

# Senza Sordino

Official Publication of the International Conference of Symphony & Opera Musicians

VOLUME XXII, NO. 1

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OCTOBER, 1983

## DELEGATES CONVENE IN BALTIMORE

1983 ICSOM CONFERENCE FOCUSES ON FINANCIAL AND ARTISTIC MATTERS

Another ICSOM conference is history. Delegates from across the country gathered at the Baltimore Hilton Hotel from August 22nd through 27th for the annual marathon of concentrated work. The official minutes distributed later this year will document in detail all that happened, and each orchestra will no doubt soon receive a full report from its delegate. Only a summary overview is possible here, and the written word cannot fully convey the intensity and excitement experienced by all who attended.

The dedication and commitment of ICSOM's constituency was evident; all but three member orchestras were represented. Guests to the conference included AFM President Victor Fuenzalba, Vice-President from Canada J. Alan Wood, and Lewis Waldeck from the Symphony Department. All addressed the conference, citing continuing good relations between the Federation and ICSOM. Also attending were Eddy Bayens, chairman of the Symphony Department of the AFM Canadian Conference, and OCSM observer Laura Brownell. Former ICSOM Treasurer John Palanchian visited for a few days and was presented with a gift from the executive committee in appreciation for his ten years of service to ICSOM. Always very welcome at conference, several orchestra committee chairmen and local union presidents were present. Everyone was glad to see esteemed counsel Phil Sipser and Len Leibowitz. The San Francisco Opera Orchestra was represented and rejoined ICSOM. With the demise of the Kansas City Philharmonic, ICSOM presently comprises 47 member orchestras.

Unfortunately, one person who was to have been a very special guest at this conference, George Zazofsky, ICSOM's first chairman, died a few days before the conference began. Henry Shaw and Phil Sipser eulogized the dynamic musician who courageously led ICSOM through its difficult early years, noting that the continuing existence of the organization is a tribute to the power and depth of his leadership. Delegates observed his passing by standing in silent tribute. Later in the conference, delegates approved an annual \$500 donation to the Congress of Strings to establish an ICSOM scholarship in the name of George Zazofsky.

### Chairman's Address

ICSOM Chairman Frederick Zenone spoke of the many contacts he and members of the executive committee have had this past year representing the professional orchestra musician on the national level.

Fred and Treasurer Melanie Burrell attended the AFM convention in Phoenix and were pleased to note the passage of two resolutions endorsed by ICSOM. All orchestras now officially have the right to ratify their own contracts, and local unions are urged by the AFM to reimburse ICSOM delegates for their annual conference expenses.

At the American Symphony Orchestra League convention in Chicago, Fred met with managers of regional orchestras and participated in a panel discussion on labor-management relations. He is regularly in touch with League officials.

As urged by delegates to last year's conference, ICSOM officers met several times this year with members of the Major Orchestra Managers Conference, discussing many issues. One result of this liaison was a policy statement by the managers urging the release of ICSOM delegates, with pay, so that they might attend the annual conference.

The 1983 ICSOM Conference was dedicated to the Memory of

**GEORGE ZAZOFSKY**

ICSOM's First Chairman, who died on Friday, August 19.

Among the numerous meetings of ICSOM and AFM officials this year was one also attended by representatives of the Orchestra Personnel Managers Conference. All present endorsed the concept of résumé tapes as a means of effectively and fairly screening audition applicants at the most elementary level, thus saving unqualified candidates unnecessary expenditures for a live audition and reducing the large number of applicants audition committees must hear.

This was Fred's last year serving on the music panel of the National Endowment for the Arts. Two policy changes, urged by delegates at the 1982 conference, were effected this year; grant size categories are now defined by expenses, not income, and grant sizes are not affected by work stoppages.

Fred also spoke of his visits to three ICSOM orchestras to discuss special problems and to present workshops examining committee organization, the orchestral institution, and negotiations. These workshops are available to any ICSOM orchestra.

