

tract or tracts, legal divisions of any public land belonging to the United States which may be set apart by the general government for any or either of the purposes before mentioned, by an order, patent or other official document or papers so describing such land. That this state shall have concurrent jurisdiction with the United States over all land so sold and all buildings that shall be erected thereon, so far as all civil, criminal and military process issued under authority of this state or any officer thereof, may be executed on any part of said premises or buildings thereon, the same as if the title had not been vested in the United States.

Shall have concurrent jurisdiction.

SECTION 2. The lots, parcels or tracts of land so selected, together with the tenements and appurtenances for the purposes before mentioned shall be held exempt from taxation by the state of Wisconsin.

Exempt from taxation.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 24, 1871.

CHAPTER 154.

[Published March 31, 1871.]

AN ACT to provide for liens in certain cases.

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

SECTION 1. The claims or demands hereinafter mentioned shall constitute and be a lien upon any ship, boat or vessel used in navigating the waters of the Fox, Wolf or Wisconsin rivers, or Lake Winnebago, or any or either of such waters:

What to constitute liens upon vessels, etc.

1st. All debts contracted by the master, owner, agent or consignee thereof on account of supplies furnished for the use of such ship, boat or vessel, or on account of work done or services rendered on board such ship, boat or vessel, or on account of labor done or materials furnished by mechanics, tradesmen or

Debts of master, owner, etc.

others, in and for building, repairing, fitting out, furnishing or equipping such ship, boat or vessel.

Wharfage, etc. 2d. For all sums due for wharfage, tonnage [towage] or anchorage of such ship, boat or vessel.

Damages for non-performance of duties. 3d. For all demands or damages accruing from the non-performance or mal-performance of any contract of affreightment, or any contract express or implied, touching the transportation of persons or property entered into by the master, owner, agent or consignee of the ship, boat or vessel, on or by which such contract is to be performed.

Damages for injuries. 4th. For all damages arising from injuries done to persons or property, by such ship, boat or vessel.

Petition for lien must be made and filed. SECTION 2. No such debt, demand or claim shall remain a lien upon such ship, boat or vessel, unless a petition or statement thereof in writing shall be made and filed in the office of clerk of the circuit court

What petition shall set forth.

within three months after such debt, demand or claim shall have accrued. Such statement or petition shall briefly set forth the nature of such claim or demand, the amount due or amount of damages claimed, the name of such ship, boat or vessel against which such lien is claimed, and if such ship, boat or vessel has no name, then a description of such ship, boat or vessel, as near as may be, and a suit shall be commenced for the recovery and enforcement of such claim or demand under the provisions of this act within three months after the filing of such statement or petition.

May be enforced by attachment.

SECTION 3. Any person, company or corporation having a lien upon or against any ship, boat or vessel, pursuant to or under the provisions of this act, may enforce the same by attachment against such ship, boat or vessel, in the circuit court of the proper county, upon the conditions and in the manner prescribed by chapter one hundred and thirty of the revised statutes, entitled "of proceedings against debtors by attachment," and the acts amendatory thereto, so far as the same can be made applicable thereto, and not herein otherwise provided. Before any attachment shall be issued the petitioner or claimant, or some one in his behalf, shall make and annex thereto an affidavit stating that the defendant named in such attachment is indebted to the plaintiff named therein (being the claimant or petitioner), and specifying the amount of such claim, demand or indebtedness, the name of such ship,

Shall make affidavit.

boat or vessel; and if such ship, boat or vessel has no name, then a description of such ship, boat or vessel, as near as may be; and such affidavit shall also show that such claim, demand or indebtedness is due for, accrued or arose out of or upon some one or more of the causes specified and set forth in section one of this act: *provided*, that causes of action sounding in tort shall not be united with causes of action upon contract, express or implied, and such affidavit shall also state that the plaintiff has filed his petition or statement for a lien, and where and when the same was filed, and no other affidavit shall be required or filed.

SECTION 4. All suits or proceedings in the premises in the circuit court shall be commenced and prosecuted as any other civil suit, with the power and provisions of proceeding by attachment against the ship, boat or vessel upon which a lien is claimed, as is provided in proceedings by attachment by chapter one hundred and thirty of the revised statutes, and the acts amendatory thereto, except as herein otherwise provided, and therein not applicable thereto. Actions may be commenced in the same or in any other county than where the petition is filed: *provided, however*, that the place of trial may be changed for the same causes as in other actions.

How suits commenced.

SECTION 5. The attachment shall require the sheriff or other proper officer of the proper county to attach and safely keep such ship, boat or vessel named or described in such affidavit, together with her tackle, apparel and furniture, to satisfy the plaintiff's claim, with costs, disbursements, charges and expenses.

