

No. 233, A.]

[Published April 27, 1895.]

CHAPTER 285.

AN ACT relating to lien for supplies furnished on logs, timber, cord wood, railway ties, tan and other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves and charcoal, in Door county.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Any person, or persons, company or corporation, who shall furnish any supplies of any kind or nature whatsoever, to any person, persons, company or corporation to be used by said person, persons, company or corporation, by their men, teams or employes in cutting, felling, hauling, running, driving, rafting, booming, cribbing, towing, sawing, piling, or manufacturing into lumber any timber or logs or cutting any stave bolts or staves, cord wood, railway ties, telephone poles, telegraph poles, tan or other barks, piling, fence posts, paving timber, stave bolts or staves, or in the manufacture of any kind of wood into charcoal, in Door county, shall have a lien upon such logs, timber, lumber, cord wood, railway ties, tan or other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves or charcoal, for the amount due or to become due for such supplies, which shall take precedence of all other claims or liens thereon, except claims or liens for labor.

SECTION 2. No debt or demand for such supplies furnished as provided in section 1 of this act shall remain such lien unless a claim therefor in writing, shall be made and signed by the claimant or his attorney and verified by the claimant or some one in his behalf in the same manner that pleadings in civil actions may be verified, setting forth the nature of the debt or demand for which the lien is claimed, the

Lien for supplies furnished on logs, timber, cord-wood, etc.

Lien not to remain unless a claim in writing be made by claimant or his attorney.

amount claimed to be due, the description of the logs, timber, cord wood, railway ties, tan or other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves, or the location where said charcoal is situated, against which the lien is claimed, and that the claimant claims a lien thereon, pursuant to this chapter; such claim for supplies furnished shall be filed in the office of the clerk of the circuit court of the county in which such supplies were furnished. If the supplies were furnished between the first day of November, and the first day of March, following, the claim for such lien shall be filed on or before the fifteenth day of March next, thereafter, but if such supplies shall be furnished after the first day of March and before the first day of November, thereafter, or if the furnishing of such supplies shall be continuous from the first day of November, or a day prior thereto, to a date beyond the first day of March following, the claim for lien shall be filed within thirty days after the last day of furnishing such supplies, and such furnishing of such supplies shall be deemed continuous notwithstanding a change of ownership in said logs, timber, lumber, cord wood, railway ties, tan and other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves or charcoal. The clerk with whom such claim for lien is filed shall receive twenty-five cents for filing each such claim or lien.

Plaintiff may have a remedy by attachment of property.

SECTION 3. The plaintiff in any such action may have the remedy by attachment of the property upon which the lien is claimed, provided by law in personal actions, and such attachments may be issued and be served and returned, and like proceedings had thereon, including the release of any attached property upon giving security as in civil actions. The affidavit for the attachment must state that the defendant who is personally liable to the plaintiff therefor is indebted to him in the sum named over and above all legal set-offs for such supplies furnished, as entitles the plaintiff to a lien

thereon, under this chapter, and describing such logs, timber, lumber, cord wood, railway ties, tan and other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves, or the location where said charcoal is situated, and that the plaintiff has filed his claim or lien thereto, and no other fact need be stated in such affidavit; no undertaking upon such attachment, or security for costs in actions hereunder, need be given, unless upon application of some defendant in the action showing by affidavit that he has a good and valid defense to the plaintiff's claim and how much thereof, and if it be only to a part of such claim, unless the residue be paid to the plaintiff, at the time of the application, which payment if made shall not affect the jurisdiction of the court; and no order shall be made by any court requiring the giving of such undertaking or security for costs, except upon ten days' notice to the plaintiff, the attachment shall direct the officer to whom it is issued to attach the property named in the affidavit, or so much thereof as shall be necessary to satisfy the sum claimed to be due thereon, and to hold the same subject to further proceedings in the action. The officer executing the attachment shall pay any boomage due upon the property attached, and the amount so paid shall be taxed as part of the costs of the action.

SECTION 4. The taking of a promissory note or other evidence of debt for any such supplies furnished shall not discharge the lien therefor hereby given unless expressly received in payment therefor and so specified therein.

Taking of promissory note does not discharge the lien.

