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# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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9 year after such destruction and finish in three years, or hav-  
 10 ing erected such mills fails to keep them in operation for  
 11 one year at any one time, shall forfeit all rights acquired by  
 12 virtue of the provisions of this chapter, unless at the time of  
 13 such destruction, the owner is an infant or otherwise disa-  
 14 bled in law, in which case the same time shall be allowed  
 15 after the removal of such disability.

CHAPTER XXXII.

LOGS AND LUMBER.

TITLE I.

RIVERS, DAMS AND BOOMS.

1 SECTION 1. All rivers within this state of sufficient size

2 for floating or driving logs, timber or lumber, and which C. S. P. 827, Sect. 14. *c 122*  
 3 may be used for that purpose, are hereby declared to be  
 4 public highways, so far as to prevent obstructions to the  
 5 free passage of logs, timber or lumber down said streams,  
 6 or either of them.

1 SECT. 2. No dam or boom shall be constructed or per- C. S. P. 827, Sect. 15. *c 122*  
 2 mitted on any river, as herein specified, unless said dam or  
 3 boom has connected therewith a sluiceway, lock or other  
 4 fixture, sufficient and so arranged, as to permit logs, timber  
 5 and lumber to pass around, through or over said dam or  
 6 boom, without unreasonable delay or hindrance.

1 SECT. 3. Any boom or wear now in or on any river, as  
 2 aforesaid, that is so constructed as to prevent the free pas-  
 3 sage of logs or lumber, is declared a public nuisance, which C. S. P. 827, Sect. 16. *c 122*  
 4 shall be abated unless a suitable sluiceway, lock or passage  
 5 as above provided is made thereon as aforesaid, within thir-  
 6 ty days after written notice given by any person interested ;  
 7 and any person so owning, holding or occupying said boom  
 8 or wear, shall be liable to pay five dollars for every day the  
 9 same is permitted to remain in or on said river, after having  
 10 had thirty days' notice to remove said nuisance, which may  
 11 be recovered before any justice of the peace having juris-  
 12 diction ; and the amount so recovered shall be collected by  
 13 said justice, and paid into the township treasury of the  
 14 proper township, for the use of common schools ; and said  
 15 person shall also be liable for any damages sustained by in-  
 16 dividuals by reason of said nuisance.

## TITLE II.

## LUMBER DISTRICTS.

c 51

1861—p. 175, Sect. 1.

1 SECT. 4. There are established six districts for the pur-  
 2 pose of the survey and measurement of logs, lumber and  
 3 timber within this state.

c 51

1861—p. 176, Sect. 2.

1 SECT. 5. The St. Croix lake and river and their tribu-  
 2 taries constitute the first district. The Mississippi river  
 3 and its tributaries between the mouth of the St. Croix lake  
 4 and the mouth of Elk River constitute the second district.  
 5 The Mississippi river and its tributaries between the mouth  
 6 of the St. Croix lake and the outlet of lake Pepin constitute  
 7 the third district. The Mississippi river and its tributaries  
 8 above the mouth of Elk river constitute the fourth district.  
 9 The Mississippi river and its tributaries below the outlet of  
 10 lake Pepin constitute the fifth district. The bay of Supe-  
 11 rior, Saint Louis bay, Saint Louis river and their tributa-  
 12 ries constitute the sixth district.

## TITLE III.

## SURVEYORS—THEIR POWERS, DUTIES AND FEES.

c 122

C. S. p. 828, Sect. 20.

1 SECT. 6. There shall be annually elected by the legis-  
 2 lature, a surveyor general for each of the districts afore-  
 3 said, who shall be a citizen of the district for which he is  
 4 elected at the time of his election, and shall enter upon the  
 5 duties of his office on the first Monday of April next suc-  
 6 ceeding his election, and shall hold his office for one year,  
 7 and until his successor is elected and qualified.

c 51

1861—p. 176, Sect. 3;

c 22

1863—p. 169, Sect. 1,  
combined.

1 SECT. 7. The surveyor of the first district shall keep  
 2 his office at the city of Stillwater; of the second district at  
 3 the Falls of St. Anthony; of the third district at the city  
 4 of Red Wing; of the fourth district at the city of St. Cloud;  
 5 of the fifth district at the city of Wabashaw; of the sixth  
 6 district, at Oneota.

c 122

C. S. p. 828, Sect. 22.

1 SECT. 8. Each surveyor general shall before entering  
 2 upon the duties of his office, take an oath before some per-  
 3 son qualified to administer oaths, that he will faithfully dis-  
 4 charge the duties of his office, and also execute a bond to  
 5 the county in which he holds his office, with five or more  
 6 sufficient sureties, to be approved by the county commis-  
 7 sioners of such county, in the penal sum of five thousand  
 8 dollars, conditioned for the faithful discharge of his duties  
 9 as surveyor general, and for the delivery over to his succes-

10 sor, of all bills, bonds, certificates and papers, and other  
11 effects appertaining to his said office.

