

When other stores may sell medicines.

side a radius of three miles from any drug store shall be permitted to handle and sell such non-poisonous patent medicines, remedies for horses and dogs and household remedies and surgical dressings properly and distinctly labeled, as the Board of Pharmacy shall permit.

Stores forbidden to dispense poisons, except—

“They shall not be permitted to dispense poisons and chemicals except the following: carbolic acid, cyanide of potash, laudanum and aconite, and such other drugs and medicines as the Board of Pharmacy may permit, properly and distinctly labeled.

Hospitals may dispense medicines under supervision.

“Hospitals and charitable institutions shall, however, be permitted to dispense medicines for their own use under the supervision of the attending licensed physician.”

Approved April 25, 1923.

CHAPTER 53.

AN ACT

[S. B. 5]

To provide liens for persons furnishing labor or material in fisheries, and in manufacture of products of fish and aquatic animals.

Be it enacted by the Legislature of the Territory of Alaska:

Who are lienors and what property subject to lien.

Section 1. Any person, or his assigns, who contributes to the preparation of fish or aquatic animals for food, fish meal, fertilizer, oil or other article of commerce, by furnishing material and labor, or either, therefor, shall have a lien upon the product or output of the cannery, saltery or other plant or establishment for which such material or labor was furnished, as well as upon such plant or establishment itself including the houses, wharves, machinery and equipment thereunto belonging, for the value of such labor and material,

not, however, to exceed the contract price of the remuneration or consideration therefor. Provided, however, that this act shall not be construed to give a lien to an officer of a corporation or of an association for labor or material furnished by him to such corporation or association. Nor shall it be construed to give a lien to a superintendent, manager, foreman or contractor or subcontractor in charge of any cannery, saltery or other plant or establishment for labor or material which he shall have furnished to such plant or establishment. Nor shall it be construed to give a lien to the owner or lessor of a plant or equipment for the use or rental of the same.

Section 2. Such lien shall not continue more than forty-five days after the lienor ceased to furnish the labor or material for which the lien is claimed, unless, within such time after furnishing the last item of such labor or material, the lienor shall file with the Commissioner and ex-officio recorder in the precinct in which such labor and material or part thereof was furnished a statement of the lien, which statement shall set out the amount of the lien, the name of the debtor, description of the property on which the lien is claimed, the name of the owner of the property so far as known to lienor, description of the labor or material for which lien is claimed and the time when and place where the same was furnished. Such statement shall be verified as true by the oath of the lienor or some one on his behalf who knows the facts. Such lien statement when so filed shall be constructive notice to all parties interested of all facts set out in such statement.

Time of expiration of lien.

Lien statement to be filed with Recorder.

Section 3. The liens hereby created shall be first, prior and paramount liens upon and against all of the right, title, interest, claim and demand of the person or persons for whom, or at whose instance or request the work or labor was performed in and to all of the property comprised in the plant or establishment where, or in connection with which, said work was done, to the full extent of the interest which such person or persons

Lien to be prior to all other encumbrances except prior liens for labor.

had at the date of the commencement of the work for which the liens are claimed, or subsequently acquired up to the time of the foreclosure of said liens. Such liens shall be preferred liens and prior and superior to any mortgage, attachment, claim, demand, lien or encumbrance whatsoever made, filed, 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 the liens created hereby are claimed; and no sale, transfer, mortgage, assignment, attachment, or other lien or encumbrance filed or filed for record subsequent to the commencement of such work or labor, shall have the effect of postponing or making subordinate any of the liens by this act created. The liens created by this act shall, in all cases, be first, prior, paramount and superior liens upon all of the product or output of the cannery, saltery, or other plant or establishment for which such material or labor was furnished, and all other liens, encumbrances, transfers, assignments, or conditional sales of such product or output shall be absolutely void and of no effect as against the liens hereby created, no matter whether such liens, encumbrances, transfers, assignments, or conditional sales were made, or attempted to be made, prior to the date of the commencement of the work or labor for which the liens created by this act are claimed, or after the commencement of such work or labor. Provided, however that the liens hereby created shall not be prior or paramount to any valid prior lien for labor done or material furnished in the construction, alteration or repair of the buildings, wharves, or other shore property. Provided further, that no person shall be entitled to the liens mentioned in Section 1 of this act for any labor done or material furnished more than six (6) calendar months prior to the filing of the lien statement.

Limitation of
time for lien-
able service.

Section 4. No lien provided for in this Act binds any property for a longer period than sixty days after the

lien statement, as provided herein, has been filed, unless a civil action be commenced within that time to enforce the same in the district court of the judicial division in which the same is filed: Provided, however, that in case such civil action so commenced should for any cause other than the merits be non-suited or dismissed, then the claim shall continue for the period of thirty days from the date of the order of non-suit or dismissal, if the said sixty days have expired, to permit the commencement of another action which shall be as effective in prolonging the lien as if such action had been commenced during the term of sixty days hereinbefore stated.

Civil action must be commenced within 60 days from filing of lien statement.

