

BILL

No. 81 of 1913.

An Act for the Protection of Wages to Threshing
Machine Employees.

(Assented to 1913.)

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

SHORT TITLE

1. This Act may be cited as "*The Thresher Employees Lien Act*".

INTERPRETATION.

2. In this Act unless the context otherwise requires:
1. "Employer" includes any person or body of persons corporate or unincorporate with whom an employee as defined by this Act has entered into a contract of service whether such employer is the owner, lessee or bailee of the threshing machine on or about which such contract of service is performed;
 2. "Employee" includes every person who is engaged in an employment of threshing on or about any threshing machine and means any person who has entered into or works under a contract of service with an employer as defined by this Act whether the contract is expressed or implied, is oral or in writing;
 3. "Court" means the district court of the judicial district within which the threshing or some part thereof has been performed; and "judge" means the judge of the said court.
3. Any employee who works for wages on or about any threshing machine shall to the extent of his wages have a claim against the earnings of his employer in the hands of a third person, for whom such threshing has been done by his employer and in the course of which such employee was engaged, provided he notifies the said third person while such threshing is being done that he has such claim; and such claim shall have priority over all assignments, attachments or garnishments of such earnings whensoever made and over every claim or right of every kind and description whatsoever accruing either before or after the passing of this Act.
2. No such third person shall be liable to any action or proceeding by such employer or his assigns in respect of such earnings while retained by him pursuant to the provisions of this Act.
4. Such claim shall cease to exist unless such employee shall serve a claim and proceed as provided by this Act; provided however that within ten days after such threshing has been completed any employer and one or more employees may sign an agreement showing the amount due as wages by the employer to such employee or employees, and any third person for whom threshing has been done by said employer may sign said agreement and undertake to pay to the employee or employees the amount so shown to be due. The execution of such agreement and undertaking shall be a release to the employer of such indebtedness to his employee or employees and a discharge *pro tanto* of the indebtedness of the said third person to the employer; and each employee may collect from said third person such sum as is so shown to be due him. The said amounts so due shall have priority over all assignments, attachments and garnishments whensoever made and over every claim or right of every kind or description. The said agreement and undertaking may be in the form A in the schedule to this Act.
- Interpretation.
"Employer"
- "Court"
"Judge"
- Priority of claim for wages against earnings of machines.
- Third person exempt from actions or proceedings.
- Conditions of claim.

5. Such claim shall be in writing and shall set out—

- (a) The full name and post office address of such employee together with the post office address and full name of such employer where practicable with as much certainty and particularity as possible Contents of claim.
- (b) A short description of the work or service done together with a statement of the length of time worked by such employee;
- (c) The sum of money claimed as due.

2. Such claim may be in the form B in the schedule to this Act or to the like effect and shall be verified by the affidavit of such employee. Form of claim.

3. Such claim shall within ten days after such threshing is completed be served on such third person and on such employer. Service of claim.

6. Provided any employee notifies the third person for whom such threshing shall have been done as provided in section 3 and the employee's claim has not been paid, the said third person shall hold in his possession until the expiration of the said ten days the sum of money earned by such employer: Liability of third person to employee for wages.

Provided, however, that in case a claim under this Act has within ten days been served upon him such third person shall continue to hold in his possession such sum of money until the expiration of thirty days from the completion of such threshing or for such further time as may be provided by this Act; Proviso.

Provided further that such third person shall if he fail to hold in his possession such sum of money, be to the extent thereof liable for the wages due to every employee in respect of such threshing. Proviso.

7. Subject to the provisions of section 8 of this Act such third person shall after the expiration of said thirty days pay to such employee upon demand the amount of his claim unless within the said thirty days such employer shall have served upon such third person a notice of contest as herein provided. Payment out to employee by third person.

2. All payments lawfully made under this Act by such third person shall be deemed to be payment *pro tanto* to such employer. Payments by third person protected.

3. In case such third person neglects or refuses to pay such wages upon demand as provided by this section he may be proceeded against by such employee under *The Ordinance respecting Masters and Servants*, the provisions whereof are hereby declared to be applicable to any proceedings taken by such employee under this section. Proceedings against third person on default of payment.