1 SECT. 9. The bond and oath of office shall be deposited  
2 with the clerk of the board of county commissioners of the  
3 county where such office is kept, and when there is a fail-  
4 ure to comply with the conditions of such bond, any person  
5 feeling himself aggrieved may commence an action thereon.  
6 before any court having jurisdiction, and a recovery there-  
7 on (by one) shall not render the bond void, but the same  
8 may be prosecuted from time to time until the whole pen-  
9 alty is recovered.

C. S. p. 823, Sect. 23.

C 122

1 SECT. 10. The surveyor general may appoint any num-  
2 ber of deputies necessary to transact the business of his  
3 district; and for the correctness of their acts and doings,  
4 he shall be responsible upon his bond.

C. S. p. 823, Sect. 23.

C 122

1 SECT. 11. The surveyor general, by himself or his  
2 deputy, at the request of the owner of any logs, timber or  
3 lumber, or of any sheriff, coroner or constable, who has re-  
4 plevied, attached or levied on any logs, timber or lumber,  
5 or of any person who has a written order from the owner  
6 for the delivery of any logs, timber or lumber, to repair to  
7 any part of his district and survey such logs, timber or  
8 lumber, and upon completing such survey to make out a  
9 true and correct scale bill thereof, stating the person by  
10 whom, the time when and place where such logs, timber or  
11 lumber was scaled, at whose request and to whom scaled,  
12 if to any one, and the scale mark placed thereon, the num-  
13 ber of logs or pieces of timber, together with the mark or  
14 marks thereon, and the number of feet therein contained,  
15 and shall sign the same, and thereupon he shall record such  
16 bill in the books of his office, and upon being paid his fees  
17 for such services shall deliver the original bill to the person  
18 to whom the logs, timber or lumber is scaled, if any, if not,  
19 then to the person requesting the survey; and such bill  
20 and the record thereof shall each be *prima facie* evidence  
21 of the facts therein stated. No surveyor general or deputy  
22 surveyor shall in person survey any logs, timber or lumber,  
23 owned wholly or in part by himself, but either may survey  
24 any such logs, timber or lumber owned wholly or in part  
25 by the other.

1862—p. 146, Sect. 1.

C 74

1 SECT. 12. The said surveyors and their deputies shall,  
2 in surveying or measuring logs or lumber, make such al-  
3 lowance for hollow, rotten, and crooked logs, as would re-  
4 duce and make them equal to good, sound and straight mer-  
5 chantable logs; and in surveying lumber, shall throw off  
6 all rotten, shaky, or wany stuff, and make the same equal  
7 to good merchantable lumber.

C. S. p. 823, Sect. 25.

C 122

c122

C. S. p. 829, Sect. 28.

1 SECT. 13. The surveyor general shall keep posted in  
 2 his office a written rule or scale of logs of all sizes and  
 3 lengths, which shall govern him in his surveys, and the  
 4 scale-rule known as Scribner's rule is hereby adopted as the  
 5 only legal rule for the survey of logs in this state; *Provid-*  
 6 *ed,* That every log shall be surveyed by the largest number  
 7 of even feet which it contains in length over ten feet and  
 8 under twenty-four feet, and all logs of twenty-four feet in  
 9 length or more, shall be surveyed as two logs or more.  
 10

c74

1862—p. 147, Sect. 2.

1 SECT. 14. Each surveyor general by himself or deputy,  
 2 shall survey all logs and timber running out of any boom  
 3 now chartered or which may hereafter be chartered by law  
 4 in his district, and at the end of each week when he has  
 5 surveyed any such logs or timber, make out and deliver to  
 6 the owner of such boom or the managing agent thereof a  
 7 true and correct scale bill, stating the date of such survey,  
 8 the number of logs and pieces of timber, the marks thereon  
 9 respectively, and the number of feet of each mark so sur-  
 10 veyed during the week, and shall sign the same; and he  
 11 shall immediately record such bill in the books of his office,  
 12 and upon being paid his fees for such services shall deliver  
 13 the original bill to the owner or managing agent of such  
 14 boom, and all boorage or fees of such boom on any logs or  
 15 timber shall be collected in accordance with such survey.

c74

1862—p. 147, Sect. 3.

1 SECT. 15. In all cases of a sale or other transfer of any  
 2 logs or timber by one party to another, if the surveyor gen-  
 3 eral by himself or deputy surveys the same, he shall at the  
 4 time of making such survey, place upon each of such logs  
 5 or pieces of timber the scale mark of the purchaser or other  
 6 transferee, and thereupon such scale mark shall supersede  
 7 all prior marks upon such logs and timber, and become and  
 8 be the log mark of such purchaser or transferee on the same  
 9 logs and timber, and in all cases of a sale or other transfer  
 10 of any logs or timber, the purchaser or other transferee  
 11 shall pay for the scaling thereof, and shall be entitled to re-  
 12 ceive and have the scale bill. And when the surveyor gen-  
 13 eral delivers a scale bill to any person, he shall note upon  
 14 the margin of the record thereof the name of the person to  
 15 whom delivered and the date of the delivery.

c74

1862—p. 148, Sect. 4.

