

**Appropriation.** SECTION 9. The county board of supervisors of Milwaukee county is hereby authorized to levy and appropriate out of any funds not otherwise appropriated, the sum of not exceeding ten thousand dollars, for the purpose of carrying out the provisions of this act, which sum shall be deemed a part of the expense of the construction of such sewer system, and the same shall be repaid to the said county of Milwaukee, with interest thereon at the rate per cent. *per annum* received by said county on its deposits, out of the funds to be hereafter raised for the construction of such sewer system.

**Account of expenses, etc.** SECTION 10. The said board of health shall keep an itemized account of the expenses incurred by them under this act, and shall from time to time, report the same to the said board of supervisors of Milwaukee county, and upon the approval of the same by said board of supervisors, said board of supervisors shall cause the amount thereof to be paid said state board of health, not exceeding in all, however, the sum of ten thousand dollars.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved April 18, 1893.

No. 683, A.]

[Published April 28, 1893.

## CHAPTER 256.

AN ACT to amend sections 3314, 3321, 3322 and 3324, of chapter 143, of the Annotated Statutes, entitled "Of liens."

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

**Amends sec.  
3314, S. & B's.  
Anno. State.**

SECTION 1. Section 3314 of the Annotated Statutes, is hereby amended by inserting after the word "well" where the same occurs in the tenth, fifteenth, twenty-first and twenty-sixth

lines of said section, the word "cellar;" by inserting after the word "curbing," in the twelfth line of said section, the words "or the doing of any grading, filling or leveling, or the grading, graveling or making of any street, alley, roadway or gutter;" by inserting after the word "situated," where the same occurs in the seventeenth line of said section, the words "or grading, filling or leveling is done, or any street, alley, roadway or gutter is graded, graveled or made;" by inserting after the word "labor," in said seventeenth line of said section, the words "or grading, filling or leveling, or grading, graveling or making of any street, alley, roadway or gutter;" by inserting after the word "labor" in the twenty-third line of said section, the words "grading, filling or leveling, or grading, graveling or making of any street, alley, roadway or gutter," and by inserting after the word "thing," in the fifty-ninth line of said section, and immediately before the last paragraph of said section, the words "and whenever the doing of any work or labor, or the furnishing of any material for which a lien is given by this section, shall consist of the grading, filling or leveling of land, or the grading, graveling or making of any street, alley, roadway or gutter thereon or over, where such land is situated within the limits of an incorporated city or village, and said material is furnished or said work done upon more than one acre, under a contract for the improvement of more than one acre in the manner aforesaid, then and in every such case the limitation to one acre in this section contained shall not apply, but the party entitled shall have a lien upon all of the land upon which said work is done, or for the improvement of which said material is furnished, and the claimant may make and file a single petition or claim for a lien on all of the same; provided, however, that the lien given by this chapter for grading, filling or leveling land, or grading, graveling, or making any street, alley, roadway or gutter thereon, shall not exist when such work is done, or the material necessary for the doing of the same is furnished under contract with or by direction of any city or village;" so that said section, as so amended, shall read as follows: Section

What property  
liable to lien for  
labor, mater-  
ials, etc.

3314. Every person who, as principal contractor, architect, civil engineer or surveyor, performs any work or labor, furnishes any materials, or prepares any plans or estimates for, in or about the erection, construction, repairs, protection or removal of any dwelling house or other building, or any machinery erected or constructed so as to be or become a part of the freehold upon which it is to be situated, or of any bridge, or in the filling up of any water lot, or the construction thereon of any wharf or permanent erection, or in the dredging of the channel in front of such water lot, or in digging or constructing any well, cellar or fountain, or in digging, building or repairing any fences upon land, and the making or repairing of any walk, sidewalk or curbing, or the doing of any grading, filling or leveling, or the grading, graveling or making of any street, alley, roadway or gutter upon land, irrespective of any easement on or over said land, or doing manual labor thereon, shall have a lien thereupon, and upon the interest of the owner of such dwelling house, building, machinery, bridge, wharf, erection thereon, well, cellar, fountain or fence, walk, sidewalk or curbing in and to the land upon which the same is situated, or grading, filling or leveling is done, or any street, alley, roadway or gutter is graded, graveled or made, or of the person causing such manual labor, or grading, filling or leveling, or grading, graveling or making of any street, alley, roadway or gutter to be done, and upon the water lots so filled, or in front of which such dredging is done, not exceeding forty acres, or if within the limits of an incorporated city or village, upon the piece or parcel of land used or designed for use in connection with such dwelling house, building, machinery, bridge, wharf, erection thereon, well, cellar, fountain or fence, walk, sidewalk or curbing, or upon such water lot or land on which such manual labor, grading, filling or leveling, or grading, graveling or making of any street, alley, roadway or gutter, is done, not exceeding one acre. Such lien shall be prior to any other lien which originates subsequent to the commencement of the construction, re-

Limitation.

