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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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CHAPTER XC.

LIENS.

1 SECTION 1. Whoever performs labor, or furnishes materi-
 2 als or machinery for erecting, constructing, altering, or re-
 3 pairing any house, mill, manufactory, or other building or
 4 appurtenances, or for constructing, altering, or repairing
 5 any boat, vessel, or other water craft, by virtue of a con-
 6 tract or agreement with the owner or agent thereof, shall
 7 have a lien to secure the payment of the same, upon such
 8 house, mill, manufactory, or other building and appurten-
 9 ances, and upon such boat, vessel, or other water craft, to-
 10 gether with the right, title, or interest of the person owning
 11 such house, mill, manufactory or other building and appur-
 12 tenances on and to the land upon which the same is situated,
 13 not exceeding forty acres, and if erected within the limits
 14 of any city, town or village plat, the lot of ground on which
 15 said house, mill manufactory or other building and appur-
 16 tenance is erected, not exceeding in extent one acre.

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 C. S. p. 696, Sect. 21.

1 SECT. 2. Every mechanic or other person doing or per-
 2 forming any work towards the erection or repair of any
 3 house, mill, manufactory or other building or appurtenance,
 4 or the construction, alteration or repair of any boat, vessel
 5 or other water craft, or furnishing any materials for the con-
 6 struction of such building or vessel, erected or repaired un-
 7 der a contract between the owner thereof and builder, or
 8 other person, whether such work is performed as journey-
 9 man, laborer, carman, sub-contractor or otherwise, whose
 10 demands for work so done or materials so furnished, has
 11 not been paid or satisfied, may deliver to the owner of such
 12 building or vessel, an attested account of the amount and
 13 value of the work or labor performed, or the materials thus
 14 furnished and remaining unpaid, and thereupon such owner
 15 shall retain out of his subsequent payments to the contrac-
 16 tor, the amount of such work and labor for the benefit of
 17 the person so performing the same.

C. S. p. 696, Sect. 22.
 Amended.

1 SECT. 3. Whenever any such account of labor perform-
 2 ed, or materials furnished, is placed in the hands of the
 3 owner of any building or vessel, as above stated, or his au-
 4 thorized agent, such owner or agent shall furnish his con-
 5 tractor with a copy of such papers, so that if there is any
 6 disagreement between such contractor and his creditor, they

C. S. p. 697, Sect. 23.

7 may, by amicable adjustment, or by arbitration, ascertain
 8 the true sum due; and if the contractor shall not, within
 9 ten days after the receipt of such papers, give the owner
 10 written notice that he intends to dispute the claim, or if in
 11 ten days after giving such notice, he refuses or neglects to
 12 have the matter adjusted, as aforesaid, he shall be consider-
 13 ed as assenting to the demand, and the owner shall pay the
 14 same when it becomes due.

1 SECT. 4. If the contractor disputes the claim of his jour-
 2 neyman or other person, for work done or materials furnish- C. S. p. 697, Sect. 24.
 3 ed, as aforesaid, and the matter cannot be adjusted be- c 86
 4 tween themselves, it shall be submitted to the arbitrament
 5 of three disinterested persons, one to be chosen by each of
 6 the parties, and one by the two thus chosen, and their de-
 7 cision, or the decision of any two of them, shall be conclu-
 8 sive in the case submitted.

1 SECT. 5. When the account is adjusted, as above pro-
 2 vided, and the contractor does not, within ten days after it
 3 is so adjusted, pay the sum to his creditor, with the costs C. S. p. 697, Sect. 25.
 4 incurred, the owner shall pay the same out of the fund as Amended.
 5 above provided; and said amount may be recovered from
 6 the said owner by the creditor of the said contractor, to the
 7 extent in value of any balance due by the owner to his con-
 8 tractor under the contract with him at the time of the no-
 9 tice first given, as aforesaid, or subsequently accruing to
 10 such contractor under the same.

1 SECT. 6. If by collusion the owner of any building
 2 erected by contract, pays to his contractor any money in
 3 advance of the money due on said contract, and if the C. S. p. 697, Sect. 26.
 4 amount still due to the contractor after such payment has
 5 been made, is sufficient to satisfy the demand made in con-
 6 formity with the provisions of this chapter, for labor done
 7 and materials furnished, the owner shall be liable to the
 8 amount that would have been due at the time of his receiv-
 9 ing the account of such work and materials, in the same
 10 manner if no such payment had been made.