### New Directions, New Workshops

Fred addressed the conference about the future as well as the past, and it was clear that ICSOM is heading in new directions. Deeper understanding of our institutions is vital if we musicians are to responsibly participate in deciding where they should head and how they should proceed. If we wish to influence major policy decisions affecting our art and profession, we are going to have to examine power in a broader context than we have in the past. It is no longer good enough to simply be contentious adversaries. While we may sometimes be forced to adopt the militant strategies and tactics we have developed over the past twenty years, all of us, especially those who have achieved some economic well-being and job security, must have the maturity and ability to look beyond pervasive and reflex militance

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**1983 CONFERENCE** (Continued from Page 1)

and confrontation to achieve more qualitative goals. To effectively influence and persuade those who manage and direct our orchestras, to effectively establish and maintain a balance of power with them, we must be well informed about our institutions.

The 1983 conference was designed to give delegates more information and insight with which to examine their organizations back home. The core of the conference consisted of two days of workshops examining financial and artistic affairs of symphony orchestras. Led by National Symphony Orchestra Executive Director Henry Fogel and Philadelphia Orchestra Executive Director Stephen Sell, delegates reviewed symphony organizational structure and manager-board relationships, studied audited annual statements, analyzed balance sheets and annual operating budgets, discussed consultant feasibility studies and five-year plans, and became more familiar with the accounting of orchestra assets and expenses. The artistic affairs workshop afforded an examination of the roles of music directors, principal guest conductors, and artistic administrators, the hiring of guest conductors, and problems of programming and scheduling. All in all, this was an extremely beneficial two days of looking in depth at two primary facets of any orchestra's existence.



Photo credit: Barbara Cotell, Washington, D.C.

Henry Fogel and Stephen Sell answer delegates' questions.

**Special Reports**

As always, a number of committee reports and individual presentations addressed activities and topics of interest to orchestra musicians.

The committee to examine audition practices, chaired by Brad Buckley, has encouraged the AFM to establish a service listing all existing orchestra vacancies and audition information for interested applicants and also to prepare a booklet about auditions and professional conditions. A move is under way to establish a national code of ethics for auditions, one that would promote standards of fairness but not intrude upon locally bargainable practices, which vary considerably. The AFM, ASOL, and Major Managers Conference have expressed interest in this project. Delegates held an extended discussion about the use of résumé tapes, a term and concept rapidly gaining acceptance.

Brad also spoke for the ICSOM Media Committee. The AFM has again invited this committee to participate in important negotiations. Recording negotiations begin this fall, and the audio-visual agreement expires next spring. Both recording and video work are down. Special Payments Fund benefits and Music Performance Trust Fund concerts, both based on record sales, have declined. These will be difficult negotiations. Brad emphasized the importance of orchestras' reporting their media activity. Media reporting cards, addressed to the Symphony Department, were given to delegates.

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**WE REMEMBER GEORGE ZAZOFSKY**

It is with a sense of great loss that we note the sudden death of George Zazofsky, ICSOM's first chairman. On August 19, three days before he was to have attended the 1983 annual conference in Baltimore, he suffered a fatal heart attack at his Tanglewood home.

When ICSOM was founded, George Zazofsky, violinist, Curtis graduate, was in his 20th year in the 1st violin section of the Boston Symphony Orchestra. He was an annual soloist with the Boston Pops and concertmaster and director of the Zimmler Sinfonietta, which did extensive touring and recording. He was a faculty member of Brandeis University, the New England Conservatory, the Berkshire Music Center, and a member of both the New England Conservatory and the Boston Symphony string quartets. He vied for the concertmaster's chair of the Boston Symphony, and although he did not win, his playing of the Alban Berg concerto in the audition earned him performances of that work with the orchestra in Boston and on tour under the baton of Erich Leinsdorf. George was chairman of the Boston Symphony Orchestra Player's Committee from 1960 until he resigned from the orchestra in 1969 to become Professor of Violin and Chamber Music at the University of Miami, Florida.

George Zazofsky was chairman of ICSOM from 1962 to 1969. During his tenure the statement of purpose, constitution, and by-laws of ICSOM were drawn up; ICSOM gained recognition as an official conference of the AFM; ratification of symphony contracts became standard practice in most locals; ICSOM retained its own attorney; a tentative beginning on conductor evaluations was made; and ground was broken for a symphony strike fund.