What attachment shall require.

SECTION 6. No attachment shall be issued out of the circuit court under the provisions of this act unless the amount claimed in such affidavit shall exceed the sum of one hundred dollars.

Limit of amount.

SECTION 7. The plaintiff in any proceedings to enforce such lien as herein provided, in cases where his claim arises out of or is founded upon any of the causes set forth in subdivision one of section one of this act shall not be required to give the undertaking or security for costs or damages required by section five of said chapter one hundred and thirty of the revised statutes, unless required by an order made by the court or judge thereof of the county in which such attachment issued; and no such order shall be made

No undertaking required in certain cases, unless defendant shall make affidavit of merits.

unless the defendant or some one in his behalf shall make an affidavit showing that he has a good and valid defense, in whole or in part to the claim or demand of the plaintiff, setting out the nature of the defense, and to how much and what portion thereof; and when the defense is only to a portion of the plaintiff's claim, before any such order shall be made, the defendant shall pay or tender to the plaintiff that portion of the claim to which there is no defense; and such payment or tender shall not affect the jurisdiction of the court or prevent the recovery by the plaintiff of the same costs, disbursements and charges as he would have been entitled to, had not the amount of his claim been reduced by such payment. No such order shall be made except upon at least two days' notice to the plaintiff, accompanied by copies of the affidavit and other papers upon which the same is asked.

Justices of the peace to have jurisdiction.

SECTION 8. Justices of the peace within their respective counties shall have cognizance and jurisdiction of all cases arising under this act, where the claim or demand shall not exceed the sum of one hundred dollars. And any person, company or corporation having any such lien, and the amount thereof being within the jurisdiction of a justice's court, shall be entitled to proceed by attachment in a justice's court, against such ship, boat or vessel upon which he has such lien, for the enforcement of the same upon the conditions and in the manner prescribed in that portion of chapter one hundred and twenty of the revised statutes relating "of proceedings by attachment and against garnishees," so far as the same can be made applicable thereto and not herein otherwise provided. Before any such warrant of attachment shall be issued, the plaintiff, (that is, the person claiming such lien), or some one in his behalf, shall make and file with the justice an affidavit, setting forth the same facts as is required in the affidavit to be made and attached to the suit of attachment in the circuit court, as provided by section three of this act.

Form of the attachment.

SECTION 9. The attachment issued by any justice of the peace, shall be returned as an ordinary summons, and may be in the following form:

_____, County _____.

THE STATE OF WISCONSIN,

To the sheriff or any constable of said county :

You are commanded to attach the (here insert the name of the ship, boat or vessel, or in case she has no name, a description thereof as near as may be), together with her tackle, apparel and furniture, to satisfy the sum of _____, with interest and costs and disbursements 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 to summon _____, if to be found, to be and appear before me, at my office, in the _____, county of _____, on the _____ day of _____, A. D. 18____, at _____ o'clock in the _____noon of that day, to answer to _____, to his damage one hundred dollars or under. Given under my hand at _____, county of _____, this _____ day of _____, of _____ A. D. 18____.

J. P., Justice of the Peace.

SECTION 10. In all proceedings under this act, justices of the peace shall conform to the provisions of 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 to the circuit court, unless herein otherwise provided: *provided, however,* that the justice shall in no case require the plaintiff to give security for costs, when his claim or demand arises out of or is founded upon any of the causes set forth in subdivision one of section one of this act.

How justices of the peace to proceed.

SECTION 11. In all suits or actions under the provisions of this act, the person, company or corporation liable for the payment of such debt, claim or demand shall be defendant therein: *provided, however,* that the master, owner, agent or consignee of such ship, boat or vessel, or any person having an interest therein, shall upon application to the court wherein such action is pending, be allowed to appear and defend, and be made a party defendant therein.

Who shall be defendants.

SECTION 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, shall in addition to finding the

What court or jury shall find.

sum or amount due the plaintiff, or the amount of damages sustained by the plaintiff, also find whether or not such debt or damages of the plaintiff are for any of the causes mentioned in section one of this act, and specifying such cause or causes in the verdict, finding or assessment of damages, and if such court, jury or justice of the peace shall find that such debt or damages are for any of the causes specified in such section one of this act, then the court or justice of the peace, as the case may be, shall render judgment in accordance with such finding, and that the amount of such debt or damages so found, together with the costs, charges and disbursements is a lien upon such ship, boat or vessel, and execution shall issue therefor; and such execution, in addition to the direction and commands contained in ordinary executions in civil actions, shall direct and command that such ship, boat or vessel, together with her tackle, apparel and furniture, be sold to satisfy such judgment and all costs, charges and disbursements: *provided, however,* that if the court, jury or justice of the peace shall find that the amount due the plaintiff for such debt or damages is not for any of the causes specified in section one of this act, then such amount so found due for debt or damages shall not be a lien on such ship, boat or vessel, but the plaintiff may be entitled to judgment as in other civil actions.

