

BILL

No. 47 of 1930.

An Act respecting Liens of Mechanics, Wage-earners
and Others.

(Assented to _____, 1930.)

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 Mechanics' and Wage-earners' Lien Act, 1930.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires—
- (a) "Contractor" shall mean a person contracting with or employed directly by an owner or his agent, to do work or perform service upon or in respect of or to place or furnish materials to be used for, any improvement;
 - (b) "Contract work" and "work" shall include the doing of work and the performance of service upon, and the placing or furnishing of materials for, any improvement;
 - (c) "Improvement" shall include structure, erection, building, railway, tramway, wharf, pier, bulkhead, bridge, trestlework, vault, mine, water, gas, oil or other well, gas or oil pipe line, excavation, fence, sidewalk, pavement, fountain, fishpond, drain, sewer, ditch, flume, aqueduct, roadbed, way, fruit or ornamental trees and the appurtenance to any of them;
 - (d) "Judge" shall mean any judge of the Supreme Court or of a District Court exercising jurisdiction in civil causes to the amount claimed in any proceedings under this Act, whether brought in respect of one or more than one lien;
 - (e) "Labourer" shall include every workman, servant, labourer, mechanic or other person employed in any kind of manual labour, whether employed under a contract of service or not;
 - (f) "Material" or "materials" shall include every kind of moveable property;
 - (g) "Owner" shall extend to every person, body corporate or politic (including a municipal corporation

and a railway company), having any estate or interest in land, at whose request, express or implied, and—

- (i) upon whose credit; or
- (ii) upon whose behalf; or
- (iii) with whose privity and consent; or
- (iv) for whose direct benefit—

any contract work is done and all persons claiming under him or it whose rights are acquired after the commencement of the work;

- (h) "Sub-contractor" shall mean a person not contracting with or employed directly by the owner or his agent for the performance of contract work but contracting with or employed by a contractor, or under him by another sub-contractor, but shall not include a labourer;
- (i) "Wages" shall mean money earned by a labourer for work done, whether by time or as piece work or otherwise.

3. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon.

4.—(1) Every agreement, verbal or written, express or implied, on the part of any labourer, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to a manager, officer or foreman, or to any other person whose wages are more than ten dollars per day.

5. No agreement shall deprive any person otherwise entitled to a lien under this Act who is not a party to the agreement, of the benefit of the lien.

6.—(1) Unless he signs an express agreement to the contrary and in that case, subject to the provisions of section 4, any person who performs any work or service upon or in respect of or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving, or repairing of any improvement for any owner, contractor or sub-contractor shall by virtue thereof, have a lien for so much of the price of such work, service or materials as remains due to him upon the estate or interest of the owner in such improvement and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work or service is performed, or upon which the materials are to be used as such estate or interest exists at the time the lien arises, or at any time during its subsistence.

(2) Materials shall be considered to be furnished to be used within the meaning of this Act when they are delivered either upon the land upon which they are to be used or upon some other land in the vicinity thereof, designated by the owner.

(3) The lien given by subsection (1) in respect of materials shall attach to the land as therein set out where the materials delivered to be used are incorporated into any improvement on such land, notwithstanding such materials may not have been delivered in strict accordance with the provisions of subsection (2).

7. The lien shall arise at the date of the commencement of the work.

8. The right of a lien-holder may be assigned by an instrument in writing and, if not assigned, upon his death shall pass to his personal representative.

9. Where contract work is done in respect of land belonging to a married woman or in which she has any interest, with the privity and consent of her husband, he shall be conclusively presumed to be acting as her agent as well as for himself, for the purposes of this Act, in respect of such part of the work as is done before the person doing the same has had actual notice to the contrary.

10.—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple shall also be subject to the lien; provided the person doing or intending to do the work gives to the owner of the fee simple, or his agent, notice in writing of the work to be done and the owner or his agent within ten days thereafter does not give notice to such person that he will not be responsible therefor.

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord, or cancellation or attempted cancellation of the lease, except for non-payment of rent, shall deprive any person otherwise entitled to a lien under this Act of the benefit of the lien; provided that the person entitled to the lien may pay any rent accruing after he becomes so entitled, and the amount so paid may be added to his claim.