1 SECT. 16. The fees of surveyor generals shall be: for  
 2 surveying, scale marking, making scale bills and recording  
 3 the same and posting in the ledger, five cents per thousand  
 4 feet for all logs and timber required to be surveyed,  
 5 except in the first district, where the fee shall be three  
 6 cents per thousand feet; for surveying lumber, twenty-five  
 7 cents per thousand feet; for travelling to perform any ser-  
 8 vice more than two miles from their respective offices, five

9 cents per mile going and returning; for recording any log  
 10 mark fifty cents; for making and certifying a copy of any  
 11 matter which may be of record in his office, or for making  
 12 any duplicate scale bill, ten cents per folio; for recording  
 13 any instrument in writing authorized to be recorded in his  
 14 office, other than scale bills, ten cents per folio, payable  
 15 when such instrument is presented for record and before it  
 16 is recorded, and no such instrument shall be deemed to be  
 17 recorded until it is entered upon the index to the record.  
 18 And for the purpose of securing to the surveyor general the  
 19 payment of his fees, whether the same are for travelling,  
 20 surveying, making scale bills, or recording the same or for  
 21 any or all of such services, such surveyor general shall have  
 22 a lien upon all such logs, timber or lumber surveyed and  
 23 marked by him, for the amount due for his services there-  
 24 on, and may retain such lien by affixing to the scale bill of  
 25 such logs, timber or lumber, before the delivery thereof, a  
 26 true statement of the amount due him thereon, and that he  
 27 scaled such logs, timber or lumber, relying upon such lien,  
 28 and that he claims a lien thereon for such amount, and costs  
 29 of collection; and thereupon such surveyor general may  
 30 take actual possession of a sufficient quantity of such logs,  
 31 timber or lumber, and may retain the same until he is paid  
 32 the amount due him thereon, and such logs, timber or lum-  
 33 ber shall not be removed or taken from the possession or  
 34 control of such surveyor general until such payment is made.  
 35 If the amount is not paid within sixty days after the deliv-  
 36 ery of such scale bill, the surveyor general may sell at pub-  
 37 lic auction enough of such logs, timber or lumber to pay  
 38 the amount due him, with the costs of collection, first giv-  
 39 ing ten days notice of such sale by posting up five written  
 40 notices thereof, one in his office and one in each of the four  
 41 most public places in the town or city where the sale is to  
 42 be made; and at such sale the surveyor general may be-  
 43 come the purchaser. The sale may be made by the sheriff  
 44 or any constable of the county, and the only costs of col-  
 45 lection allowed shall be ten per cent. on the amount due,  
 46 for taking care of the property, and to the officer making  
 47 the sale, ten per cent. on the amount payable to the sur-  
 48 veyor general.

1 SECT. 17. The books of record of the surveyor general's  
 2 office in each district shall be:

3 *First.*—A book in which shall be recorded the log mark  
 4 of any person desiring to have the same recorded.

5 *Second.*—A book in which shall be recorded all bills of  
 6 sales, mortgages, and orders, and other instruments in  
 7 writing for the sale, transfer, incumbrance or delivery of  
 8 any logs or timber in the same district.

9 *Third.*—A book in which shall be recorded the scale bills

10 of all the logs, timber and lumber surveyed by the surveyor  
11 general.

12 *Fourth.*—A book to be kept in ledger form, in which  
13 shall be posted and recorded from time to time, as soon as  
14 any logs or timber is surveyed and the scale bill thereof  
15 recorded separately and under their respective marks all  
16 the logs and timber of each particular mark surveyed, to-  
17 gether with the date of scaling, the number of logs or pieces  
18 of timber, to whom scaled, and the number of feet, and an  
19 index of the names and marks contained in each of said  
20 books, shall also be kept. Any books of the descriptions  
21 before named, which have been kept in the office of any  
22 such surveyor general, and which belong to said office, are  
23 hereby declared to be the records of such office, and to have  
24 and be of the same validity, force and effect, as if the same  
25 had been kept by express authority of law. All the books  
26 of record hereinbefore mentioned, and authorized to be kept  
27 in the office of any surveyor general, are hereby declared  
28 to be public records, and of as high degree of evidence as  
29 the original instruments therein recorded, and shall in all  
30 courts and places in this state be taken and held to be  
31 *prima facie* evidence of the matters therein stated; and  
32 such books shall not be removed from the surveyor general's  
33 office, except for use as evidence in court in the town or  
34 city where such office is situated. A copy of any matter or  
35 thing of record in such office, certified under the hand of  
36 the surveyor general or his deputy to be a correct transcript  
37 from the record in such office, shall be received and read in  
38 any court of this state as of the same degree of evidence  
39 and with the same force and effect as the original instru-  
40 ment or record.

