

Bill No. 37 of 1941.

A BILL TO RATIFY A CERTAIN ORDER IN COUNCIL  
DEALING WITH LIENS AND CHARGES  
AGAINST CROPS.

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NOTE.

This Bill validates and confirms a certain Order in Council *re* liens and charges against crops.

In the fall of 1940 a serious and urgent condition existed in connection with the marketing of crops and this Order in Council was passed to afford relief to farmers pending the validation of such action at a session of the Legislature.

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. 37 of 1941.

An Act to Ratify a Certain Order in Council Dealing with  
Liens and Charges Against Crops.

(Assented to , 1941.)

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

**1.** The Order in Council numbered O.C. 1333-40 and dated the 25th day of September, 1940, dealing with certain liens and charges against crops, which appears in Number 18 of Volume 36 of *The Alberta Gazette* and is set forth in the Schedule to this Act, is hereby approved, ratified, confirmed, and declared to be law in this Province, as fully and effectually as if the said Order in Council had been enacted by the Legislature of the Province.

**2.** This Act shall come into force on the day upon which it is assented to, and upon so coming into force shall be deemed to have been in force at all times on and after the 25th day of September, 1940.

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## SCHEDULE

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### ORDER IN COUNCIL RE LIENS AND CHARGES AGAINST CROPS

Edmonton, Wednesday, September 25, 1940.

Whereas under the provisions of the Canadian Wheat Board Act and the Regulations made thereunder, no person shall deliver wheat to any country elevator, platform, mill or terminal elevator without a permit from the Canadian Wheat Board; and

Whereas said permit limits the delivery of any such grain to one delivery point named in the said permit and further limits the amount of wheat which may be delivered by each producer so as not to exceed the quotas established by the Canadian Wheat Board, the original quota having been fixed for wheat at 5 bushels per seeded acre; and

Whereas owing to lack of space for delivery and the difficulty of presently obtaining a market for the crop of the current year, the farmers of the Province of Alberta are having great difficulty in harvesting their crops and maintaining themselves and their families pending the marketing of said crops unless they are enabled to apply the proceeds of the said quotas so far as necessary to the payment of harvesting expenses and maintenance as aforesaid; and

Whereas there are various statutory liens and charges against the crops of many of the farmers of the Province and it is deemed desirable that the farmers should be enabled to market said quotas free from said liens and charges save as hereinafter stated without affecting such liens and charges in so far as the balance of such crops is concerned; and

Whereas such a serious and urgent condition exists as to necessitate providing the aforesaid relief by Order in Council to be validated at the next session of the Legislative Assembly;

Therefore, His Honour the Lieutenant Governor, by and with the advice of the Executive Council, has been pleased to order:

1. That subject to the provisions of Paragraphs 3, 4 and 5 hereof and notwithstanding the provisions of *The Bills of Sale Act*; *The Threshers Lien Act, 1934*; *The Binder Twine Securities Act*; *The Alberta Co-Operative Rural Credit Act*; *The Crop Payments Act, 1922*; *The Crop Payments Act, 1933*; *The Crop Payments (Irrigation Land Sales) Act*; *The Seed Grain and Other Advances Security Act*, or any other Statute of the Province whereby or pursuant to which any lien or charge has been created against any crop of wheat grown in the Province, the title of the producer to the first 5 bushels per seeded acre or such greater amount as is required to satisfy the liens and charges referred to in Paragraph 3 hereof, delivered in the crop year 1940-1941 pursuant to a permit issued under the provisions of *The Canadian Wheat Board Act* and comprising the quota or quotas or portions of the quota or quotas established from time to time by the Canadian Wheat Board, shall on delivery be clear of any claims, liens, charges or other encumbrances, whether created by or under said Statutes or otherwise howsoever, including any seizure under execution or by way of distress save as hereinafter provided.

2. This Order in Council shall not apply to:

(1) The seed grain liens created against a crop of grain pursuant to *The Agricultural Relief Advances Act, 1933*, and amendments thereto;

(2) Any lien against a crop for irrigation or drainage rates or created by a distress for taxes;

Provided, however, that the Minister of Municipal Affairs or the Council of any Municipal District or the Board of any Irrigation or Drainage District as the case may be, may and is hereby authorized to waive and withdraw any claim which the Government of the Province or any Improvement District or Irrigation or Drainage District or Municipal District may have to any such lien or charge as aforesaid, in so far as any such lien or charge applies to and affects the grain or any portion thereof delivered under permit as aforesaid;

(3) Any lien or charge existing under the provisions of *The Alberta Hail Insurance Act*;

Provided, however, that the Chairman of the Alberta Hail Insurance Board may and he is hereby authorized in his discretion to waive or withdraw any such lien or charge in so far as it applies to and affects the grain or any portion thereof delivered under permit as aforesaid.

