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THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

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before the arbitrators, their award, the proceedings of the court thereupon in modifying or confirming such award, and the judgment of the court for the recovery of the debt or damages awarded, and that the parties perform the acts ordered by the award, and for the recovery of the costs allowed.

SEC. 18. Such record shall be filed and docketed as records of judgments in other cases, shall have the same force and effect in all respects, be subject to all the provisions of law in relation to judgments in actions, and may in like manner be removed and reversed by writ of error, and execution shall issue thereupon.

Record how filed and docketed, &c.

SEC. 19. If there is no provision in the submission concerning the costs of the proceedings, the arbitrators may make such award respecting the costs as they shall judge reasonable, including therein a compensation for their own services; but the court may reduce the sum charged for the compensation of the arbitrators, if it shall appear to them unreasonable.

Arbitrators may make award concerning costs.

SEC. 20. Where by such judgment any party shall be required to perform any act other than the payment of money, the court rendering such judgment shall enforce the same by rule; and the party refusing or neglecting to perform and execute such act, or any part thereof, shall be subject to all the penalties of contemning an order of such court.

Court may enforce judgment.

SEC. 21. The arbitrators shall hear and receive the testimony of either party under oath, and shall have power to administer all necessary oaths to parties or witnesses appearing before them.

Arbitrators may administer oaths.

CHAPTER 97.

OF LABORERS' AND OTHERS' LIENS.

SECTION

1. Complaint what to allege where party claims a lien.
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SECTION

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Sec. 1. Any person who has a subsisting cause of action to the amount of ten dollars, for any labor performed upon any lands, tenements, or hereditaments, or for any materials furnished for any improvements upon any lands, tenements, or hereditaments, may at any time within one year next after such cause of action shall have accrued, file his complaint as in other cases, but without serving a summons upon the defendant; and such complaint shall, in addition to the facts necessary to constitute a cause of action, contain an accurate description and statement of the location of the lands, tenements, or hereditaments upon which the labor was performed, or for the improvement of which the materials were furnished, and shall also allege that the defendant therein named, is the owner of, or has some interest in such lands, tenements,

Complaint what to allege where party claims a lien.

or hereditaments, and that such labor was performed, or such materials furnished pursuant to an agreement express or implied, between the plaintiff and defendant, or his agent, the said complaint shall, as soon as filed in the office of the clerk of the district court of the proper county, constitute and be a lien upon the property therein described, in favor of the plaintiff, to the extent of the defendant's title or interest therein.

Complaint what to allege where work was done for contractor.

SEC. 2. When the complaint does not allege that the labor was performed, or the materials furnished pursuant to an agreement with the defendant, but shall allege that the labor was performed, or the materials furnished pursuant to an agreement with some contractor therein named, which contractor was employed by the defendant or his agent, and that the plaintiff was employed by said contractor, and had served a notice in writing upon the defendant or his agent, to the effect that he, the plaintiff, was, or had been employed by the said contractor, to perform labor thereon, or to furnish materials for the improvement of such lands, tenements, and hereditaments; and relied upon him, the defendant, or upon such lands, tenements, or hereditaments for his pay; then the filing of such complaint shall constitute and be a lien in favor of the plaintiff, the same as provided in the preceding section, to the amount that the defendant was indebted to the said contractor, when the said notice was served upon him or his agent, and to the amount in which the defendant became indebted to said contractor after the service of said notice, and before the expiration of the plaintiff's lien: *Provided*, The amount thus due, or thus becoming due, does not exceed the amount claimed in the complaint; and upon the trial, the plaintiff shall have judgment for no more than the sum due from the defendant to the contractor at the time of serving such notice, and the amount which become due after the service of such notice; and when a lien shall be acquired under this section, it shall be a bar to any action by the said contractor, for the recovery of his claim for moneys due him from said defendant, to the amount of the lien, until such claim of lien shall be finally decided, and if decided in favor of the plaintiff, then it shall be to that extent a bar forever.

Such complaint shall be a lien.

Proviso.

Summons and notice to be served.

SEC. 3. The plaintiff may, at any time after filing his complaint as above provided, serve a summons and notice on the defendant, and proceed to judgment as in other actions, but the lien hereby created, shall cease to exist after the expiration of one year from the time the labor was performed, or the materials furnished, unless a summons be issued and served within that time: *Provided*, That if the defendant be absent or concealed, he may be proceeded against in the same manner as is provided for in other cases of absent or concealed defendants.

Lien hereby created, how far effectual.

SEC. 4. The lien hereby created by the filing of a complaint, shall be as effectual as liens created by judgments of courts of record; and if the plaintiff shall recover judgment upon his complaint, the lands, tenements, and hereditaments therein described, or any interest whatever therein, either in law or equity, which the defendant had therein at the time of securing such lien; and any interest whatever, either in law or equity which the defendant shall have acquired therein, after such lien was secured, shall be liable to sale by virtue of any execution issued thereon; and if the property described in such complaint, be not sufficient to satisfy such execution, or if the defendant was not the owner, or had not sufficient interest therein, any other property of the defendant not exempted from sale on execution, may be sold to satisfy such execution.

District court to have jurisdiction in all cases.

SEC. 5. The district courts of this territory, shall have jurisdiction in all actions and proceedings under this chapter, whatever may be the amount in controversy; and they are hereby authorized to make all or-

ders and decrees which may be necessary for the effectual enforcement of the remedies herein provided.

SEC. 6. When any person who shall have filed his complaint pursuant to the provisions of this chapter, shall have received satisfaction for his claim, and the legal costs of his proceedings therein, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction therein, within six days after such payment or tender, enter satisfaction of his demand in the office where his complaint is filed, which shall forever thereafter discharge, defeat, and release the same.

Satisfaction when entered.

SEC. 7. If such person, having received satisfaction as specified in the preceding section, shall not, within six days after request and payment of costs as aforesaid, enter satisfaction as aforesaid, he shall forfeit and pay to the party aggrieved, double the amount of damages which he shall have sustained in consequence of his refusal or neglect.

Penalty for refusal to enter satisfaction.

SEC. 8. In all cases under the provisions of this chapter, whenever judgment shall be rendered in favor of the plaintiff, such judgment shall be for damages, including interest from the time of filing such complaint and costs of suit, as follows: When judgment is rendered upon failure to answer, two dollars; in all other cases, the costs shall be the same as in other actions.

Judgment to be for damages, interest, &c.

SEC. 9. Any person who shall make, alter, 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 expenses 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.

Lien upon personal property how created.

Person having lien may sell property, &c.

SEC. 10. 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 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 condition and restrictions as provided in the preceding section.

Common carrier, &c., to have lien.