11.—(1) Subject to the provisions of subsection (2) and for the purpose of ascertaining the respective priorities of charges upon the estate or interest of the owner, the lien and all mortgages shall rank according to the dates of their respective registrations in the proper Land Titles Office; provided, however, that no mortgage shall have any priority over a lien in respect of advances or payments made after the date of the registration of the lien.

(2) Any mortgage existing in fact before the lien arises shall have and shall only have priority over the lien in respect of the value of the land and improvement, less the increase in such value attributable to the doing of the work for which the lien is claimed, but no such mortgage shall have priority over a lien in respect of advances or payments made after the date upon which the lien arose.

(3) In the case of an agreement for the purchase of land where the purchase-money, or part thereof, is unpaid, and the purchaser has not been registered as owner thereof, he shall for the purposes of this Act, be deemed a mortgagor and the seller a mortgagee, whose mortgage was registered on the date of execution of the agreement for sale.

12. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and shall, after satisfying any prior mortgage to the extent set out in section 11(2), be subject to the claims of all persons for liens to the same extent as if such money had been realized by a sale of such property in proceedings to enforce the lien.

13.—(1) Save as herein otherwise provided the lien shall not attach so as to make the owner liable for a greater sum than the contract price, less any sums of money which may have duly been paid to the contractor at the time that the lien arises.

(2) Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount which may be claimed in respect thereof shall be limited to the amount agreed upon as to be paid to the contractor or sub-contractor or other person for whom the contract work has been done, less any sum of money which may have been duly paid to such contractor, sub-contractor or other person at the time that the lien arises.

14.—(1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done under the contract, retain for a period of thirty days after the completion or abandonment of the work done or to be done under the contract, twenty per cent of the value of the work actually done, irrespective of whether the contract or sub-contract provides for partial payment on completion of the work and such value shall be calculated on the basis of the contract price, or if there is no specific contract price, then on the basis of the actual value of the work done.

(2) Where the contract price or actual value exceeds fifteen thousand dollars, the amount to be retained shall be fifteen per cent instead of twenty per cent.

(3) The lien shall be a charge upon the amount directed to be retained by this section in favour of lien-holders whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

(4) All payments up to eighty per cent as fixed by subsection (1), or up to eighty-five per cent as fixed by subsection (2), made in good faith by an owner to a contractor, or by a contractor to a sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing of such lien is given by the person claiming the lien to the owner, contractor, or sub-contractor, as the case may be, shall operate as a discharge *pro tanto* of the lien.

(5) Payment of the percentage required to be retained under this section may be validly made so as to discharge all liens or charges in respect thereof, after the expiration of the period of thirty days mentioned in subsection (1), unless in the meantime proceedings have been commenced to enforce any lien or charge against such percentage as provided by section 24, in which case the owner may pay the percentage into court in such proceedings and such payment shall constitute valid payment in discharge of the owner to the amount thereof.

15. If an owner, contractor, or sub-contractor makes a payment to any person entitled to a lien under section 6, for or on account of any debt justly due to him for work done, for which the owner, contractor or sub-contractor is not primarily liable, and within three days afterwards gives written notice of such payment to the person primarily liable or his agent, such payment shall be deemed to be a payment on his contract generally to the contractor or sub-contractor primarily liable, but not so as to affect the percentage to be retained by the owner as provided by section 14.

16. Every sub-contractor shall be entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or sub-contractor under whom he claims.

17.—(1) Every labourer whose lien is for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent or fifteen per cent, as the case may be, directed to be retained by section 14, to which the contractor or sub-contractor through whom such lien is derived is entitled and all such labourers shall rank thereon *pari passu*.

(2) Every labourer shall be entitled to enforce a lien in respect of any contract or sub-contract not completely fulfilled and, notwithstanding anything to the contrary in this Act provided, may serve a notice of motion on the proper parties, returnable in four days after service thereof

before a judge that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany such notice of motion duly verified by affidavit.

