

## CHAPTER XVI.

*A Bill legalizing the town of Winona, and for other purposes.*

- SECTION 1. The town of Winona legalized.
2. Sales of property made valid.
  3. The "Stevens' Claim" made a part of the town of Winona.
  4. An alteration of the numbering of blocks authorized, if necessary.
  5. How the town plat shall be entered.
  6. West Winona defined.
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  9. Of the claims of builders and furnishers upon buildings.
  10. How builders or furnishers are to secure liens.
  11. The length of time liens may stand.
  12. How claims or petitions shall be made.
  13. How liens shall be satisfied.
  14. Of the forfeit in case of a failure to satisfy claimants.
  15. How claimants may proceed to recover.
  16. Of the rendering of judgment and issuing of executions.
  17. When property may be separated and sold in part.
  18. Of the notice of sale and deed to purchaser.
  19. The provisions of this act to apply to persons performing manual labor on lands.
  20. Mechanics liens, when proved, shall lay as a debt on lands or buildings.
  21. Persons bestowing labor upon personal property shall have a lien upon such property until such service is satisfied.
  22. Common carriers and others may have the benefit of this act under certain circumstances.
  23. Of other acts affecting mechanics liens.
  24. All laws containing the provisions of this act repealed.
  25. This act to be in force from and after its passage.

*Be it enacted by the Legislative Assembly of Minnesota Territory :*

SECTION 1. That the town, as laid out by Orrin Smith and Edwin (H.) Johnson, in the county of Winona, the plat of which was duly recorded, or filed for record, in the proper office of the then county of Fillmore, in the month of July, one thousand eight hundred and fifty-three, be and the same shall be known in law, as the Town of Winona, any record to the contrary notwithstanding. Town of Winona legalized.

SEC. 2. All transfers and sales of property in said town, by said Smith and Johnson, their associates, partners and assigns, or by other persons, shall be, and the same are hereby declared, to be as legal and binding in law upon the contracting parties, as if the said town had received, when first laid out and when recorded, the name of Winona, instead of Montezuma. Sales of property made valid.

SEC. 3. That all that tract or parcel of land lying below, contiguous, or adjoining upon, the east side of said town of Winona, and commonly known as "Stevens' Claim," containing eighty acres more or less, a portion of which has heretofore been laid out into town lots, as the same appears of record in the office of the register of deeds for said county of Winona, together with all such other portions thereof as may hereafter be laid out into town lots by the proprietors thereof, shall constitute a part of the town of Winona. Stevens' claim made a part of the town of Winona.

Alteration of the numbering of blocks authorized if necessary.

SEC. 4. It shall be the duty of the register of deeds in and for the county of Winona, to alter the numbering of the blocks of said town, and the several parts and portions thereof, in such manner as may be necessary to prevent misunderstanding relative to the locality of lots upon the original or other plats thereof, as heretofore or to be hereafter recorded; and it shall also be the duty of the said registers of deeds to enter upon the records of any and all the several plats, which may conflict in any manner with the original or first plat of said town, such minutes as may be necessary to exhibit plainly all such conflicting surveys and records, and so much of all such surveys and records as may be found to conflict with said first or original plat, are hereby declared to be void and of no effect.

Town plat shall be entered.

SEC. 5. In purchasing from the United States the land or any portion of the lands upon which the said town of Winona is situated, it shall be the duty of the judge or other person or persons so authorized to purchase the same in trust for the proprietors and those holding under them, *first*, to enter the fractional quarter section upon which the original or first plat herein referred to was mainly laid; *secondly*, to enter the eighty acres, more or less, upon which the said "Stevens' Claim" is situated, and the remainder of the three hundred and twenty acres shall be on the east half of the south east quarter of section twenty-two, which said eighty acres shall also constitute a part and parcel of the town of Winona, and be known in law as such.

West Winona defined.

SEC. 6. So much land as is embraced in the town plat of Winona, as laid out by Henry D. Huff, and surveyed by H. J. Hilbert, and recorded in the office of the register of deeds for the county of Winona, January first, one thousand eight hundred and fifty-five, as lies on the west half of the southeast quarter of section twenty-two, and the east half of the south west quarter of said section, and the fractional lot or lots lying north of the same on said section, shall hereafter be known in law as WEST WINONA; *Provided*, That nothing herein contained shall be so construed as to include within the limits of said West Winona any lands outside of the rightful claim of said H(enry) D. Huff and his partners therein, unless it be by consent of those so rightfully claiming said excess of land.

Public square and public buildings.