George Zazofsky was a leader when leadership was what our organization desperately needed. He will be remembered by his ICSOM colleagues for his devotion to his duties and his constant concern for the welfare of symphony musicians. It was this concern that motivated him to offer his services as a good will ambassador for ICSOM while traveling abroad with his wife Edith in 1975, and the reason he enthusiastically accepted the invitation to visit with us again in Baltimore. George served us well, and we are forever indebted to him.

We extend to his family our condolences.

Henry Shaw

*A portion of this eulogy was adapted from an article about George Zazofsky by Vance Beach in Senza Sordino, Vol. X, No. 5 (April, 1972).*

**NEW ICSOM KITS PRESENTED TO DELEGATES**

Each delegate to the Baltimore conference received a new ICSOM kit which supersedes an earlier version from the middle 1970's. The current kit, a working file in ringbinder format, serves as a reference resource for ICSOM delegates and should be brought to each annual conference. The kit also serves as a source of information about ICSOM—its purpose, history, by-laws, personnel, finances, and programs—for musicians in every orchestra.

Each kit is the property of the ICSOM orchestra, entrusted to the delegate for updating and maintenance. The kit is designed to retain basic documents, rather than reams of supplementary material, so that anyone desiring to familiarize himself or herself with ICSOM could gain a clear and comprehensive overview of the organization in a short time. The kit is not a secret document and should not be used to house confidential material. It can be shown with pride to all who are interested.

Orchestra members are encouraged to become better acquainted with ICSOM by reading the new ICSOM kit.

**TAX CASE VICTORY!****A REPORT BY ICSOM LEGAL COUNSEL**

You may recall that, by letter dated April 4, 1983, from ICSOM Chairman Frederick Zenone, and by an article in the April issue of *Senza Sordino*, attention was called to a tax case brought by three Metropolitan Opera Orchestra musicians challenging a ruling of the Internal Revenue Service which disallowed a deduction for a home studio used exclusively for practicing.

The U.S. Tax Court, with six judges dissenting, had upheld the ruling of the IRS denying the deduction. The Met musicians paid the legal fees incurred in that Tax Court suit, but they asked ICSOM for help to appeal the ruling, and ICSOM agreed to retain tax counsel. Fred Zenone appealed in his letter to the constituent orchestras of ICSOM to help financially. In a strong show of support, 36 orchestras did so, raising over \$8,000 through special assessment.

The U.S. Court of Appeals for the Second Circuit, located in New York, by decision dated August 19, 1983, unanimously reversed the Tax Court, thereby allowing the deduction. A copy of the full decision and opinion was given to each ICSOM delegate at conference and copies mailed to orchestras not present. Additional copies may be obtained from our offices, 380 Madison Avenue, New York, NY 10017.

We urge orchestra members to consult with their accountants or attorneys regarding this deduction and to provide these professionals with a copy of the complete decision. Edited excerpts of the decision appear below.

Since a musician must practice, he must have a place in which he can practice. This appeal concerns the tax treatment of portions of residential areas which are set aside and used solely for such purpose.

Ernest Drucker, Patricia Rogers, and Philip Cherry, musicians employed by the Metropolitan Opera Association, spent approximately thirty to thirty-two hours per week studying and practicing in the areas reserved for such use, and this appears to be about average for musical artists. On their tax returns, appellants deducted from gross income the rent, electricity, and maintenance costs allocable to the practice areas. The Commissioner of Internal Revenue disallowed these deductions. The taxpayers petitioned the Tax Court for redetermination of the deficiencies. With six judges dissenting, the Tax Court denied the claimed deduction.

The Internal Revenue Code generally disallows any deduction for individuals with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence, but permits the deduction of the expenses allocable to a portion of the dwelling unit which is exclusively used on a regular basis as the principal place of business for any trade or business of the taxpayer. In the case of an employee, the deduction is available only if the exclusive use is for the convenience of his employer. Unfortunately, terms such as trade, business, and principal place of business do not fit comfortably into a discussion of the manner in which a

professional musician earns his living. The Tax Court held that appellant musicians' principal place of business was the same as that of their employer.