(3) If the contract has not been completed when the lien is claimed by a labourer, the percentage shall be calculated on the value of the work done by the contractor or sub-contractor by whom such wage-earner is employed, having regard to the contract price, if any.

(4) Where the contractor or sub-contractor makes default in completing his contract the percentage shall not as against a labourer claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim against the contractor or sub-contractor.

(5) Every device by an owner, contractor or sub-contractor to defeat the priority given to a labourer for his wages, and every payment made for the purpose of defeating or impairing a lien shall be null and void.

MATERIAL.

18.—(1) During the continuance of a lien no part of the material affected thereby shall be removed to the prejudice of the lien.

(2) Material actually delivered to be used for any of the purposes enumerated in section 6, shall be subject to a lien in favour of the person furnishing it until placed in the improvement, and shall not be subject to execution or other process to enforce any debt other than for the purchase thereof due to the person furnishing the same.

(3) The judge before whom proceedings are brought may direct the sale of any material or authorize its removal.

REGISTRATION OF LIEN.

19.—(1) A claim for the registration of a lien, Forms 1, 2 and 3, of the Schedule hereto, may be made to the Registrar in the Land Titles Office of the Land Registration District in which the land is situate, and shall set out—

- (a) the name and residence of the person claiming the lien and of the owner or alleged owner of the land, and of the person for whom and the time within which the work was or is to be done;
- (b) a short description of the work done or to be done;
- (c) the sum claimed as due or to become due;
- (d) a description of the land sufficient for the purpose of registration;
- (e) an address for service of the claimant.

(2) The claim shall be verified by the affidavit (Form 4) of the claimant or of his agent or assignee, or where the maker of the affidavit is a corporation, by some officer or by a duly authorized employee.

(3) Where the claim is made by a corporation, it shall be verified by the affidavit of an officer or duly authorized employee of the corporation.

(4) Where the affidavit is made by some person other than the claimant, it shall state that such person has a personal knowledge of the matters required to be verified.

(5) Every Registrar under *The Land Titles Act* shall be supplied with printed forms of such claims and affidavits in blank, which shall be supplied to every person requesting the same and desiring to register a lien.

(6) Every such Registrar shall decide whether his office is or is not the proper office for the registration of the lien and direct the applicant accordingly; and no claim shall be adjudged insufficient on the ground that it was not made to the proper Registrar.

(7) No lien shall be registered unless the claim or joined claims amount to or aggregate twenty dollars or more.

(8) Upon the filing of the claim and affidavit, the Registrar shall enter and register the lien as an incumbrance against the land, or the estate or interest in the land therein described, as provided in *The Land Titles Act*.

20. When it is desired to register a lien against a railway it shall be sufficient description of the land of the railway company to describe it as the land of the railway company.

21.—(1) A substantial compliance with section 20 shall be sufficient and no lien shall be invalidated by reason of failure to comply with any of the requisites of the section unless, in the opinion of the judge, the owner, contractor or sub-contractor, mortgagee or other person, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section shall dispense with the making of a claim for the registration of a lien.

22.—(1) A lien in favour of a contractor or sub-contractor in cases not otherwise provided for, may be registered before or during the performance of the contract or sub-contract, or within thirty-five days (or in the case of oil or gas wells or oil or gas pipe lines within one hundred and twenty days) after the completion or abandonment of the contract or sub-contract, as the case may be.

(2) A lien for materials may be registered before or during the furnishing thereof, or within thirty-five days (or in the case of oil or gas wells or oil or gas pipe lines within one hundred and twenty days) after the furnishing of the last material furnished.

(3) A lien for services may be registered at any time during the performance of the service or within thirty-five days after the completion of the service.

(4) A lien for wages may be registered at any time during the performance of the work for which such wages are claimed or within thirty-five days or in case of a lien for wages owing for work in, at or about a mine, within sixty days after the last work is done for which the lien is claimed.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the lien in favour of a contractor may be registered within the time mentioned in subsection (1), or within seven days after the architect, engineer or other person has given or has, upon application in writing to him by the contractor, refused or neglected for three days after such application to give a final certificate.

EXPIRY AND DISCHARGE OF LIEN

23.—(1) Every lien which is not registered shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof.

