

confidential communications between husband and wife shall not apply, and both husband and wife shall be competent witnesses to testify for or against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect to furnish such wife, child or children necessary and proper food, clothing or shelter is prima facie evidence that such desertion or neglect is wilful.

tent witnesses
against each
other.

Proof of deser-
tion

Approved, April 21, 1915.

CHAPTER 13.

AN ACT

[H. B. 28.]

To provide for the liens of Laborers and Miners working on, in and about Mines and Mining Property, Repealing the Act of the Legislature of the Territory of Alaska, entitled "An Act to create, establish and provide for liens in favor of laborers and material men, and repealing all Acts in conflict herewith," approved April 30, 1913, and declaring an emergency.

Be It Enacted by the Legislature of the Territory of Alaska:

Section 1. Every person who at the instance of the owner performs work or labor in, on or about a mine or mining claim in opening up, developing, sinking, drifting, stoping, mucking, shoveling, mining, hoisting or performs any other class or kind of work on, in or about a mine or mining claim necessary or convenient to the development, operation, working or mining thereof, or the extraction of the earth, rock, quartz, ore, minerals, or mineral bearing sands or gravels therefrom, or performs any work or labor in or about such mine or mining claim tending to or assisting in the separation or reduction to a commercial value of the minerals contained therein, or thereon or extracted therefrom, shall have a lien on such mine or mining claim to secure the payment of the amount due for

Miners' lien

On page 30, strike out line 7, reading:

“every person, whoshall labor in or upon any mine or min-”

and insert in its place, the following line:

“thereof, while the same is used in or about a mine or min-”

steam shovel,
etc. workers'
lien.

stance of the owner of any dredge, steam shovel, mill or machine used in mining, performs work or labor in any capacity requiring manual labor on, in or about such dredge, steam shovel, mill or machine, either in the alteration or repair thereof, or in the operation or working ~~every person, who shall labor in or upon any mine or mining claim,~~ as a means of mining or the extracting of the minerals contained therein, shall have a lien on such dredge, steam shovel, mill or machine to secure the payment of the amount due for such work or labor. And

Lien on dump

every person who shall labor in or upon any mine or mining ground for another, in digging, conveying, thawing, hoisting, piling and cleaning up, or in any other kind of work in the production of any minerals or mineral bearing sands, gravels, earth, ore rock, gold or gold dust or other mineral, or shall aid or assist therein by his labor as cook, engineer, or fireman, or in cutting wood used in such work, or in like capacity in the production of a dump or mass of minerals, mineral bearing sands, gravels, earth, ore, rock, gold and gold dust therein or extracted therefrom, shall have a lien on such dump or mass of minerals, mineral bearing sands, gravels, earth, rock, ore, gold and gold dust or other minerals contained therein and extracted therefrom, to secure the amount due the said laborer in the production of the same. Such lien shall attach to the dump or mass of minerals, mineral bearing sands, gravel, earth, ore, rock and gold or gold dust or other minerals therein, whether the same be deposited on the ground in a mass or dumped into bunkers or hoppers, or placed in sluice boxes at the mine, and the gold, gold dust and other minerals therein, so long as the same is in one mass and can be identified as being produced through the labor of the lienor. And every person who

Workers on
ditch, flume,
pipe line, etc.
to have lien on
mine or mining
claims.

at the instance of the owner of any mine or mining claim, performs work or labor on a ditch, flume, pipe line, tram, tamway, road or trail, owned or used in connection with the opening up, development or operation of such mine or mining claim, for the benefit thereof or to facilitate

the opening up, operation or development thereof, or the extraction of the ore or minerals therefrom, including the cook at the camp, shall be deemed to have performed the same for necessary and convenient working, mining operation and development of such mine or mining claim and shall be entitled to a lien accordingly.

Section 2. When two or more mining claims, lodes or deposits are contiguous and are owned or claimed by the same person or persons, and are worked through a common shaft, pit, tunnel, incline or other opening, or over one tram, or at one mill or reduction works, then all mining claims, lodes or deposits, so owned, claimed and worked, and all roads, trams, tramways, ditches, flumes, pipe lines, buildings, structures, superstructures and machinery which is a fixture thereto, thereon and used in connection with the working thereof, shall, for the purpose of this Act, be considered one mine.

Contiguous mining claims, worked through common shaft, pit, etc., owned by same person, considered one mine.

Section 3. The liens provided for in Section one of this Act shall not be deemed one exclusive of the other, but the lien shall attach and may be claimed for the same labor upon the mine or mining claim, and the dredge, steam shovel, mill or machine used in mining, and the dump or mass of mineral bearing sands, gravels, earth, ore, rock and gold or gold dust, should the facts relative to the labor warrant the same; and it shall be optional with the lienor to claim a lien on one or all the different classes of property subject to his lien for the same labor.

