

## CHAPTER LXXI.

*An Act providing for a lien for labor and services upon  
Logs and Lumber in the First Lumber District of Min-  
nesota.* Feb'y 18, 1870.

- SECTION 1.** Persons to have lien upon logs or timber for services rendered—may apply to all such labor performed prior to the passage of this act when applicable.
2. When such debt shall remain a lien on said logs or timber—what statement to set forth—when statement to be filed—when suit shall be commenced for the recovery of said demand.
  3. How claims held against said logs or timber may be enforced.
  4. By whom the attachment may be served.
  5. When attachment shall issue under the provisions of this act.
  6. Plaintiff not to give security unless required by an order of the said Court—when Court may issue such order.
  7. In all cases arising under this act Justices of the Peace to have jurisdiction—before the issuing of warrant of attachment plaintiff to file an affidavit—what to contain.
  8. Form of attachment.
  9. Justices of the Peace shall conform to the provisions of law governing the same in all proceedings.
  10. Attachments issued by Justices of the Peace how served and returned.
  11. Who to be defendant in suits arising under the provisions of this act.
  12. What to be the findings of the Court, Jury or Justice of the Peace in actions brought under the provisions of this act.
  13. Who to pay the boomage on the logs and timber attached—at what rate.
  14. When the action may be defeated.
  15. The filing of such statement for a lien must be alleged in the complaint.
  16. Who to file all such statements—compensation.
  17. How to proceed in case more than one person has claim on the same mark.
  18. When act to take effect.

*Be it enacted by the Legislature of the State of Minnesota:*

**SECTION 1.** Any person, company or corporation that may do or perform any labor or services in cutting, falling, hauling, driving, running, rafting, booming, cribbing, or towing, any logs or timber upon the St. Croix lake or river, or their tributaries in this state, shall have a lien

Persons to have liens on logs for services—to apply to labor done prior to passage of this act.

thereon for the amount due for such services, and the same shall take precedence of all other claims thereon. The provisions of this act shall apply to all such labor or services that may have been done or performed prior to the passage of this act, so far as the provisions of this act can be made applicable thereto, and the person, company or corporation that may have done or performed the same can comply with the provisions of this act.

SEC. 2. No such debt, demand or claim shall remain a lien on any such logs or timber unless a petition or statement thereof in writing, under oath, by the petitioner or some one in his behalf, shall be made and filed in the office of the surveyor general of logs and lumber, in Stillwater, in the first lumber district in the state of Minnesota; such statement or petition shall briefly set forth and state the nature of such claim or demand, the amount due, and a description of the logs or timber upon or against which the lien is claimed. If such labor and services be done and performed and completed between the first day of November and the first day of May, then such petition or statement shall be filed on or before the first day of July next thereafter; but if the same shall be done and performed either in part or in whole after the first day of May, then such petition or statement shall be filed within thirty days after the completion or last day of such labor or services, and suit shall be commenced for the recovery and enforcement of such claim or demand under the provisions of this act within four months after the filing of such statement or petition; a compliance with the requirements of this section shall make the lien of the claimant or petitioner perfect.

SEC. 3. Any person, company or corporation, having a lien upon or against any logs or timber, pursuant to the provisions of this act, or of any other law, may enforce the same by attachment against such logs or timber in the district court of Washington county, in the manner prescribed by title nine, of chapter sixty-six, of the general statutes, so far as the same can be made applicable thereto and not herein otherwise provided, or inconsistent herewith. Before any attachment shall be issued the petitioner, or claimant or some one in his behalf, shall make an affidavit setting forth that the defendant therein named is indebted to such claimant or petitioner in a certain sum over and above all legal set off, which sum shall be stated as near as may be, and that such indebtedness is

Debt to be a lien on said logs—what statement to set forth—when filed—when suit to commence.

How claims to be enforced.

due for or accrued for labor or service on logs or timber, describing such logs or timber, and that the claimant or petitioner has filed a lien thereon. Upon making and filing such affidavit with the clerk of the district court of said county of Washington, the attachment shall issue, and thereafter said claim shall be prosecuted in the manner provided by law for the prosecution of civil actions in the district court.

SEC. 4. The attachment shall require the sheriff or other proper officer to attach and safely keep the logs or timber described in such affidavit, or so much thereof as may be necessary to satisfy the plaintiff's claim, with costs, disbursements, charges and expenses.

Who to serve attachment.

SEC. 5. No attachments shall issue under the provisions of this act in the district court unless the amount stated in such affidavit due to the plaintiff over and above all legal set offs shall exceed the sum of one hundred dollars.

When attachment shall issue.

SEC. 6. The plaintiff in any proceedings to enforce such lien as herein provided shall not be required to give the bond mentioned in section one hundred and thirty-one, of chapter sixty-six, of the general statutes, nor any bond or security whatever unless required by an order of the said court, or a judge thereof, or the court commissioner of said county; and no such order shall be made unless the defendant shall make an affidavit showing that he has a good and valid defense in whole or in part, setting out such defense therein, and where the defense is only to a portion of plaintiff's claim, before any such order shall be made the defendant shall pay to the plaintiff that portion of his claim to which there is no defense, and such payment shall not affect the jurisdiction of the court or prevent the recovery by the plaintiff of the same costs, disbursements and charges that he could have done had not the amount of his claim been reduced by such payment. In all applications for such order the plaintiff shall have at least three days notice.