(2) Every registered lien shall absolutely cease to exist on the expiration of thirty days after notice has been either served as process is usually served or sent by registered mail in Form 5 of the Schedule hereto, or to the like effect, to the lien-holder at or to the address stated in the affidavit filed in the Land Titles Office, unless before the expiration of the said period of thirty days, the lien-holder takes proceedings in Court to enforce his lien and files or causes to be filed a certificate of *lis pendens* in Form 6 of the Schedule hereto, or to the like effect, in the proper Land Titles Office.

(3) The service of notice shall be proved to the satisfaction of the Registrar.

(4) The Court or judge may, upon an *ex parte* application shorten the said period of thirty days to such period as it or he shall specify in such order, and a copy of such order shall be served with the notice in this section referred to.

(5) Such certificate may be granted by the Court or judge in which or before whom proceedings are instituted or by the Clerk of such Court.

24. The Registrar shall, on receiving a certificate under the seal of the Clerk of the Court wherein any proceedings in respect of any lien registered in the Land Titles Office within the jurisdiction of such Registrar are pending, stating the names of the lien-holders, parties to such proceedings, and that the amount due by the owner in respect of such liens has been ascertained and paid into Court in pursuance of an order of such Court or judge, or that the prop-

erty has been sold to realize such liens, or that a judgment or order has been made declaring that such lien has been improperly filed or that such lien has otherwise ceased to exist, or, on receiving a statement in writing signed by the claimant or his agent that the lien has been satisfied, cancel all liens registered by such parties.

25.—(1) Upon application by originating notice, the judge having jurisdiction may allow security for or payment into Court of the amount of the claim and such cost as the judge may fix, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered.

(2) Any money so paid into Court shall take the place of the property discharged and be subject to the claim of all persons for liens to the same extent as if such money was realized by a sale of such property in an action to enforce the lien.

26. Where the certificate required by section 24 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of such certificate, the order vacating the lien may be made *ex parte* upon production of the certificate of the proper Registrar certifying the facts entitling the applicant to such order.

EFFECT OF TAKING SECURITY OR EXTENDING TIME.

27.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery of a personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy the lien unless the claimant agrees in writing that it shall have that effect.

(2) Where any such promissory note or bill of exchange has been negotiated the lien-holder shall not thereby lose his lien, if at the time of beginning proceedings to enforce it, or where proceedings are brought by another lien-holder, he is, at the time of proving his claim therein, the holder of such promissory note or bill of exchange.

28. Where the period of credit in respect of a claim has not expired, or where there has been an extension of time for payment of the claim, the lien-holder may nevertheless, if proceedings are commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim therein as if the period of credit or the extended time had expired.

29.—(1) Any lien-holder may at any reasonable time demand of the owner or his agent the production for inspection of the contract or agreement with the contractor for or in respect of which the work is or is to be done, if such contract or agreement is in writing, or if not in writing, the terms of such contract or agreement and the state of the accounts between the owner and the contractor, and if such owner or his agent does not at the time of such demand, or within a reasonable time thereafter, produce the said contract or agreement if in writing, or if not in writing, does not inform the person making such demand of the terms of such contract or agreement and the amount due and unpaid upon such contract or agreement, or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon, and if the person claiming the lien sustains loss by reason of such refusal or neglect or false statement, the owner shall be liable to him in an action therefor for the amount of such loss, or in proceedings taken under this Act, for the enforcement of his lien.

(2) Any lien-holder may at any reasonable time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the said lands in respect of which the work is or is to be done, and a statement showing the amount advanced on the said mortgage or the amount owing on the said agreement, as the case may be; and if such mortgagee or vendor or his agent fails to inform the said lien-holder at the time of such demand or within a reasonable time thereafter of the terms of the said mortgage or agreement, and the amount owing thereon, and such lien-holder sustains loss by such refusal or neglect or misstatement, the mortgagee or vendor shall be liable to him in action therefor for the amount of such loss, or in proceedings taken under this Act for the enforcement of his lien.