1 SECT. 7. Any person entitled to a lien under section
 2 one aforesaid, shall make an account in writing, of the item C. S. p. 697, Sect. 27.
 3 of labor, skill, material and machinery furnished, or either
 4 of them, as the case may be, and after making oath thereto,
 5 within one year from the time of performing such labor and
 6 skill, or furnishing such material and machinery, shall file
 7 the same in the register's office of the county in which such
 8 labor, skill and materials have been furnished, which ac-
 9 count so made and filed, shall be recorded in a book to be
 10 provided, separately, by the register for that purpose, and

11 shall, from the commencement of such labor, or the fur-
 12 nishing of such materials, and for two years after the com-
 13 pletion of such labor or the furnishing of such materials, op-
 14 erate as a lien on the several descriptions of structures and
 15 buildings, and the lots of ground on which they stand, in
 16 the first section of this chapter named. When any labor
 17 has been done, or materials furnished, as provided, on a
 18 written contract, the same, or a copy thereof, shall be filed
 19 with the account herein required.

c 86 C. S. p. 698, Sect. 28. 1 SECT. 8. Every person holding such lien, may proceed
 2 to obtain a judgment for the amount of his account thereon,
 3 according to the course of legal proceedings in like cases;
 4 and when any action is commenced on such accounts, with-
 5 in the time of such lien, the lien shall continue until such
 6 action is finally determined and the judgment satisfied.

C. S. p. 698, Sect. 29. 1 SECT. 9. When the owner of any house or buildings, de-
 2 scribed in the first section of this chapter suspends its pro-
 3 gress or completion, without the consent of such laborers,
 4 mechanics or furnishers; or if the progress or completion of
 5 the same is suspended by the decease of the owner at a
 6 stage when, from its unfinished state, such structure would
 7 go to waste, the laborers, mechanics and furnishers thereto,
 8 or any of them, may at their election, proceed with the
 9 same at their cost, so far as to inclose such building and
 10 thereby prevent such waste: *provided*, the work so done
 11 after said suspension, shall be according to the contract and
 12 the plan of the owner.

C. S. p. 698, Sect. 30. 1 SECT. 10. If the person erecting as owner, any build-
 2 ing described in the first section of this chapter, is not at
 3 the suspension or completion of the same, possessed of the
 4 legal title to the ground on which the same is erected, but
 5 is possessed of the equitable title thereto, and the fact of
 6 such defect of title is made to appear to the court before
 7 whom any judgment under this chapter has been obtained;
 8 or if the same is returned by any legal officer, to whom any
 9 execution under this chapter is directed, the court shall di-
 10 rect the officer who has returned, or who is authorized by
 11 law to serve such execution, to rent or lease such building,
 12 until the rents and issues thereof shall pay or satisfy the
 13 several liens on which judgment may be had against the
 14 same: *Provided*, this law shall not be so construed as to in-
 15 terfere with prior bona fide liens, on grounds on which such
 16 building is erected.

C. S. p. 698, Sect. 31. 1 SECT. 11. In all other cases of judgment obtained in fa-
 2 vor of any lien holder, if the property bound by such lien
 3 will not sell on execution as provided by law in other cases,

4 having been once duly offered, the court before whom such
 5 judgment was obtained, may direct the officer aforesaid, to
 6 lease the same in the manner and for the purpose pointed
 7 out in the preceding section; and the officer giving such
 8 lease shall therein require the payment to be made to him,
 9 or his successor in office, which successor shall have the
 10 same power and perform the same duties therein as the
 11 maker of the lease should or could do; and in cases where
 12 the money may be collected by said officer on leases made
 13 under this chapter, he shall forthwith pay the same into
 14 court, where the judgments were obtained, which money
 15 shall be distributed to the several lien holders interested in
 16 said judgments, in proportion to their several demands.

1 SECT. 12. All liens may be discharged by the payment
 2 of the judgment or debt, with costs, before the property on C. S. p. 699, Sect. 33. c 86
 3 which such liens attached is sold or leased under this chap-
 4 ter; and if any lien holder, after the same is duly tendered
 5 to him, proceeds at law, or refuses to give a due discharge
 6 from such lien, such lien holder shall forfeit his lien and pay
 7 costs.

1 SECT. 13. If the owner of the property which is subse-
 2 quent to a lien is without the reach of process, or resident C. S. p. 699, Sect. 34.
 3 without the state, any lien holder may proceed by attach-
 4 ment against the same, as in other cases, and the court be-
 5 fore whom the same attachment is pending, on the entry of
 6 judgment, on return of the proper officer, shall have the
 7 same power to order leases, as is given in the tenth and
 8 eleventh sections of this chapter.

1 SECT. 14. Executors and administrators under this C. S. p. 699, Sect. 35.
 2 chapter have the same rights and are subject to the same
 3 liabilities that their testator or intestate would be or might
 4 have if living.

