

WAR FUNDS BILL.

EXPLANATORY MEMORANDUM.

THIS Bill aims at securing some kind of State supervision of the numerous funds that have been raised for war purposes.

Clause 2 defines the term "War fund," and the definition is, I think, wide enough to include every kind of patriotic fund that may be subscribed to by people in New Zealand during the present war.

So that the various funds may be safely and efficiently administered, and that the waste entailed by the separate administration of a number of funds may be avoided, clauses 3 to 8 provide for the creation of a National War Funds Council. It should, however, be clearly understood that the Bill does not *compel* trustees or other persons controlling or administering war funds to hand over the administration of their funds to the Council, but by creating a State-controlled Institution, authorized by law to administer funds if asked to do so, it provides a means by which trustees and other persons charged with the duty of looking after war funds may easily and safely transfer their responsibilities.

The Bill provides that a Minister of the Crown shall be the Chairman of the Council.

Clause 9 requires the persons controlling funds which have not been transferred to the National Council to furnish to the Minister information as to—

- (a.) The name of the fund ;
- b.) The object of the fund ;
- (c.) The names and addresses of persons responsible for its proper expenditure ;
and
- (d.) Certain other matters relating to the fund.

Clause 10 gives power to the Minister to demand from the trustees such information as to the expenditure of the fund as he may from time to time require. This provision will enable the newly established Discharged Soldiers' Information Department to obtain particulars of the practical help which is being given to returned soldiers by patriotic organizations.

Clauses 9 and 10 will enable the State to watch the public interest by keeping guard over the administration of the funds, and will also help the Government to obtain an accurate record of the amounts and a description of the objects of the war funds raised throughout the Dominion. Persons failing to comply with the provisions contained in clauses 9 and 10 are rendered liable to a penalty.

Clause 12 makes provision for the incorporation of the trustees of a war fund ; and clause 17 provides for the recovery of moneys unlawfully expended, and for the punishment of persons authorizing such expenditure.

Clauses 19, 20, and 22 provide for the audit of funds by the Audit Office or by an approved auditor, and give power to make regulations.

A. L. HERDMAN,
Attorney-General.

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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,

21st September, 1915.

Hon. Mr. Herdman.

WAR FUNDS.

ANALYSIS.

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A BILL INTITULED

AN ACT to make Provision for the Administration and Control of
Moneys raised wholly or in Part by Private Subscription for
Purposes of or incidental to the Present War. 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 War Funds Act, 1915. Short Title.
2. For the purposes of this Act,— Interpretation.
- 10 "War fund" means any fund heretofore or that may here-
after be raised, wholly or in part by private subscription,
for any purpose in connection with the present war; and
in particular for any of the following purposes, namely:—
- 15 (a.) For the relief of distress occasioned by the war,
whether in New Zealand or elsewhere in the British
Dominions, or in the territory of any State allied to
His Majesty, whether such territory is in enemy occupa-
tion or not;
- 20 (b.) For the equipment in whole or in part of any
portion of His Majesty's Naval or Military Forces, in-
cluding the equipment of any hospital ship;
- (c.) For the supply of comforts or conveniences to
members of the said Forces; and

(d.) For the relief, assistance, or support of members of the said Forces who may be sick, wounded, disabled, or out of employment, or for the relief, assistance, or support of their dependants or of the dependants of members who may lose their lives directly or indirectly in or in connection with the present war, and includes any other fund that the Minister by notice in the *Gazette* declares to be a war fund : 5

“ Minister ” means the Minister of the Crown for the time being administering this Act : 10

“ Trustee ” includes every person for the time being exercising control, either solely or jointly with any other person or persons, over any war fund.

National War Funds Council.

Constitution of
National War
Funds Council.

3. (1.) For the purpose of securing the efficient administration and control of war funds the Governor may, by Order in Council, establish a National War Funds Council (hereinafter referred to as the Council) consisting of the Minister for the time being administering this Act and of such other persons, being not less than three in number, as the Governor may, by the same or any subsequent Order in Council, appoint. 20

(2.) The Minister shall be the Chairman of the Council and shall, in the determination of questions before the Council, have a casting as well as a deliberative vote.

