

Homestead, etc., settlements excepted.

abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawal of such lands made prior to the passage of this Act: *And provided further*, That there shall be excepted from the force and effect of any withdrawal made under the provisions of this Act all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: *And provided further*, That hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress.

Restriction on new forest reserves.

Report of withdrawals to Congress.

SEC. 3. That the Secretary of the Interior shall report all such withdrawals to Congress at the beginning of its next regular session after the date of the withdrawals.

Approved, June 25, 1910.

June 25, 1910.  
[H. R. 24149.]

[Public, No. 304.]

CHAP. 422.—An Act To create, establish, and enforce a miner's labor lien in the Territory of Alaska, and for other purposes.

Alaska.  
Miner's labor lien.  
Persons entitled.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every miner or other laborer who shall labor in or upon any mine or mining ground for another in the Territory of Alaska in digging, thawing, conveying, hoisting, piling, cleaning up, or any other kind of work in producing any mineral-bearing sands, gravels, earth, or rock, gold or gold dust, or other minerals, or shall aid or assist therein by his labor as cook, engineer, fireman, or in cutting and delivering wood used in said work, or in work in any like capacity in producing the dump, shall, where his labor directly aided in such production, have a lien upon the dump or mass of mineral-bearing sands, gravels, earth, or rocks, and all gold and gold dust, or other minerals therein, and all gold and gold dust extracted therefrom, for the full amount of wages for all the time which he was so employed as such laborer in producing the said dump, within one year next preceding his ceasing to labor thereon; and to the extent of the labor of the said miner or other laborer actually employed or expended thereon, within one year next prior to ceasing to labor thereon, the said lien shall be prior to and preferred over any deed, mortgage, bill of sale, attachment, conveyance, or other claim, whether the same was made or given prior to such labor or not: *Provided*, That this preference shall not apply to any such deed, mortgage, bill of sale, attachment, conveyance, or other claim given in good faith and for value prior to the approval of this Act.

Preference of lien.

*Provido*.  
Prior valid deeds,  
etc., not affected.

Notice to be filed.

SEC. 2. That every laborer, within ninety days after the completion of the performance of the work or labor mentioned in the foregoing section who shall claim the benefit thereof, must, personally or by some other person for him, file for record in the recording precinct where the labor was performed a claim of lien containing a statement of his demand under oath, substantially in the following form:

Form.

NOTICE OF LABORER'S LIEN.

Territory of Alaska, \_\_\_\_\_ precinct, ss:

\_\_\_\_\_, claimant, against \_\_\_\_\_, defendant.

Notice is hereby given that \_\_\_\_\_, claimant, claims a lien upon (describing the dump or mass of mineral-bearing sands, gravels, earth, or rock, and its location with reasonable certainty) in the \_\_\_\_\_

precinct, in the Territory of Alaska, for labor performed in (digging, and so forth; describe the work). That the name of the owner or reputed owner of the said property is \_\_\_\_\_, and that \_\_\_\_\_ is the owner or reputed owner of the mine or mining ground from which the dump or mass of mineral-bearing sands, gravels, earth, or rock and the minerals therein were extracted, and that \_\_\_\_\_ employed claimant to perform such work and labor upon the following terms and conditions (state substance of contract, if any, or reasonable value); that said contract has been faithfully performed and fully complied with on the part of the claimant, who performed labor thereunder aforesaid for the period of \_\_\_\_\_ days; that said labor was performed between the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_, and the rendition of said service was closed on the \_\_\_\_\_ day of \_\_\_\_\_, and ninety days have not elapsed since that time; that the amount of claimant's demand for said service is \_\_\_\_\_; that no part thereof has been paid (except the sum of \_\_\_\_\_ dollars), and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of \_\_\_\_\_ dollars, in which amount he claims a lien upon said property.

\_\_\_\_\_,  
Claimant.

Territory of Alaska, \_\_\_\_\_ precinct, ss:

\_\_\_\_\_, being first duly sworn, on oath deposes and says, that I am the claimant (or if by some other person state the fact) named in the foregoing claim; that I have heard the same read, know the contents thereof, and believe the same to be true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Officer's title.]