1 SECT. 18. The surveyor general shall not be required,  
2 except upon the request of a sheriff or constable in case of  
3 an attachment or levy thereon, to scale any logs to any per-  
4 son other than the owner, as the title thereto appears by  
5 the records in his office without an order in writing there-  
6 for recorded in this office; and the surveyor general shall  
7 record in the books of his office, in the order in which they  
8 are presented for record, all orders drawn by the owner of  
9 any logs, directing him to scale any logs of his mark or  
10 marks to any other person, and the first logs scaled off, of  
11 the marks given in such order and within the limits or of  
12 the lot or parcel prescribed therein, shall be scaled to the  
13 person in whose favor the order is drawn according to the  
14 priority of record. Such order shall be recorded in the  
15 same book with bills of sale and mortgages, and shall  
16 have preference over any subsequent sale, transfer or in-  
17 cumbrance of such logs; and the fees for recording such  
18 order shall be collected in the same manner and at the same  
19 time with the fees for scaling such logs.

c74 1862—p. 151, Sect. 8.

1 SECT. 19. The certificate of the surveyor general that  
 2 any mark has been recorded in this office, in the district in  
 3 which the logs were cut or into which they come, and that 1862—p. 151, Sect. 9. c74  
 4 there is no transfer of such mark recorded in the books of  
 5 his office, shall be *prima facie* evidence in any court in  
 6 this state that the logs bearing such mark, not superseded  
 7 by any other mark, are the property of the person in whose  
 8 name such mark is recorded. If the surveyor general cer-  
 9 tifies that such mark has been transferred on the books of  
 10 his office, and the name of the person to whom such mark  
 11 was last transferred, such certificate shall be *prima facie*  
 12 evidence of the ownership of the logs by the person to  
 13 whom the mark was last transferred; and if the surveyor  
 14 general certifies that such mark has been superseded on any  
 15 logs, naming the person in whose favor the same was last  
 16 superseded, such certificate shall be *prima facie* evidence  
 17 of the ownership of the logs bearing such mark superseded,  
 18 by the person owning such superseded mark. No sale or  
 19 transfer of any log mark, or sale, mortgage or other trans-  
 20 fer or incumbrance of any logs cut in this state or which  
 21 come into any district in this state, shall be legal or bind-  
 22 ing, except between the parties thereto, unless such sale,  
 23 transfer, mortgage or incumbrance is in writing and record-  
 24 ed in the office of the surveyor general in the district where  
 25 such logs were cut, or into which they have come if cut in  
 26 another state.

1 SECT. 20. No logs shall be scaled by the surveyor  
 2 general or his deputies, unless the marks upon the said logs C. S. p. 830, Sect. 23. c122  
 3 are properly recorded in accordance with the provisions of  
 4 this title. and no survey of any logs shall be received in any  
 5 court in this state, except the survey of the surveyor gen-  
 6 eral or his deputy.

1 SECT. 21. The surveyor general shall report to the leg-  
 2 islature at the beginning of each regular session thereof, the C. S. p. 830, Sect. 23. c122  
 3 total number of feet of logs and lumber which he has sur-  
 4 vered in his district for the year ending the thirtieth day of  
 5 November last past.

1 SECT. 22. He shall record all mortgages, liens and bills  
 2 of sale or other written instruments in any way affecting C. S. p. 830, Sect. 24. c122  
 3 the ownership of any mark of logs in his district, in a book  
 4 kept for that purpose: *provided*, that said instruments  
 5 shall specify the marks placed upon the said logs when they  
 6 were cut, and shall be recorded in the office of the surveyor  
 7 general in which the said marks are recorded, and no con-  
 8 veyances, lien, mortgage or transfer shall be valid until the  
 9 same are so recorded.