Lien, at option of lienor, on one or all classes of property.

It is hereby declared the intent of this Act to be remedial and to secure the laborer or miner the amount due for his labor, and should one class or kind of property be insufficient security therefor, then any other class or kind which may be lienable under this Act, may be concurrently concomitantly claimed and subjected thereto.

Section 4. The liens provided for in this Act shall bind all the right, title and interest of the person or persons at whose instance or request or for whom the work or labor was performed, to the full extent of the interest which such person or persons had at the commencement of the work for which the lien is claimed, or subsequently

Lien to bind right, title, etc. of person for whom work was performed

acquired, up to the time of foreclosure as hereinafter set forth, in the mine or mining claim in or about which the work or labor was performed; and shall bind all the right, title and interest of the person or persons at whose instance or for whom the work and labor was done in and about a dredge, steam shovel, mill, or machine used in mining, to the full extent of such person's interest at the commencement of the work for which the lien is claimed, and all interests which may be subsequently and up to the time of foreclosure thereof acquire, in such dredge, steam shovel, mill or machine; and shall bind all the right, title and interest of the person at whose instance or for whom the dump or mass of gold bearing sands, gravels, earth, ore, rock and gold and gold dust or other minerals was extracted from the commencement of the work of the lien claimant thereon, and all interest which such person may subsequently acquire in the said dump or mass of gold bearing sands, gravels, earth, ore, rock and gold and gold dust or other minerals as security for the payment of work and labor performed thereon, within a period of nine months immediately preceding the filing for record of the lien claim hereinafter provided for. Such liens shall be preferred liens and prior and superior to any mortgage, attachment, claim or demand made or filed for record in the recorder's office of the precinct wherein the property subject to such lien may be situate, subsequent to the commencement of the work or labor for which such liens are claimed, and no sale, transfer, mortgage, assignment or attachment filed for record subsequent to the commencement of such work or labor shall have the effect of postponing such liens.

Lien to be preferred.

Owner of mine responsible

Section 5. All work and labor performed in, on or upon a mine or mining claim at the instance of any person in privity with, or having the right of possession, or privilege of working or mining thereon from the owner or his authorized agent, in prospecting, opening up, developing, mining, or in doing any other class of work necessary or convenient to the opening up, development or mining of such mine or mining claim, or the separation or reduction

to a commercial value of the minerals therein, thereon, or extracted therefrom, shall be deemed to have been done at the instance of the owner of the mine or mining claim, and such owner's interests therein shall be subject to any lien filed in accordance with the provisions of this Act, unless such owner shall, within ten days after he shall have obtained knowledge of such work or labor being performed, give notice that he will not be responsible for the same, by posting notices in writing to that effect, in three conspicuous places on such mine or mining claim; and should said mine or mining claim be worked or mined by a lessee under a written lease or lay, or under a bond or contract of sale from the owner or executed by his authority, such lease, bond or contract must be recorded in the precinct records of the precinct wherein the mine or mining claim is situated, and the notice of non-liability aforesaid shall refer to the record of such recorded instrument. All work and labor done on, in and about a dredge, steam shovel, mill or machine, used in mining and on account of which the same is subject to a lien under the provisions of this Act, at the instance of any person having the right of possession or right of use thereof from the owner thereof, shall be deemed to have been done at the instance of the owner of said dredge, steam shovel, mill or machine, and the interest of such owner therein shall be subject to the lien provided for herein, unless such owner shall within ten days after he shall have obtained knowledge of such use give notice of his interest therein, and that he will not be responsible for the work and labor involved in such use by posting a notice in writing to that effect in a conspicuous place on such dredge, steam shovel, mill or machine, and no chattel mortgage, conditional sale agreement, reserving title in the vendor, or other agreement reserving title in other than the possessor of such dredge, steam shovel, mill or machine, shall take precedence of the lien provided for herein thereon, unless the same be in writing and shall have been filed or recorded in the precinct records of the precinct wherein the said dredge, steam shovel, mill or machine was used for min-

Exceptions

Owners' notice of interest

ing, prior to the commencement of the labor for which the lien may be claimed, and the notice so posted thereon refer to such instrument so filed or recorded. All labor performed in any manner directly aiding or assisting in the production of dump or mass of gold bearing sands, gravels, earth, ore or rock, shall be deemed to have been performed at the instance of the owner thereof, and the same shall be prior and preferred over any deed, mortgage, bill of sale, attachment or other claim whether made or given prior to such labor or not.

Claim of lien—
when filed—
Contents.

