

Bill No. 69 of 1944.

A BILL FOR THE RELIEF OF PERSONS ON ACTIVE
SERVICE IN HIS MAJESTY'S FORCES.

NOTE.

This Bill enacts a new Act, the purpose of which is to prevent foreclosure actions and actions on agreements for sale being taken against farmers while they are in the armed forces.

By section 4 of the Bill the protection given to farmers in the armed services is extended to farmers who have in the armed services a wife, husband, son or daughter, provided such relative was immediately prior to his becoming a member of the armed forces, living with the farmer on the land, or assisted him in the operation of the farm.

Sections 6, 7 and 8 are procedural and deal with the duties of judges and clerks of the court, and provide a method of proof of the discharge or death of the member of the armed forces.

Section 9 of the Bill provides that the time during which action is prevented or delayed shall not be computed for the purposes of *The Limitation of Actions Act*.

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. 69 of 1944.

An Act for the Relief of Persons on Active Service in His Majesty's Forces.

(Assented to _____, 1944)

WHEREAS a state of war exists between His Majesty and the German Reich, Italy and Japan; and

Whereas it is expedient to provide for the protection of the property and interests of the persons hereinafter mentioned:

Now therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Wartime Moratorium Act.*"

2. In this Act unless the context otherwise requires,—

- (a) "Farmer" means a person who is personally *bona fide* engaged in farming operations in the Province;
- (b) "Member of the forces" means any person ordinarily resident in the Province who since the first day of September, 1939, has become and still is, or who hereafter becomes, a member on full time active service of,—
 - (i) the naval, military or air force of Canada on full time service;
 - (ii) the naval, military or air force of His Majesty raised otherwise than by the Government of Canada;
 - (iii) the naval, military or air force of any other power which has or may hereafter become an ally of His Majesty for the purposes of the present war.

3. Notwithstanding anything to the contrary in any other Act or contained in any mortgage, agreement for sale, or other lien, charge or encumbrance affecting farm land in the Province made before the coming into force of this Act by a member of the armed forces who is a farmer, or in any mortgage, agreement for sale or other lien, charge or encumbrance created before the coming into force of this Act, affecting farm land in the Province owned before the coming into force of this Act by a member of the armed forces who is a farmer, no action or other proceeding, judicial or extra-

judicial for foreclosure, specific performance, sale or possession of the land covered by such instrument or charge, shall be commenced until the expiration of one year from the discharge or death of the member of the armed forces, whichever shall first take place.

4. The provisions of section 3 shall *mutatis mutandis* apply in favour of any person who is a farmer and,—

- (a) who has a wife, husband, son or daughter who is a member of the armed forces, and who immediately prior to his becoming a member of the armed forces lived with the said farmer on his farm, or assisted him in the operation of the farm; and
- (b) who has before the coming into force of this Act, made or executed any mortgage, agreement for sale or other lien, charge or encumbrance affecting farm land in the Province, or become the owner of farm land in the Province subject to encumbrance as aforesaid,—

and the prohibition contained in section 3 shall extend and continue until the expiration of one year from the discharge or death of the member of the armed forces referred to in paragraph (a) or all of them, if more than one, whichever shall first take place.

5. In the case of any such action or other proceeding already begun, no further proceedings shall be taken or carried on until the expiration of the period of one year referred to in sections 3 and 4 respectively.

6. In any case falling within section 3 or section 4 where it is made to appear to a judge having jurisdiction in the matter that the interest of the members of the forces, or other person, as the case may be, in the land in question is merely nominal or that of a trustee only, the judge may allow the proceedings to be commenced or carried as if this Act had not been passed.

7. It shall be the duty of all judges and clerks of the court and other persons dealing with actions or other proceedings of the nature hereinbefore set out, to require the production of satisfactory evidence, oral or documentary, in the case of any application made to them, that the order, process or proceeding applied for does not come within the prohibition of this Act.

8. For the purposes of this Act, the production of a certificate in writing signed or purporting to be signed,—

- (a) by the Adjutant-General, Deputy Adjutant-General, or officer in charge of records, Army Service, Department of National Defence, in the case of a member of His Majesty's military forces; or

- (b) by the Naval Secretary, Naval Service, Department of National Defence, in the case of a member of His Majesty's naval forces; or
- (c) by the officer in charge of records, Air Service, Department of National Defence, in the case of a member of His Majesty's air forces; or
- (d) by an officer of His Majesty's naval, military or air forces, authorized so to sign, in the case of a member of any of His Majesty's forces; or
- (e) by an official having charge of naval, military or air force records in a country of any of His Majesty's allies, in the case of a member of any of the forces of any of His Majesty's allies;

stating that the person named in the certificate,—

- (f) was discharged from any of the said forces on the date mentioned in the certificate, or stating that such person is a member of any of the said forces on the date mentioned in the certificate; or
- (g) was a member of any of the said forces and that he has been officially reported as dead or presumed to be dead as of a certain date,—

shall be sufficient proof of the discharge of such person on the date mentioned in such certificate or of the fact that he has not been discharged, or of the death of such person and of the date of the death, as the case may be, and of all facts stated in the certificate and also of the office, authority and signature of the person giving or making the certificate, without any proof of his appointment, authority or signature, if it appears on the face of the certificate that the person signing is qualified as prescribed in paragraph (a), (b), (c), (d) or (e), as the case may be.

9. Where the commencement of an action or the taking of any other proceeding is prevented or delayed by reason of the provisions of this Act, the time during which such prevention or delay continues shall not be computed for the purposes of *The Limitation of Actions Act* or any other Act or law limiting a time within which action is required to be commenced or proceeding taken; but the person having the right of action or right to take another proceeding shall, upon the removal of the prevention or stay, have and be considered to have had the same length of time within which to take action or proceed as he had when such prevention or stay came into operation.

10. This Act shall come into force on the day upon which it is assented to.

No. 69.

**FOURTH SESSION
NINTH LEGISLATURE**

8 GEORGE VI

1944

BILL

An Act for the Relief of Persons on
Active Service in His Majesty's
Forces.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

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