Priority of lien.

pairs, removal or work aforesaid, of or upon such dwelling house, building, machinery, bridge, wharf or erection thereon, well, cellar, fountain, fence, walk, sidewalk or curbing, water lot or land, and shall also attach to and be a lien upon the real property of any person on whose premises such improvements are made, such owner having knowledge thereof and consenting thereto, and may be enforced as provided in this chapter. In case any person shall order or contract for the purchase of any machinery to be placed or connected to or with any building or premises, and such person not having an interest in such building or premises in, or connected with, which such machinery is placed sufficient for a lien, as provided for in this chapter, to secure payment for said machinery, the person furnishing such machinery, shall have and retain a lien upon such machinery and shall have the right to remove from such building or premises such machinery, in case there shall be default in the payment of such machinery when due, leaving such building or premises in as good condition as they were before such machinery was placed in or on the same. And whenever the doing of manual labor on land for which a lien is given by this section, shall consist of the building of a continuous roadbed or structure designed or intended for use as a single thing, or as a part of a single thing, and such roadbed or structure is not limited in extent to one acre of land in an incorporated city or village, or to forty acres of land outside such city or village, but extends over and across more than forty acres of land, whether within or without, or partly within and partly without such city or village, then in every such case, the limitation to an acre, or forty acres, as the case may be, in this section contained, shall not apply, but the party entitled shall have a lien upon all the interests of the owner in and to the whole of said continuous roadbed and structure, and the whole of the land of the owner on which the same is constructed, or which is intended to be used or is used for the purpose of such roadbed or structure, and the claimant may make and file a single petition or claim for a lien on all of the same, which petition or a copy thereof shall be filed

Lien upon  
machinery.

Lien for con-  
tinuous road-  
bed, etc.

**Lien for grad-  
ing land, etc.**

in the office of the clerk of the circuit court of such county in which such roadbed is situate, or partly situate, and such lien may be foreclosed or enforced by the party entitled thereto in the circuit court of any of the said counties in which the said claim or petition is so filed, and in the enforcement of such lien the said roadbed or structure, if sold, shall be sold as one continuous and single thing. And whenever the doing of any work or labor, or the furnishing of any material for which a lien is given by this section, shall consist of the grading, filling or leveling of land, or the grading, graveling or making of any street, alley, roadway or gutter thereon or over, where such land is situated within the limits of an incorporated city or village, and said material is furnished or said work done upon more than one acre under a contract for the improvement of more than one acre, in the manner aforesaid, then and in every such case the limitation to one acre in this section contained shall not apply, but the party entitled shall have a lien upon all of the land upon which said work is done or for the improvement of which said material is furnished, and the claimant may make and file a single petition or claim for a lien on all of the same; provided, however, that the lien given by this chapter for grading, filling or leveling land, or grading, graveling, or making any street, alley, roadway or gutter thereon, shall not exist when such work is done, or the material necessary for the doing of the same is furnished under contract with or by direction of any city or village. This act shall apply in all cases in which the time for filing liens has not yet expired, and shall take effect and be in force from and after its passage and publication.

**Act applies  
where time for  
filing lien is un-  
expired.**

**Amends sec.  
3321, S. & B's  
Anno. Stats.**

**SECTION 2.** Section 3321, of the Annotated Statutes, is hereby amended by inserting after the word "well," where the same occurs in the seventh line of said section, the word "cellar," and by inserting after the word "lot," where it occurs in the eighth line of said section, the words "or in the grading, filling or leveling of the same land, or the grading, graveling or making of any street, alley, roadway or gutter

