

New Zealand.



WAGES PROTECTION AND CONTRACTORS'
LIENS.

1908, No. 204.

AN ACT to consolidate certain Enactments of the General Assembly relating to Payment of Wages due to Workers and Money due to Workers and Contractors.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. (1.) The Short Title of this Act is "The Wages Protection and Contractors' Liens Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :— Enactments consolidated.

(a.) All liens, charges, notices, claims, Orders in Council, rules, orders, registers, registrations, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(3.) This Act is divided into Parts, as follows :—

PART I.—Protection of Wages. (Sections 2 to 27.)

PART II.—Truck. (Sections 28 to 47.)

PART III.—Contractors' and Workers' Liens. (Sections 48 to 95.)

PART I.

PROTECTION OF WAGES.

Interpretation.
1893, No. 52, sec. 2
1895, No. 22, sec. 5

2. (1.) In this Part of this Act, if not inconsistent with the context,—

“Clerk of Court” means the Clerk of the Magistrate’s or District Court, and includes the Registrar and Deputy Registrar of the Supreme Court :

“Contractor” means a person who contracts directly with the employer for the performance of work for him ; and “sub-contractor” means a person who contracts with a contractor, or with another subcontractor, for the performance of work for such contractor or subcontractor :

“Court” means the Court in which any proceeding may be taken under this Act, and includes the Judge of any such Court, and a Magistrate in any matter in which such Magistrate has jurisdiction :

“Employer” means any person at whose request, or upon whose credit, or on whose behalf, with his privity or consent, work is done, and includes also all persons claiming under him whose rights are acquired after the work in question is commenced :

“Wages” includes any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, remuneration, or consideration for any service, work, or labour rendered or done, or to be rendered or done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, and whether payable daily, weekly, monthly, or otherwise :

“Worker” means any person, male or female, whether under or not under the age of twenty-one years, in any manner engaged or employed in manual labour or in work of any kind, and whether the worker’s remuneration is to be according to time or by piecework, or at a fixed price, or otherwise howsoever.

1893, No. 52, sec. 27

(2.) This Part of this Act shall be read with and shall be subject to the succeeding Parts of this Act.

Workers employed
in manual labour
to be paid weekly.
Ibid, sec. 3

3. In the absence of an agreement in writing to the contrary, the entire amount of wages earned by or payable to any worker engaged or employed in manual labour shall be paid to such worker at intervals of not more than one week.

Wages to be first
charge on money
due to or in hands
of contractor.
Ibid, sec. 4

4. The wages due to workers employed on any contract, work, or undertaking shall, subject to the employer’s rights as mentioned in section fifteen hereof, be a first and paramount charge upon the moneys due to the contractor by the employer under or in respect of the contract, work, or undertaking :

Provided that until service of notice of attachment, as hereinafter mentioned, the employer shall be at liberty to pay to the contractor all moneys which have accrued due and are payable by the employer to the contractor under or in respect of the contract, work, or undertaking.

5. Every assignment, disposition, or charge (legal or equitable) made or given by the contractor to any person whomsoever, other than his workers for wages due to them, of or upon the moneys due or to become due to him under or in respect of the contract, work, or undertaking shall have no force or effect at law or in equity as against all wages due and to accrue due to the workers.

Assignment of money due or received under contract to have no effect until wages paid to workers.
1893, No. 52, sec. 5

6. Moneys received by the contractor from the employer under or in respect of the contract, work, or undertaking shall not be liable to be attached or charged, except by the workers as hereinafter mentioned, until all wages due or to accrue due to the workers have been fully paid and satisfied; and the contractor shall apply all such moneys in payment of the wages due and to accrue due to the workers.

Moneys received by contractor not to be attached, and to be applied in payment of wages due.
Ibid, sec. 6

7. The contractor shall keep a full and truthful account in writing of all such moneys received by him as aforesaid, and of the manner in which the same are disbursed or disposed of, and shall, on the application of any worker whose wages are more than eight clear days in arrear, and have not been paid when demanded, produce such account to such worker for his inspection, and such worker shall be at liberty to take a copy of or extracts from the said account.

Contractor to keep accounts and to produce same to workers.
Ibid, sec. 7

8. If the employer pays the contractor in advance, then in any proceedings by workers against the employer under this Part of this Act the employer shall not be entitled to set off any such payments against the wages due to and claimed by the workers.

Employer not to pay contractor in advance.
Ibid, sec. 8

9. (1.) Any worker whose wages remain unpaid for twenty-four hours after they become payable and have been demanded may serve the employer, or his attorney or agent, with a notice of attachment in the form numbered (1) in the Second Schedule hereto or to the effect thereof; and upon service thereof all moneys due and thereafter to become due and payable to the contractor shall be attached, and shall be retained by the employer until the Court in which the claim is heard directs to whom and in what manner the same are to be paid.

Worker whose wages are in arrear may attach moneys in hands of employer.
Ibid, sec. 9

(2.) But any employer may pay into the aforesaid Court the sum mentioned in the notice of attachment, if such sum is an ascertained and fixed sum, and the receipt of the Clerk of such Court for the said sum shall be a full discharge to the employer of his liability under the attachment.

10. In the event of the worker obtaining judgment against the contractor for the wages claimed, or any part thereof, he may obtain from the Court an order, in the form numbered (2) in the Second Schedule hereto or to the effect thereof, for the payment by the contractor's employer of the amount of the judgment, and may serve a copy of such order upon such employer or his attorney or agent.

Worker obtaining judgment against the contractor, Court may order employer to pay him.
Ibid, sec. 10

11. At the expiration of seven days after service of such last-mentioned order, but not earlier, the employer shall out of the moneys attached in his hands, pay the amount stated in such order to the worker, who thereupon shall give the employer a discharge for such amount in the form numbered (3) in the Second Schedule hereto or to the effect thereof.

Employer to pay worker when ordered.
Ibid, sec. 11

12. All moneys attached as aforesaid shall be paid by the employer in priority according to the order of the service of the notices attaching such moneys; but all notices served within seven days of the first of such notices of attachment shall be deemed to be served simultaneously,

Workers to be paid according to priority of notice.
Ibid, sec. 12
Notices served within seven days.

deemed to be simultaneous.

Simultaneous notices to rank equally among themselves.

1893, No. 52, sec. 13

Employer served with notice liable only for amount due by him to contractor.

Ibid, sec. 14

On failure to pay, worker may sue person served with notice.

Ibid, sec. 15

On satisfaction of demand, attachment of moneys to cease to operate.

Ibid, sec. 16

Worker on payment to sign a discharge.

Ibid, sec. 17

Other remedies not to be affected or rights between parties varied.

Ibid, sec. 18

Not to apply to personal chattels in possession of worker.

Ibid, sec. 19

Power of Court to determine all questions, &c.

Ibid, sec. 20

for the purpose of securing the equal distribution of the moneys attached amongst all workers serving such notices within the aforesaid seven days.

13. All demands for wages of workers who serve simultaneous notices as aforesaid shall rank equally among themselves, and shall be paid in full, unless the moneys attached in the hands of the employer are insufficient to meet them, in which case they shall abate in equal proportions between themselves.