(3) The judge may on summary application any time before or after proceedings are commenced for the enforcement of such lien, make an order requiring the owner or his agent, or the mortgagee or his agent, or unpaid vendor or his agent, as the case may be, to produce and allow any lien-holder to inspect any such contract or agreement or mortgage or agreement for sale upon such terms as to costs as he may deem just.

ENFORCEMENT OF CLAIM FOR LIEN

30.—(1) Proceedings to enforce a registered lien shall be begun by originating notice and the filing of a certificate of *lis pendens* in Form 6 of the Schedule to this Act in the proper Land Titles Office.

(2) Such certificate may be granted by the Court or judge in which or before whom the proceedings are begun or by the Clerk of such Court.

31.—(1) The notice shall be served upon all persons who by the records of the Land Titles Office, appear to have any interest in the land in question, and such other persons as the judge may direct.

(2) Service of the notice may be made either personally or by registered mail; provided, however, that in the latter case, proof of the receipt of such registered mail shall be required.

(3) All lien-holders served with the notice shall be deemed to be parties to the proceedings, and any lien-holder failing to appear at the hearing after proof of notice duly served upon him, shall thereby lose his lien.

32.—(1) Every lien-holder shall file detailed particulars of his claim verified by affidavit.

(2) Upon the day fixed for the hearing of the application the judge shall proceed to adjudicate upon the claims, taking up the smallest claims first and disposing of as many of such claims as possible, either by consent of the parties interested or upon proper evidence to be adduced before him, subject, however, to the power of the judge to grant an adjournment of the trial of any claim or claims.

(3) The object of this Act being to enforce liens at the least expense, the procedure shall be of a summary character so far as possible, having regard to the amount and nature of the liens in question.

(4) No interlocutory proceedings shall be permitted except such as are provided by this Act, without the consent of the judge upon proper proof that such proceedings are in the interests of justice.

33. Where more than one originating summons is issued in respect of the same land a judge may, on the application of any person interested, consolidate all the causes into one cause and may give the conduct of the consolidated cause to any plaintiff as he may see fit.

34. Any lien-holder may apply for the carriage of the proceedings, and the judge may make an order giving such lien-holder the carriage of the proceedings.

35.—(1) Upon the hearing of the application the judge shall decide all questions which arise therein or which are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of all parties concerned, and shall take all accounts, make all inquiries and give all directions and do all other things necessary to try and otherwise finally dispose of all matters, questions and accounts arising in the proceedings and to adjust the rights and liabilities of and give all necessary relief to all parties concerned and shall embody all results in the judgment.

(2) The judge who hears the application may order that the estate or interest charged with the lien be sold and when by the judgment a sale is directed of the estate or interest charged with the lien the judge who tries the action may direct the sale to take place at any time after judgment, allowing, however, a reasonable time for advertising such sale, and may make all necessary orders for the completion of the sale and vesting the property in the purchaser.

(3) The judge who tries the action may also direct the sale of any materials and authorize the removal of the same.

(4) Any lien-holder who has not been served with notice of the proceedings may on application to the judge on such terms as to costs and otherwise as may be just, be let in to prove his claim at any time before the amount realized in the proceedings for the satisfaction of liens has been distributed and where such a claim is proved and allowed the judge shall amend the judgment so as to include such claim therein.

(5) When a sale is held the judge shall direct to whom the money in Court shall be paid and may add to the claim of the person conducting the sale his taxable costs in connection therewith, and where sufficient to satisfy the judgment and costs is not realized from the sale he shall certify the amount of the deficiency, and the names of the persons with their amounts who are entitled to recover the same, and the persons by the judgment adjudged to pay the same, and such persons shall be entitled to enforce the same by execution or otherwise as a judgment of the Court.

(6) When it is necessary to decide the amount of money in respect of which a mortgagee under a prior mortgage is entitled to priority over a lien or liens, the judge shall determine the same by proper evidence to be adduced before him.

36. The judge may at any time prior to the sale of the property, upon application of any lien-holder, appoint a receiver to take charge of such property and rent the same on such terms and conditions as such receiver shall think fit, such rents to be applied, after deductions of all rates, taxes, insurance or other expenses necessary for the maintenance thereof, including the costs of management, as may be fixed by the judge at the time of making the appointment of such receiver, and thereafter any balance remaining shall be applied as directed by the judge.

