

Mechanic's Lien—Right of in Ranch Hand for Heading Grain, Plowing, Irrigating and Putting Up Hay.

Section 7290 of the Revised Codes of 1907 construed not to grant the right of a mechanic's lien to a farm-hand in connection with ordinary farming operations, such as heading grain, plowing, irrigating and putting up hay.

Charles D. Greenfield, Esq.,
Chief Division of Labor and Publicity,
Helena, Montana.

My dear Mr. Greenfield:

Your inquiry, whether Section 7290 of the Revised Codes of 1907 is broad enough to include ranch hands so as to permit them to file mechanics' liens for labor done in heading grain, plowing, irrigating or putting up hay, has been received.

The above section reads as follows:

"Every mechanic, miner, machinist, architect, foreman, engineer, builder, lumberman, artisan, workman, laborer, and any other person performing any work and labor upon, or furnishing any material, machinery or fixture for any building, structure, bridge, flume, canal, ditch, aqueduct, mining claim, quartz lode, tunnel, city or town lot, farm, ranch, fence, railroad, telegraph, telephone, electric light, gas or water works or plant, or any improvements upon complying with the provisions of this Chapter for his work or labor done, or material, machinery or fixtures furnished, has a lien upon the property upon which the work or labor is done, or material furnished."

If this section is to be held to include farm-hands it must be because such come within the terms of "workman, laborer, and any other person performing any work and labor upon * * * any * * * farm, ranch, * * * has a lien upon the property upon which the work or labor is done * * * "

Mechanics' liens upon land are purely statutory. (1 Jones on Liens, 3rd Ed., Sec. 1184; McGlaufflin v. Wormser, 28 Mont. 177, 181; Dean v. Stewart, 49 Mont. 506, 515). The theory of the lien is that work has been done upon or material furnished for property upon which the lien is claimed in improving such property. A mechanic's lien attaches primarily to the improvements, and to the land only incidentally. (Lumber Co. v. Edwards, 50 Mont. 49; Dean v. Stewart, 49 Mont. 506). The heading of grain, while tending to improve the grain itself and to advance it toward its ultimate use and thus to enhance its value, could scarcely be said to be an improvement upon the land from which the grain is cut, such as a building or fence might be, and for that reason the law gives no lien upon the land for heading grain. The conclusion is the same with respect to irrigating land or putting up hay, for in each of these cases the work done is for the benefit of the crop rather than for the benefit of the land, and does not constitute an improvement to the land as such. Likewise, while plowing does improve land in one sense and in certain cases, it is not an "improvement" in the sense that the term is used in the above section and as construed by the above cases.

It is, therefore, my opinion that Section 7290 of the Revised Codes, while it, of course, provides for a lien upon buildings and other improvements upon farm or any other lands, does not include the labor of a farm-hand in connection with ordinary farming operations, such as heading grain, plowing, irrigating, or putting up hay, so as to give such farm-hand a right to a lien upon the land where such operations were conducted.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.