## TITLE IV.

## RECORD OF MARKS, AND MUTILATION THEREOF.

1 SECT. 23. Whoever cuts any logs in either of the dis-  
 2 tricts of this state shall, before proceeding to mark the  
 3 same, cause to be recorded in the office of the surveyor  
 4 general in whose district such logs may be, a copy of the  
 5 log mark which is to be put upon said logs, and which mark  
 6 shall be distinctly different from any other mark recorded  
 7 in the same district. Whoever cuts any logs in any state  
 8 adjoining either of the districts of this state, and in-  
 9 tends to bring such logs into any such district, may have  
 10 his log mark recorded in the district into which he intends  
 11 to bring such logs, and into which they may be brought,  
 12 with the same rights, force and effect as if such logs had  
 13 been cut in such district. And when any log mark is re-  
 14 corded in pursuance of the provisions of this chapter, such  
 15 mark shall be deemed and held to be the property of the  
 16 person in whose name it is recorded, and such mark borne  
 17 upon any logs or timber, and not superseded by any other  
 18 mark, shall be *prima facie* evidence that the logs or timber  
 19 bearing such mark are the property of the person owning  
 20 the mark. Any such log mark may be sold or transferred  
 21 by bill of sale recorded in the office of the surveyor general  
 22 where the mark is recorded in the name of the first owner,  
 23 and a note of such transfer made in the margin of the book  
 24 where the mark is recorded; and a sale or transfer of any  
 25 mark so made shall operate as a sale or transfer of all  
 26 the logs bearing such mark and at the time owned by  
 27 the person transferring the mark. Any logs or timber  
 28 cut in this State or coming into this State in the first dis-  
 29 trict at any point on the lake St. Croix above the city of  
 30 Stillwater, the marks of which are not recorded in the  
 31 district in which they were cut or into which they may  
 32 come, and all logs or timber not bearing any distinctive  
 33 mark shall not, in favor of the person who has cut  
 34 the same or claims to be the owner thereof, be recognized,  
 35 deemed or held in any of the courts of this State to  
 36 be the property of any such person, for any purpose what-  
 37 ever, in any action or proceeding.

c74  
 1862—p. 150, Sect. 7.  
 Amended.

1 SECT. 24. Whoever takes from any of the rivers or  
 2 their tributaries in or bordering on this state, or from any  
 3 slough, ravine, island or land adjoining said rivers or trib-  
 4 utaries into or upon which any logs may run, or cuts out,  
 5 mutilates, destroys or renders illegible the mark or marks  
 6 thereon, or in any manner wilfully injures any such logs  
 7 not his own, or whoever, other than the surveyor general or  
 8 his deputy, places upon any log or piece of timber, any

c122  
 C. S. p. 831, Sect. 40.

9 mark except the original mark, is guilty of a misdemeanor,  
 10 and shall be punished by a fine of not less than fifty dollars  
 11 nor more than one thousand dollars, or by imprisonment in  
 12 the state prison for not less than one year, nor more than  
 13 three years, and shall be further liable for double the mar-  
 14 ket value of said logs at the time so taken or injured, to be  
 15 recovered by the owner of such logs in a civil action.

1 SECT. 25. Whoever purchases, receives or secretes saw  
 2 logs so taken or removed, or who cuts or otherwise injures  
 3 logs so taken or removed, shall be punished in the same  
 4 manner, and to the same extent as is provided in the pre-  
 5 ceding section: *provided*, that no person shall be so pun-  
 6 ished for receiving or buying logs as aforesaid, if he receiv-  
 7 ed or bought them under and by virtue of any scale list,  
 8 signed by a legal surveyor of logs or lumber in this state,  
 9 and is in possession of said scale list.

C. S. p. 826, Sect. 4. c 122

1 SECT. 26. If any surveyor general or deputy, scales or  
 2 gives a scale list of any logs to any person, which logs were  
 3 taken or removed as aforesaid, the said surveyor general  
 4 or deputy so offending, shall forfeit and pay for every such  
 5 offence, the sum of twenty-five dollars, to be recovered by  
 6 any person suing for the same in any court of competent  
 7 jurisdiction.

C. S. p. 826, Sect. 5. c 122

TITLE V.

SIDE BOOMS : INJURIES THERETO AND TAKING LOGS THEREFROM.

1 SECT. 27. In case any logs are found in any side  
 2 boom or boom other than a chartered boom, which have not  
 3 been bargained for by the owner, holder or managing agent  
 4 of such boom, the owner of such logs may demand that the  
 5 same shall be turned out of such boom, and unless such logs  
 6 are turned out of such boom within three days after such  
 7 demand is made, the owner of such logs may open such  
 8 boom and turn out the same, doing no unnecessary damage  
 9 to such boom nor allowing more of other logs to escape  
 10 out of such boom than cannot be reasonably avoided.

1862-p. 152, Sect. 10, in part. c 74

1 SECT. 28. Whoever wilfully and maliciously opens,  
 2 breaks, cuts, or otherwise destroys or injures any side or  
 3 other boom, or turns the whole or any part of the logs or  
 4 timber contained therein loose or adrift, except for the pur-  
 5 pose herein mentioned, and except also, in case such boom  
 6 materially obstructs the navigation of any navigable stream,  
 7 or unlawfully intrudes upon the property of any such per-

1862-p. 152, Sect. 10, in part. c 74

8 son, the person so opening, breaking, cutting, injuring or  
 9 destroying such boom, or turning loose or adrift such logs,  
 10 or who wilfully and maliciously cuts loose or turns adrift any  
 11 boom, brill, string or raft of logs, timber or lumber, is guil-  
 12 ty of a misdemeanor, and shall be punished by a fine of not  
 13 less than ten dollars nor more than one hundred dollars, or  
 14 by imprisonment in the county jail for not less than ten days  
 15 nor more than six months, or by both such fine and impris-  
 16 onment, in the discretion of the court, and shall further be  
 17 liable for all the damage sustained by reason of such wrong-  
 18 ful act.

