institute which if made between private persons may be made without writing and may be made in like manner by any person thereunto duly authorized on behalf of the Institute. 5

Notice of Board to be sent to Registrar-General.

31. Every application for registration, notice, document, or other thing required by this Act to be made, given, or sent or delivered to the Board shall be sent or delivered to the office of the Registrar-General at Wellington, and shall then be deemed to have been delivered by the Board. 10

Fees.

32. (1) Every member of the Institute shall pay to the Institute such annual or other fees as the regulations prescribe. 15

(2) The fees so made payable may be different in the case of different classes of members as the regulations prescribe. 20

(3) The Council may remove from the register the names of any member who is in arrears for twelve months in payment of any fees payable by him, and on notice of such removal under the hand of the secretary being delivered to that member or posted to his registered postal address he shall cease to be a member of the Institute. 25

(4) Any member whose name is so removed from the register may within twelve months after the date when notice thereof is so delivered or posted to him pay the Council all fees which are in arrears or which would be in arrears if he had continued to be a member of the Institute, and shall thereupon be entitled to have his name restored to the register. On such restoration he shall be deemed to have been readmitted as a member of the Institute. 30 35

Registered office of Institute.

33. (1) The Institute shall at all times have a registered office, and notice of the situation thereof and of any change in the situation thereof shall be given by the Council to the Registrar-General at Wellington, and shall be registered by him. 40

(2) If any default is made by the Institute 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.

(3) All writs, notices, or other documents required or
5 authorized to be served on, or delivered, or sent to the
Institute or Council shall be duly deemed to be duly
served, delivered, or sent if left with the president or
secretary at the registered office of the Institute.

10 **34.** (1) Within one month after the establishment of
the Council and in the month of *January* in every year
thereafter the Council shall send to the Registrar-General
under the hand of the president, or a vice-president, or
secretary, a complete list of the names and addresses
of all the members of the Institute.

Returns to be
made to
Registrar-
General.

15 (2) The said list shall at all reasonable times remain
open to public inspection in the office of the Registrar-
General without fee, and shall be gazetted.

(3) As often as any new member is admitted and
as often as any member ceases by reason of his
20 resignation, removal, or expulsion to be a member the
Council shall, within seven days thereafter, send a
notice of the fact to the Registrar-General under the
hand of the president, or a vice-president, or secre-
tary, and the Registrar-General shall thereupon make
25 an entry accordingly in the aforesaid list of members
which said entry shall be gazetted.

35. All information of offences against this Act shall
be laid by the secretary or other officer appointed by
the Council for the purpose, and such offences may be
30 dealt with summarily in accordance with the Justices
of the Peace Act, 1908.

Offences to be
dealt with
summarily.

36. Every registered clerk of works shall be entitled
to hold himself out as a registered clerk of works.

Effect of
registration.