8. In case the total sum of money in respect of which such claims have been served on such third person exceeds the total sum of money earned by such employer in threshing for such third person such third person shall after the expiration of ten days and not later than thirty days after such threshing was completed pay into the district court such total sum of money which payment shall be a valid discharge to him against such employer to the amount paid and shall at the same time deliver or transmit by registered post letter to the clerk of such court all claims, notices of contest and all other documents served upon him relating to such sum of money. Proceedings in case total claims exceed amount of earnings.

9. Wherever the provisions of the next preceding section shall not apply to the circumstances of the case such third person shall in case within the said thirty days he shall have been served with a notice of contest by such employer in respect of any claim as herein provided forthwith but not later than forty days after such threshing was completed and subject to the provisions of the next preceding section pay into the district court the sum of money claimed in such claim which payment shall be a valid discharge to him against such employer to the amount paid and he shall at the same time deliver or transmit by registered post letter to the clerk of such court the claim, notice of contest and all other documents served upon him and relating to the said sum of money: Procedure in case claim is contested by employer.

Provided, however, that in case the provisions of the next preceding section shall apply to the circumstances of the case such third person shall forthwith after being served with any notice of contest of such employer but not later than forty days after such threshing was completed deliver or transmit by registered post letter to the said clerk all claims, notices of contest and all other documents served upon him and relating to the said sum of money.

10. The person so paying money into court under the provisions of sections 8 or 9 of this Act shall be entitled to deduct therefrom his necessary disbursements and costs (not exceeding five dollars) excepting when such sum of money is larger than the amount of the claim of the employee in which case the person so paying money into court may deduct such costs and disbursements out of the balance in his hands but if such balance is not sufficient to cover such disbursements and costs he may deduct the difference from the amount to be paid into court.

11. The notice of contest provided by this Act shall be in form C in the schedule to this Act or to the like effect, shall contain a brief statement of the nature or grounds of contest and the post office address of such employer and be verified by the affidavit of the employer.

- 12.** The clerk of the court shall from time to time—
- (a) Forthwith after receipt by him of money paid into court pursuant to section 8 or 9 hereof notify by registered post letter such employer and all employees claiming in respect of such money; and
 - (b) Forthwith after receipt by him of notice of contest under this Act notify by registered post letter every employee in respect to whose claim such notice of contest is given:

Provided that if an employer shall in his notice of contest omit to state his post office address the notice to him shall be mailed to the address stated by the employee in his claim as required by section 5 hereof.

13. Where a sum of money is paid into court under this Act any employee claiming under this Act (or in case there are more than one claiming then any one of such employees) may sue out an interpleader summons to determine, adjust and finally settle the rights of the several claims and parties to such sum of money paid into court and in such proceedings between employees and employers the former shall be plaintiff and the latter defendant; and in the event of such interpleader summons not being sued out by any such employee within twenty days after such sum of money has been paid into court such sum of money shall be paid out only in pursuance of an order of the judge of the said court to such employer or his assigns or to such other person as may be entitled thereto.

2. Such interpleader summons shall be in form D in the schedule to this Act and any number of claimants may be joined therein.

14. Upon the return of such interpleader summons the judge shall summarily determine the rights of the said several parties to the moneys so paid into court and may make such order in the premises and as to costs as shall to him appear just.

15. Where a sum of money has been paid into court by such third person and an order has been made for the payment of the sum out of court to such employees or any of them and such sum of money is not sufficient to satisfy in full the claims of such employees then in such case such sum of money shall be distributed rateably among such employees subject to any order of the court as to costs:

Provided however that any sum of money so paid into court Proviso. as to which no order of payment out to such employees or any of them shall have been made shall be paid out as provided by section 13 of this Act.

16. Every employer shall upon demand at any time of any employee or of any third person for whom threshing has been done forthwith furnish to such employee or to such third person a written statement setting forth the length of time for which such employee is entitled at the time of such demand to be paid for such work and setting forth the sum of money earned by such employee for such work up to that time which written statement shall be signed by such employer or by his foreman or agent acting for him; and if such employer or his foreman or agent refuses or neglects to furnish such written statement on demand he shall be liable upon summary conviction before a justice of the peace to a penalty of five dollars (\$5) for every day during which such statement is withheld together with the costs of the prosecution: Statement of wages to be furnished by employer to employee on demand.