## TITLE VI.

## LIENS.

c19 1860—p. 165, Sect. 1.  
 1 SECT. 29. Whoever performs manual labor upon any  
 2 logs or timber, shall have a lien upon such logs or timber  
 3 to secure the payment of the wages agreed to be paid for  
 4 such labor, upon substantially complying with the require-  
 5 ments of this title, which said lien shall be subject to as-  
 7 signment and sale.

c19 1860—p. 166, Sect. 2.  
 1 SECT. 30. Before entering upon the performance of any  
 2 such labor, the person proposing to perform the same shall  
 3 cause to be filed and recorded in the office of the surveyor  
 4 general of logs, timber and lumber, for the district in which  
 5 the mark of the logs or timber upon which the said labor is  
 6 to be performed, is by law required to be recorded, a mem-  
 7 orandum in writing of the terms of the contract under which  
 8 the said labor is to be performed; which said memorandum  
 9 shall contain—  
 10 *First.*—The name of the person, by and for whom respec-  
 11 tively, the said labor is to be performed.  
 12 *Second.*—The proposed mark of the logs or timber upon  
 13 which the said labor is to be performed.  
 14 *Third.*—The time when said labor is to be performed,  
 15 and—  
 16 *Fourth.*—The amount, time, and manner of payment  
 17 agreed upon for such labor; and shall be signed by the said  
 18 parties respectively.

c19 1860—p. 166, Sect. 3.  
 1 SECT. 31. In case any such person so performing labor  
 2 upon any logs or timber, and having complied with the re-  
 3 quirements of the preceding section, has not received the  
 4 wages agreed upon as aforesaid, for such labor at the time  
 5 and in the manner agreed upon as aforesaid, then within  
 6 thirty days thereafter, such person shall cause to be filed

7 and recorded in the said office, a claim of lien upon the said  
8 logs or timber to secure the payment of the said wages,  
9 which said claim of lien shall be in writing, signed by the  
10 person so claiming a lien, or by his agent or attorney, and  
11 verified by the oath of the person so signing the same; and  
12 shall contain,—

13 *First.*—A reference to the contract under which it is  
14 claimed labor has been performed.

15 *Second.*—A statement of the amount of labor performed  
16 under such contract.

17 *Third.*—What amount, if any, has been paid for such  
18 labor; and—

19 *Fourth.*—The amount still due for such labor.

1 **SECT. 32.** Upon the said claim of lien being filed and re-  
2 corded as aforesaid, the said logs and timber shall be hold-  
3 en for the payment of said wages so due, as aforesaid, for  
4 labor performed on the same; and the said lien shall take  
5 precedence of any other lien or claim whatsoever, or any  
6 sale or transfer of the said logs or timber; *Provided,* The  
7 said person claiming such lien, within six months after filing  
8 such claim of lien, proceeds to institute an action in the  
9 proper court to recover the said wages so due, as aforesaid,  
10 and shall prosecute the same to judgment and execution  
11 with due diligence.

1863—p. 166, Sect. 4.

1 **SECT. 33.** If at the time of instituting the action, or at  
2 any time thereafter, before judgment, the person claiming  
3 a lien on any logs or timber, as aforesaid, or his agent  
4 or attorney, makes and files in said action an affidavit stat-  
5 ing that the said logs or timber are about to be removed  
6 out of the jurisdiction of the court, or are about to be man-  
7 ufactured into lumber; or that in any other manner the  
8 said person is in danger of losing the said logs or timber as  
9 security for the payment of the said wages so due, as afore-  
10 said, then the said person may have an attachment issued  
11 against the said logs or timber, without any other act or thing  
12 being required on his or their part, whatever; and if any per-  
13 son whomsoever after the time of the filing of the memo-  
14 randum above mentioned, removes any such logs or timber  
15 out of the jurisdiction of said court, or manufactures or  
16 otherwise disposes of any such logs or timber so as to hin-  
17 der or prevent the payment of the wages so due for labor  
18 on the same, or to hinder or prevent the execution of the  
19 judgment which may be recovered in such action, such per-  
20 son shall be personally liable to the person so hindered or  
21 prevented from obtaining the payment of said wages or  
22 from obtaining satisfaction of the said judgment to the  
23 amount of the value of the logs or timber so removed, man-  
24 ufactured or disposed of as aforesaid.

1860—p. 167, Sect. 5.

c19

1860—p. 167, Sect. 6.