14. The employer served with an order or orders under this Part of this Act shall not be liable to make good any demand made on him to a greater extent than the sum which is actually due and owing by him to the contractor at the time of the service of such order, or the payment thereunder.

15. If the employer served with notice of attachment and order for payment fails to pay as aforesaid, the worker may sue for and recover in his own name, in any Court having jurisdiction in the matter, the moneys attached by any proceeding which the contractor might have taken had there been no attachment under this Part of this Act, subject to the right of the employer to set off against the worker's demand all moneys properly paid by the employer to the contractor under the contract prior to the service of the notice of attachment, and also all moneys which the contractor was at the time of the service of the notice of attachment liable to pay to the employer under the contract, or in consequence of any breach or non-performance thereof.

16. Upon satisfaction of the worker's demand mentioned in any order for payment under this Part of this Act, or on the setting-aside of such order, any attachment of moneys effected under this Part of this Act shall cease to be operative, but without prejudice to any *bona fide* payment by the employer served with an order for payment in accordance with such order previous to his receiving notice of such satisfaction or setting-aside of the order.

17. The worker shall, on the request of the person paying to him the demand specified in any order for payment under this Part of this Act, and at the time of receiving the same, sign a discharge therefor in the form numbered (3) in the Second Schedule hereto or to the effect thereof.

18. Nothing in this Part of this Act shall be construed to prejudice any other remedy which a worker may have against the contractor in respect of the debt due to him, or, save as expressly provided, to affect any right subsisting under any contract between any contractor and the person employing him.

19. Nothing in this Part of this Act shall be construed to lessen the security held in respect of work done upon a movable chattel by a worker, who has a right of a lien thereon and may retain or sell the same in payment of his work, under the provisions of section ninety-one hereof.

20. The Court shall have full power to inquire into, adjudicate upon, adjust, and settle in a summary manner all questions and disputes arising between the contractor and employer, or between workers and the contractor or employer, or between the workers *inter se*, and may summon before it and examine the parties and their witnesses, and may vary and rescind all such orders, and give all such directions respecting the matters brought before it as it considers necessary.

21. In all proceedings under this Part of this Act the Court shall have power to award costs to any of the parties to such proceedings.

22. (1.) All proceedings in any Court under this Part of this Act shall be subject to the rules of the Court for the time being in force relating to other proceedings in the Court, so far as the same can be; and the Governor in Council may from time to time, subject to the provisions of this Part of this Act, make rules for carrying into effect the objects of this Part of this Act.

(2.) Such rules shall be published in the *Gazette*, and shall come into force on the date of such publication.

23. (1.) All notices, orders, or documents required by this Part of this Act to be served on any person shall be served either personally or by registered letter addressed and posted to the last known place of abode or business of such person, or shall be served in such manner and on such person as the rules direct, or as the Court or the Judge thereof in any particular case, by memorandum indorsed on the notice, order, or document to be served, directs.

(2.) Service by post shall not be deemed to have been effected until the time when the notice, order, or document would be delivered in the ordinary course of the post.

24. (1.) If the employer or contractor, by himself or the agency of any other person, contravenes or, without good reason, fails to comply with any of the provisions of this Part of this Act, such employer, contractor, or agent shall be deemed guilty of an offence against this Part of this Act, and be liable to a fine not exceeding fifty pounds, or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding three months.

(2.) Where an offence for which an employer or contractor is by virtue of this Part of this Act liable to a fine has, in fact, been committed by some agent of the employer or contractor, or other person, such agent or other person shall be liable to the same fine as if he were the employer or contractor.

(3.) Where an employer or contractor is charged with an offence against this Part of this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or contractor proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this Part of this Act, and that the said other person has committed the offence in question without his knowledge, consent, or connivance, the said other person shall be convicted of such offence, and the employer or contractor shall be exempt from liability.

25. (1.) Where any work is let by a contractor to a subcontractor, every worker in the service of such subcontractor shall have the same rights and remedies in all respects against the first-mentioned contractor as a worker in the service of a contractor has under this Part of this Act against the employer of such last-mentioned contractor.

(2.) For the purpose of giving effect to this section all the foregoing provisions of this Part of this Act shall be read as if there had been enacted therein respectively the word "contractor" in the place

Court may award costs.
1893, No. 52, sec. 21
Rules of Court to apply.
Ibid, sec. 22
Power to Governor to make rules.

Service of orders, notices, &c.
Ibid, sec. 23

Offences.
Ibid, sec. 24

When agent of contractor liable.

Employer or contractor exempt from liability on conviction of actual offender.

Workers in service of subcontractor to have same rights and remedies as workers in service of contractor against employer.
Ibid, sec. 25

of the word "employer" and the word "subcontractor" in the place of the word "contractor."

Fines to be recovered
summarily.
1893, No. 52, sec. 26

26. All fines under this Part of this Act may be recovered in a summary way before a Magistrate.

Attachment of Wages.

No order to be made
attaching wages.
1895, No. 22, sec.
2, 3
Exception.
Costs.

27. (1.) No order attaching or charging the wages of any worker shall be made by any Court, or any Judge or Magistrate, except as follows, that is to say: If the amount of wages exceeds the rate of two pounds per week, any surplus above that sum shall be liable to attachment as before the passing of this Act; but the costs or expenses of any such attachment shall not be chargeable against the worker unless by virtue of such attachment the creditor recovers a sum equal to or greater than the amount of such costs and expenses.

Ibid, sec. 4

(2.) This section shall not affect any order made under "The Industrial Schools Act, 1908," or "The Destitute Persons Act, 1908."

PART II.

TRUCK.

Interpretation.
1891, No. 11, sec. 2

28. In this Part of this Act, if not inconsistent with the context,—

"Contract" includes any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and worker are parties, or are assenting, or by which they are mutually bound to each other, or whereby either of them has endeavoured to impose an obligation on the other of them:

"Employer" includes any master, manager, foreman, clerk, or other person engaged in the hiring, employment, or superintendence of the service, work, or labour of any worker within the meaning of this Part of this Act:

"Money" means coin of the realm of Great Britain and Ireland current in New Zealand, and includes the notes of any bank within the meaning of "The Banking Act, 1908":

"Wages" includes any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any service, work, or labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain:

"Worker" means any person in any manner employed in work of any kind or in manual labour, whether under or not under the age of twenty-one years.

Wages to be payable
in money.
Ibid, sec. 3

29. (1.) In every contract made with any worker the wages of such worker shall be made payable in money only, and not otherwise, and if by agreement, custom, or otherwise a worker is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

No deduction for
interest.

(2.) If in any such contract the whole or any part of such wages is made payable in any manner other than in money, or provision is made for any deduction or charge as aforesaid in respect of any advance of the whole or a part of the wages of the worker, such contract shall be and is hereby declared illegal and void so far as any promise or consideration made or given by or arising out of the same relates to the payment of such wages otherwise than in money, or as to making any such deduction or charge as aforesaid; and such promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

Contracts to be void if in contravention of this section.

30. (1.) No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any worker any terms as to the place or the manner in which, or the person with whom, any wages or portion of wages paid to the worker is to be expended.

No contract to stipulate as to mode of spending wages. 1891, No. 11, sec. 4

(2.) No employer shall, by himself or his agent, dismiss any worker from his employment for or on account of the place at which, or the manner in which, or the person with whom any wages or portion of wages paid by the employer to such worker is expended or is not expended.