SEC. 7. That block numbered thirty-three in said town of Winona, as laid out by said Smith and Johnson, and which was by them given and marked as a public square, be and the same is hereby declared to be the estate and property of Winona county, for the purpose of erecting thereon the court house, jail and other county buildings; and the county commissioners of said county are hereby required to erect thereon such said public buildings for said county.

Act take effect.

SEC. 8. This act shall take effect and be in force from and after its passage.

Claims of builders and furnishers upon buildings.

SEC. 9. All and every dwelling house, or other buildings hereafter constructed and erected within the Territory of Minnesota, together with the right, title and interest of the person or persons owning such dwelling house or other building, on and to the land upon which the same shall be situated, not exceeding forty acres, or if erected within the limits of any city, town or village plat, the lot on which such dwelling house or other building shall be situated, not exceeding in extent one acre, shall be subject to the payment of the debt contracted for or by reason of any work done or materials found and provided by any brick maker, brick layer, stone cutter, mason, lime merchant, carpenter, painter and glazier, iron monger, plasterer and lumber merchant, or any other person employed in erecting or furnishing materials for, and in the erection and construction of such

house or other buildings before any other lien which originated subsequent to the laying of stock or to the commencement of such house or other building.

SEC. 10. If such dwelling house or other buildings, or any portion thereof, shall have been constructed under contract or contracts entered into by the owner thereof, or his or her agent, with any person or persons, no person who may have done work for such contractor or contractors, or furnished materials for him or them on his or their order or authority, shall have or possess any lien on said house or other building for work done and materials so furnished, unless the person or persons so employed by such contractor to do work or furnish materials for such building, shall, within thirty days after commencing work, or having furnished materials as aforesaid, given notice in writing to the owner or owners of such building, or to his their agent, that he or they are so employed to work or to furnish, or to have furnished material, and that they claim the benefit of the lien granted by this chapter.

How to secure liens.

SEC. 11. No such debt for work and materials shall remain a lien upon such lands, houses or other buildings longer than one year from the time of furnishing of materials, or of the performance of the labor, unless a petition or claim for the same shall be filed and an action for the recovery thereof be instituted within the said year.

Length of time liens may stand.

SEC. 12. The claim or petition shall contain a brief statement of the contract or demand on which it is founded, and of the amount due thereon, with a description of the premises and all the material facts in relation thereto, and may be filed in the county or circuit court of the proper county either in term time or in vacation, either at or before the commencement of suit; no transfer of the premises or property by the owner, agent or occupant, shall in any way bar any claimants from availing themselves of the provisions of this chapter.

How claims or petitions shall be made.

SEC. 13. Each and every person having received satisfaction for his or their debt, for which a claim is, or has been or shall be filed, or action brought, shall, at the request of any person interested in the building on which the same was a lien, or in having the said lien removed, or of his or their legal representatives, on payment of the cost of the claim or action, and on tender of the cost of office (fees) for entering satisfaction, within six days after such request made, enter satisfaction for the claim, in the office where such claim was or shall be filed, in such action brought, which shall forever thereafter discharge, defeat and release the same.

How liens shall be satisfied.

SEC. 14. If such person having received satisfaction as aforesaid, by himself or his attorney, shall not, within six days after the request and payment of costs of the claim or action, as tendered as aforesaid, by himself or his attorney, duly authorized, enter satisfaction as aforesaid, he, she or they neglecting so to do, shall forfeit and pay unto the party or parties aggrieved, any sum of money not exceeding one half of the debt for which the claim is filed, or action brought as aforesaid, to be sued for and recovered, by the person or persons damaged, in like manner as other debts are now recovered by existing laws for the recovery of debts.

Forfeit in case of failure to satisfy claimants.

SEC. 15. In all cases of a lien created by this act, the person having a claim filed in accordance with its provisions, may proceed to recover it by a personal action against the debtor, his executors or administrators, or when the plaintiff is a sub-contractor, by *scire facias* against the owner of the building.

Claimants may proceed to recover.

SEC. 16. When the suit is commenced by summons, and judgment rendered for the plaintiff, execution may be issued and levied upon the

Rendering of judgment and issuing of executions.

premises, subject to such time, and sale thereof be made in the manner prescribed by law in ordinary cases.

SEC. 17. If any part of the premises can be separated from the residue, and sold without damage to the whole, and if the value thereof shall be sufficient to satisfy the judgment which may be rendered, and cost of suit and expense of sale, the court may order sale of that part, if it shall appear to be most for the interest of the parties concerned.