In reaching this conclusion, the Tax Court majority made a number of findings which we are unable to reconcile. They said that, although individual practice by appellants was a necessity, and although appellants were expected to practice individually off the employer's premises because the Met did not provide facilities for such practice, off-premise practice was not requested by their employer and was not a requirement of employment. We are unable to comprehend how something can be necessary and essential and yet not be a requirement. We do not understand how the Tax Court majority can say in one breath that a professional musician was required to practice numerous hours in order to maintain, refine, and perfect his skill and to perfect his parts prior to a rehearsal of performance while denying in a second breath that practice was a condition of employment. We conclude that the Tax Court's finding that individual home practice was not a requirement or condition of employment was clearly erroneous and that it was this error which led the Tax Court to the equally erroneous holding that petitioner's principal place of business was at Lincoln Center.

We believe that appellant musicians' principal places of business were their home practice studios. In so holding, we see no need to disturb the Tax Court's ruling that the taxpayers are in the business of being employees of the Met. Rather, we find this the rare situation in which an employee's principal place of business is not that of his employer.

The judgments of the Tax Court are reversed and the matters are remanded for further proceedings in accordance with this opinion.

The case may now be appealed by the government, either to the full bench of the Circuit Court of Appeals or to the U.S. Supreme Court or to both. We will keep you apprised of future developments.

Support for this appeal was beyond the established functions of ICSOM for which dues are collected, and therefore a special financial assessment was necessary and appropriate. The response of ICSOM orchestras in contributing is gratifying. The advantages of a national organization are evident: an individual contribution averaging \$5 or less supported a ruling that could save each professional musician tens of thousands of dollars over the course of his or her career. We thank those orchestras who contributed and encourage those who still have not done so to send their checks to ICSOM Treasurer Melanie Burrell.

*I. Philip Sipser*

**SENZA SORDINO TO GO TO UNIONS, MANagements**

Beginning with the present volume, five complimentary copies of each issue of *Senza Sordino* will be sent to every AFM local that has an ICSOM orchestra in its jurisdiction. This mailing will make the ICSOM newsletter available to more unions and on a more equitable basis than before.

Pursuant to agreements between ICSOM and the American Symphony Orchestra League, an exchange of official publications has been arranged. Five complimentary copies of each issue of *Senza Sordino* will be sent to the management of each ICSOM orchestra; five complimentary copies of each issue of *Symphony Magazine* will be sent to each ICSOM orchestra for its musicians in care of the ICSOM delegate.

*SENZA SORDINO* is the official publication of the International Conference of Symphony and Opera Musicians and is published six times a year on a bi-monthly basis. ICSOM is affiliated as an official conference of the American Federation of Musicians of the United States and Canada, AFL-CIO.

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Chicago, Ill. 60657.

Subscriptions: A.F.M. Members \$4.00 per year  
Non-Members A.F.M. \$7.00 per year  
Overseas rate \$9.00 per year

Printed by M. Kallis and Co., Chicago, Ill.

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Melanie Burrell reported that the Florida Symphony and the Louisville Orchestra joined the AFM Strike Fund during the past year. With the resignation of trustee John Palanchian, delegates voted to recommend Henry Shaw as his successor; Melanie remains the other trustee. Brad Buckley and Sam Denov were recommended as alternate trustees.

Melanie also reported on her visits to the convention of Americans for Union Democracy and to a special medical conference in Aspen, Colorado, designed to inform doctors about the disabilities and ailments that can plague professional musicians. It was heartening to hear that doctors are becoming more knowledgeable about and sympathetic to musicians' special medical problems.

Michael Nutt reported on his contacts, made during a recent Los Angeles Philharmonic tour of Europe, with musicians in twenty British orchestras. He encountered considerable enthusiasm for the ideas of ICSOM, especially inter-orchestra communication. All the orchestras expressed interest in receiving *Senza Sordino*; a complimentary copy of each issue will be sent to each orchestra beginning with the present issue. Michael also spoke with Peter Sokole of the Amsterdam Concertgebouw, who expressed thanks for the many letters and telegrams from ICSOM orchestras at a time when the Dutch government was threatening to drastically reduce the orchestra's size.

Lew Waldeck told of his work in the AFM Symphony Department, notably his aid to both ICSOM and non-ICSOM orchestras who need help in bargaining. Lew reminded delegates that the Symphony Department needs accurate information punctually for media negotiations, wage chart publication, and research on pensions. He needs to hear from orchestras; he cannot operate in an information vacuum.

