

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.

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House of Representatives,  
8th August, 1914.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

10th August, 1914.

Hon. Mr. Herdman.

## MORTGAGES EXTENSION.

### ANALYSIS.

Title.	4. Conditions on which leave of the Supreme Court may be granted to mortgagee to call up principal or exercise right of re-entry, &c.
1. Short Title.	5. Jurisdiction of Court in actions for recovery of interest secured by mortgage.
2. Interpretation.	6. Instalments payable under.
3. Limitation of rights of mortgagees during the continuance of a state of war in New Zealand.	7. Provisions to apply to Crown.
	8. Regulations.

### A BILL INTITLED

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

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 Mortgages Extension Act, 1914. Short Title.

2. In this Act, unless inconsistent with the context,— 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, condi-  
tion, 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.

3. (1.) So long as a state of war exists in New Zealand, and for Limitation of rights  
such period as may be prescribed by regulations hereunder, not ex- of mortgagees  
ceeding six months after a state of war has ceased to exist, it shall during the  
25 not be lawful for a mortgagee without the leave of the Supreme continuance of a  
Court— 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 :
- (d.) To commence any action or proceeding for any penal rate of interest (if any) secured by the mortgage.
- (2.) Application for the leave of the Supreme Court may be made by originating summons.

*New.*

(3.) A state of war exists in New Zealand when His Majesty is at war with any foreign prince or State.

(4.) All Courts shall take judicial notice of the existence or termination of a state of war.

Conditions on which leave of the Supreme Court may be granted to mortgagees 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 at the ordinary rate is paid by the mortgagor within such time or times as the *Supreme Court* is hereby authorized to appoint in that behalf.

(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 non-payment of interest, the *Supreme 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 *Supreme Court* determines that the security is so seriously endangered.

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~~ *such* Court in its discretion determines, and for this purpose ~~the~~ *such* 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.

Instalments payable under.

6. Where by the terms of a mortgage the payment of both principal and interest is provided by a series of regular instalments upon the completion of which the principal debt becomes extinguished, each such instalment shall, for the purposes only of this Act, be deemed to consist wholly of interest. ~~unless the Court otherwise orders.~~

Provisions to apply to Crown.

7. All the provisions of this Act shall apply to the Crown.

Regulations.

8. 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.

*New.*

8A. This Act shall continue in force until the thirty-first day of December, nineteen hundred and *fifteen*, and no longer.