31. The entire amount of the wages earned by or payable to any worker shall be actually paid to such worker in money, and not otherwise, at intervals of not more than one month if demanded; and every payment made to any such worker by his employer of or in respect of any such wages by the delivering to him of goods, or otherwise than in money, except as hereinafter mentioned, is hereby declared illegal and void; and every worker shall be entitled to recover from his employer in any Court of competent jurisdiction the whole or so much of the wages earned by such worker as has not been actually paid to him by his employer in money.

All wages to be paid in money. Ibid, sec. 5

32. In any action brought or commenced by any worker against his employer for the recovery of any sum of money due to such worker as his wages—

No set-off to be allowed for goods supplied to worker by employer. Ibid, sec. 6 1899, No. 12, sec. 6

(a.) The defendant shall not be allowed to make any set-off or counterclaim, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods had or received by the plaintiff as or on account of his wages, or by reason or in respect of any goods sold, delivered, or supplied at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer has any share or interest:

(b.) Nor shall the defendant be entitled to any set-off or counterclaim in respect of any goods supplied to the plaintiff by any person under any order or direction of the plaintiff or his agent, or the defendant or his agent.

33. (1.) No employer shall have or be entitled to maintain any action in any Court against any worker for or in respect of any goods sold, delivered, or supplied to any such worker by any such employer whilst in his employment as or on account of his wages, or for or in respect of any goods sold, delivered, or supplied to such worker at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer has any share or interest.

Employer not to have action for goods supplied to worker. 1891, No. 11, sec. 7

(2.) Nor shall the employer of a worker, or any agent of such employer, or any person supplying goods to the worker under any order or direction of such employer or agent, be entitled to maintain any action in any Court for or in respect of any goods supplied by such employer or agent, or under such order or direction, as the case may be.

(3.) Provided that nothing in this section shall apply to any exceptions expressly provided for by this Part of this Act.

No deduction from wages for sharpening or repairing tools.

1891, No. 11, sec. 8

No money to be received or deducted from wages for accident insurance policies.

1899, No. 12, sec. 3

34. No deduction shall be made from a worker's wages for sharpening or repairing tools, except by agreement.

35. (1.) It shall not be lawful for any employer to directly or indirectly take or receive any money from any worker in his employ, whether by way of deduction from wages or otherwise howsoever, in respect of any policy of insurance against injury by accident.

(2.) It shall not be lawful for any insurance company, or any person on its behalf, to directly or indirectly take or receive from any worker any money in respect of any policy of insurance which in any way, directly or indirectly, purports to both indemnify the employer against any of his liability under the Employers' Liability Acts and also to pay compensation in respect of injury to the worker by accident.

(3.) The foregoing provisions of this section shall not apply to any voluntary arrangement arrived at between an employer and his worker for insurance against accidents happening to such worker outside the time in which he is engaged working for such employer, if such arrangement is approved of by a Magistrate after hearing evidence; but in no case shall the premium payable by the worker exceed one-third of the total amount payable.

Moneys so received or deducted may be recovered.

Ibid, sec. 4

Ibid, sec. 2

(4.) All money so taken or received as aforesaid from any worker in breach of this section may by him be recovered back at any time not exceeding six months thereafter, with full costs of suit, from the employer, company, or person who took or received it.

(5.) In this section, if not inconsistent with the context,—

“Employer” means any person, company, or local authority employing any worker for hire or reward to perform any kind of skilled or unskilled manual labour, and includes “employer” as defined by section twenty-eight hereof:

“Employers' Liability Acts” means “The Employers' Liability Act, 1908,” and includes any other Act now or hereafter in operation under which the employer is liable to pay compensation or damages in respect of personal injury to the worker by accident arising out of and in the course of the worker's employment:

“Worker” means any person of any age of either sex employed for hire or reward to perform any kind of skilled or unskilled manual labour, and includes “worker” as defined by section twenty-eight hereof.

Payment of wages may be made by cheque.

1891, No. 11, sec. 9

36. Nothing herein shall be construed to prevent or render invalid any contract for the payment, or any actual payment, to any worker of the whole or any part of his wages in a cheque, draft, or order in writing for the payment of money to the bearer on demand, drawn on any person, company, or association carrying on the business of a banker in New Zealand, either generally or with any particular persons or class of persons only, if such worker freely consents to receive such

cheque, draft, or order; but all payments so made with such consent shall, for the purposes of this Part of this Act, be as valid as if made in money:

Provided that no such cheque shall be crossed:

Provided also that if wages are paid to any worker by a cheque, draft, or order in writing as aforesaid, and the same is dishonoured, such worker shall be entitled to recover from his employer such reasonable damages as he has sustained in consequence of such dishonour, and such damages shall be recoverable in any Court of competent jurisdiction in addition to any wages due or payable to such worker.

Remedies of worker.

37. (1.) Service of any legal process for or incidental to the recovery of wages, or damages for non-payment thereof, or on any cheque, draft, or order given in respect of such wages, may be effected on the employer by leaving such process with or delivering the same to the manager or overseer for the time being of the works at or in respect of which such wages have been earned.

Service of legal process.
1891, No. 11, sec. 10

(2.) This section shall not affect any other mode of service allowed by law.

38. If the employer of any worker, by himself or the agency of any other person, directly or indirectly enters into any contract or makes any payment by this Part of this Act declared to be illegal and void wholly or in part, or if the employer or his agent contravenes or fails to comply with any of the foregoing provisions of this Part of this Act, such employer or agent, as the case may be, shall be deemed guilty of an offence, and be liable to the following fines:—

Breaches of this Part of Act.
Ibid, sec. 11

- (a.) For the first offence, a fine not exceeding ten pounds;
- (b.) For the second offence, a fine not exceeding twenty-five pounds; and
- (c.) For a third or any subsequent offence, a fine not exceeding fifty pounds.

39. In any proceedings or suit against any employer, company, or person—

Consent of worker no defence.
1899, No. 12, sec. 5

- (a.) For the breach of any provision of this Part of this Act; or
- (b.) For the recovery by the worker of money alleged to have been taken or received from him in breach of any provision of this Part of this Act,—

the fact that the worker consented thereto shall not avail in any way as an answer or defence.

40. (1.) Where an offence for which an employer is by virtue of this Part of this Act liable to a fine has, in fact, been committed by some agent of the employer or other person, such agent or other person shall be liable to the same fine as if he were the employer.

When agent of employer liable.
1891, No. 11, sec. 12

(2.) Where an employer is charged with an offence against this Part of this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this Part of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be convicted of such offence, and the employer shall be exempt from liability.

Employer exempt from liability on conviction of actual offender.

Fines recoverable
summarily.
1891, No. 11, sec. 13

Provisions as to
second and
third offences.
Ibid, sec. 14

If no evidence of a
previous conviction,
offence deemed to
be separate.
Ibid, sec. 15

Limit of time for
prosecution.

Evidence of a
previous conviction.
Ibid, sec. 16

Partner not to be
liable in certain
cases.
Ibid, sec. 17

41. All fines under this Part of this Act may be recovered in a summary way before a Magistrate or two or more Justices, in accordance with "The Justices of the Peace Act, 1908."