SEC. 3. That the recorder must record every claim filed under the provisions of this Act in books kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed, and for which he may receive the following fees and none other: For filing, ten cents; for recording, one dollar; for indexing, fifteen cents for each name.

Recording, etc.

SEC. 4. That no lien provided for in this Act shall bind any property for a longer period than ninety days after the claim has been filed, unless an action be commenced within that time to enforce the same.

Time to bring actions.

SEC. 5. That the action for the foreclosure of the lien provided for in this Act shall be begun either in the district court or in the justice's court in the precinct where the lien was filed and the justices of the peace in Alaska are hereby given full jurisdiction in the foreclosure of such liens under the provisions of this Act, and shall also have such other jurisdiction and power as is now conferred on them by law in aid of the enforcement of this Act, and the provisions of section seven hundred and twenty-three of chapter seventy-one of the Code of Civil Procedure now in force in Alaska shall be applicable to the jurisdiction intended to be conferred by this Act.

Jurisdiction.

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SEC. 6. That no mistake, informality, or mere matter of form 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 the lien notice and pleadings may be amended at any time before judgment, and section ninety-two of chapter eleven of the Code of Civil Procedure now in force in Alaska shall apply to such amendments: *Provided*, That if it be shown that a material statement or averment has been omitted or misstated, it shall be ground for a reasonable delay or continuance to give the defendant a reasonable opportunity to meet it upon amendment.

Amendments allowed before action.

Vol. 31, p. 346.

*Proviso.*  
Reasonable delay permitted.

Procedure.  
 Service of process.  
 Vol. 31, pp. 481, 482.  
 Appearance, etc.  
 Vol. 31, pp. 339, 340.  
 Posting notice on dump.

Rights of adverse claimants.  
 Lien not affected.

Joining of parties, etc.  
 Court allowances.  
 Waiver of right to lien void.

Execution of judgment.  
 Sales.

Extracting minerals.  
 By marshal.  
 By defendant, etc.

Disposal of proceeds.

SEC. 7. That the claimant may file the original or a certified copy of the notice of lien in the district or justice's court as the statement of his case, and thereupon the court or justice shall issue the usual summons directed to the defendant or defendants, which summons, together with a copy of the lien notice, shall, by any officer authorized to serve process, be served upon the defendant or defendants, as provided in sections nine hundred and fifty and nine hundred and fifty-one of chapter ninety-two of the Code of Civil Procedure now in force in Alaska. The summons shall require the defendant or defendants to appear before such court or justice at a time and a place to be named therein, not less than six nor more than twenty days from the date thereof, to answer the demand of the claimant in the said lien notice, or judgment for want of an answer will be taken against them. Service by publication may be had pursuant to sections forty-seven and forty-eight of chapter four of said Code of Civil Procedure. The officer serving the summons shall also immediately post a copy of said lien notice in a conspicuous place on the dump or mass of mineral-bearing sands, gravels, earth, or rock, and gold and gold dust, and other minerals therein upon which the lien is filed, and from the moment of posting the lien notice the dump or mass of mineral-bearing sands, gravels, earth, and rock, and gold and gold dust, and other minerals therein shall be in the custody and under the control of the officer. All persons who claim any interest therein in opposition to the lien claimant may come in and answer and set up and defend their said claims, but no claim or claims of any owner, lessee, or other adverse defendant shall bar the lien claimant from recovering the sum due him for actual labor in producing the said dump or mass of mineral-bearing sands, gravels, earth, or rock, or gold and gold dust, or other minerals.

SEC. 8. That any number of persons claiming liens under this Act may join in the same action, and when separate actions are commenced the court may consolidate them. The court shall also allow, as a part of the costs, the moneys paid for filing, recording, and indexing the notice of lien, the sum of five dollars for drawing the same, and a reasonable attorney's fee for each person claiming a lien, not to exceed ten per centum of the amount of the lien established on judgment. Any contract or agreement or any waiver of any kind made or signed by any minor or laborer whereby it is sought to waive or abandon his right to file a lien under this Act, or any agreement for an extended time of payment whereby the same end is sought, shall to that extent be null and void as against public policy.

