

Hon. Mr. Herdman.

MORTGAGES EXTENSION.

ANALYSIS.

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A BILL INTITULED

AN ACT to limit the Powers and Rights of Mortgagees during a State of War.

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 Mortgages Extension Act, 1914.
- 2. In this Act, unless inconsistent with the context,—

Short Title.

Interpretation.

10 "Mortgage" means any deed, memorandum of mortgage, instrument, or agreement whereby security for payment of moneys or for the performance of any contract is granted over land or chattels or any interest therein respectively:

15 "Mortgagor" means the person liable under the provisions of a mortgage, and includes any person who has guaranteed the performance by the mortgagor of any covenant, condition, or agreement expressed or implied in the mortgage, whether such guarantee is expressed in the mortgage or in any other instrument:

20 "Mortgagee" means the person entitled to the benefit of the security of any mortgage.

25 3. (1.) So long as a state of war exists in New Zealand, and for such period as may be prescribed by regulations hereunder, not exceeding six months after a state of war has ceased to exist, it shall not be lawful for a mortgagee without the leave of the Supreme Court—

Limitation of rights of mortgagees during the continuance of a state of war in New Zealand.

(a.) To call up or demand payment from any mortgagor of the principal sum or any part of the principal sum secured by any mortgage:

(b.) To exercise any power of sale or re-entry conferred by any mortgage or by statute :

(c.) To commence any action or proceeding for breach of any covenant, agreement, or condition expressed or implied in any mortgage other than a covenant, agreement, or condition for the payment of interest. 5

(2.) Application for the leave of the Supreme Court may be made by originating summons.

Conditions on which leave of the Supreme Court may be granted to mortgagee to call up principal or exercise right of re-entry, &c.

4. (1.) If the ground upon which such leave is prayed is that the mortgagor has failed to pay the principal sum or any part thereof at any date, whether before or after the commencement of this Act, appointed for payment thereof, no such leave shall be granted so long as interest on the principal sum secured is paid by the mortgagor within such time or times as the Court is hereby authorized to appoint in that behalf. 10 15

(2.) If the ground upon which such leave is sought is the breach of any covenant or condition or agreement other than non-payment of the principal sum or any part thereof or for non-payment of interest, the Court shall in every case determine whether such breach is of such a nature as to seriously endanger the security of the mortgagee, and shall not grant such leave unless the Court determines that the security is so seriously endangered. 20

Jurisdiction of Court in actions for recovery of interest secured by mortgage.

5. In every action or proceeding by a mortgagee for the recovery of any sum for interest secured by a mortgage the Court hearing such action or proceeding may, if in its discretion and in the circumstances of the case it deems it just and expedient in lieu of giving judgment for immediate payment, give judgment for payment at a date to be fixed or by instalments payable at such times as the Court in its discretion determines, and for this purpose the Court shall have jurisdiction to cause judgment to be entered in such form as it deems best to give full effect to the intent of this Act, and to direct the method of enforcement of such judgment. 25 30

Regulations.

6. The Governor in Council may from time to time make regulations for giving full effect to the provisions of this Act and for the due administration thereof. 35