1 SECT. 34. Upon judgment being obtained in any such  
 2 action, the same shall be executed upon the said logs or  
 3 timber in the usual manner, and to the persons buying any  
 4 portion of such logs or timber, the officer having the exe-  
 5 cution of such judgment and making sale thereon, shall give  
 6 a certificate of the said purchase and sale; and upon such  
 7 certificate being presented and delivered to the surveyor  
 8 general, aforesaid, he shall scale to the person to whom the  
 9 said certificate was given, or his assigns, the said logs or  
 10 timber so purchased as aforesaid, and shall deliver to such  
 11 person a scale bill therefor; which said scale bill shall be  
 12 conclusive evidence of ownership of the said logs or timber.

c19

1860—p. 167, Sect. 7.

1 SECT. 35. The said claims of lien shall have precedence  
 2 one of the other, in the order in which the same are filed in  
 2 the office of the surveyor general.

c19

1860—p. 167, Sect. 8.

1 SECT. 36. There shall be recovered in such actions as  
 2 disbursements, the fees paid to the surveyor general for  
 3 filing and recording the aforementioned papers; which said  
 4 fees shall in the first instance be paid by the party procuring  
 5 the said papers to be filed and recorded.

c19

1860—p. 167, Sect. 9.

1 SECT. 37. The surveyor general of the several districts  
 2 for the surveying of logs, timber and lumber, shall file and  
 3 record in his office, the several papers hereinbefore required  
 4 to be filed and recorded, and perform the other acts herein  
 5 provided for; and as compensation therefor, the surveyor  
 6 general may demand and receive the same fees as he is  
 7 entitled to for other like services.

c19

1860—p. 168, Sect.  
10.

1 SECT. 38. Whenever any person who has filed a claim  
 2 of lien as hereinbefore provided, has received his wages and  
 3 costs in full in any manner, he shall, on the demand of the  
 4 owner of any logs or timber upon which such claim was  
 5 made, or of the assignee of such owner, give a receipt of the  
 6 same to such person, which said receipt being filed and  
 7 recorded in the office of the surveyor general, shall be  
 8 deemed a discharge of the said lien.

## TITLE VII.

## CONVERSION OF LOGS.

c59

1865—p. 121, Sect. 1.

1 SECT. 39. In all cases of a wrongful or unlawful taking,  
 2 detention or conversion of logs or timber and intermingling  
 3 of the same with other logs or timber so that they cannot  
 4 be identified or separated therefrom by the owner, the rule

5 of the common law applicable to the case of a wrongful and  
6 fraudulent confusion of goods, shall govern in determining  
7 the right of property in respect to said logs and timber.

1 SECT. 40. In cases where logs or timber bearing the same  
2 mark but belonging to different owners in severalty, have 1865—p. 121, Sect. 2. c 59  
3 without the fault of any of them become so intermingled  
4 that the particular or identical logs or timber belonging to  
5 each cannot be designated, either of such owners may upon  
6 a failure of any one of them having the possession, to make  
7 a just division thereof after demand, bring and maintain  
8 against such one in possession an action to recover his  
9 proportionate share of said logs or timber, and in such  
10 action he may claim and have the immediate delivery of such  
11 quantity of said mark of logs or timber as shall equal his  
12 said share, in like manner and with like force and effect as  
13 though such quantity embraced his identical logs and timber  
14 and no other.

#### TITLE VIII.

##### THE ESTABLISHMENT AND REGULATION OF DAMS FOR SLUICING LOGS, TIMBER AND LUMBER.

1 SECT. 41. The board of county commissioners may  
2 grant a license to any person applying therefor, to construct 1861—p. 173, Sect. 1. c 50  
3 and maintain a dam across any stream, within their respec-  
4 tive counties for the purpose of raising a head of water suf-  
5 ficient to sluice logs, timber or lumber, upon being satisfied  
6 that such sluice dam is necessary at the point applied for,  
7 and that the land on both sides of the stream is in the pos-  
8 session or under the control of the person so applying for a  
9 license.

1 SECT. 42. In all cases, when the stream across which a  
2 license for a sluice dam is sought, runs between two coun- 1861—p. 173, Sect. 2. c 50  
3 ties, the board of county commissioners of either county  
4 have as full jurisdiction in the premises as though the stream  
5 was wholly within the county of which they are commis-  
6 sioners. And when the board of county commissioners of  
7 either county have exercised jurisdiction under this title,  
8 and have granted a license thereunder, the county commis-  
9 sioners of no other county have any power to exercise any  
10 jurisdiction over the same.

1 SECT. 43. All licenses granted under the provisions of  
2 this title shall be sealed with the seal of the board of county 1861—p. 173, Sect. 3. c 50  
3 commissioners and signed by them, attested by the county

4 auditor and may be granted for a period not exceeding six  
5 years.

c 50

1861—p. 174, Sect. 4.