SECTION 5. All actions to enforce such lien may be brought in the circuit court of the proper county when the amount stated in the affidavit for the attachment, over and above all legal set-offs, exceeds one hundred dollars, or before any justice of the peace having jurisdiction of the amount claimed and of the parties. Action may be commenced to enforce such lien, if the same be due, immediately after the filing of such petition or statement, and such lien

Actions to enforce lien to be brought in the circuit court.

claim shall cease to be a lien on the property named in such petition or statement unless action be commenced within four months after the filing of such petition or statement. If the claim is not due at the time of such filing, the time when the same will become due may be set forth in the petition or statement, and in such case the lien claim shall not cease to be a lien on the property named in the petition until thirty days after such claim shall have become due; provided, that such lien shall continue in any event for four months after the filing of such petition. In all such actions the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant. Any person claiming to be the owner of any such logs, timber, lumber, cord wood, railway ties, tan and other barks, piling, telegraph poles, telephone poles, fence post, paving timber, stave bolts, staves or charcoal, may be made a party defendant on application to the court having jurisdiction of the action at any time before final judgment therein. No person purchasing such logs, timber, lumber, cord wood, railway ties, tan or other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves or charcoal or otherwise acquiring any interest therein before the time for filing such petition or statement or commencing an action thereon has expired shall be considered a bona fide purchaser as against the rights of any such lien claimant; provided, however, that any check given for such supplies that shall become the property of another by purchase or otherwise shall be and remain a lien, and the person owning the same shall have the same right of a lien and the same rights and powers to enforce the same as the person or persons furnishing such supplies for which said check was given.

Judgment,
how rendered,
and costs, how
taxed.

SECTION 6. The court or jury which tries any action hereunder shall, in addition to the sum due the plaintiff, find, if such be proven, that the same is due for the supplies furnished or some part of them alleged in the complaint and

that the same is a lien upon the property or some part thereof, described in the complaint, and the judgment shall be in accordance with the findings of the court or jury; costs shall be taxed and allowed as in personal actions. The execution in addition to the directions and commands of ordinary executions upon judgments for money shall direct that such logs, timber, lumber, cord wood, railway ties, tan and other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves the charcoal, describing them or the location of the charcoal or so much thereof as may be necessary for such purpose be sold to satisfy said judgments and costs, including the costs of sale. If the court, justice or jury shall find that the amount found due the plaintiff is not a lien upon any part of such logs, timber, lumber, cord wood, railway ties, tan and other barks, piling, telegraph poles, telephone poles, fence posts, paving timber, stave bolts, staves or charcoal, they shall be released from the attachment, if they have been attached. The plaintiff shall in all such cases have judgment for the amount so found due, with costs as in ordinary civil actions, but he shall not recover the costs of executing such attachment.

SECTION 7. In actions to enforce a lien under this chapter the officer having the writ of attachment or execution shall make his levy by indorsing or annexing to the writ of attachment or execution his certificate that by virtue of said writ he has levied on the property described in the writ (naming the property levied on), specifying the number of feet and if it be charcoal the quantity in pounds or bushels, as near as may be, taken to satisfy the amount due the plaintiff mentioned in the writ, specifying the amount with costs and disbursements.

SECTION 8. After the making of the levy as above specified any person sawing, buying or using any such property levied on, before the lien claim thereon is satisfied, shall be liable to the lien claimant or the officer who made the levy for the amount claimed, together with costs and disbursements.

How writ of attachment may be served.

After making the levy, person buying or using property liable.

SECTION 9. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

SECTION 10. This act shall take effect and be in force from and after its passage and publication.

Approved April 18, 1895.

No. 111, S.]

[Published April 24, 1895.

CHAPTER 286.

AN ACT authorizing the common council of cities to change the number and boundaries of wards by ordinance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Power to change the number and boundaries of wards by ordinance

SECTION 1. The common council of any city in the state of Wisconsin which shall have been incorporated under special charter and corresponding to the third and fourth classes as designated by law shall have power to change the number and boundaries of the wards in such city by ordinance adopted by a vote of at least three-fourths of all the members of the common council; provided, that such ordinance shall be introduced at a regular meeting of such common council and before final action is taken thereon the same shall be published at least once each week for four successive weeks in some newspaper printed and published in such city, if there be one, otherwise in some newspaper to be designated by the common council; and when the boundaries and number of wards are fixed by an ordinance under this section the number of wards in such city and boundaries thereof, or any of said wards, shall not again be changed for a period of three years, except by adding thereto such territory as may at any