

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1917.

A BILL

To provide for the regulation, control, and application of funds established for purposes in connection with the present war; for regulating collections for such funds and for charitable purposes; for purposes consequent thereon or incidental thereto; and to amend the Audit Act, 1902.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "War Funds and Charitable Collections Act, 1917".

It is divided into Parts as follows :—

PART I.—REGULATION OF WAR FUNDS—*ss.* 2-19.

PART II.—COLLECTIONS FOR CHARITABLE PURPOSES—*ss.* 20-26.

PART III.—AMENDMENT OF AUDIT ACT—*s.* 27.

PART IV.—SUPPLEMENTAL—*ss.* 28, 29.

PART I.

REGULATION OF WAR FUNDS.

Definitions.

2. In this Part of this Act—

Definitions.

“The Committee” means the War Funds General Committee of New South Wales constituted by this Act.

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

“War Fund” means any fund raised before or after the commencement of this Act, 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 :—

- (a) The relief of distress occasioned by the present war whether in New South Wales or in other parts of the British Empire, or in the territory of any of our Allies whether or not in enemy occupation.
- (b) The equipment in whole or in part of any of His Majesty's naval or military forces, including the equipment of ambulances, hospitals, and hospital ships.
- (c) The supply of comforts and conveniences to members of the said forces.
- (d)

- (d) The relief, assistance, or support of persons who are or have been members of the said forces and who are sick, wounded, disabled, or unemployed.
- (e) The relief, assistance, or support of the dependents of such persons, or of members of the said forces who have lost their lives directly or indirectly in or in connection with the present war.

The Committee.

3. (1) The Governor may appoint a committee to be known as the War Funds General Committee, of New South Wales, and to consist of such persons, not less than three in number, as he may think fit.

Constitution of committee.
See W.A. and N.Z. Acts, 1915.

(2) The Governor may appoint one of the members of the said committee to be chairman and another to be vice-chairman thereof; and at all meetings of the committee the chairman, or in his absence the vice-chairman, shall have a deliberative and, where the votes are equal, a casting vote.

4. The committee shall be a body corporate under the name of "The War Funds General Committee of New South Wales," and by that name shall have perpetual succession and it shall have a common seal.

Incorporation of committee.

5. All courts, judges, and persons acting judicially shall take judicial notice of the incorporation, and of the common seal of the committee, affixed to any deed, instrument, or writing, and shall presume that such seal was properly affixed thereto; and such deed, instrument, or writing, when sealed, whether such instrument or writing is required to be sealed or not, shall be admissible in evidence for or against the committee on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.

Evidence of incorporation.

6. The committee shall have the powers conferred on it by this Part of this Act, and may deal with such matters relating to the present war as may be entrusted to it by the Governor or by the Federal War Committee.

Powers of committee.
W.A. Act, s. 3 (e).

War

War funds.

7. (1) It shall be unlawful for any person to collect money or articles for any war fund unless authorised by the committee, or by some person appointed by the committee in that behalf, and unless the conditions (if any) which may be attached by the committee to its authorisation and the provisions of the regulations made in that behalf under this Part of this Act are complied with.

Unauthorised collections.

See W. A. Act, 1913, s. 4.

Qd. Act, 1916, s. 5.

N. Z. Act, 1915, s. 22.

(2) The Governor, by proclamation in the Gazette, may exempt collections in aid of any objects or purposes specified therein from the operation of this section.

(3) This section shall not apply to a collection for a war fund made by way of a general appeal to the public at a public meeting.

(4) If any person contravenes any of the provisions of this section he shall be liable to a penalty not exceeding *fifty* pounds.

8. (1) The Governor, on the recommendation of the committee, may by proclamation in the Gazette direct that any moneys and securities for money in any war fund which he considers will not be required for the purposes for which the fund was established shall be—

Application of moneys in war funds.

See N. Z. Act, 1915, s. 18 (3).

(a) applied by the trustees of the fund to any purposes in connection with the present war, but not authorised by their trust; or

(b) vested in and transferred to some other war fund; or

(c) vested in and transferred to the committee for allotment for the purposes of other war funds, or for other purposes in connection with the present war.

