

Bill No. 54 of 1944.

A BILL TO AMEND THE JUDICATURE ACT.

---

NOTE.

This Bill amends *The Judicature Act*, chapter 129, R.S.A., 1942.

The amendment made by paragraph (a) of section 1 of the Bill is to require the Court to grant a stay of proceedings in foreclosure actions where it is made to appear that the default of the debtor is due in whole or in part to his inability to market his grain by reason of lack of elevator space. Provision is made for setting aside the stay in accordance with the change of circumstances.

Paragraph (b) changes the words "the judge" to "a judge" to make it clear that it is not necessary for applications in an action to be made before the same judge who had already made an *order nisi* or otherwise.

Paragraph (c) of the same section strikes out clause (iii) of paragraph (f). Paragraph (e) of the former clause (iii) has been re-enacted and (a) and (b) have been struck out as having references to *The Debt Adjustment Act* which has been repealed, making the paragraphs no longer necessary.

The amendment to section 36 of the Act made by section 2 of the Bill adds additional words to paragraph (o). That paragraph restricted the remedy of a mortgagee or vendor to the land itself, and the added words provide that no action for damage shall lie against a mortgagor or purchaser where the land has been sold for taxes whether arising from the default of the mortgagor or purchaser or not.

W. S. GRAY,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 54 of 1944.

An Act to amend The Judicature Act.

(Assented to \_\_\_\_\_, 1944.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Judicature Act*, being chapter 129 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 34,—

(a) by adding immediately after paragraph (e) thereof the following new paragraph:

“(ee) In any action, cause or matter for the enforcement of any security or charge on farm land or for determination or specific performance of any agreement for the sale of farm land or for the possession of farm land, notwithstanding the terms of any order or judgment theretofore made, the Court or a judge shall grant a stay of proceedings upon it being made to appear that the default of the mortgagor, purchaser or other person is in whole or in part due to his inability to market grain by reason of lack of elevator space or the restrictions as to delivery of grain imposed under the provisions of *The Canadian Wheat Board Act* and the regulations made thereunder. Any stay granted hereunder shall remain in force until set aside by a judge, but shall only be set aside upon application after notice, and upon the judge being satisfied that the conditions existing at the time of the granting of the stay and by reason of which it is granted, no longer exist;”;

(b) by striking out the words “the judge” where the same occur in the proviso to clause (ii) of paragraph (f), and by substituting therefor the words “a judge”;

(c) by striking out clause (iii) of paragraph (f), and by substituting therefor the following:

“(iii) Nothing contained in this paragraph shall apply to any order to which the consent of the debtor has been obtained;”.

2. The said Act is further amended as to section 36,—
  - (a) by adding immediately at the end of paragraph (o) thereof the following words: “and no action shall lie for damages based upon the sale or forfeiture for taxes on land included in the mortgage or agreement for sale whether or not the sale or forfeiture was due to or the result of the default of the mortgagor or purchaser of the land or of the transferee or assignee of the mortgagor or purchaser”;
  - (b) by striking out the words “the judge”, wherever the same occur in paragraph (p) thereof, and by substituting therefor the words “a judge”.
3. This Act shall come into force on the day upon which it is assented to.

No. 54.

---

---

FOURTH SESSION  
NINTH LEGISLATURE  
8 GEORGE VI  
1944

---

---

**BILL**

An Act to amend The Judicature Act.

---

---

Received and read the

First time.....

Second time.....

Third time.....

---

---

HON. MR. MAYNARD.

---

---

EDMONTON:  
A Shnitka, King's Printer  
1944