42. (1.) No person shall be punished as for a second offence under this Part of this Act of a like nature with the first offence under this Part of this Act unless ten days at the least have intervened between the conviction of such person for the first and the conviction of such person for the second offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate fine, as though the same were a first offence.

(2.) And no person shall be punished as for a third offence under this Part of this Act of a like nature with the second offence under this Part of this Act unless ten days at the least have intervened between the conviction of such person for the second and the conviction of such person for the third offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate fine, as though the same were a second offence.

(3.) For every offence under this Part of this Act subsequent to a third offence the offender shall be liable to a fine not exceeding fifty pounds.

43. (1.) If the person preferring any information under this Part of this Act is not able, or does not see fit, to produce evidence of any previous conviction or convictions, any such offender shall be punished for each separate offence committed by him against the provisions of this Part of this Act by an equal number of distinct and separate fines, as though each of such offences were a first or second offence, as the case may be.

(2.) No person shall be proceeded against or punished as for a second or as for a third or subsequent offence after more than six months from the commission of the next preceding offence.

44. (1.) It shall be sufficient evidence of a previous conviction under this Part of this Act, whether summarily or on indictment, if a certificate signed by the proper officer having the custody of the record of such previous conviction, or of the proceedings of the Court in which such conviction was obtained, is produced to any Court inquiring of a second or third offence, or in any case where it is necessary to prove such previous conviction, in which certificate shall be stated in a compendious form the general nature of the offence for which such previous conviction was had, and the date of such conviction.

(2.) It shall not in any case be necessary to prove the signature or official status of the officer signing or giving such certificate, or that the said conviction was not quashed, or reversed on appeal, or otherwise howsoever.

45. No person shall be liable to be convicted of any offence against this Part of this Act committed by his copartner in business, and without his knowledge, privity, or consent; but it shall be lawful, when any fine or sum for wages, or any other sum, is ordered to be paid under the authority of this Part of this Act, and the person ordered to pay the same neglects or refuses to do so, to levy the same by distress and sale of any goods or chattels belonging to any copartnership concern

or business in the carrying-on of which such wages became due or such offence was committed.

46. In all proceedings to recover any sum due for wages it shall be lawful in all cases of copartnership for the Court, at the hearing of any action for the non-payment thereof, to give judgment against any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of the summons or other process upon one or more of such copartners shall be deemed to be service upon all; and any execution or other process may be had and enforced upon any such judgment in accordance with the ordinary law and practice affecting such Court.

Judgment and
execution against
partners.
1891, No. 11, sec. 18

47. This Part of this Act shall not extend or apply in the following cases:—

This Part of Act not
to apply in certain
cases.
Ibid, sec. 19

- (a.) Where an employer or his agent supplies or contracts to supply to any worker any medicine or medical attendance, or any fuel, materials, tools, appliances, or implements to be by such worker employed in his trade, labour, or occupation:
- (b.) Where an employer or his agent supplies or contracts to supply any worker who has engaged with him to fell bush, or to clear land of bush, with the necessary outfit and means of support, and materials or tools requisite for commencing his engagement, to any amount not exceeding in any case the amount of two months' wages to be earned by such worker in such engagement:
- (c.) Where such employer or his agent supplies or contracts to supply to any worker any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such worker in his trade, labour, or occupation:
- (d.) Where such employer or his agent demises to any worker the whole or any part of any tenement at any rent to be therein reserved, or allows such worker the use of a tenement as part of his wages or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services:
- (e.) Where such employer supplies or contracts to supply to any such worker any victuals dressed or prepared under the roof of such employer, or any drink not being of an intoxicating nature, and there consumed by such worker:
- (f.) Nor to prevent such employer from making or contracting to make any deduction or stoppage from the wages of any such worker for or in respect of any such rent, medicine, medical attendance, fuel, materials, tools, implements, hay, corn, provender, victuals, or drink as aforesaid:
- (g.) Nor shall prevent any employer from advancing to any worker any money to be by him contributed to any friendly society, life insurance company or association, savings-bank, or other society or association whatever, or from advancing any money for the relief of such worker or his wife or family in sickness, or from advancing any money to any member of the worker's family by his order, nor from deducting or contracting to deduct any such sum or sums of money as aforesaid from the wages of such worker:

(h.) To seamen or to persons employed in agricultural or pastoral pursuits :

Provided that no deduction or stoppage shall exceed the real and true value of any fuel, tools, implements, hay, corn, provender, victuals, drink, or materials :

Provided also that the exemptions in this section do not apply to any contractor or subcontractor for any work executed under the Government, or any local authority, or to any contractor or subcontractor for any railway or road-making work, except in respect of money paid or advanced for medicine or medical attendance.

PART III.

CONTRACTORS' AND WORKERS' LIENS.

Interpretation.

1892, No. 25, sec. 2
1895, No. 15, sec. 2

48. In this Part of this Act, if not inconsistent with the context,—

“Contract price” includes the money payable for the performance of any work under any contract, express or implied, and whether the price was fixed by express agreement or not :

“Contractor,” as regards an employer, means a person who contracts directly with the employer for the performance of work for him ; as regards a subcontractor, it means a person with whom the subcontractor contracts to perform work ; and “subcontractor” means a person who contracts with a contractor, or with another subcontractor, for the performance of work for such contractor or subcontractor :

“Contractor” also includes any person, being the owner or lessee of any threshing-machine, who contracts with any other person to thresh any grain :

“Court” means the Court in which any proceeding may be taken under this Part of this Act ; and includes the Judge of any such Court, and a Magistrate in any matter in which a Magistrate has jurisdiction under this Part of this Act :

“Employer” means any person by whom a contract is made with another person for the performance of work, or at whose request, or on whose credit, or on whose behalf, with his privity or consent, work is done ; and includes also all persons claiming under him whose rights are acquired after the work in question is commenced :

“Lien” or “charge” means a lien or charge under this Part of this Act :

“Owner” means the person to whom the land or chattel upon or in respect of which the work is to be done belongs, and, in the case of land, includes a person having a limited estate or interest in the land :

“Work” means any work or labour, whether skilled or unskilled, executed or done, or commenced to be executed or done, by any person of any occupation upon or in connection with—

(a.) The construction, decoration, alteration, or repair of any building or other structure upon land ; or

(b.) The development or working of any mine, quarry, sandpit, drain, embankment, or other excavation in or upon any land ; or

(c.) The placing, fixing, or erection of any materials, or of any plant or machinery, used or intended to be used for any of the purposes aforesaid; or

(d.) The alteration or improvement of any chattel; or

(e.) The threshing of grain (including in the term "grain" all cereals, pulse, and seeds of every kind): and includes the supply of material used or brought on the premises to be used in connection with the work:

"Worker" means a person employed in doing work, whether he is employed by the owner of the property upon which the work is to be done, or by a contractor or subcontractor, and whether his remuneration is to be according to time or by piecework, or at a fixed price or otherwise.

Declaration of Rights of Lien and Charge.