Shall issue execution.

Fees of officers-

SECTION 13. The officer making the attachment shall be allowed and may charge for all necessary disbursements incurred in safely keeping or attaching such ship, boat or vessel, and endorse the amount so incurred, up to the entry of judgment on the writ, which shall be included and taxed in the bill of costs as disbursements in case judgment for lien is rendered, but not otherwise, and all necessary disbursements incurred by such officer after judgment for lien shall be charged and collected out of the property, as other costs and disbursements.

Action not to be defeated by king note.

SECTION 14. The action or lien under the provisions of this act shall not be defeated by taking a note, unless it was taken in discharge of the demand or claim and of the lien, and shall be so specified therein.

Allegations of the complaint.

SECTION 15. The plaintiff shall allege in his complaint the filing of such statement or petition for a lien, giving the substance thereof, and when and where the

same was filed. All such allegations shall be taken to be true, unless expressly denied by the defendant in his answer under oath, or by the affidavit of the defendant or some one in his behalf.

SECTION 16. The several clerks of the circuit courts are hereby required to file all such statements or petitions, and shall upon demand give a certified copy thereof, and for filing each statement or petition, shall be entitled to receive twenty-five cents therefor, and for making each certified copy, shall be entitled to receive the same fees as for copying and certifying other papers or records of a like character.

Clerks to file petitions, and their fees.

SECTION 17. Appeals may be taken from judgments rendered in actions under the provisions of this act, the same as in other civil actions, and judgments rendered in courts of record may be reviewed by the supreme court in the same manner as in other civil actions.

Appeals may be taken.

SECTION 18. Whenever two or more persons shall have claims or demands which are liens upon the same ship, boat or vessel, as hereinbefore provided, and such claims or demands are of the nature, kind or class, that they may be united and set forth in the same complaint, such claims or demands may be in writing assigned to any one person having such a claim or demand, and if such claims or demands shall be so assigned before the filing of the statement or petition for a lien, the assignee thereof shall file such written assignment or assignments with his petition or statement, and such assignee may file his petition or statement for all such claims or demands so assigned to him, as well as for his own claim or demand: *provided*, that such claim or demand shall be set forth separately in such petition. And the assignee is hereby authorized to commence an action as in this act provided, for all such claims or demands without making his assignors parties to the action: *provided, however*, that each claim or demand shall be set forth in the complaint as a separate and distinct cause of action.

Two or more claims may be assigned to one person and prosecuted in one suit.

SECTION 19. The county or municipal courts of any county having jurisdiction of civil actions shall have cognizance and concurrent jurisdiction with the circuit courts in all cases arising under this act, when the amount claimed in the complaint shall not exceed the jurisdiction of such court, and they shall be gov-

County or municipal courts shall have jurisdiction.

erned by the provisions of this chapter relative to circuit courts.

• Construction of act.

SECTION 20. This act shall not be construed so as to affect any action or proceedings now pending in any of the courts of this state, under any statute of this state, relating to boats and vessels.

SECTION 21. All acts or parts of acts interfering with the provisions of this act are hereby repealed.

SECTION 22. This act shall take effect and be in force from and after its passage.

Approved March 24, 1871.

CHAPTER 155.

[Published April 1, 1871.]

AN ACT to create the office of state commissioner of immigration, to provide for the same, and define the duties thereof.

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

Shall appoint commissioner of immigration.

SECTION 1. Within thirty days after this act shall be in force the governor of the state is hereby authorized and required to appoint a state commissioner of immigration, who shall hold his office until the first Monday in January, A. D. 1872, and until his successor is elected and qualified. At the general election to be held on the Tuesday next succeeding the first Monday in November, A. D. 1871, and every two years thereafter there shall be elected by the people a state commissioner of immigration, whose term of office shall commence on the first Monday in January next succeeding his election, and continue for two years, and until his successor is elected and qualified. The canvass and return of the election of said commissioner shall be made in the same manner as the elections of other state officers are canvassed and returned.

His election.

Compensation.

SECTION 2. The compensation of said commissioner shall be, including office rent, clerk hire, stationery, light, fuel and other office expenses, two thousand five hundred dollars per annum, to be paid out of the state