(2) Such proclamation shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor under this section.

(3) Where a proclamation is made under this section the committee shall, when requested by the Governor, give an undertaking to the trustees of the war fund to pay to the fund any part of the moneys transferred from such fund which may thereafter be shown to the satisfaction of the committee to be necessary to carry out the purposes for which the fund was established.

9.

9. (1) The Governor on the recommendation of the committee may by proclamation in the Gazette vest in the committee the moneys, and securities for money, in any war fund, on being satisfied—

Vesting of
war funds in
committee.
Qd. Act,
1916.

(a) that a majority of at least three-fifths in number of the trustees of the fund have consented thereto; or

(b) that there has been maladministration of the moneys or securities for money of the fund.

(2) The moneys and securities so vested in the committee shall be held upon the trusts upon which they were held by the trustees of the fund :

Provided that the Governor, by proclamation in the Gazette, may vary such trusts and authorise the committee to apply the said moneys and securities or any part thereof to such other purposes in connection with the present war as he may direct.

(3) Payments and transfers shall be made to carry out the proclamation of the Governor.

(4) The receipt of the committee shall be a sufficient discharge to the persons paying or transferring any moneys and securities under this section, and such persons shall not thereafter be liable or accountable therefor, or be bound to see to the application, distribution, or appropriation thereof.

(5) All acts and things done, and all payments made before the date on which such vesting is made, with respect to any war fund by the trustees thereof in or in relation to the administration of such fund, or in or for the purpose of executing the trusts thereof, are hereby declared to be valid and effectual for all purposes, and are hereby ratified and confirmed; and no trustee or person acting under the authority or direction of the trustees, or any chairman or presiding or executive officer of the trustees shall be liable in any proceeding whatsoever for any such act or thing done or payment made.

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

Expenditure
of fund.

(a) for any purpose for which the fund has been specifically constituted, or for any purpose defined by the Governor, pursuant to sub-section two of this section ;

N.Z. Act,
s. 18 (1) and

(b)

- (b) for any purpose incidental to the proper administration of the fund ;
- (c) for any other purpose that may be approved by the committee, either generally or in respect of any particular fund ; or
- (d) under the authority of this Act.

(2) Where in the opinion of the committee (in the case of a war fund administered by the committee) or of the trustees of any other war fund the purposes for which such fund has been established are not sufficiently defined, the Governor may, on the application in writing of the committee 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.

11. (1) It shall be the duty of the trustees of every war fund which has not been transferred to the committee as hereinbefore in this Act provided to furnish to the committee a written statement setting forth—

Particulars to be supplied by trustees of war funds.
N.Z. Act, s. 9.

- the name of the fund ;
- the date of the establishment of the fund ;
- the objects of the fund ;
- the name, address, and description of the trustees of the fund ;
- the name, address, and description of the secretary, the treasurer, and other administrative officers of the fund ;
- the name of the bank at which the fund is kept ;
- and
- such other particulars as may be prescribed, or as the committee 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 any other fund 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 the appointment of any secretary, treasurer, or other administrative officer of the fund, it shall be the duty of the trustees

trustees forthwith to send to the committee notice in writing of such death, retirement, or appointment, as the case may be.

12. 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 committee, to cause to be furnished to the committee a statement in writing setting forth such particulars as the committee may require with respect to—

Other particulars as to fund.
N.Z. Act,
s. 10.

- (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) any other matters.

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

Penalties.
N.Z. Act,
s. 11.

14. (1) All moneys received by or on behalf of the trustees of any war fund shall forthwith be paid into such bank as the trustees may determine to the credit of an account to be known as "The (distinctive name of fund) War Fund Account," or of an account to be kept in the names of the trustees as trustees of the said fund.

Banking account.
N.Z. Act,
s. 15.

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

15.

15. 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 Part of this Act shall be liable, for every day during which such failure continues, to a penalty not exceeding *twenty* pounds.

Penalty.
N.Z. Act,
s. 16.

Audit.

16. (1) The Auditor-General may himself, or by some officer in the public service appointed by him for the purpose, inspect, examine, and audit accounts relating to the payment of moneys into or out of any war fund after the commencement of this Act, and to any moneys at credit of any such fund, and the securities in which any of such moneys are invested, and investigate and examine all documents and vouchers connected therewith.