Provided however that any contravention of this section by the foreman or agent of any such employer shall be presumed to be the act of such employer but such presumption may be rebutted by proof of explicit instructions to the contrary by such employer and any such foreman or agent contravening the provisions of this section and disobeying such explicit instructions shall be liable to the penalty provided by this section. Proviso contravention of section by foreman or agent of employer.

17. The following fees shall be paid to the clerk of the district court in respect of the following matters herein provided for and may be by him retained as to clauses 1 and 2 of this section out of the money paid into court pursuant to section 8 or 9 of this Act: Clerk's fees.

- (1) Filing claim, twenty-five cents;
- (2) Filing notice of contest, twenty-five cents;
- (3) Interpleader summons, fifty cents.

18. For the purposes of the consequences of any order or conviction by a justice of the peace under this Act an order or conviction against a member of a partnership shall be deemed to be an order or conviction against each member of such partnership. Effect of conviction against member of partnership.

SCHEDULE

FORM A.
(Section 4).

The undersigned employer and employee (or employees) hereby agree that the amount set opposite the name of the employee (or the name of each employee) is due and payable by the employer to the employee (or to each employee respectively).

.....
(Name of Employer).
(Name of Employee) \$.....
(Name of Employee) \$.....
(Name of Employee) \$.....

I, the undersigned, agree to pay each of the above employees in days from this date, the amount of money set opposite his name.

Dated this day of 191...
.....
(Signature of man for whom threshing was done).

FORM B.

(Section 5).

THRESHER EMPLOYEE'S CLAIM.

To of
in the Province of Alberta:

SIR,—Take notice that I, the undersigned, claim from you payment of the sum of dollars as the balance of my wages for work done for (*insert here name in full and post office address of employer*) in threshing your grain; that I was employed at such work days (*or weeks or as the case may be*) at dollars per day (*or as the case may be*) commencing the day of 19..., and ending on the day of 19.

My post office address is
Dated at in the Province of Alberta this day of 19...

(Name in full of Employee.)

I, (*name in full of employee*) of in the Province of Alberta, labourer, make oath and say that I am the above named employee, that I have executed the above claim, that the statements contained therein are true both in substance and in fact and that there is still due to me for wages as above set forth the sum of dollars.

(Name of Employee.)

Sworn before me at in the Province of Alberta: this day of 191.....

(A Commissioner for Oaths, N.P. or J.P., in and for the Province of Alberta, as the case may be.)

FORM C.

(Section 11).

NOTICE OF CONTEST.

To of in the Province of Alberta.

SIR,—Take notice that the undersigned contests the claim served upon you by on or about the day of 19..., on the following grounds:

(*Here state briefly the grounds of contest in such manner that the particular nature thereof may be readily ascertained.*)

And further take notice that I require you to pay all money the subject of such claim into court as required by law.

My post office address is
Dated at in the Province of Alberta this day of 19...

(Name in full of Employer.)

I (*name of employer in full*) of
in the Province of Alberta, thresher, make oath and say:

That I am the employer above mentioned, that I have duly
executed the above notice of contest and that the statements
therein contained are true both in substance and in fact.

.....
(*Name of Employer*).

Sworn before me at
in the Province of Alberta
this day of
191....

.....
(*A Commissioner for Oaths, N.P. or J.P., in and for the Province
of Alberta, as the case may be.*)

FORM D.

(*Section 13, 2*).

INTERPLEADER SUMMONS.

CANADA
Province of Alberta.

In the District Court of the Judicial District of

Between
..... of
Plaintiff.

and
..... of
Defendant.

To the above named defendant:

You are hereby summoned to appear at the sittings of this
court to be holden at on the
day of 19... at o'clock
in the noon when the claim of yourself and the plain-
tiff to the money paid into court by
under the provisions of *The Thresher Employees' Lien Act*, will
be adjudicated upon and such order may thereupon be made as
the court may deem fit.

Dated at in the said Province of Alberta
this day of 19...

By the Court,
.....
(*Clerk of the Court.*)

No. 81

FOURTH SESSION
SECOND LEGISLATURE
3 GEORGE V
1913

BILL

**An Act for the Protection of Wages to
Threshing Machine Employees.**

Received and read the

First time

Second time

Third time.....

HON. DUNCAN MARSHALL

EDMONTON :
J. W. JEFFERY, Government Printer
A.D. 1913