thereon or over;" so that said section, as so amended shall read as follows: Section 3321. **Lien, how may be foreclosed.** Any person having so filed such claim for a lien, may foreclose the same by action in the circuit court or any county court having jurisdiction thereof. All persons having filed such claims for **Parties.** liens, or work done or materials furnished, in the construction, repair, protection or removal of or upon the same dwelling house, or other building, or the same machinery, bridge, wharf, well, cellar, fountain, cistern, fence or water lot, or in the grading, filling or leveling of the same land, or the grading, graveling or making of any street, alley, roadway or gutter thereon or over, may join as plaintiffs; and if any do not so join, or refuse to so join, they may be made parties defendant. All persons having liens upon the premises by mortgage, judgment or otherwise, subsequent to the lien sought to be foreclosed, and all purchasers of the premises subsequent to such lien, may be joined as parties defendant. **New parties may be brought in.** In case any person who has filed such claim for lien prior to the commencement of such action or who has such subsequent lien, or who is such subsequent purchaser, is not made a party to such action, he may, upon application at any time before judgment, be made a party defendant thereto, and any person who shall file such claim for a lien after the commencement of such action, or who shall obtain such subsequent lien by mortgage, judgment or otherwise, or become such subsequent purchaser after the filing of the notice of the pendency of such action, may, at any time before judgment, upon application, be made a party defendant thereto. If such action be brought by a subcontractor, the principal contractor may also be made a party defendant thereto.

SECTION 3. Section 3322, of the Annotated Statutes, is hereby amended by inserting after the word "of," which follows the word "commencement," in the nineteenth line of said section, the words "the furnishing of the material, or," and by inserting after the word "well," where the same occurs in the twenty-first line of said section, the words "cellar," so that said section, when so amended, shall read as follows: Section 3322. The complaint in such action **Complaint, what to set forth.** shall be sufficient if it set forth the con-

tract in substance, under which such work was done, or material furnished, with the last date of doing or furnishing the same, and the assignment of the claim, if any; and allege that the plaintiff or his assignee has filed a claim for a lien therefor, as required by law, giving the date of such filing, that such work was done or materials furnished for some of the purposes mentioned in section 3314, stating for what particular purpose, the amount claimed to be due to the plaintiff or plaintiffs respectively; and give a description of the premises claimed to be affected by such lien; as to defendants who have filed claims for liens on said premises, under the provisions of this chapter, that they have filed such claims, giving the date of filing and the amount claimed by each; as to defendants having subsequent liens or being subsequent purchasers, that they have or claim to have some lien upon the premises, subsequent and subject to the lien of the plaintiff, and shall demand judgment, that the demands of all persons having filed claims for liens upon such premises, whether plaintiffs or defendants, be ascertained and adjudged; and that the interest of the person owning such premises at the time of the commencement of the furnishing of the material, or the construction, repairs, removal or work of or upon the dwelling house, building machinery, bridge, wharf, or erection thereon, well, cellar, fountain, cistern, fence, water lot or land, on account of which such liens are claimed, or which he or any other person claiming under him has since acquired, be sold to satisfy the amount of the liens so ascertained and adjudged, with the costs of the action. If the action be brought by a subcontractor, the complaint shall also set forth in substance the contract between him and the contractor, and allege that he gave the notice required by section 3315, and the date of the service thereof.

Amends sec.  
3324. S. & B's.  
Anno. Stats.

Judgment.

SECTION 4. Section 3324, of the Annotated Statutes, is hereby amended by inserting after the word "well," where the same occurs in the seventh line of said section, the word "cellar," so that said section when so amended shall read as follows: Section 3324. The judgment in such action shall adjudge the amount due to the

plaintiff, or in case several claims or liens are embraced in the action, the amount due to each claimant who is a party to the action. It shall direct that the interest of the owner in the premises at the time of the commencement of the construction, repairs, removal, or work of or upon the dwelling house, building, machinery, bridge, wharf or erection thereon, well, cellar, fountain, cistern, fence, water lot or land, on account of which such liens are claimed, or which he or any person claiming under him has since acquired or so much thereof as may be necessary, be sold to satisfy the amount of the lien of the plaintiff, or of the several liens embraced in the action, with the costs of such action, including the costs of filing the claims for liens; and that after satisfying the same, together with such costs, that the residue of the proceeds be brought into court with the report of sale, to abide the order of the court. If the premises can be sold in parcels, without injury to, or to the advantage of the parties, the court may adjudge that the sale be so made. If the plaintiff, in any such action, fails to establish his lien upon the premises described in his complaint, and claim for lien, but establish a right to recover upon contract for his alleged work and labor done, or materials furnished, he may have a personal judgment in the action against the party liable for the amount due him, with or without costs, to be taxed in his favor, or in favor of the defendant, in like manner as if the action were for the recovery of money only.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved April 18, 1893.