Section 6. Every person claiming the benefit of this Act shall within thirty days after the rendition of the services or the cessation of the work or labor mentioned in Section One, file for record in the recorder's office of the precinct in which the mine or mining claim, or other property on which the lien is claimed was situated or used, his claim of lien, which claim of lien shall contain a true statement of his demand and the amount thereof, after deducting all just credits and offsets, with the name of the person by whom he was employed and a statement of the terms and conditions of his contract of employment, together with a description of the property on which the lien is claimed sufficient for identification, and the name of the owner or reputed owner thereof. The lien claim shall be verified by the oath of the lien claimant or some one in his behalf having personal knowledge of the facts, and in case there is no express contract of employment the claim shall state what the work, labor and services were reasonably worth. Should the employment be continuous or there be one contract of employment, the lien claimant may in one lien notice claim his lien against more than one of the different classes of property mentioned in Section One of this Act, provided the amount claimed against each separate class of property be specified, the property sought to be charged be identified sufficiently, and the name of the owner or reputed owner thereof be stated.

Lien claim to
be recorded.

Section 7. The recorder shall record the lien claim in a record book kept for the purpose, which record shall be

indexed, and for which he shall receive the same fees as are allowed by law for recording deeds and other instruments.

Section 8. No lien provided for by this Act shall bind any mine, mining claim or other property for a longer period than six months after the same shall have been filed for record, unless suit be brought before the proper court within that time to enforce the same, or if credit be given, then within six months after the expiration of such credit; but no lien shall be continued in force for a longer period than one year from the time of cessation of the work or labor by any agreement to give credit.

Lien shall not bind property longer than six months, unless—

Section 9. The liens provided for in this Act shall be enforced by action in the District Courts of the Territory having jurisdiction to enforce liens, and the pleadings process, practice and other proceedings shall be governed by the laws of the Territory regulating the mode and manner of trial of actions to secure property so as to hold it for the satisfaction of any lien against it. And in all actions the District Court in entering judgment shall allow as part of the costs all moneys paid for drawing the lien, not exceeding Five Dollars; also all moneys paid for filing and recording of the lien claim and a reasonable attorney fee for the foreclosure thereof.

Enforcement of lien

Costs.

Section 10. Any number of persons claiming liens under this Act against the same property, may join in the same action, and when separate actions are commenced the Court may consolidate them. Should a lien claim be filed for the same labor against two separate kinds of property owned or claimed by different persons, the Court may adjudge the liability of each kind of property and designate which shall be sold first to discharge the amount of the lien claim. All actions to enforce any lien created by this Act shall have preference upon the Calendar of Civil Actions before the District Court and shall be tried without unnecessary delay.

Joint liens

In all actions to foreclose any lien created by this Act, all persons personally liable and all persons interested in the matter in controversy or the property sought to be

Foreclosure of liens.

charged with the lien may be made parties and such as are not made parties shall not be bound by the proceedings.

Action not to be dismissed nor delayed through lack of formality, etc.

Section 11. No mistake in formality or lack of statement, either in the lien notice or pleadings, shall be ground for dismissal or unnecessary delay in the action to foreclose the lien. But substantial compliance with Section Six of this Act relative to the contents of the lien notice shall be deemed sufficient, provided that such notice shall satisfactorily show the name of the claimant, the amount of his demand, the time of his employment, the property sought to be charged with the lien sufficient for identification and the name of the owner or reputed owner thereof. And the inclusion of non-lienable items in the amount of the claimant's demand or error in the terms and conditions of the contract of employment, if there be any contract of employment, or other error in said lien notice made in good faith shall not be deemed material, unless such error shall effect the substantial rights of the adverse party acquired in good faith without notice; and the lien notice and pleadings may be amended at any time before judgment, and Section 924 of the Compiled Laws of Alaska shall apply to such amendments, provided, if it be shown that a material statement or averment has been omitted or mis-stated, it may be ground for a reasonable delay or continuance to enable opposing parties opportunity to meet such amendment.

Employment to be deemed continuous—
When

Section 12. The fact that the lien claimant may have been employed at different kinds of labor or at different rates of wages during the period of his general employment, shall not be deemed an interruption of the continuity of his employment; and no temporary cessation of employment of the lien claimant under an understanding of resumption thereof within a reasonable time, shall be considered an interruption of the continuity of employment so as to cause the time to run within which the notice of the lien shall be filed for record as herein provided.

