

[No. 63, S.]

[Published April 12, 1882.]

CHAPTER 319.

AN ACT relating to liens upon logs, timber and lumber, and amendatory of chapter 330 of the general laws of 1881, entitled an act relating to liens upon logs and timber, and amendatory of chapter 143 of the revised statutes of 1878, and to repeal chapter 167 of the general laws for the year 1879, and chapter 62 of the general laws for the year 1880.

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

Liens upon logs.

SECTION 1. Section 3329 of chapter 143 of the revised statutes of the state of Wisconsin for the year 1878, entitled of liens, is hereby amended so as to read as follows: Section 3329. Any person who shall do or perform any labor or services in cutting, felling, hauling, running, driving, rafting, booming, cribbing, towing, sawing or manufacturing into lumber, any logs or timber in any of the counties of this state, shall have a lien upon such logs, timber or lumber for the amount due or to become due for such labor or services, which shall take precedence of all other claims or liens thereon; provided, that in said county of Door, such liens shall also extend to and include all labor and services done or performed in cutting, felling, piling, handling or hauling cord wood, or in cutting, peeling, piling, handling or hauling any tan or other bark.

Claim in writing shall be made.

SECTION 2. Section 3331 of said chapter 143 is hereby amended so as to read as follows: Section 3331. No debt or demand for such labor or service 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 amount claimed to be due, a description of the logs, timber or lumber against which the lien is claimed, and that the claimant claims a lien thereon pursuant to this chapter and the chapter to which this is amendatory. Such petition, except for labor or services done in the counties hereinafter particularly named, shall be filed in the office of the clerk of the circuit court of the county in which such labor or services were done or performed; and for such labor or services done or performed in the counties of Shawano, Waupaca, Outagamie and Fond du Lac, or in such parts of the counties of Brown, Oconto and other

counties wherein such logs, timber or lumber are got out upon the Wolf river or any of its tributaries, or for the purpose of being run down said river or its tributaries, such claim for lien shall be filed in the office of the clerk of the city of Oshkosh. If the labor or services are done between the first day of November and the first day of May following, the claim for lien shall be filed on or before the first day of June next thereafter, except as hereinafter provided; but if done after the first day of May and before the first day of November thereafter, or if said labor or services shall be continuous from the first day of November beyond the first day of May following, the claim for lien shall be filed within thirty days after the last day of doing or performing such labor or services, and such labor or services shall be deemed continuous notwithstanding a change of ownership in said logs, timber or lumber, or employers for whom said labor or services shall be done or performed; provided, that such claim for lien for labor or services done or performed on telegraph poles, railroad ties, cord wood and tan or other bark, as aforesaid shall be filed within thirty days from and after the last day of doing and performing such labor or services. Such clerks shall receive twenty-five cents for filing each such claim for lien, and for certified copies thereof, the fees allowed by law for certified copies of papers to clerks of circuit courts.

Claim for lien shall be filed.

SECTION 3. Section 3333 of said chapter 143 is hereby amended so as to read as follows: Section 3333. The plaintiff in such actions 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 a sum named over and above all legal set-offs for such labor or services done or performed, as entitles the plaintiff to a lien thereon under this chapter and the chapter to which this is amendatory, describing such logs, timber or lumber, and that the plaintiff has filed his claim for a lien pursuant thereto, and no other matter need be stated in such affidavit. No undertaking upon such attachment or security for costs in actions hereunder before justices of the peace need be given, unless upon application of some defendant in the

Remedy by attachment.

No undertaking need be given.

action, showing by affidavit that he has a good and valid defense to the plaintiff's claim, and to 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 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 affidavits, or so much thereof as shall be necessary to satisfy the sum claimed to be due therein and to hold the same subject to further proceedings in the action. The officer executing the attachment shall pay any boorage due upon the property attached, and the amount so paid shall be taxed as part of the costs of the action.

Taking of a promissory note shall not discharge lien.

SECTION 4. Section 3335 of said chapter 143 is hereby amended so as to read as follows: Section 3335. The taking of a promissory note or other evidence of debt, for any such labor or services done, shall not discharge the lien therefor, hereby given, unless expressly received in payment therefor, and so specified therein.

Judgment shall be in accordance with the findings.

SECTION 5. Section 3340 of said chapter 143 is hereby amended so as to read as follows: Section 3340. 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 labor or services done, 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 that the judgment shall be in accordance with the findings, with costs to 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 or lumber, describing them, or so much thereof as may be necessary for such purpose, be sold to satisfy said judgment, costs and 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 or lumber, they shall be released from the attachment, if they have been attached, but the plaintiff shall have judgment for the amount so found due, with costs as in ordinary civil actions; but he shall not recover, but shall pay the costs of executing such attachments.

Repeated.

SECTION 6. Section 3330 of said chapter 143, chapter 167 of the general laws of 1879, entitled "an

act to amend sections 3329 and 3330 of chapter 143 of the revised statutes of 1878, entitled of liens, and chapter 62 of the general laws of 1880, entitled an act to amend chapter 167 of the general laws of 1879, entitled an act to amend section 3329 and section 3330 of the revised statutes of 1878, entitled of liens, and all other acts and parts of acts conflicting with the provisions of this act, are hereby repealed, except chapter 222 of the laws of 1880, which is hereby revised, restored and re-enacted, and declared to be in full force and effect.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1882.

[No. 207, S.]

[Published April 12, 1882.]

CHAPTER 320.

AN ACT to provide for the assessment and taxation of the property of telegraph companies in this state, and to amend section 1316 of the revised statutes.

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

SECTION 1. Any person, company or corporation owning or operating any line of telegraph within this state shall obtain a license therefor at the time and in the manner provided in this act. Such license shall be applied for on or before the first day of May in each year. Application therefor shall be made to the state treasurer. License to be obtained.

SECTION 2. Any person, company or corporation owning or operating any telegraph line within this state shall, at the time of applying for such license in each year, make a report in writing to the state treasurer, duly verified by such person or by the president or managing officer of such corporation, which report shall be in such form as the state treasurer may prescribe, and shall accurately and truthfully show the following facts: Report to be made.

1. The number of miles of telegraph line owned or operated by the person, company or corporation so making application for license, and the number of miles of such line that are within this state. Number of miles owned, etc.

2. The number of wires employed on each division of such line, and the aggregate number of miles of single wire owned or operated by such person, company or corporation in this state. Number of wires.