Audit of
accounts.
See Audit
Act, 1902,
s. 50 (1).

(2) The Auditor-General shall, as soon as practicable after such inspection, examination, and audit, make and forward to the Minister and to the committee a report of the result thereof, and of the manner in which the accounts and other documents as aforesaid have been kept, and a statement of all sums found to have been omitted to be collected, or not duly accounted for, and of all payments which have not been duly authorised or properly made, or for which the necessary certificates, receipts, and vouchers have not been produced.

Report of
Auditor-
General.
Ibid. (3).

Such report may be published in any newspaper, if the Minister so directs.

(3) The provisions inserted in the Audit Act, 1902, by Part III of this Act shall, *mutatis mutandis*, apply to an inspection, examination, and audit under the provisions of this section.

Application
of Part III of
this Act.

17. (1) If on the audit of any war fund as hereinbefore in this Act provided it appears that any moneys belonging to the fund have been expended or applied for any unauthorised purpose, the moneys so unlawfully expended or applied may be recovered to the use of the fund by the committee, or any person authorised in that behalf

Misapplica-
tion of fund.
N.Z. Act,
s. 17.

behalf by the committee, from the trustees of the fund as if the said moneys were a debt owing jointly and severally by the trustees.

(2) Every trustee who authorises or joins in authorising the expenditure or application of any moneys belonging to a fund for any unauthorised purpose shall be liable on summary conviction to a penalty not exceeding *twenty* pounds.

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

(a) that the moneys were expended or applied either—

(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 authorised; or

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

Regulations.

18. The Governor may make regulations to carry Regulations.
out the provisions of this Part of this Act, and in particular—

(a) to regulate the proceedings of the committee;

(b) to prescribe the making of returns and accounts of collections for war funds;

(c) to prescribe the manner of investment of moneys in the hands of the committee or of trustees for war funds; and N. Z. Act, 1915, s. 6.

(d) to prescribe the forms to be used for the purposes of this Part of this Act;

and in such regulations may impose any penalty not exceeding *twenty* pounds for any breach thereof.

Dissolution

Dissolution of committee.

19. The Governor may on or after the termination of the present war dissolve the committee. Dissolution of committee.

PART II.

COLLECTIONS FOR CHARITABLE PURPOSES.

20. The provisions of this Part shall not apply to collections for any war fund, regulated by the provisions of Part I of this Act. Application of this Part.

The Committee.

21. (1) The Governor may appoint a committee to be known as the Charities Collection Committee, and to consist of such persons, not less than three in number, as he may think fit. Constitution of Committee.

(2) The Governor may appoint one of the members of the said committee to be chairman and another to be vice-chairman thereof; and at all meetings of the committee the chairman, or in his absence the vice-chairman, shall have a deliberative and, where the votes are equal, a casting vote.

Charitable collections.

22 (1) It shall be unlawful for any person to collect money or articles for any charitable purpose unless authorised by the committee, or by some person appointed by the committee in that behalf, and unless the conditions (if any) attached to such authorisation and the provisions of the regulations made in that behalf under this Part of this Act are complied with. Unauthorised collections.

(2) This section shall not apply to a collection made by way of a general appeal to the public at a public meeting.

(3) If any person contravenes any of the provisions of this section he shall be liable to a penalty not exceeding *fifty* pounds.

23.

23. (1) All moneys collected for charitable purposes shall forthwith be paid without any deduction therefrom to the credit of a trust account in a bank. If any person who has so collected any moneys fails to pay them or cause them to be paid as aforesaid, he shall be liable to a penalty not exceeding *fifty* pounds.

Moneys collected to be paid into a bank.

(2) Moneys for commission or expenses in connection with the collection shall, on being duly authorised, be paid out of the proceeds of cheques drawn on such trust account. If any person pays such moneys out of the moneys collected otherwise than as above directed, he shall be liable to a penalty not exceeding *fifty* pounds.

Payment of commission and expenses.

Audit.