49. A contractor, subcontractor, or worker who does or procures to be done any work upon or in connection with any land, or any building or other structure or permanent improvement upon land, or does or procures to be done any work upon or in connection with any chattel, is entitled to a lien upon the whole interest of the employer in that land or chattel for the contract price of the work, but subject to the conditions and limitations following, that is to say:—

Lien upon land and chattels for labour.
1892, No. 25, sec. 3

- (a.) The lien of a contractor does not exceed the amount for the time being due to him under the contract between him and the employer.
- (b.) The lien of a subcontractor does not exceed the amount for the time being due to him under the contract between him and the contractor or subcontractor under whom he works.
- (c.) The lien of a worker, other than a contractor or subcontractor, does not exceed the amount for the time being payable to him for his work, whether he was employed by the employer or by a contractor or subcontractor.
- (d.) The total liability of the employer in respect of all such liens together does not, except in the case of fraud, exceed the contract price payable under the contract or contracts between him and the contractor or workers with whom he directly contracts.
- (e.) The lien of a worker in respect of one contract does not exceed thirty days' earnings.

50. The estate or interest of the owner who is not himself the employer in the land or chattel on or in respect of which the work is to be done shall be subject to lien or liability as if he were himself the employer, to the extent to which such owner has consented in writing.

Owner standing by.
Ibid, sec. 4

51. A subcontractor is entitled to a charge for the money due to him under the subcontract on any money payable to his contractor, or to any superior contractor, by the employer or by any superior contractor, in respect of the work done or to be done under the subcontract.

Charge in favour of subcontractors.
Ibid, sec. 5

52. A worker is entitled to a charge for the money due to him for his work on any money payable to the contractor or subcontractor by whom he is employed, or payable to any superior contractor in respect of the work done or to be done under the contract of the subcontractor by whom he is employed.

Charge in favour of workers.
Ibid, sec. 5

Provision in case of
mortgaged land.
1892, No. 25, sec. 6

53. (1.) Where land on which a lien attaches is mortgaged under a mortgage duly registered before the registration of the lien against such land under the contract in respect of which the lien arises, the mortgage shall, unless the mortgagee is a party to the contract, have priority over the lien; but if the mortgagee is a party to the contract, the lien shall have priority.

(2.) All moneys which a mortgagee pays in respect of a lien shall be added to and form part of the principal money mentioned in his mortgage, and shall bear interest accordingly.

Priority of liens.
Ibid, sec. 7

54. The several liens and charges created by this Part of this Act shall as between themselves have priority in the order following, that is to say:—

(a.) The liens and charges of workers for wages:

(b.) The liens and charges of subcontractors:

(c.) The liens of contractors:

so that the lien or charge of a subcontractor shall have priority over the lien or charge of the contractor with whom his contract is made.

Lien or Charge, how established.

Notice of claim
of lien.
Ibid, sec. 8

55. (1.) A person who intends to claim a lien on any land or chattel shall, before the completion of the work in respect of which it is claimed, or within thirty days after the completion, give notice to the owner, if liable, specifying the amount and particulars of his claim, and stating that he requires the owner to take the necessary steps to see that it is paid or secured to the claimant.

(2.) He shall also give notice of having made such claim to the person who, but for the claim, would be entitled to receive from the person to whom the notice of claim is given the money in respect of which it is given.

(3.) A notice of claim of lien may be given although the work is not completed, or the time for payment of the money in respect whereof the lien is claimed has not arrived.

(4.) If no such notice is given, the lien shall not attach.

Notice of claim
of charge.
Ibid, sec. 9

56. (1.) A subcontractor or worker who intends to claim a charge on money payable by the employer or by a superior contractor to his contractor or to a superior contractor shall, before the completion of the work in respect of which it is claimed, or within thirty days after the completion, give notice to the employer or superior contractor, as the case may be, specifying the amount and particulars of his claim, and stating that he requires the employer or superior contractor to take the necessary steps to see that it is paid or secured to the claimant.

(2.) He shall also give notice of having made such claim to the person who, but for the claim, would be entitled to receive from the person to whom the notice of claim is given the money in respect of which it is given.

(3.) A notice of claim of charge may be given although the work is not completed, or the time for payment of the money in respect whereof the charge is claimed has not arrived.

(4.) If no such notice is given, the charge shall not attach.

Form of notice of
lien or charge.
Ibid, sec. 10

57. A notice of claim of lien or charge may be in one of the forms in the Third Schedule hereto or to the like effect; but its validity shall not be affected by any inaccuracy or want of form, if the property

or money sought to be charged, and the amount of the claim, can be ascertained with reasonable certainty from the notice.

Duty and Obligations of Employer or Superior Contractor.

58. (1.) On receipt of notice of a claim of lien or charge it shall be the duty of the person by whom it is received to retain in his hands, until the time prescribed by this Part of this Act for taking proceedings for enforcing the lien or charge has expired, a sufficient part of the money payable by him under his contract to satisfy the claim of the claimant.

Consequences of
claim of lien or
charge.
1892, No. 25, sec. 11

(2.) In default of such retention he shall, subject to the provisions herein contained, be personally liable to pay to the claimant the amount of his claim, not exceeding the amount he should have retained, in the same manner and to the same extent as if the claimant had been employed by him personally.

59. (1.) All payments up to three-fourths of the contract price to be paid for the work, as defined by section forty-eight hereof, made in good faith by the employer or owner to the contractor, or by the contractor to the subcontractor, or by one subcontractor to another subcontractor, before notice in writing by the person claiming the lien or charge has been given to such employer or owner, contractor, or subcontractor, as the case may be, of the claim of such person, shall operate as a discharge *pro tanto* of the lien or charge; but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien or charge existing or arising under this Part of this Act.

Payments up to
three-fourths before
notice given to
operate as discharge.
Ibid, sec. 12

(2.) An employer or contractor shall retain in his hands one-fourth part of the money payable under the contract to the contractor or subcontractor until the expiration of thirty-one days after the completion of the work.

One-fourth to be
retained for
thirty-one days.

60. (1.) Every contractor who sublets any part of the work to be done by him under any contract shall immediately upon entering into any subcontract give written notice to the employer, stating the name of the subcontractor, the work to be done by him, the amount of the subcontract, and the mode of payment.

Contractor to give
notice to employer
of all subcontracts.
Ibid, sec. 13

(2.) Every contractor who fails to comply with this provision is liable to a fine not exceeding fifty pounds, to be recovered in a summary way under "The Justices of the Peace Act, 1908."

Fine for
non-compliance.

(3.) Nothing herein shall be deemed to restrict any power or privilege conferred by this Part of this Act on a subcontractor.

Enforcement of Lien or Charge.

61. Where notice has been given of an intention to claim a lien or charge, and the person to whom it is given does not pay, or make satisfactory arrangements for paying, to the claimant the amount claimed, the claimant may recover the amount of the lien or charge from the owner, if liable, of the land or chattel, or the person by whom the money subject to the charge is payable.

If notice not
followed by pay-
ment, proceedings
may be taken to
enforce lien.
Ibid, sec. 14

62. Claims under this Part of this Act may be enforced, and questions and disputes between persons claiming a lien or charge and any other person liable, or alleged to be liable, to pay any amount

Summary
procedure.
Ibid, sec. 15

claimed, or otherwise interested in any property or money which may be affected by a lien or charge, or claim of lien or charge, and also between persons or classes of persons claiming a lien or charge, may be settled on application in a summary manner to any Court having jurisdiction in the matter as declared by this Part of this Act.