Plaintiff not to give security unless by order of court—when court to issue an order.

SEC. 7. Justices of the peace shall have cognizance and jurisdiction of all cases arising under this act, and of all cases for a lien upon or against personal property, when the debt or demand claimed shall not exceed the jurisdiction of a justice of the peace, and any person, company or corporation, holding such claim and lien, may enforce the same by attachment and actions in the manner prescribed by title ten, of chapter sixty-five, of the general statutes,

Who to have jurisdiction—to file affidavit—what to contain.

so far as the same may be made applicable thereto and not herein otherwise provided for and not inconsistent herewith. Before any such warrant of attachment shall issue, the plaintiff (that is the person claiming such lien) or some person in his behalf shall make and file with the justice an affidavit setting forth the same facts and making the same statement as is required by section three of this act in actions in the district court. Upon the filing of such affidavit the attachment shall issue.

SEC. 8. The attachment issued by any justice of the peace shall be returned as an ordinary summons and be in the following form, to wit:

STATE OF MINNESOTA,                    }  
County of Washington.                } ss.

*The State of Minnesota. To the Sheriff or any Constable of said county:*

You are hereby commanded to attach the following goods and chattels (here insert a description of the property described in the affidavit) or so much thereof as shall be sufficient to satisfy the sum of (here insert the amount mentioned as due in the affidavit) with interest and costs of suit in whosoever hands or possession the same may be found in your county and so provide that the same so attached may be subject to further proceedings thereon as the law requires; and also summon \_\_\_\_\_, if to be found, to be and appear before me at my office in said county on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to answer to \_\_\_\_\_ in a civil action to his damage, one hundred dollars or under.

Given under my hand at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—.

\_\_\_\_\_, Justice of the Peace.

SEC. 9. In all their proceedings, justices of the peace shall conform to the provisions of the law governing justices' courts so far as the same can be made applicable and as near as may be to the provisions of this act, as they apply in the district court, unless herein otherwise provided; *Provided, however,* That the justice shall in no case require the plaintiff or plaintiffs to give security for costs, unless the defendant or defendants shall first make and file with said justice an affidavit, by which it must be

Form of attachment.

Duty of justices of the peace.

made to appear that the defendant has a good and valid defense to the whole of plaintiff's demand.

SEC. 10. All attachments issued by any justice of the peace shall be served and returned as ordinary writs of attachment are served and returned in justice's courts.

Attachment how served and returned.

SEC. 11. In all suits or actions under the provisions of this act, the person, company or corporation liable for the payment of such debt or claim shall be defendant.

Who to be defendants in suits under this act.

SEC. 12. In all suits or actions under the provisions of this act the court, jury or justice of the peace who shall try the same or make an assessment of damages therein or make an inquest therein, shall, in addition to finding the sum due the plaintiff, also find, generally, that the same is due for labor and services for which the action was brought, and was performed on the logs or timber set forth in the complaint therein, and that the same is a lien thereon; and the court (or justice of the peace as the case may be) shall render judgment in accordance with such finding and execution shall issue therefor; and such execution in addition to the direction and commands contained in ordinary executions in civil actions may direct and command that the said logs and timber or so much thereof as shall be necessary for that purpose be sold to satisfy such judgment, and all costs, charges and disbursements. *Provided however*, That if the court, jury or justice, shall find that the amount due the plaintiff is not a lien upon the property described in the complaint, the plaintiff's action shall not be defeated thereby, but he shall be entitled to judgment as in other civil actions.

What to be the findings of the court, justice or jury in actions under this act.

SEC. 13. The officer making the attachment may pay the boorage on the logs or timber attached not exceeding the rate per thousand on the quality actually attached by him and retain the amount paid on the writ which shall be included and taxed in the bill of costs as disbursements; but if paid after judgment, then the officer may charge and collect the same out of the property as other costs or disbursements.

Who to pay the boorage on logs attached—at what rate.

SEC. 14. The action or lien under the provisions of this act, shall not be defeated by taking a note unless it was taken in the discharge of the amount due, and of the lien.

When the action may be defeated.

SEC. 15. The plaintiff shall allege in his complaint the filing of such statement or petition for a lien. All such allegations relating thereto, shall be taken to be true unless expressly denied by the defendant in his answer under

What must be alleged in the complaint.

oath or by the affidavit of the defendant or some one in his behalf.

Who to file such statements—  
compensation.

SEC. 16. The surveyor general of logs and lumber in said first lumber district is hereby required to file all such petitions or statements and shall receive therefor twenty-five cents for each statement or petition filed and when demanded shall give a certified copy thereof, for the making of which he shall be entitled to receive the same fee allowed registers of deeds for making a copy of any record, and such certified copy may be read and introduced in evidence in any of the courts of this state.

How to proceed when more than one person has claim on same mark.

SEC. 17. Whenever there are more than one person having claims upon the same mark or marks of logs or timbers as herein before provided it shall be lawful for any one person having such claim to purchase the claims of the others and take a written assignment of such interest; and it shall be the duty of the person taking such assignment to file the same with the petition or statement required by this act; and the assignee is hereby authorized to prosecute an action, as in this act provided, for the whole of the amount owned and assigned to him, without making the assignors parties to the action.

When act to take effect.

SEC. 18. This act shall take effect and be in force from and after its passage, all other acts and parts of acts to the contrary notwithstanding.

Approved February 18, 1870.