SEC. 9. That in such action judgment must be rendered in favor of each person having a laborer's lien for the amount due him, and the court shall order the dump or mass of mineral-bearing sands, gravels, earth, or rock, and the gold and gold dust, and other minerals therein subject to the lien to be sold by the marshal in the same manner that personal property is sold on execution; or the court may, upon a showing that it is necessary to do so to preserve the property from loss or waste, by order require the marshal to wash up or extract the gold and gold dust or other mineral from the said mineral-bearing sands, gravels, earth, or rock; or the court may, by order, allow the defendant or defendants or any party interested to wash up and extract the said mineral, in the presence of the marshal or deputy marshal or special officer, who shall take the gold or gold dust or other minerals as it is washed up and extracted and return the same into court, and it shall be immediately paid out as follows: First, the cost of cleaning up or extracting the gold or gold dust or other minerals shall be paid; second, the court costs shall be paid; and, third, the judgment or judgments so rendered in favor of the lien claimants shall be paid; and if there is not sufficient gold or gold dust, or other

minerals, or sufficient moneys obtained from the sale of the property to pay all claims in full, the court shall apportion the proceeds to the payment of such judgments pro rata: *Provided*, That no part of any such proceeds shall be paid upon any claim or judgment to any person who did not actually perform labor in producing the dump or the proceeds thereof until all such preferred claims are paid in full.

SEC. 10. That an appeal may be taken from a final judgment of a justice of the peace in actions instituted under this Act to the district court, in the manner provided in chapter ninety-seven of the Code of Civil Procedure now in force in Alaska, and upon such appeal being perfected the dump or mass of mineral-bearing sands, gravels, earth and rock, gold and gold dust, or other minerals shall be washed up by the marshal or any party mentioned in section nine of this Act as the district court may direct, and all the gold or gold dust or other mineral so washed up shall be paid into the registry of the district court there to await the final judgment on appeal: *Provided*, That the gold or gold dust or other mineral in excess of the amount of the judgment, including an additional amount equal to the probable accruing costs on appeal and two years' interest at the legal rate, shall after the expiration of ninety days from the time it was paid into the registry of the district court, be released to the owners upon a showing that no liens have been filed against it. The defendant or defendants, or any one or more of them, may deposit cash in lieu of the gold or gold dust on the dump, which shall remain in the custody of the law until the final judgment, and shall then be applied in payment of the judgment or judgments rendered on each lien claims, and costs, and interest.

SEC. 11. That any person or persons who shall, after the copy of the notice of lien is posted upon any dump or mass of mineral-bearing sands, gravels, earth or rock, gold and gold dust, or other mineral, as provided in this Act, and with knowledge of such notice of lien, buy, purchase, wash up, remove, destroy, or carry away all or any part or portion of the same, or the gold or gold dust therein, or who shall render it difficult, uncertain, or impossible to identify the gold or gold dust or other mineral obtained therefrom, shall be liable to the lien holder for the full amount of his judgment and costs; and any person who shall take and carry away all or any part or portion of said dump of mineral-bearing sands, gravels, earth or rock, or the gold or gold dust or other minerals therefrom, after the same shall come into the custody of the officer, shall be guilty of a crime and shall be punished as for the larceny of a like amount; and any district attorney in Alaska is specially required to immediately cause a warrant to be issued for the arrest of any such person or persons and to prosecute them according to law.

Approved, June 25, 1910.

CHAP. 423.—An Act To provide additional protection for owners of patents of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever an invention described in and covered by a patent of the United States shall hereafter be used by the United States without license of the owner thereof or lawful right to use the same, such owner may recover reasonable compensation for such use by suit in the Court of Claims: *Provided*, however, That said Court of Claims shall not entertain a suit or reward compensation under the provisions of this Act where the claim for compensation is based on the use by the United States of any article heretofore owned, leased, used by, or in the possession of the United States: *Provided further*, That in any such suit the United States may

*Proviso.*  
Restriction.

Appeals to district court.

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Extracting minerals.

Payment into registry of court.

*Proviso.*  
Release of excess of judgment, etc.

Cash deposit permitted.

Liability for buying minerals, etc., posted.

Carrying away, etc. deemed larceny.

Prosecutions.

June 25, 1910.  
[H. R. 24649.]

[Public, No. 305.]

Patents.  
Recovery for unauthorized use by United States.

*Provisos.*  
Claims barred.

Defenses allowed.