37.—(1) All moneys realized by proceedings under this Act, including any insurance money payable to the owner as referred to in section 12 hereof, shall be applied and distributed in the following order, that is to say, in paying—

(a) the costs of all lien-holders of and incidental to the proceedings, and of registering and proving the liens;

- (b) six weeks' wages (if so much be owing) of all labourers employed by the owner, contractor or sub-contractor;
- (c) the several amounts owing to other lien-holders other than the contractor;
- (d) the amount owing to the contractor.

(2) Each class of lien-holders shall as between themselves rank *pari passu* for their several amounts, and the portion of the said moneys available for distribution to each class shall be distributed among the lien-holders in such class *pro rata* according to the amounts of their respective claims as proven and ascertained.

(3) Any balance of the said moneys remaining after all the above amounts have been paid shall be payable to the owners or other persons legally entitled thereto:

Provided, however, that when any labourer has more than six weeks' wages owing to him by any sub-contractor, contractor or owner, the Court or judge shall cause the extra sum beyond six weeks to be deducted out of any sum actually coming under the above distribution to such sub-contractor, contractor or owner, and shall order the same to be paid to such labourer.

APPEALS

38. Where the aggregate amount of the claims for liens does not exceed six hundred dollars, the judgment shall be final and without appeal.

39. In all other cases an appeal upon questions of law only shall be and may be had in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury, but the cost of such appeal shall be governed by sections 40 and 41.

FEEES AND COSTS

40. No fees shall be payable to any Registrar of Land Titles or to any Court in connection with the registration or discharge of any proceedings taken by any labourer to realize any claim for wages under this Act, nor on the filing of any order, record or judgment or other proceeding in connection therewith.

In all other cases the following fees shall be payable:

- (a) Filing claim for lien or any discharge thereof under six hundred dollars.....\$ 3.00
- (b) Filing claim for lien or any discharge thereof over six hundred dollars..... 4.00
- (c) Attendance upon return of originating notice, including hearing and adjustment of claim by judge or Master in Chambers, and at any adjournment thereof—

(i) For claim of wage-earner.....	\$ 5.00	
(ii) Other claims	Uncontested	Contested
Claims under \$600.....	\$10.00	\$15.00
Claims over \$600.....	20.00	25.00
(d) Attendance upon application for receiver or any other special application or upon the trial of any issue if allowed by judge—		
	Uncontested	Contested
Claims under \$600.....	\$10.00	\$15.00
Claims over \$600.....	15.00	20.00
(e) Counsel fee upon hearing of any appeal for—		
(i) Claim of wage-earner.....	\$10.00	
(ii) Claim under \$600.....	20.00	
(iii) Claim over \$600.....	25.00	

Provided, however, that in no case shall the total amount of the costs, exclusive of actual disbursements, including the costs of any appeal that may be awarded to any successful lien-holder, exceed in the aggregate twenty-five per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and in the event of such total costs exceeding such proportion they shall be reduced to an amount equivalent to such percentage and then apportioned by the judge who adjudicates upon the various claims and hears the application for an order for sale having regard to the actual services rendered by or on behalf of the parties respectively.

41. When it appears to the judge in any proceedings to enforce a lien under this Act that such proceedings have arisen from the failure of any owner or contractor to fulfil the terms of his contract of engagement for the work in respect to which the liens are sought to be enforced or to comply with the provisions of this Act, such judge may order the said owner and contractor, or either of them, to pay all the costs of such proceedings in addition to the amount of the contract or sub-contract or wages due by him or them to any contractor, sub-contractor or labourer, and may order a final judgment against such contractor and owner or either of them in default for such costs.

42. The judges of the Trial Division of the Supreme Court, or any two of them, may make general rules and regulations not inconsistent with this Act, for expediting and facilitating the business before any Court under this Act, and for the advancement of the interests of suitors therein.

43. This Act shall come into force upon.....

SCHEDULE.

FORM 1.

(Section 19.)

CLAIM FOR LIEN.