(3.) Except as herein provided, the Council shall determine its own procedure. 25

Private trustees
authorized to
transfer funds to
Council.

4. (1.) The Council shall, at the request in writing of the trustees of any war fund, undertake the control and administration of that fund for the purposes for which it was established, or for any purpose authorized under the provisions of this Act, and the trustees of every such fund, whether established before or after the commencement of this Act, are hereby authorized by writing under their hands to transfer the fund and the administration thereof to the Council. 30

(2.) The transfer of any such fund as aforesaid shall not operate so as to exempt any trustee from liability under this Act or otherwise for any breach of trust or other unlawful act, whether of commission or omission, for which he was legally responsible before such transfer. 35

National Council
War Funds
Accounts.

5. (1.) Every war fund transferred to the Council under this Act shall be paid into such bank within the meaning of the Banking Act, 1908, as the Council may determine, to the credit of a separate account to be known as “ The National Council [*Distinctive name of fund*] War Fund Account.” 40

(2.) Every such account shall be operated on only by cheque signed by such person as the Council may appoint or nominate for the purpose, and countersigned by a member of the Council. 45

Investment of
moneys not
immediately
required for purposes
of funds.

6. Where any moneys belonging to a war fund that has been transferred to the Council under this Act are not immediately required for the purposes of the said fund the Council may invest the same, either by deposit in the Post Office Savings-bank or in such other manner as the Council, having regard to the prospective expenditure of the fund, may determine : 50

Provided that no moneys belonging to a war fund shall be invested by the Council under this section except in such securities 55

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as those in which trust funds may be invested under the Trustee Act, 1908.

7. In the administration of any war fund under this Act the Council shall take into consideration the recommendations (if any) of the trustees from whom the fund was transferred, or of any other persons acting as Local Advisory Committees for the purposes of the administration of such fund.

Council to have regard to recommendations of former trustees or of Local Advisory Committees.

8. In addition to the powers conferred on the Council by this Act, the Council shall, at the request of the trustees of any war fund which has not been transferred to the Council, have power to assist in the administration or investment of that fund.

Additional powers of Council.

Administration of War Funds by Private Trustees.

9. (1.) It shall be the duty of the trustees of every war fund which has not been transferred to the Council as hereinbefore provided to furnish to the Minister a written statement, setting forth—

Particulars to be supplied by trustees to Minister.

- (a.) The name of the fund ;
- (b.) The date of the establishment of the fund ;
- (c.) The objects of the fund ;
- (d.) The name, address, and description of the trustees of the fund ;
- (e.) The name, address, and description of the secretary, the treasurer, and other administrative officers of the fund ;
- (f.) The name of the bank at which the fund is kept ; and
- (g.) Such other particulars as may be prescribed, or as the Minister may require.

(2.) In the case of a fund established before the commencement of this Act the particulars required to be furnished as aforesaid shall be furnished within thirty days after the commencement of this Act, and in the case of all other funds shall be furnished within thirty days after the date of the establishment of the fund.

(3.) In the event of the death or retirement of a trustee, or of the appointment of a new trustee, or of the appointment of any secretary, treasurer, or other administrative officer of the fund, it shall be the duty of the trustees forthwith to send to the Minister notice in writing of such death, retirement, or appointment, as the case may be.

10. In addition to the particulars required to be supplied pursuant to the last preceding section, it shall be the duty of the trustees of every fund, as and when required by the Minister, to cause to be furnished to him a statement in writing, setting forth such particulars as the Minister may require with respect to—

Particulars to be supplied as to expenditure of fund.

- (a.) The amount for the time being in the fund ;
- (b.) The amount expended from the fund for the special purposes for which the fund was established ;
- (c.) The names, addresses, and descriptions of persons to whom moneys in the fund have been paid, with the amounts so paid ;
- (d.) The obligations incurred or undertaken by the trustees of the fund, involving future expenditure of the fund, with estimates as to the amounts to be so expended ; and
- (e.) Such other matters as the Minister may from time to time require.