Abe Torchinsky, retired member of the Philadelphia Orchestra, addressed delegates with a plea for ICSOM to remem-

ber colleagues who have left active orchestra duty after years of valued service but who still retain an interest in the profession. Delegates responded by mandating the executive committee to pursue the establishment of an ICSOM affiliation for retirees, with concomitant benefits. A report on this project will appear in *Senza Sordino*.

Carolyn Parks urged orchestras to get more actively involved in ICSOM's Legislative Active Program. Eleven orchestras have appointed liaisons to this important program; all orchestras should participate.

Research on possible multi-employer amalgamation of medical benefits is continuing, reported Charles Underwood.

Appropriate contacts have been made during the past year by Gordon Peters of the Chicago Symphony in the hopes of effectively addressing the problems related to performing from printed music which is in poor condition.

ICSOM Counsel Phil Sipser reviewed the unanimous decision reached in the tax case which ICSOM donations supported. A report on this important decision appears elsewhere in this issue.

Negotiation reports are always an important part of any ICSOM conference. Delegates from negotiating orchestras presented a rather grim picture of current talks. The New York City Opera Orchestra was in the seventh week of a strike. The proposed contract presented to North Carolina Symphony musicians contained provisions which seemed very regressive. One orchestra, Syracuse, was hoping to sign its contract for the past two years before it expired! Other orchestras were concerned about the gap separating sides as deadlines approached. Many negotiations will surely go to the last minute; settlement reports will appear in ICSOM *Bulletins* and in *Senza Sordino*.

## Relaxation

Is there any such thing as spare time at an ICSOM conference? During five days of concentrated note taking, discussions, question and answer sessions, caucuses, renewing friendships and meeting new delegates, time to relax was indeed at a premium. Opportunities were provided. Folk singer Tom Juravich presented an informative and entertaining history of trade unionism through its music. Hearing songs of the labor movement proved a bonding experience for all who attended the casual evening concert. The Baltimore Symphony Association and the Baltimore musicians union, Local 40-543, treated delegates to cocktails and a buffet dinner at the Joseph Meyerhoff Symphony Hall, new home of the Baltimore Symphony. Their hospitality is much appreciated. A tour of the new hall was conducted by BSO violinist Bruce Wade. Those delegates who found time to visit Harborplace, a complex of promenades, pavilions, shops, and restaurants along Baltimore's Inner Harbor, found it an exciting example of the city's revitalization.

Special thanks are due to Baltimore Symphony delegate Charles Underwood, whose untiring efforts to make everyone at home in his city succeeded wonderfully. As host, he spent many hours duplicating material, arranging access to Baltimore's sights and local athletic facilities, providing maps and restaurant recommendations. Bravo, Charles, on a difficult job well done.

Louisville squeaked past Atlanta as the delegates' preference for next year's conference site. Dates are tentatively set as August 27th through 31st.

## ERRATA

The August issue of *Senza Sordino* incorrectly gave July 25 as the date of a panel appearance by ICSOM officers at the ASOL annual convention in Chicago; the date should have been given as June 25. Executive Director Gideon Toeplitz of the Houston Symphony also attended the liaison committee meeting; his name was inadvertently omitted. The editor regrets the errors.



Photo credit: Barbara Coteil, Washington, D. C.

Cathy Compton, Don Whyte, Michael Nutt, and Bernice Beckerman.

## OFFICERS ELECTED AT CONFERENCE

Area Vice-Chair positions were up for election this year. Cathy Compton of the Detroit Symphony and Michael Nutt of the Los Angeles Philharmonic were re-elected as chairpersons for the Central and Western orchestras. Donald Whyte of the New York Philharmonic was elected to chair the Eastern orchestras, and Bernice Beckerman of the Houston Symphony was chosen to chair the Southern orchestras. Many thanks to Dave Angus of Rochester and Pat Brannon of Louisville for their past work as they leave these positions.

Melanie Burrell of the Denver Symphony was elected to fill the unexpired term for treasurer, a post she has temporarily filled since John Palanchian resigned following his election as vice-president of AFM Local 802 in New York.