Definitions:
"Mine"

Section 13. The term "mine" whenever used in this Act unless otherwise designated in the lien notice, shall

be construed to include one or more contiguous mining claims possessed, appropriated or acquired under the mining laws of the United States, and held under one ownership or mined under one management; and all valuable mineral deposits, including coal, and all lodes, veins or rock in place containing minerals therein; and all shafts, tunnells, [tunnels,] stopes, ways, and other openings, roads, appliances, machinery, timbering and structures below the surface of the ground; and all structures, buildings and machinery on the surface of the ground and affixed thereto and used in the mining and development thereof; and all ditches, pipe lines, roads, trams, flumes and other appurtenances thereto. And when designated as "other than a mining claim" it shall include any ^{"Other than} valuable mineral deposits, including coal, and all lodes, ^{mining claims"} veins, or rock in place, in or on which mining may be carried on under one management at the place designated, together with sufficient surface of the ground for the reasonable operation of the mine so designated; and all underground workings, excavations, shafts, tunnels, stopes, ways and openings sunk or driven; and all roads, ways, appliances, structures, superstructures and machinery below the surface of the ground; and all structures, buildings and machinery above the surface of the ground in the nature of fixtures and used in mining the mineral contents of the deposits, veins or lodes so designated; and all roads, trams, ditches, flumes, pipe lines and appurtenances thereto.

And the term "mining claim" shall be construed to ^{"Mining} mean any parcel of land containing minerals, which has ^{claim"} been acquired, or possessed or held under the mining laws of the United States, together with all deposits, veins or lodes contained therein; and all machinery, structures or superstructures beneath the surface of the ground; and all shafts, tunnels and openings sunk or driven thereon; and all machinery, structures and superstructures on the surface of the ground and affixed thereto; and all ditches, pipe lines, tramways, roads,

flumes and appurtenances thereto and used in the working, mining and operation of such claim.

"Mineral"

The term "mineral" when used in this Act shall be construed to include coal and all inorganic substances subject to location or appropriation under the mining

"Mill"

laws of the United States. And the term "mill" or "machine" shall be construed to include any hoist, engine and boiler, roasting or reduction works, stamp, roller or other mill, concentrator, conveyor, elevator, or other machinery used in and about a mine in digging, hoisting, conveying, washing, or blocking out mineral contents thereof, or reducing the same to a commercial value, while the said mill or machinery is at the mine or on the mining claim and used in connection with the operation thereof and which are not fixtures and included in the term "mine" as hereinabove defined. And the term

"Machine"

"Dump"

"dump" shall be construed to mean the mineral bearing sands, earth, ore, rock and minerals extracted, hoisted and raised from a mine, including coal while in mass at the mine or on the mining claim from which extracted, whether the same be deposited in dumps or piles, or placed in hoppers or tanks, or in sluice boxes or bunkers, or other receptacles, and whether partially reduced from its primary state or not. And whenever the phrase "different classes or kinds of property subject to lien" is used in this Act, the same shall refer to mines and mining claims as hereinbefore designated as one class; dredges, steam shovels, mills and machines as another class; and dump or mass of mineral bearing sands, earth, ore, rock, etc., as a third class.

"Different classes or kinds of property subject to lien."

Lien claims now pending not to be affected.

Section 14. That all lien claims now claimed under existing law or pending in the court, shall not be affected by this Act, except that the same may be enforced and foreclosed under the provisions hereof, or under the provisions of law under which the same shall be claimed or filed, as may be deemed most convenient.

Ch. 79, Session Laws, 1913, repealed.

Section 15. That the act of the Legislature of the Territory of Alaska, entitled "An Act to create, establish and provide for liens in favor of laborers and material

men, and repealing all acts and parts of acts in conflict herewith," approved April 30, 1913, hereby repealed; except that this repeal shall not be construed to affect any liens claimed or filed for record under provisions of said Act. This Act is not to be construed as repealing Chapter 28, Section 691 to 704 inclusive, of the Compiled Laws of Alaska, relative to the liens of material men on mines, or to modify or repeal any part of said chapter relating to the liens of mechanics and others, except that hereafter all liens for labor performed in the operation and development of mines shall be governed by the provisions of this Act, except that the provisions of said Chapter 28, relative to the enforcement of liens in the court and the relative rights of contractors and subcontractors and laborers where the same are not inconsistent with the provisions of this Act, shall be made applicable to and construed in connection herewith.

Laws not
affected.

Section 16. In as much as uncertainty and confusion exists because of existing laws relating to liens of miners and laborers in mines, an emergency is hereby declared to exist, and this Act shall take effect and be in force from and after its passage and approval.

Emergency
clause.

Approved, April 21, 1915.

CHAPTER 14.

AN ACT

[S. B. 17.]

Making it a misdemeanor to procure board or lodging from hotels, inns, boarding houses or lodging houses by false representation, and providing punishment for the violation of the provisions of this act.

Be It Enacted by the Legislature of the Territory of Alaska:

Section 1. Any person who shall put up at any hotel, inn, boarding house or lodging house and shall procure any fare, board or lodging from the owner or keeper of the same by means of any trick, deception or false representation, shall be guilty of a misdemeanor.

Procuring
board or lodg-
ing by false
representation.
-Misdemeanor