24. (1) The Auditor-General may himself, or by some officer in the public service appointed by him for the purpose, inspect, examine, and audit accounts relating to any such collection, and investigate and examine all documents and vouchers connected therewith.

Audit of accounts.

(2) The Auditor-General shall, as soon as practicable after such inspection, examination, and audit, make and forward to the Minister and to the committee appointed under this Part of this Act a report of the result thereof, and of the manner in which the accounts and other documents as aforesaid have been kept, and a statement of all sums not duly accounted for, and of all payments which have not been duly authorised or properly made, or for which the necessary certificates, receipts, and vouchers have not been produced.

Report of Auditor-General.

Such report may be published in any newspaper, if the Minister so directs.

(3) The provisions inserted in the Audit Act, 1902, by Part III of this Act shall, *mutatis mutandis*, apply to an inspection, examination, and audit under the provisions of this section.

Application of Part III of this Act.

Exemptions.

25. The Governor, by proclamation in the Gazette, may exempt collections in aid of any objects or purposes specified therein from the operation of any or all the provisions of this Part of this Act, subject to such conditions (if any) as he may impose.

Exemptions.

Regulations.

Regulations.

26. The Governor may make regulations for carrying out the provisions of this Part of this Act, and in particular—

- (a) to regulate the proceedings of the committee appointed thereunder; and
- (b) to prescribe the manner of paying moneys collected into a bank, and of paying commission and expenses in connection with a collection, and to prescribe the accounts and vouchers to be kept and given.

And in such regulations may impose any penalty not exceeding *twenty pounds* for any breach thereof.

PART III.

AMENDMENT OF AUDIT ACT.

27. The following sections are inserted next after section fourteen of the Audit Act, 1902 :—

14A. (1) The Auditor-General may, by precept under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be named in such precept, and to produce to him all such accounts, books, vouchers, documents, and papers in their possession or control as may appear to him to be necessary for any inspection, examination, or audit under this Act.

(2) The Auditor-General may examine any person upon oath, declaration, or affirmation (which he is hereby authorised to administer or receive) respecting the receipt or payment of any money, or any other matter or thing relating to any examination, inspection, or audit under this Act.

(3) If any person fails, when required by precept as aforesaid, to attend the Auditor-General for the purpose of being examined or to produce any accounts,

New section 14A.

Auditor-General may require attendance of persons and call for papers.

Commonwealth Audit Act, 1901, s. 13 (1).

Auditor-General may administer oath.

Ibid. s. 14.

Where witness fails to attend.

Ibid. s. 67.

accounts, books, vouchers, documents, or papers, or to be sworn or make a declaration or affirmation, or to answer any lawful question, he shall be liable to a penalty not exceeding *one hundred* pounds.

(4) When any person attends before the Auditor-General in pursuance of precept as aforesaid he shall be entitled to be paid such expenses as the Auditor-General certifies to be reasonable.

14B. (1) Where it appears to the Auditor-General to be necessary for the purpose of any inspection, examination, or audit under this Act he may appoint any officer of the Department of Audit of rank not less than that of inspector of public accounts or senior examiner of accounts to examine any person upon oath, declaration, or affirmation (which he is hereby authorised to administer or receive) in relation to such inspection, examination, or audit.

(2) Such officer may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be named in such summons, and to produce to him all such accounts, books, vouchers, documents, and papers in their possession or control as may appear to him to be necessary for such inspection, examination, or audit.

(3) If any person fails, when required by summons as aforesaid, to attend such officer for the purpose of being examined or to produce any accounts, books, vouchers, documents, or papers, or to be sworn or make a declaration or affirmation, or to answer any lawful question, he shall be liable to a penalty not exceeding *one hundred* pounds.

(4) When any person attends before such officer in pursuance of a summons as aforesaid he shall be entitled to be paid such expenses as the said officer certifies to be reasonable.

PART

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PART IV.

SUPPLEMENTAL.

28. Any regulations under this Act shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication, or if Parliament is not then sitting, within fourteen days after the next meeting of Parliament. Publication of regulations.

If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

29. Any penalties imposed by this Act, or any regulations thereunder, may be recovered before a stipendiary or police magistrate, or any two justices in petty sessions. Recovery of penalties.