30 days additional, when.

Section 5. The lien provided for in this Act shall be enforced by civil action in the district court of the division in which the lien was filed and shall be governed by the laws regulating the proceedings in civil suits of an equitable nature touching the mode and manner of trial and other proceedings adapted in the discretion of the court for attaining the ends of this Act.

Enforcement of lien.

Section 6. The United States marshal of the division in which the lien is filed shall be the receiver, when one is appointed, and the district court upon a showing made may appoint such receiver without notice, who shall be allowed such fee as may seem just to the court, which fees shall be accounted for by such marshal as other fees collected by him in his official capacity: Provided, that at any time when any property subject to the lien herein provided is in the custody or about to be taken into custody of such marshal under the provisions of this act, any person claiming any interest therein may deposit with the clerk of the court in which such action is pending a sum of money equal to the value of the property, but not greater than the amount of the claims sued upon together with one hundred dollars to cover costs and interest (unless the court shall make an order fixing a different amount to cover such costs and interest) and shall have the right

Marshal to be receiver.

Claimant may release property, when.

to demand and receive forthwith from such marshal the possession and custody of such property.

Defendants to answer to merits.

Section 7. If the defendant or defendants appear in any suit to enforce any lien provided for in this Act, he or they shall make their answer on the merits of the complaint, and any motion or demurrer against the said complaint must be filed with the answer, and no motion to make the complaint more definite or certain shall be allowed if it appears to the court that the defendant or defendants have or should have knowledge of the facts, or that it can be made more definite and certain by facts which will necessarily appear in testimony, but the case, unless the court sustain the demurrer to the complaint, shall be heard on the merits as speedily as possible, and amendments of the pleadings, if necessary, shall be liberally allowed.

No mistake or error to invalidate lien, unless.

Section 8. No mistake or error in the lien statement nor in the description of the property against which the claim is filed, shall invalidate the lien unless the court find that such mistake or error in the statement of the demand, credits and off-sets, or of the balance due, was made with any intent to defraud, or the court shall find that an innocent third party, without notice actual or constructive, has, since the claim was filed, become the bona fide owner of the property on which the lien is claimed and the notice of the claim was so deficient that it could not be expected to put (put) the party upon further inquiry in any manner.

Presumption against bona fide purchaser, unless.

Section 9. It shall be conclusively presumed by the court that a party purchasing the property on which the lien is held within forty-five days given herein to lienors wherein to file their liens, is not an innocent third party, nor that he has become a bona fide owner of the property subject to the lien unless it shall appear that he has paid full value of the property and has seen that the purchase money of the said property has been applied to the payment of such bona fide claims as are entitled to liens upon the said property under the provisions of this act.

Section 10. Any person who shall bring a suit to enforce the lien herein provided for, or any person having a lien as herein provided for, who shall be made a party to any such action, has the right to demand that such lien be enforced against the whole or any part of the property upon which he has performed labor or for which he has furnished material during the six months before the filing of his lien statement. Where there are several lien claims against the same property or partly against the same property and partly against separate property, and it shall appear to the court that the property which may legally be held for the claims is insufficient to satisfy all claims, the court shall, as nearly as practicable, determine what particular item of the property subject to the lien is the product in whole or in part of the labor or material furnished by each of the several claimants and for which each claims a lien, and shall give preference accordingly.

May be enforced against whole or part of lienable property.

Priority between lien claimants.

Section 11. Any number of persons claiming liens under this Act may join in the statement of claims mentioned and provided for in Section 2 of this Act, in which event only one of such lienors need verify such lien statement, and may join in the same suit to foreclose such lien, and when separate suits are commenced the court may consolidate them. The court shall allow, as part of the costs, the expense for making and recording the claims of lien and a reasonable attorney's fee to each lienor for the foreclosure of the lien, as well as for the preparation of the lien statement.

Lien claims and actions may be consolidated and costs distributed.

Section 12. In every civil proceeding for the enforcement of liens, judgment must be rendered in favor of each person having a lien for the amount due him, and the court or judge shall order any property subject to the lien herein provided for to be sold by the marshal in the same manner that property is sold on execution or in such other manner as the court may find proper, and the court shall apportion the proceeds of such sale to the payment of each judgment pro rata to the

Judgment and sale.

amount of the judgment, and the court, or judge, may, during the term or in vacation, upon motion supported by affidavit showing that the property is liable to loss or destruction, order any property subject to a lien as in this Act provided, to be sold by the marshal as personal property is sold on execution, before the judgment is rendered, and the proceeds of such sale must be paid into court to be applied as in the judgment directed.

Action for damages against party eloigning property liened.

Section 13. Any person, firm or corporation who shall eloign, injure or destroy, or who shall render difficult, uncertain or impossible of identification any property on which there is a lien as provided in this Act, without the written consent of the person entitled to such lien, shall be liable to the lien holder for the damages to the amount secured by his lien together with costs and charges of drawing and recording such lien and reasonable attorneys' fees for the foreclosure thereof, and the same being shown to the court in the suit to enforce said lien, it shall be the duty of the court to enter a personal judgment for the amount of the said damages in such action against the said person, provided he be a party to such action, or the damages may be recovered in some other civil action against such person.