A.B. (name of claimant), of (here state residence of claimant), (if claimant is a personal representative or assignee, set out the facts) under The Mechanics' Lien Act, 1930, claims a lien upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed) in the under-mentioned land, in respect of the following work (or service or materials), that is to say: (here give a short description of the nature of the work or service done or to be done or the materials furnished or to be furnished for which the lien is claimed) which work (or service) was (or is to be) done (or materials were or are to be furnished) for (here state the name and residence of the person upon whose request the work or service is done or to be done, or the materials furnished or to be furnished) on or before the.....day of.....19....

The amount claimed as due (or to become due) is.....dollars. The following is a short description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

The address for service of the said.....is.....

Dated at.....this.....day of.....19..

.....
(Signature of claimant.)

FORM 2.

(Section 19.)

CLAIM FOR LIEN FOR WAGES.

A.B. (name of claimant), of (here state residence of claimant), (if claimant is a personal representative or assignee, set out the facts) under The Mechanics' Lien Act, 1930, claims a lien upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed) in the undermentioned land in respect of work performed (or to be performed) thereon while in the employment of (here state the name and residence of the person upon whose request the work was or is to be performed) on or before the.....day of....., 19.... The amount claimed as due (or to become due) isdollars. The following is a short description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

The address for service of the said.....is.....

Dated at.....this....day of....., 19..

.....
(Signature of claimant.)

FORM 3.
(Section 19.)

CLAIM FOR LIEN FOR WAGES BY SEVERAL PERSONS.

The following persons claim a lien under *The Mechanics' Lien Act, 1930*, upon the estate of (*here state the name and residence of the owner of the land upon which the lien is claimed*) in the undermentioned land in respect of wages or labour performed (*or to be performed*) thereon, while in the employment of (*here state the names and residences of the employers of the persons claiming the lien*):

A. B. of (*residence*) \$.....for wages.
C. D. of " " \$....." "
E. F. of " " \$....." "

The following is a short description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

The addresses for service of the said.....are.....
Dated at.....this.....day of.....19...

.....
.....
.....
(*Signatures of several claimants.*)

FORM 4.
(Section 19.)

AFFIDAVIT VERIFYING CLAIM.

I, A.B., named in the above (*or annexed*) claim, make oath that the said claim is true.

Or We, A.B. and C.B., named in the above (*or annexed*) claim, make oath, and each for himself makes oath that the said claim, so far as relates to him, is true.

(*Where affidavit is made by agent or assignee a clause must be added to the following effect: I have full knowledge of the facts set forth in the above (or annexed) claim.*)

Sworn before me at.....in the Province of Alberta, this.....day of....., 19...

Or, the said A.B. and C.D. were severally sworn before me at....., in the Province of Alberta, this.....day of....., 19...

Or, the said A.B. was sworn before me at..... in the Province of Alberta, this.....day of....., 19...

FORM 5.
(Section 23.)

NOTICE TO TAKE PROCEEDINGS.

To..... (at the address stated in the affidavit filed in the Land Titles Office).

Take notice that the mechanic's lien, filed by you in the Land Titles Office for the..... Alberta Land Registration District on the..... day of....., 19..., as D.B. No..... shall cease to exist under the provisions of *The Mechanics' Lien Act, 1930*, unless, within days from the date of service of this notice on you, you take proceedings in Court to enforce such lien and cause a certificate thereof to be filed as required by the Act.

.....
(Registrar)

FORM 6.
(Section 23.)

CERTIFICATE OF *Lis Pendens*.

To the Registrar..... Alberta
Land Registration District:

This is to certify that proceedings have been taken in Court to enforce a certain mechanic's lien filed by..... against..... (*here describe lands*), which lien was filed on the..... day of....., 19..., as D.B. No.....

..... (L.S.)
(Clerk of the Court)

FOURTH SESSION
SIXTH LEGISLATURE
20 GEORGE V
1930

BILL

An Act respecting Liens of Mechanics,
Wage-earners and Others.

Received and read the

First time

Second time

Third time

HON. MR. LYMBURN

EDMONTON:
W. D. McLEAN, KING'S PRINTER
A.D. 1930