

## GENEVA CONVENTION BILL.

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### EXPLANATORY MEMORANDUM.

By its ratification of the Geneva Convention, 1929, the New Zealand Government is under an obligation to submit to Parliament legislation designed to prevent the improper use of the Red Cross and of the Arms of the Swiss Confederation (including colourable imitations thereof).

The Convention came into force, so far as it affects New Zealand, on 23rd December, 1931, and the Convention requires that the necessary legislation be submitted within five years from that date.

The Geneva Convention Act, 1911 (Imp.), which deals with the use of the Red Cross, is in force in New Zealand. It is proposed (in clause 4 of the present Bill) to revoke the application of the said Act to New Zealand, and to deal with the whole subject-matter of Article 28 of the Convention by local legislation.

*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,*

*22nd October, 1936.*

*Hon. Mr. Jones.*

## GENEVA CONVENTION.

### ANALYSIS.

Title.	
Recital.	
1. Short Title.	3. Penalties for offences against this Act.
2. Prohibiting use of Red Cross and certain other emblems, &c., in conformity with obligations of Article 28 of Geneva Convention, 1929.	4. Revocation of application to New Zealand of Geneva Convention Act, 1911 (Imp.).

### A BILL INTITULED

- AN ACT to enable Effect to be given to Articles 24 Title.  
and 28 of the International Convention for the  
Amelioration of the Condition of the Wounded and  
5 Sick in Armies in the Field, signed at Geneva on the  
Twenty-seventh Day of July, Nineteen hundred and  
twenty-nine, and ratified in respect of the Govern-  
ment of New Zealand on the Twenty-third Day of  
June, Nineteen hundred and thirty-one.
- 10 WHEREAS His Majesty has ratified, in respect of the Recital.  
Government of New Zealand, an International Con-  
vention for the amelioration of the condition of the  
wounded and sick in armies in the field, which was  
15 signed at Geneva on the twenty-seventh day of July,  
nineteen hundred and twenty-nine: And whereas  
Article 28 of the said Convention is in the following  
terms, namely:—
- “ The Governments of the High Contracting  
Parties whose legislation is not at present adequate  
20 for the purpose shall adopt or propose to their  
legislatures the measures necessary to prevent at all  
times—

“(a) The use of the emblem or designation ‘ Red Cross ’ or ‘ Geneva Cross ’ by private individuals or associations, firms or companies, other than those entitled thereto under the present Convention, as well as the use of any sign or designation constituting an imitation, for commercial or any other purposes: 5

“(b) By reason of the compliment paid to Switzerland by the adoption of the reversed federal colours, the use by private individuals or associations, firms or companies, of the Arms of the Swiss Confederation, or marks constituting an imitation, whether as trade-marks or as parts of such marks, for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment. 10 15

“ The prohibition indicated in (a) of the use of marks or designations constituting an imitation of the emblem or designation of ‘ Red Cross ’ or ‘ Geneva Cross,’ as well as the prohibition in (b) of the use of the arms of the Swiss Confederation or marks constituting an imitation, shall take effect as from the date fixed by each legislature, and not later than five years after the coming into force of the present Convention. From the date of such coming into force it shall no longer be lawful to adopt a trade-mark in contravention of these rules ”: 20 25 30

And whereas the ratification of the said Convention on behalf of the Government of New Zealand is subject to a reservation to the effect that the Government of New Zealand will interpret Article 28 of the Convention in the sense that the legislative measures contemplated by that Article may provide that private individuals, associations, firms, or companies who have used the Arms of the Swiss Confederation, or marks constituting an imitation thereof, for any lawful purpose before the coming into force of the Convention shall not be prevented from continuing to use such Arms or marks for the same purpose: And whereas it is provided in Article 24 of the said Convention that, subject to the exception hereinafter referred to, the emblem of the red 35 40

cross on a white ground and the words " Red Cross " or " Geneva Cross " shall not be used, either in time of peace or in time of war, except to protect or to indicate the medical formations and establishments and the personnel and material protected by the Convention (the exception hereinbefore referred to being to the effect that the Voluntary Aid Societies mentioned in Article 10 of the Convention may, in accordance with their national legislation, use the distinctive emblem in connection with their humanitarian activities in time of peace): And whereas the Geneva Convention Act, 1911 (Imperial), with certain adaptations, is in force in New Zealand by virtue of an Order in Council intituled " The Geneva Convention Act 1911 (New Zealand) Order in Council, 1913 ", made by His Majesty, with the advice of His Privy Council, on the twelfth day of August, nineteen hundred and thirteen, and of an Order in Council made on the twentieth day of October, nineteen hundred and thirteen, by His Excellency the Governor of New Zealand, with the advice and consent of the Executive Council of New Zealand: And whereas it is desired to revoke the application of the said Act to New Zealand and to make provision in this Act with respect to the matters therein dealt with, and also to make provision with respect to the matters dealt with in Article 24 and Article 28 of the Convention hereinbefore referred to:

BE IT THEREFORE 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 Geneva Convention Act, 1936. Short Title.

2. (1) As from the passing of this Act it shall not be lawful for any person to use for the purposes of his trade or business, or for any other purpose whatsoever, without the authority of the Minister of Defence,— Prohibiting use of Red Cross and certain other emblems, &c., in conformity with obligations of Article 28 of Geneva Convention, 1929.

(a) The heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours of Switzerland, or the words " Red Cross " or " Geneva Cross ", or any design being a colourable imitation of the said heraldic emblem; or

- (b) Any design consisting of the Federal colours of Switzerland (being a white or silver cross on a red ground), or any design being a colourable imitation thereof; or
- (c) Any words so nearly resembling the words " Red Cross " or " Geneva Cross " as to be calculated to deceive. 5

(2) No authority in respect of the use of the emblem of the red cross on a white ground or of the words " Red Cross " or " Geneva Cross " shall be given by the Minister of Defence under this section except in conformity with the provisions of Article 24 of the Convention hereinbefore referred to. 10

Penalties for offences against this Act.

3. (1) If any person contravenes any of the provisions of this Act he shall, subject as hereinafter provided, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding *ten* pounds and to forfeit any goods upon or in connection with which any design in contravention of this Act was used. 15 20

(2) Nothing in this section shall apply to a trade-mark registered before the twenty-third day of December, nineteen hundred and thirty-one (being the date of the taking effect of the ratification, in respect of the Government of New Zealand, of the Convention hereinbefore referred to), and consisting of or containing any such design as is mentioned in paragraph (b) of subsection *one* of the *last preceding* section, and it shall be a good defence for a person charged with using such a design for any purpose otherwise than as or as part of a trade-mark registered as aforesaid to prove— 25 30

- (a) That he lawfully used that design for that purpose before the said twenty-third day of December; or
- (b) In a case where he is charged with using the design upon or in connection with goods, that the goods were manufactured or offered for sale by a person who lawfully used the design upon or in connection with similar goods before the said twenty-third day of December. 35 40

(3) Where an offence against this Act is committed by a body corporate with the consent or connivance of any director, manager, secretary, or other officer of the body corporate, such person shall also be guilty of an  
5 offence against this Act, and shall be liable accordingly.

(4) Proceedings under this section shall not be instituted without the consent of the Attorney-General.

4. The Geneva Convention Act, 1911 (Imperial), shall, on the passing of this Act, cease to extend to New  
10 Zealand.

Revocation of  
application to  
New Zealand  
of Geneva  
Convention  
Act, 1911  
(Imp.).