Jurisdiction of
Magistrate's Court.
1892, No. 25, sec. 16

63. (1.) Claims of lien or charge by workers for wages, and all other claims of lien or charge, and all other matters arising under this Part of this Act, if the amount in question does not exceed the jurisdiction of the Magistrate's Court in which the claim is brought, may be heard and determined and enforced in such Court.

District Court.

(2.) All such claims of lien or charge or other matters, if the amount or value in question does not exceed the sum of two hundred pounds, may be heard and determined and enforced by a District Court.

Supreme Court.

(3.) The Supreme Court shall have jurisdiction in all matters arising under this Part of this Act.

Appeal.
Ibid, sec. 17

64. (1.) An appeal may be made from the decision of a Magistrate's Court to a District Court or the Supreme Court, and from a District Court to the Supreme Court, in the same manner and subject to the same conditions and restrictions respectively as in the case of other appeals in civil proceedings from a Magistrate's Court and from a District Court respectively.

(2.) A special case may be stated by a Magistrate or Justices of the Peace when sitting as a Magistrate's Court, for the opinion of the Supreme Court on a question of law, in the same manner as a special case may be stated by Justices under "The Justices of the Peace Act, 1908."

Costs.
Ibid, sec. 18

65. Subject to the provisions of this Part of this Act, costs of any party or parties in any proceeding may be allowed in the discretion of the Court, and may be ordered to be paid by any other party or parties, or out of any fund or property under the control of the Court.

Form of procedure.
Ibid, sec. 19

66. (1.) Proceedings in respect of a lien or charge shall be commenced by summons, which may be in any form prescribed by rules of Court or other practice of the Court.

(2.) Such proceedings must be commenced within sixty days after the completion of the work in respect of which the lien or charge is claimed. If proceedings are not taken within that time, the lien or charge shall be extinguished.

(3.) A statement of the claim shall be filed by the plaintiff with the proper officer of the Court, who shall thereupon issue the summons, which shall be directed to the person from whom payment is claimed, and also to every person who, if the claim were not made, would be entitled to receive the money claimed by the plaintiff.

(4.) If the relief sought is the enforcement of a lien or charge against land or chattels, or includes such relief, the claim must be verified by affidavit, filed with it.

(5.) A copy of the claim, and of the affidavit verifying it (if any), shall be served with the summons.

Form of claim.
Ibid, sec. 20

67. (1.) The claim must state—

(a.) The name and residence of the claimant, and of the person for whom or on whose credit the work was done, and the period within which it was done, and, in the case of a claim of lien, the name of the owner of the property to be charged :

- (b.) The nature of the work done :
- (c.) The sum claimed to be due :
- (d.) The date of expiry of the period of credit (if any) agreed to by the claimant for payment for his work, where credit has been given :

and, in the case of a claim of lien, must describe the property sought to be charged.

(2.) The claim may be in one of the forms given in the Third Schedule hereto, and when it is required to be verified shall be verified by the affidavit of the claimant, or some other person having full knowledge of the matters required to be verified, and the affidavit of an agent shall state that he has such knowledge.

68. (1.) The summons shall be served in such manner and be returnable on such date as the rules or practice of the Court prescribes. Service of summons.
1892, No. 25, sec. 21

(2.) In the absence of and until the making of rules on the subject by any Court, the practice of the Court in matters relating to summary applications to the Court shall, as nearly as possible, be followed.

(3.) Unless and until otherwise provided by rules of Court,—

(a.) Service of a summons shall be sufficient if it is duly made three clear days before the date appointed for the hearing of the summons :

(b.) Service of a summons may be made by delivering a copy of it, together with a copy of the claim and affidavit of verification (if any), to a defendant personally or to his authorised agent :

(c.) The Court may proceed to hear and decide the claim or dispute in the absence of a defendant, on proof of personal service on the defendant or his agent, or on proof that all reasonable efforts have been made to effect personal service on the defendant or his agent, and that copies of the summons, claim, and affidavit (if any) have been affixed in some conspicuous place upon the work in respect of which the claim or dispute arises.

69. If there is no dispute as to the amount which an owner, employer, contractor, or subcontractor is liable to pay, but the question or dispute is limited to determining who are the persons entitled to receive payment of it, such owner, employer, contractor, or subcontractor may, by payment into Court of the amount claimed, relieve himself and his property of all further liability in respect of such amount, and of any costs of the proceedings. Payment into Court
by person liable.
Ibid, sec. 22

70. If the fact or extent of the liability of an owner or employer is in dispute, he may, by payment into Court of the amount claimed, or on giving security to the satisfaction of the Court, relieve the land or property on which a lien is claimed from liability to the lien. In disputed cases
owner may by pay-
ment into Court
release property
from lien.
Ibid, sec. 23

71. (1.) A Court, or a Magistrate in the case of proceedings taken in a Magistrate's Court, may, on the application of a plaintiff *ex parte*, make such interim orders for the custody or preservation of any property concerned as may be necessary for the protection of the interests of any party or parties interested, pending the decision of the Court on the claim or dispute. Protection of
property.
Ibid, sec. 24

(2.) In addition to any punishment or penalty which a Court may be authorised to impose for the breach or contempt of its decrees or

orders, any person who, after notice of any such order, disobeys it or acts contrary to it, is liable, in the discretion of the Court, to a fine not exceeding fifty pounds; and such fine may be enforced by the Court, on application by the plaintiff or any other person interested in or affected by the claim in dispute, in the like manner and by the like process as a judgment of such Court could be enforced under the ordinary procedure applicable.

Several claims
for wages may
be joined.
1892, No. 25, sec. 25

72. (1.) A claim for wages may include the claims of any number of workers whose primary claim is against the same person, and who may choose to join in it.

(2.) In any such case, if a lien is claimed, each claimant must verify his claim by affidavit, substantially in accordance with the form numbered (5) in the Third Schedule hereto.

Effect of payment
under order of
Court.
Ibid, sec. 26

73. All payments made by an employer, contractor, or subcontractor to any person under and in compliance with an order of a Court having jurisdiction under this Part of this Act shall be a sufficient discharge to the person making the payment of his liability to pay the money to the person who, but for the order, would have been entitled to receive the money from him.

Remedies against Land.

Registration of lien.
Ibid, sec. 27

74. Where a person entitled to a lien on land intends to have recourse to the land, he must register his lien against the land in the following manner:—

Land under
Land Transfer Act.

(a.) (i.) Where the land is subject to "The Land Transfer Act, 1908," a copy of the statement of claim of lien and affidavit, certified by the proper officer of the Court in which the original has been filed, shall be lodged in the office of the District Land Registrar of the district in which the land is situated, who shall thereupon register the claim of lien on the title to the land in question in the manner in which caveats are required to be registered.

Notice.

(ii.) Notice of the claim of lien shall be given by the Registrar, by letter through the post-office, to the registered proprietor, and to every mortgagee or incumbrancee of the land.

(iii.) The registration shall be deemed to have been made at the time of the day on which the claim of lien is lodged in the office.

Land not under
Land Transfer Act.