3. Notwithstanding any statutory provision to the contrary, any person who in connection with the production or harvesting of the crop of 1940 has supplied twine, fuel oil, repairs or groceries, provided that the said groceries were purchased on or after the 1st day of August, 1940, or has a claim for threshing or for wages in connection with harvesting or threshing the said 1940 crop or who has, on or after the 1st day of August, 1940, made advances of money to the producer to enable him to pay for such goods or services, shall have a lien or charge binding upon the portion of the crop of wheat delivered under the quota or quotas established from time to time by the Canadian Wheat Board;

Provided that either,—

(a) With respect to securities taken prior to the making of this Order in Council, the said lien or charge has been duly registered pursuant to the statutory requirements provided in that behalf; or

(b) With respect to any claims arising subsequent to the making of this Order in Council, the producer executes security in the form hereto attached and marked "A" which form shall be accompanied by a statutory declaration of the producer in Form "B" hereto attached.

4. Any person coming within the provisions of Paragraph 3 who has registered his security in accordance with already existing statutory requirements shall, within 10 days of the making of this Order in Council, serve a notice in Form "C" hereto attached upon the local agent or agents of the elevator or grain company or companies to whom the said quota or quotas or any part thereof is delivered and also upon the said company or companies at its or their principal office or offices in Alberta.

5. Any person coming within the provisions of Paragraph 3 who has obtained security in Form "A" as aforesaid

shall serve a notice in Form "C" hereto attached upon the local agent or agents of the elevator or grain company or companies to whom the said quota or quotas or any part thereof is delivered and also upon the said company or companies at its or their principal office or offices in Alberta.

6. The proceeds of the sale or any advance upon such quota or quotas or any part thereof shall be paid out by the elevator or grain company to which the grain is delivered in the following order and without regard to any assignment of the said proceeds or any part thereof;

(a) In satisfaction of the liens referred to in Paragraph 2 hereof but only in the event that the said liens or any of them have not been waived or withdrawn as provided for in the said Paragraph.

(b) In satisfaction of liens and charges mentioned in Paragraph 3 and registered under appropriate statutory provisions already existing and notice of which has been given in Form "C" hereto attached to the said elevator or grain company within 10 days from the making of this Order in Council, and strictly according to the order in which the said liens and charges have been registered under appropriate statutory provisions relating thereto.

(c) In satisfaction of all other liens and charges in the order in which notice thereof in Form "C" hereto attached was given to the said elevator or grain company.

(d) In the event that the foregoing liens and charges should amount to less than the proceeds of 5 bushels per acre, the balance up to the said 5 bushels shall be paid to the producer and the proceeds in excess of 5 bushels per acre, shall be paid in satisfaction of any other claim, lien, charge, distress or seizure to which any person would be by law entitled except for the making of this Order in Council.

(e) The balance of the proceeds, if any, shall be paid to the Producer.

7. Where wheat is sold or stored and delivered in the crop year of 1940-1941 at any elevator licensed under *The Canada Grain Act* the company to which the wheat is delivered acquires a good title to the wheat so bought and delivered provided he buys in good faith and without actual knowledge or notice of any lien or charge upon the said wheat and the buyer may also make advances in respect of wheat stored at the elevator having regard only to the liens or charges of which he has had actual knowledge or notice.

8. Notwithstanding the provisions of this Order in Council and notwithstanding the provisions of *The Crop Payments Act, 1922*, being Chapter 138 of the Revised Statutes of Alberta, or *The Crop Payments Act, 1933*, no lessor, vendor or mortgagee shall be entitled in any event to take or receive any share of the crop of wheat out of the said first 5 bushels per acre delivered under permit and in case the said 5 bushels per acre is insufficient to

satisfy the amount of the liens and charges in sub-paragraphs (a), (b) and (c) of Paragraph 6 hereof, no lessor, vendor or mortgagee shall be entitled to take or receive any share of the crop of wheat until sufficient wheat has been delivered to satisfy all of the said liens and charges in sub-paragraphs (a), (b) and (c) of Paragraph 6 mentioned;

Provided that upon the said last mentioned liens and charges being satisfied, the claim of the said lessor, vendor or mortgagee as the case may be, shall have priority over all other liens or charges of whatsoever nature.