SEC. 18. The officer who makes the sale, shall give notice of the time and place appointed thereof, in the manner prescribed in relation to the sale of real estate on execution, unless the court shall order other and different notice to be given, and such officer shall give to the purchaser a deed of conveyance of the premises sold, which shall be valid and effectual to pass all the right, title and interest of the defendant in and to said premises absolutely, whether the same be held in fee simple for life, or for years.

SEC. 19. Any person or persons performing manual labor upon any land, timber or lumber, for or on account of the owner, agent or assignor thereof, may avail themselves of the foregoing provisions of this chapter, and upon complying with the requirements thereof, shall have a like lien thereon for the amount of work and labor done and performed, and the said lien may be carried into force and effect, pursuant to the foregoing provisions of this chapter.

SEC. 20. That all mechanics' liens, which shall have been proved, shall lay as a debt on the land and building on which the work was done, and be the same as a mortgage on the same, with twenty-five per cent. per annum until the same be sold or paid.

SEC. 21. Any person who shall make, alter or repair, or bestow labor on any article of personal property, at the request of the owner or legal possessor thereof, shall have a lien on such property so made, altered or repaired, or upon which labor has been bestowed, for his just and reasonable charges, for the labor he has performed and the materials he has furnished, and such person may hold and retain possession of the same until such just and reasonable charges shall be paid, and if they be not paid within three months after the labor shall have been performed, or the materials furnished, such person having such lien may proceed to sell the property by him so made, altered or repaired, or upon which labor has been bestowed, at public auction, by giving public notice of such sale by advertisement for three weeks in some newspaper published in the county, or if there be no such paper in the county, then by posting up notice of such sale in three of the most public places in the county three weeks before the time of sale; and the proceeds of such sale shall be applied first to the discharge of such lien and the costs and expense of keeping and selling such property, and the remainder, if any, shall be paid over to the owner thereof; the provisions of this and the following section not to interfere with any special agreement of parties.

SEC. 22. Any person who is a common carrier, and any person who shall, at the request of the owner or lawful possessor of any personal property, carry, convey or transport the same from any one place to another, and any person who shall safely keep or store any personal property, at the request of the owner or lawful possessor thereof, shall have the same lien and the same power of sale for the satisfaction of his reasonable charges, upon the same conditions and restrictions as provided in the preceding sections.

SEC. 23. *And be it further enacted,* That all laws heretofore passed by the Legislative Assembly of Minnesota, and now in force in said Terri-

When property may be separated and sold in part.

Notice of sale and deed to purchaser.

Provisions of this act to apply to persons performing manual labor on lands.

Mechanics' debts shall lay as a debt upon land or buildings.

Persons bestowing labor upon personal property shall have a lien upon such property until such service is satisfied.

Carriers and others may have the benefit of this act.

Other acts affecting mechanics' liens.

tory, regarding or affecting mechanics' liens, be and the same are hereby repealed.

SEC. 24. (All) laws now in force in this Territory containing the provisions of this act are hereby repealed.

SEC. 25. This act shall be in force from and after its passage.

J. S. NORRIS,

*Speaker of the House of Representatives.*

WM. P. MURRAY,

*President of Council.*

Laws containing  
the previous  
act repealed  
Act to be in force  
from and after  
its passage.

APPROVED—March third, eighteen hundred and fifty-five.

W. A. GORMAN.

I certify the foregoing to be a correct copy of the original bill on file in this office.

J. TRAVIS ROSSETT,

*Secretary of the Territory of Minnesota.*

## CHAPTER XVII.

### *A Bill for An Act allowing a change of Venue in certain cases.*

- SECTION 1. What kind of application shall be necessary to warrant the granting of a change of venue.
2. The Judge shall grant a change of venue.
3. Change of venue may in all cases be made by the consent of the parties.
4. Amendment to Chapter sixty-six, section seven of revised Statutes.
5. When this Act shall take effect.

#### *Be it enacted by the Legislative Assembly of the Territory of Minnesota:*

SECTION 1. That if either party in any civil cause at Law, or in Equity, after issue joined therein, which is or may be depending in any District Court within the Territory, shall fear that he will not receive a fair trial or hearing, in the Court in which the cause is pending, on account that the judge of such court is interested, or prejudiced therein, or is related to, or shall have been counsel for either party; or that the inhabitants of such country are prejudiced against the applicant, or for any other good reason he fears he will not receive a fair and impartial trial or hearing, such party may apply to the Court in term, or to the Judge thereof, in vacation, by petition, setting forth the cause of the application, and praying a change of venue, accompanied by an affidavit verifying the facts stated in the petition.

Application necessary to warrant the granting of a change of venue.