11. Any person, being required to furnish particulars pursuant to either of the two last preceding sections, who wilfully fails to furnish such particulars, or who wilfully furnishes any statement

Penalties for failure to furnish particulars or for furnishing false particulars.

which is to his knowledge false in any material particular, shall be liable on summary conviction before a Magistrate to a fine of not less than *five* pounds and not exceeding *one hundred* pounds, and to a further fine not exceeding *five* pounds for every day during which the failure to supply correct particulars continues.

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Incorporation of societies or trustees.

12. (1.) On application in writing addressed to the Minister, by or on behalf of any society possessing a war fund or by the trustees for the time being of any such fund, the Governor may, by Order in Council gazetted, incorporate the said society or trustees with such name as he thinks fit, and thereupon the members of the society (including persons or associations of persons who may afterwards become members of the society) or the trustees, as the case may be, shall be a body corporate with perpetual succession and a common seal, with power for the purposes of the said fund, but not otherwise, to hold land, to sue and be sued, and to do and suffer all that bodies corporate may do and suffer.

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(2.) Any such society as is referred to in the *last preceding* subsection may consist either of persons or of associations of persons (herein referred to as branch societies) or partly of persons and partly of branch societies, and any branch society may be incorporated in the same manner as a society.

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(3.) The fact that any person exercises, either alone or jointly with any person or persons, control over moneys belonging to any war fund shall be sufficient evidence that he is a trustee of such fund within the meaning of this section.

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Authorizing transfer of funds to incorporated societies or trustees.

13. Any person, society, or trustees (whether such society or trustees are incorporated or not) having control of any war fund may, with the consent of the Governor in Council, transfer such fund to any other society or trustees incorporated pursuant to the *last preceding* section, to be applied by such last-mentioned society or trustees for the purposes for which such last-mentioned society or trustees were incorporated, notwithstanding that such purposes may not be identical with the purposes for which the fund to be transferred was established :

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Provided that consent shall not be given to any application under this section unless the Governor in Council is satisfied that the fund to be transferred can be administered by the incorporated society or trustees for substantially the same purposes as those for which the fund was established.

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Rules of societies and trustees as to administration of funds, &c.

14. (1.) Any society or branch society incorporated under this Act may make rules, not inconsistent with this Act or with regulations thereunder, for the purposes of the said society or branch, and in particular for the determination of any question or dispute which may arise between the society and any branch of such society, or between two or more branches of a society, or between any officer or member of a society or branch and the society or branch.

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(2.) All such rules, not being inconsistent with this Act or the regulations as aforesaid, shall, if made by a society, be binding on the society and its branches (if any) ; and, if made by a branch society, shall be binding on the members of such branch.

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(3.) The determination of any question or dispute in accordance with the rules shall be binding and conclusive on all parties

thereto without appeal, and shall not be removable into any Court of law by certiorari or otherwise or be restrainable by injunction, and every such determination or levy shall be enforceable by any Court of competent jurisdiction.

5 15. (1.) All moneys received by or on behalf of the trustees of any war fund shall be forthwith paid into such bank, within the meaning of the Banking Act, 1908, as the trustees may determine, to the credit of an account to be known as "The [*Distinctive name of fund*]
10 War Fund Account," or of an account to be kept in the names of the trustees as trustees of the said fund.

Trustees' war funds accounts.

(2.) Every such account shall be operated on only by cheque signed by the treasurer of the fund and countersigned by a trustee.

15 16. Every person in receipt of moneys belonging to a war fund who fails to pay the same into the proper account within such time as may be prescribed by regulations under this Act shall be liable, for every day during which such failure continues, to a fine not exceeding *twenty* pounds.

Penalty for failure to pay moneys into bank.

20 17. (1.) If on the audit of any war fund as hereinafter provided it appears that any moneys belonging to the fund have been expended or applied for any unauthorized purpose, the moneys so unlawfully expended or applied may be recovered to the use of the fund by the Minister or any person authorized in that behalf by the Minister from the trustees of the fund, as if the said moneys were a debt owing jointly and severally by those trustees.