Provided further that the provisions of this Paragraph shall not apply to the Crown in the right of the Dominion, nor to the Soldier Settlement Board of Canada, nor to the Canadian Farm Loan Board.

R. A. ANDISON,  
Clerk of the Executive Council.

(O.C. 1333-40)

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“A”

SECURITY AGAINST QUOTA DELIVERED UNDER  
PERMIT PURSUANT TO CANADIAN WHEAT  
BOARD ACT AND REGULATIONS

In consideration of the sale to me by .....  
..... of .....  
on the ..... day of ..... A.D. 1940, of  
..... twine, price \$ .....  
..... fuel oil, price \$ .....  
..... repairs, price \$ .....  
..... groceries, price \$ .....

In consideration of threshing operations done for me by .....  
..... of ..... in  
connection with my crop for the year 1940 at a price of  
\$.....

In consideration of work done for me by .....  
..... of ..... in  
connection with harvesting or threshing operations in  
connection with crop of wheat for 1940.

In consideration of advances made to me on or about the  
..... day of ..... A.D. 1940, to  
enable me to pay expenses in connection with harvesting  
or marketing my crop of wheat for the year 1940.

I do hereby charge and mortgage in favour of .....  
..... of ..... so much of my  
crop of wheat grown upon Section....., Township.....,  
Range..... West of the ..... Meridian, as is delivered  
under permit held by me under The Canadian Wheat Board  
Act with the payment of the sum of \$..... to secure  
the liens and charges provided by Order in Council .....,

1940 and undertake to deliver my said crop at the delivery point named in my said permit and the company or companies to which my said crop or any part thereof is delivered is hereby authorized to pay to the said ..... the said sum of the advances on or proceeds of the sale of the wheat included in such quota.

Dated at ..... in the Province of Alberta, the ..... day of ..... A.D. 1940.

Signed in the presence of

.....  
(Note: Strike out portions inapplicable.)

"B"

I, ..... in the Province of Alberta, farmer, do hereby solemnly declare as follows:

1. That I am a permit holder under the provisions of The Canadian Wheat Board Act and am entitled under said permit to deliver wheat to an elevator or grain company.

2. That I have executed the foregoing charge or mortgage on the wheat delivered or to be delivered by me under said permit in good faith and for valuable consideration, namely: the delivery to me of the goods set out in the said charge or mortgage to the value of \$..... or the advance to me of the sum of \$..... to be expended as set out in the said charge or mortgage; or the performance of the services or work as set out in the said charge or mortgage all in connection with the harvesting of my crop for the year 1940.

3. That the only charge or mortgage heretofore placed upon the wheat included in said quota is as follows:

.....  
.....  
.....  
And I make this solemn declaration conscientiously believing the same to be true and to have the same force and effect as if made under oath and by virtue of The Canada Evidence Act.

Declared before me at the ..... }  
of ..... }  
in the Province of Alberta, this ..... }  
..... day of ..... A.D. 1940. }

.....  
A Commissioner for Oaths or  
Justice of the Peace in and for  
the Province of Alberta.

(Note: Strike out portions inapplicable.)

"C"

To the ..... Elevator Company.  
 Take notice that ..... of ..... in the  
 Province of Alberta  
 by a charge or mortgage dated the ..... day of .....  
 A.D. 1940, and registered in the office of the Clerk of the  
 Registration District on the ..... day of ..... 19 .....  
 or  
 by a charge or mortgage in Form "A" dated the .....  
 day of ..... 1940,  
 has charged or mortgaged to me the portion of the crop of  
 wheat grown by him in the year 1940 on Section .....  
 Township ..... Range ..... West of the ..... Meridian,  
 delivered or to be delivered by him as his quota or quotas  
 under permit of the Canadian Wheat Board  
 to secure the sum of \$ .....; being the price of twine  
 \$ .....; fuel oil \$ .....; repairs \$ .....; groceries  
 \$ .....; in connection with harvesting or threshing op-  
 erations; or  
 to secure payment of threshing expenses \$ .....; or  
 wages \$ .....; or  
 to secure repayment of advances made to him to enable  
 him to pay for such goods or services \$ .....

Dated at ....., in the Province of Alberta,  
 this ..... day of ..... A.D. 1940.

(Note: Strike out portions inapplicable.)

FIRST SESSION  
NINTH LEGISLATURE  
5 GEORGE VI  
1941

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**BILL**

An Act to Ratify a Certain Order in  
Council Dealing with Liens and  
Charges Against Crops.

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Received and read the

First time.....

Second time .....

Third time.....

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HON. MR. MAYNARD.

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EDMONTON:  
A. Shnitka, King's Printer  
1941