1 SECT. 44. All persons intending to apply for a license at  
2 a certain point shall give notice of their intention by post-  
3 ing up at least three notices in public places at the county  
4 seat, and in the office of the surveyor general of logs of the  
5 district where the logs running from the place where such  
6 dam is proposed to be built, are required to be scaled, or if  
7 it is proposed to build said dam in an unorganized county,  
8 the said notices shall be posted up at the county seat of the  
9 county to which the same is attached for judicial purposes,  
10 and the said notices shall be given twenty days prior to  
11 such application; *Provided*, That when application is made  
12 for a renewal of a license, when the former license has ex-  
13 pired, the same may be granted or renewed without pre-  
14 vious notice.

c 50

1861—p. 174, Sect. 5.

1 SECT. 45. The board being satisfied that for the general  
2 interest of those engaged in the lumbering business, a sluice  
3 dam is needed, and that the applicant is a suitable person  
4 to build and maintain it, shall grant the license, which how-  
5 ever, shall not become valid until the applicant files a bond  
6 with sureties, to be approved by the board, in a penalty  
7 not less than one thousand dollars, with a condition that he  
8 will construct and maintain such dam, with all reasonable  
9 diligence and skill for the purpose of sluicing logs, timber  
10 and lumber, and to facilitate the driving of the same on  
11 such stream, and with such further special conditions, re-  
12 lating to the construction and operation of such dams as the  
13 case requires.

c 50

1861—p. 174, Sect. 6.

1 SECT. 46. Whenever a board of county commissioners  
2 of any county grants a license to construct and maintain a  
3 sluice dam across any stream within their jurisdiction, the  
4 said board shall establish the rate of tolls, which may be de-  
5 manded for the sluicing of logs, timber and lumber, but the  
6 tolls shall not exceed the sum of six cents per thousand feet  
7 so sluiced, *Provided*, That at the Snake river dam, in Pine  
8 county, the said toll may be ten cents.

c 50

1861—p. 174, Sect. 7.

1 SECT. 47. All tolls chargeable under this title for sluic-  
2 ing logs, timber and lumber, shall be deemed due, and pay-  
3 able as soon as said logs, timber or lumber are sluiced, and  
4 for the payment of the said tolls, the proprietor of the sluice  
5 dam has a complete lien upon said logs, timber or lumber,  
6 until the said tolls are paid. And when said tolls so due,  
7 for sluicing logs, timber or lumber, are not paid on demand  
8 by the owner thereof, the proprietor of the dam through which  
9 the same have been sluiced, is authorized and empowered

10 to take and sell a sufficient quantity of the logs, timber or  
 11 lumber, at public auction, to pay the tolls so due; *Provi-*  
 12 *ded*, That written or printed notices of the sale shall be  
 13 posted up at the office of the surveyor general of logs and  
 14 lumber of the district, and at the county seat of the county  
 15 in which said property is seized.

## CHAPTER XXXIII. c 133

### BANKS AND BANKING.

1 SECTION. 1. The auditor of state, on application of any  
 2 person or association of persons wishing to organize under  
 3 this chapter, shall cause to be engraved and printed in the  
 4 best manner to guard against counterfeiting, such quantity  
 5 of circulating notes, in the similitude of bank notes, in  
 6 blank, of the different denominations hereinafter authorized  
 7 to be issued, as may from time to time be needed to meet  
 8 the demands of those organizations for the purpose of  
 9 banking; and all necessary expenses in procuring such cir-  
 10 culating notes in blank, shall be charged to and paid by the  
 11 banker or banking association at whose solicitation and for  
 12 which the same are furnished. C. S. p. 854, Sect. 1.

1 SECT. 2. Such bank notes shall be of the dimensions  
 2 usually issued by banks, from one dollar to five hundred  
 3 dollars; but such notes shall not be of any intermediate  
 4 number between five and ten dollars, ten and twenty, twen-  
 5 ty and fifty, or fifty and one hundred dollars. C. S. p. 855, Sect. 2.

1 SECT. 3. Such blank circulating notes shall be counter-  
 2 signed by the auditor of state, and numbered, and regis-  
 3 tered in proper books to be kept for that purpose in his  
 4 office and under his direction, so that each denomination of  
 5 such circulating notes shall be of the same similitude and  
 6 all bear the uniform signature of the auditor of state. C. S. p. 855, Sect. 3.

1 SECT. 4. Whenever any person or association of per-  
 2 sons formed for the purpose of banking, under the provis-  
 3 ions of this chapter, duly assigns or transfers in trust, to  
 4 the auditor, any portion of the public stocks issued by any  
 5 state of the United States, on which full interest is semi-  
 6 annually paid, said stocks to be valued at a rate to be esti-  
 7 mated and governed by the average rate at which such  
 8 stocks have been sold in the city of New York, at the stock  
 9 exchange, within six months next preceeding the time when  
 10  
 11  
 12

1860—p. 177, Sect. 1;  
 1861—p. 170, Sect. 1,  
 combined &  
 amended.

c 25  
 c 47