(b.) Where the title to the land is not subject to "The Land Transfer Act, 1908," a claim of lien may be registered in the same manner as any deed or instrument affecting such land may by law be registered.

Registration fee,
Ibid, sec. 28

75. A claim of lien on land shall not be liable to any stamp duty. A fee of one shilling and no more shall be payable on the registration of a claim of lien.

When claim to
be registered.
Ibid, sec. 29

76. (1.) A claim of lien on land must be registered not later than thirty days after the completion of the work.

(2.) If the claim of lien is not registered within that time the lien shall be extinguished.

(3.) Until registration the land shall not be affected by lien or claim of lien.

77. In the event of the death of a person entitled to a lien, his right of lien shall pass to his personal representatives.

Death of lien-holder.
1892, No. 25, sec. 30

78. (1.) A lien may be discharged by a receipt signed by the claimant, or his agent duly authorised in writing, acknowledging payment of the amount claimed, and verified by affidavit and filed.

Discharge of liens.
Ibid, sec. 31

(2.) The receipt shall be numbered and entered or recorded by the District Land Registrar or Registrar of Deeds in the same manner as other instruments. The fee shall be the same as for registering a claim of lien.

79. The registration of discharges of liens shall be at the cost of the person making the claim of lien, unless the Court otherwise orders.

Cost of registering discharge.
Ibid, sec. 32

80. (1.) Any number of persons each of whom is entitled to a lien of the same order of priority may join in one proceeding to enforce their liens.

Action by lien-holders for joint benefit.
Ibid, sec. 33

(2.) Any action brought by any person to enforce a lien shall be taken to be brought on behalf also of every person entitled to a lien of the same order of priority who, before the date appointed for hearing the claim or any adjournment of the hearing, files in the proper office of the Court from which the summons issued a duly verified statement of his claim of lien, indorsed with a request that he be added as a party to the action.

81. (1.) Where separate actions are brought against the same person or against several persons in respect of work done under the same contract between the employer and the principal contractor, the Court may order them to be consolidated, on such terms as it deems just.

Consolidation of proceedings.
Ibid, sec. 34

(2.) Where proceedings have been commenced in more than one Court, and are still pending in respect of separate claims of lien against the same person for work done under the same contract made by him as employer, such proceedings may be remitted to the Court in which proceedings were first instituted, if the amounts claimed in such remitted proceedings are within the limits prescribed by this Part of this Act, or otherwise within the jurisdiction of such last-mentioned Court, and in any other case may be remitted to some Court having jurisdiction to deal with the whole matter in question in such proceedings.

82. In the event of the death of the plaintiff, or his refusal or neglect to proceed, any other claimant of a lien of the same order of priority, who has filed his claim in the manner and within the time prescribed by this Part of this Act, may be allowed by the Court to prosecute the action on such terms as it deems just and reasonable.

Prosecution of claim when plaintiff dies, &c.
Ibid, sec. 35

83. If judgment is recovered against an employer or owner on a claim of lien, the Court may direct a sale of the land or chattel to take place at any time after one month from the recovery of the judgment, and may direct such public notice, not being less than fourteen days, of such intended sale as the Court deems necessary.

Time when sale may be made.
Ibid, sec. 36

84. Where the lien is on a chattel which is affixed to land, the Court may direct the sale of the chattel, and may authorise its removal from the land to which it is affixed.

Court may direct sale and removal of chattel.
Ibid, sec. 37

85. Where judgment is given for enforcing a lien, the Court may add to the judgment the costs of and incidental to registering the lien, as well as the costs of the proceedings.

Costs.
Ibid, sec. 38

Registry may be annulled.
1892, No. 25, sec. 39

Execution upon a sale ordered by District Court or Magistrate's Court.
Ibid, sec. 40

Person prejudicially affected may apply to Court.
Ibid, sec. 41

Vexatious notice of claim.
Ibid, sec. 42

Costs
Ibid, sec. 43

Special provision for enforcing lien on personal chattels.
Ibid, sec. 44

86. The Court may direct the vacation of the registration of a lien, on payment into Court of the amounts claimed in or under any proceedings instituted upon the lien, or on such other terms as the Court deems just.

87. Where a sale of any estate or interest in land is directed under this Part of this Act under a decision of a District Court or Magistrate's Court, the sale shall be made by the Sheriff in the Supreme Court district where the land is situated on delivery to him of a copy of such decision, duly certified by the Clerk of the District Court or the Magistrate's Court, as the case may be, which shall be a sufficient warrant and authority to such Sheriff to effect and complete the sale in the same manner and with the same powers and authorities as he is required or authorised to effect a sale of land under a writ of sale pursuant to a judgment of the Supreme Court, including the execution of any instrument necessary to convey or transfer to a purchaser the estate or interest sold.

88. Any person alleging that he is prejudicially affected by a claim of lien or charge, or by registration under this Part of this Act, may at any time apply to the Court to have such claim or registration cancelled or the effect thereof modified, and such order may be made as may be just.

89. If any person vexatiously or without any reasonable grounds gives notice of claim of lien or charge, or registers any lien, such person shall be liable to pay to any person prejudicially affected thereby such compensation as the Court, on a summary application, fixes and determines.

90. In all proceedings under this Part of this Act the Court shall have power to award costs to any of the parties to such proceedings.

General Provisions.

91. (1.) Where a worker has done work upon a chattel in his possession by way of alteration or improvement, or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien on such chattel for the amount or value of the work done, then, in case the amount to which he is entitled remains unpaid for two months after it ought to have been paid, he may, in addition to all other remedies provided by law, cause the chattel in respect of which the lien exists to be sold by auction.

(2.) One week's notice of the sale shall be given by advertisement in a newspaper published in the locality in which the work was done, or, if there is no newspaper published in such locality, then in a newspaper circulating in the neighbourhood, stating the name of the person indebted, the amount of the debt, a description of the chattel to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence (if any) of the owner, if he is a resident of the locality.

(3.) The proceeds of the sale shall be applied in payment of the amount due under the lien and the costs of advertising and sale, and any surplus shall be paid over to the Clerk of the Magistrate's Court at or nearest to the place of sale, to be held by him for the benefit of the person entitled to it.

92. Any affidavit required to be made under the provisions of this Part of this Act may be sworn before a Justice, or before any other person authorised to take affidavits in the Supreme Court, and no fee shall be payable or taken for administering the oath.

Affidavits to be sworn without fee. 1892, No. 25, sec. 45

93. Except to the extent otherwise mentioned in this Part of this Act, nothing in this Part shall be construed to impair or affect any right or liability accruing or accrued under the provisions of Part I of this Act, or the right of any person to whom a debt is due for work done or materials furnished, to maintain a personal action to recover the debt against any person liable for it; and the judgment (if any) obtained by the plaintiff in any such action shall not impair or otherwise affect any lien or other right to which he is entitled under this Part of this Act.

Saving of other remedies. Ibid, sec. 46

94. Nothing in this Part of this Act shall be deemed to create or give to any person any right or remedy against any land vested in the Crown, or in any body corporate, Board, or local authority procuring or undertaking the performance of any work for any public purpose.

Certain lands not affected. Ibid, sec. 47

Special Provision relating to Owners of Threshing-machines.