Penalty for misappropriation or wrongful application of war fund.

25 (2.) Every trustee who authorizes or joins in authorizing the expenditure or application of any moneys belonging to a fund for any unauthorized purpose shall be liable on summary conviction before a Stipendiary Magistrate to a fine not exceeding *twenty* pounds.

30 (3.) In any proceedings under this section, either for the recovery of moneys unlawfully expended or applied or for the recovery of a fine, it shall be a good defence if the defendant proves—

(a.) That the moneys were expended or applied either—

35 (i.) Without his knowledge; or

(ii.) If with his knowledge, then against his protest made at or before the time when the expenditure or application was authorized; or

40 (b.) That, in being a party to the authorization of any such expenditure or application, he acted in good faith and with the written advice of a solicitor.

General.

18. (1.) No moneys shall be payable out of a war fund, except—

45 (a.) For any purpose for which the fund has been specifically constituted or for any purpose defined by the Governor pursuant to subsection *two* or subsection *three* hereof;

Expenditure of fund.

(b.) For any purpose incidental to the proper administration of the fund; or

50 (c.) For any other purpose that may be approved by the Minister, either generally or in respect of any particular fund.

(2.) Where in the opinion of the Council (in the case of a war fund administered by the Council) or of the trustees of any other war fund the purposes for which such fund has been established are not sufficiently defined, the Governor in Council may, on the application in writing of the Council or trustees, define the purposes for which the said fund shall be deemed to have been established, and the moneys in the said fund may be expended for such purposes accordingly. 5

(3.) Where the moneys belonging to any fund are, in the opinion of the Governor in Council, more than sufficient to meet all reasonable requirements of the fund for the purposes for which it was established, he may, on the application in writing of the Council (in the case of a fund administered by the Council) or of the trustees of any other fund, define such other purposes as he thinks fit (being purposes for which a war fund may be established) to be purposes of the said fund; and thereupon the moneys in the said fund may be expended for all or any of the purposes so defined. 10 15

Audit of accounts.

19. (1.) Every war fund within the meaning of this Act shall at such intervals, not exceeding one year, as the Minister directs be audited either by the Audit Office or by an auditor to be approved for the purpose by the Minister. 20

(2.) The Audit Office or other auditor acting under this section may require the production of all books, papers, accounts, and other documents relating to the receipt and expenditure of moneys belonging to the fund; and any person in whose possession or under whose control such books, papers, accounts, or documents may be who refuses, on the request of the auditor, to produce the same at some reasonable time and place, or to allow reasonable access thereto, commits an offence and is liable on summary conviction to a fine not exceeding *fifty* pounds. 25 30

Auditor to furnish report and certificate to Minister.

20. (1.) On the completion of the audit of any war fund the auditor shall forward to the Minister a report as to the result of his investigation, together with a certificate in such form as may be prescribed as to the regularity or otherwise of payments to or from the fund. 35

(2.) Forthwith on the receipt of such report and certificate the Minister shall cause the same to be published in such manner as he may direct, or may cause to be published in lieu thereof a statement setting forth the material parts of such certificate and report.

Section 2 of War Contributions Validation Act, 1914 (No. 2), modified.

21. The conditions of control and expenditure of any fund approved by the Governor for the purposes of the War Contributions Validation Act, 1914 (No. 2), shall be construed subject to the provisions of this Act. 40

Regulations.

22. (1.) The Governor may from time to time, by Order in Council gazetted, make regulations for all or any of the following purposes, namely:— 45

- (a.) Providing for the appointment of Local Advisory Committees to assist the National War Funds Council in the administration of any war fund being administered by the Council, and prescribing the duties of such Committees; 50
- (b.) Prescribing the times within which payment of moneys belonging to a war fund must be paid into the appropriate bank account;

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(c.) Prescribing the form or forms in which certificates by auditors may be given under section *eighteen* hereof; and

(d.) Prescribing such other matters or things as may be necessary for the purpose of giving effect to this Act.

5 (2.) Regulations under this section may apply generally to all war funds or particularly to any specified fund.