1 SECT. 15. Every person in favor of whom any such lien
 2 has existed, after receiving satisfaction of his debt, or after C. S. p. 699, Sect. 37.
 3 final judgment against him by a competent tribunal, show-
 4 ing that nothing is due by reason of such claims, shall, at
 5 the request of any person interested in the property on
 6 which the same was a lien, or who is interested in having
 7 the lien removed, or of his legal representatives, lodge a
 8 certificate with said register, that the said debt is satisfied
 9 and said lien removed, which certificate shall be filed and re-
 10 corded by the register on the margin of the record, in the
 11 same manner that releases of mortgages are now by law re-
 12 quired to be recorded; and when so recorded, shall forever
 13 discharge and release said lien; and if such person having
 14 received satisfaction as aforesaid, by himself or attorney, or

15 judgment having been rendered against him as aforesaid,
 16 shall not within ten days after request in writing, lodge a no-
 17 tice in writing with the register, as is prescribed in this sec-
 18 tion, he shall forfeit and pay to the party aggrieved, any sum
 19 of money not exceeding one half of the debt claimed as a lien
 20 on such property, to be recovered in a civil action; and the
 21 party lodging such certificate as aforesaid, shall pay to the
 22 register twenty cents for recording each notice or certifi-
 23 cate as aforesaid.

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C. S. p. 604, Sect. 9.

1 SECT. 16. Whoever makes, alters, repairs or bestows
 2 labor on any article of personal property at the request of
 3 the owner or legal possessor thereof, shall have a lien on
 4 such property so made, altered, or repaired, or upon which
 5 labor has been bestowed, for his just and reasonable charg-
 6 es for the labor he has performed and the materials he has
 7 furnished, and such person may hold and retain possession
 8 of the same until such just and reasonable charges are paid,
 9 and if they are not paid within three months after the labor
 10 is performed or the materials furnished, the person having
 11 such lien may proceed to sell the property by him so made,
 12 altered or repaired, or upon which labor has been bestowed,
 13 at public auction, by giving public notice of such sale by
 14 advertisement for three weeks in some newspaper printed
 15 and published in the county, or if there is none then by
 16 posting up notice of such sale in three of the most public
 17 places in the county three weeks before the time of sale:
 18 and the proceeds of such sale shall be applied first to the
 19 discharge of such lien and the costs and expense of keeping
 20 and selling such property, and the remainder, if any, shall
 21 be paid over to the owner thereof.

C. S. p. 604, Sect. 10.

1 SECT. 17. Any person who is a common carrier, and
 2 any person, who at the request of the owner or lawful pos-
 3 sessor of any personal property, carries, conveys or trans-
 4 ports the same from one place to another, and any per-
 5 son who safely keeps or stores any personal property, at
 6 the request of the owner or lawful possessor thereof, shall
 7 have the same lien and the same power of sale for the satis-
 8 faction of his reasonable charges, upon the same conditions
 9 and restrictions as provided in the preceding section.

C. S. p. 609, Sect. 33.

1 SECT. 18. The following form may be used under this
 2 chapter:
 3 State of Minnesota, }
 4 County. } ss.
 5 A. B., affiant, makes oath and says: That the annexed is
 6 a true and correct account of the labor performed, and ma-
 7 terial (or say machinery) furnished by him (or them) to
 8 and for (here give name or names) at said county; and the

9 prices thereof set forth in the account hereto annexed, are
 10 just and reasonable, and the same is unpaid; that said la-
 11 bor was performed, and material (or say machinery) was
 12 furnished for said C. D. at the time in said account men-
 13 tioned under and by virtue of a contract between affiant and
 14 C. D., (if the contract was in writing, add, above copy of
 15 which is hereto annexed, marked A.) and for (construct-
 16 ing, or say altering, or say repairing a certain boat called,
 17 and so forth,) giving a description of the water craft; (or
 18 say erecting, or say repairing a certain house, or say mill,
 19 giving the common name of the building; or say a certain
 20 piece of land, giving location, etc.; or say lot of timber, or
 21 logs, or lumber, etc.)

22 And affiant further makes oath and says: That the said
 23 C. D. was, at the time said contract was entered into and
 24 said labor was performed, and said materials (or say ma-
 25 chinery) was furnished, the owner of house, (or say mill,
 26 or say said manufactory, naming the kind of building,) and
 27 that said building is situate upon a certain lot of land own-
 28 ed by said C. D., in town, section, range
 29, in said county, and this affiant claims a lien on
 30 the premises.

31 (Signed) A. B.
 32 Sworn and subscribed before me this day of
 33 A. D. 18
 34 H— G—, J. P.

CHAPTER XCI.

CRIMES AND PUNISHMENTS, PRINCIPALS AND AC-
 CESSORIES.

1 SECTION 1. Crimes and public offenses are divided into :
 2 *First.*—Felonies; and
 3 *Second.*—Misdemeanors.

C. S. p. 700, Sect. 2.
 Amended.

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1 SECT. 2. A felony is a public offense punishable with
 2 death, or which is, or in the discretion of the court may be,
 3 punishable by imprisonment in the state prison. Every
 4 other public offense is a misdemeanor.

C. S. p. 700, Sects. 3
 & 4, combined.

1 SECT. 3. Whoever aids in the commission of any offense
 2 which is a felony, or who is accessory thereto before the
 3 fact, by counselling, hiring, or otherwise procuring such
 4 felony to be committed, shall be punished in the same man-

C. S. p. 733, Sect. 1.

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