95. Where any crop which is subject to a valid security, duly registered under "The Chattels Transfer Act, 1908," has been threshed by a contractor, and the amount of the cost of the work of threshing, or any part thereof, remains unpaid at the time of the realisation of such security by the grantee, then, if the contractor gives notice in writing to the grantee of his claim within seven days after such realisation, the amount of the reasonable cost of the threshing of the crop so realised by the grantee shall be a charge on the proceeds of the realisation of such crop.

Lienec responsible to contractor for cost of threshing grain, if lien enforced. 1895, No. 15, sec. 3

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1891, No. 11.—"The Truck Act, 1891."
 1892, No. 25.—"The Contractors' and Workmen's Lien Act, 1892."
 1893, No. 52.—"The Workmen's Wages Act, 1893."
 1895, No. 15.—"The Threshing-machine Owners' Lien Act, 1895."
 1895, No. 22.—"The Wages Attachment Act, 1895."
 1899, No. 12.—"The Wages Protection Act, 1899."

SECOND SCHEDULE.

(1.) NOTICE OF ATTACHMENT.

To [Name of employer].

Section 9. 1893, No. 52, Schedule.

PURSUANT to Part I of "The Wages Protection and Contractors' Liens Act, 1908," take notice that, [Name of contractor] being indebted to me [or us] in the sum of £ [or in the sums set opposite our signatures] for wages, you are hereby required to retain in your hands all moneys due or accruing due from you to the said [Name of contractor].

Dated this day of , 19 .

A. B., [Worker]	..	£ [Amount owing].
C. D., "	..	£ "
E. F., "	..	£ "

Section 10.

(2.) ORDER FOR PAYMENT OF AMOUNT DUE TO WORKER.

In the Court, District.

Between A. B., plaintiff, and C. D., defendant.

To [Name of employer], of

THE above-named plaintiff having on the day of , 19 , obtained a judgment in this Court against the above-named defendant for the sum of £ for wages, you are hereby ordered under Part I of "The Wages Protection and Contractors' Liens Act, 1908," to pay to the plaintiff the aforesaid amount out of any moneys now due or from time to time becoming due from you to the defendant.

Dated this day of , 19 .

[Seal of Court.]

Clerk of Court.

Section 11.

(3.) RECEIPT TO BE GIVEN BY WORKER ON PAYMENT OF HIS CLAIM.

I HEREBY acknowledge that the sum of £ , due to me by [Name of contractor], for which I obtained judgment in the Court at on the day of , 19 , under Part I of "The Wages Protection and Contractors' Liens Act, 1908," has been fully paid by [Name of person paying—i.e., contractor or employer].

Dated this day of , 19 .

A. B. [Worker].

Section 57.
1892, No. 25,
Schedule.

THIRD SCHEDULE.

(1.) NOTICE OF INTENTION TO CLAIM LIEN.

To Mr. C. D., of

I, A. B. [Name of claimant], of [Here state residence and occupation of claimant], hereby give you notice that I claim under Part III of "The Wages Protection and Contractors' Liens Act, 1908," a lien on your land [or steam-engine, or as the case may be] at [Here describe the land or chattel in such a manner that it can be identified], in respect of the following work done upon or in connection with the land [or as the case may be], that is to say: [Here give a short description of the nature of the work done, and for which the lien is claimed], which work was [or is to be] done by me while in the employment of [or under a subcontract with] [Here state the name and residence and occupation of the person for whom or on whose credit the work is done], on or before the day of , 19 .

The amount which I claim as due [or to become due] is £ , and I require you to take the necessary steps to see that this amount is paid or secured to me.

Dated at , this day of , 19 .

[Signature of Claimant.]

(2.) NOTICE OF INTENTION TO CLAIM CHARGE.

To Mr. C. D.

I, A. B. [Name of claimant], of [Here state residence and occupation of claimant], hereby give you notice that I claim under Part III of "The Wages Protection and Contractors' Liens Act, 1908," a charge on the money which is now or will be payable by you to [Here state the name and residence of the contractor or subcontractor to whom the money sought to be charged is payable] in respect of the following work done by me in respect of your contract with the said E. F., that is to say: [Here give a short description of the nature of the work done and for which the charge is claimed], which work was [or is to be] done by me while in the employment of the said E. F. [or of G. H., a subcontractor under the said E. F.], on or before the day of , 19 .

The amount which I claim as due [or to become due] is £ , and I require you to take the necessary steps to see that this amount is paid or secured to me.

Dated at , this day of , 19 .

[Signature of Claimant.]

(3.) STATEMENT OF CLAIM TO BE FILED ON COMMENCING PROCEEDINGS.

Section 67.

A. B., of [State residence and occupation of claimant], claims under Part III of "The Wages Protection and Contractors' Liens Act, 1908," to recover from [Here state the name, residence, and occupation of the persons against whom the claim is made], the sum of £ , for days' wages as a bricklayer [or as the case may be (State concisely the nature of the work or service in respect of which the claim is made)].

The work was done for [State the name, residence, and occupation of the person for whom or on whose credit the work was done], between the day of and the day of last.

The credit agreed to by the claimant expired on

If a lien is claimed, add—

The claimant claims a lien for the above sum on the land of the said C. D. at [Here give a description of the property to be charged sufficient for the purpose of registration] [or on the steam-engine of the said C. D. now at (Here give such a description of the chattel to be charged as will identify it)].

Dated at , this day of , 19 .

[Signature of Claimant.]

(4.) STATEMENT OF CLAIM FOR WAGES BY SEVERAL CLAIMANTS.

THE following persons claim under Part III of "The Wages Protection and Contractors' Liens Act, 1908," to recover from [Here state the name, residence, and occupation of the person against whom the claims are made] the following sums for wages [Here state the names, residences, and occupations of the several persons claiming the lien, and particulars of their claims]:—

A. B., of [Residence and occupation], £ , for days' wages, as, &c.

C. D., of " £ , for days' wages, as, &c.

E. F., of " £ , for days' wages, as, &c.

The work was done for [State the name, residence, and occupation of the person for whom or on whose credit the work was done] between the day of and the day of last.

The credit agreed to by the claimants expired on .

If a lien is claimed, add—

The claimants claim a lien for the above sums on the land of the said G. H. at [Here give a description of the property to be charged sufficient for the purpose of registration] [or on the steam-engine of the said G. H. now at (Here give such a description of the chattel to be charged as will identify it)].

Dated at , this day of , 19 .

[Signatures of Claimants.]

(5.) AFFIDAVIT VERIFYING CLAIM.

Section 72.

I, A. B. [or C. D.], make oath that the above [or annexed] claim is true [or that the said claim, so far as relates to me (or to A. B.) is true].

Or We, A. B. and C. D., named in the above [or annexed] claim, make oath, and each for himself says, that the said claim, so far as relates to him, is true.

[Where the affidavit is not made by the claimant himself a clause must be added to the following effect: I, C. D., have full knowledge of the facts set forth in the above (or annexed) claim.]

Sworn before me at , in New Zealand, }
this day of , 19 . }

[Or The said A. B. and C. D. were severally }
sworn before me at , in New }
Zealand, this day of , 19 . }

Or The said E. F. was sworn before me at }
 , in New Zealand, this }
day of , 19 . }