Bond must be furnished before removal of property liened.

Section 14. No property subject to lien under this Act shall be removed from the Territory while such lien may lawfully attach, unless in advance of such removal a bond has been filed with the Treasurer of the Territory in a sum equal to the amount of the lien claims to which the property is subject. Such bond shall be conditioned upon the payment of all demands for which a lien could have been claimed under this Act. The form of such bond shall be prescribed by the Attorney General of the Territory and the sureties shall be approved by the Treasurer of the Territory before the bond is filed.

If any property subject to a lien or liens under this act and to which said lien or liens have at any time

attached by virtue of the provisions hereof, is removed from the Territory of Alaska, without the payment or satisfaction of any such lien or liens, any person holding, or entitled to any such lien or liens, or his assigns, may recover upon such bond the full amount of his claim with interest, costs and attorney's fees in an action against the principal and sureties on such bond, or such of them as the lien claimant may desire to make defendants in such action.

Recovery upon bond.

No such bond shall be taken, approved, received or filed by the Treasurer of the Territory unless the sureties on such bond are residents of the Territory, or the surety is a surety company or corporation authorized by law to transact business as such surety in the Territory of Alaska, and having therein a duly appointed and qualified agent for the service of process.

Requirement as to surety.

Section 15. Any person who shall remove or cause to be removed from the Territory of Alaska any fish, fish products or the products of any aquatic animal, or any fishing appliances, upon which there shall be a lien or right of lien under the provisions of this Act, unless a bond as provided in the foregoing section has been duly approved and filed, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment in the discretion of the court.

Removal of property liened without furnishing bond misdemeanor.

Section 16. Any person who shall sell or otherwise dispose of any fish or the products of any fish or aquatic animals or any other property upon which there shall be a lien under the provisions of this Act, shall be deemed a trustee for the lien claimants of the consideration received for or promised to be paid for such property and shall account to the lien claimants therefor, and any such trustee who refuses or fails to so account for all of such trust funds, or refuses or fails to apply the same in payment of the lien claims, shall be deemed guilty of embezzlement and shall upon con-

Seller of property liened becomes trustee.

Misappropriation of trust funds embezzlement.

Proviso.

viction be punished accordingly. Provided, however, that in any prosecution under this act upon a showing by the defendant that all claims of liens upon the property so removed from the Territory of Alaska have been paid or that the full value of such property has been distributed among the persons entitled to such liens in payment of their several claims, the defendant shall be discharged and shall not be further prosecuted on any charge or complaint under the terms of this act growing out of the shipment of such property from the Territory of Alaska.

Statement as to owner of and encumbrances upon property to be furnished employees.

Section 17. Any person who employs another or others to perform work or labor at any cannery, saltery, or other plant or establishment in the Territory of Alaska for the catching or preparation of fish or aquatic animals for food, fish meal, fertilizer, oil, or other article of commerce, which plant or establishment, at the time of such employment, is subject to any lien, mortgage, encumbrance, or the provisions of any transfer or conditional sale, or who is not the owner of such plant or establishment, or of the boats or fishing gear therewith connected, shall furnish to each person so employed at the time of his employment, or, in any event, not later than the time at which the person so employed is brought within the territorial boundaries of Alaska, a written statement showing:

What statement shall contain.

(a) The name of the owner or owners of the plant or establishment at or in connection with which the person so employed is to work or labor;

(b) A general description of such plant or establishment as to buildings, boats and other gear and material;

(c) Whether any of such property is subject to any lien, mortgage, encumbrance, assignment or conditional sale and, if so, the amount thereof.

Failure to furnish statement a misdemeanor.

Failure to furnish a statement by this section required, shall be a misdemeanor and any person guilty

thereof may be prosecuted therefor in the courts of the Territory of Alaska and upon conviction shall be punished by a fine of not more than Two Thousand (\$2,000.00) Dollars or by imprisonment for not more than six (6) months or by both such fine and imprisonment in the discretion of the court. Provided, however, upon any prosecution brought under this section, the person so prosecuted may show in defense that the claims for labor of all persons so employed but to whom such statements were not furnished, have been paid in full whereupon he shall be discharged. Proviso.

Section 18. The purpose of this Act being remedial to secure laborers, fishermen and others the amount due them for labor performed, or material furnished, in catching fish or aquatic animals, and in preparing the same or the products thereof for market, this Act shall be liberally construed to effect such purpose. Act to be liberally construed.

Section 19. The lien provided by this act is not subject to waiver before it accrued, and a contract of such waiver is void. Lien not subject to waiver.

Approved April 27, 1923.

CHAPTER 54.

AN ACT

[H. B. 43]

To provide for suspending sentences in the courts of the Territory of Alaska.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Whenever any person shall be convicted of any crime except murder, burglary, arson, robbery, or rape, the Court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by such court. Sentences may be suspended in all cases, except—