

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE

1895.

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PUBLIC LAWS
OF THE
STATE OF MAINE.

1895.

Chapter 30.

An Act to amend chapter ninety-one of the Revised Statutes, by providing a remedy for the enforcement of liens on buildings and lots by bill in equity.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. Section thirty of chapter ninety-one of the revised statutes is hereby amended by striking out the words, "attachment; and if a levy is made thereon the appraisers may set out a suitable lot for said building, if they think the whole is not needed therefor," in lines five, six, seven and eight, and by inserting in lieu thereof the words, 'bill in equity.' Also, by striking out the word "suit" in line twelve, and inserting in lieu thereof the words, 'bill in equity;' so that said section shall read as follows:

Sec. 30, ch. 91,
R. S.,
amended.

'SECT. 30. Whoever performs labor or furnishes labor or materials in erecting, altering, moving or repairing a house, building or appurtenances, by virtue of a contract with or by consent of the owner, has a lien thereon, and on the land on which it stands and on any interest such owner has in the same, to secure payment thereof, with costs, to be enforced by bill in equity. If the owner of the building has no legal interest in the land on which the building is erected or to which it is moved, the lien attaches to the building, and may be enforced as above provided, and if the owner of such land or building so contracting, is a minor or married woman, such lien shall exist, and such minority or coverture shall not bar a recovery in any bill in equity brought to enforce it.'

Liens on
buildings and
lots for labor
and materials,
how to be
enforced.

SECT. 2. The liens mentioned in sections thirty, thirty-one, thirty-two and thirty-three of chapter ninety-one of the revised statutes, may be preserved and enforced by bill in equity against the debtor and owner of the property affected, and all other parties interested therein, filed with the clerk of court, in the county where the house, building or appurtenances, on which a lien is claimed, is situated, within ninety days after the last of the labor is performed or labor or materials are so furnished, and not otherwise, except as hereinafter provided.

Liens may be
preserved and
enforced by
bill in equity.

SECT. 3. The bill shall state that the plaintiff claims a lien on the house, building, or appurtenances described therein, and the land on which it stands, for labor performed, or for labor or materials furnished, in erecting, altering, moving or

What the bill
shall state.

CHAP. 30

repairing said house, building, or appurtenances, as the case may be; whether it was by virtue of a contract with, or by consent of the owner, and if not, that the claimant has complied with the provisions of section thirty-two of said chapter. And the bill shall pray that the property be sold and the proceeds applied to the discharge of such lien. Two or more lienors may join in filing and prosecuting such a bill. Other lienors may be made parties; other lienors may become parties, and preserve and enforce their liens on said property, provided, their petitions therefor, setting forth their claims in substance, as required in a bill as aforesaid, be filed with the clerk within ninety days after the last labor is performed, or the last labor or materials are furnished by them, as aforesaid. The court may consolidate two or more bills claiming liens on the same property, into one proceeding, if justice shall so require. Any mortgagee or other person having a claim upon, or interested legally or equitably in said property, may be made a party. The court shall have power to determine all questions of priority of lien or interest, if any, between parties to the proceeding.

Other lienors may join and be made parties.

Any mortgagee may be made party.

Court may determine amount by jury trial, or otherwise.

SECT. 4. The court shall determine the amount for which each lienor has a lien upon the property, by jury trial, if either party so requests in bill, petition or answer; otherwise in such manner as the court shall direct. And such determination shall be conclusive as to the fact and amount of the lien subject to appeal and exceptions according to the practice in equity. Any lienor may contest another lienor's claim upon issues framed under direction of the court.

Court may decree that property shall be sold.

SECT. 5. If it is determined that the parties or any of them, claiming a lien, have a lien upon said building and land, the court may decree that said property, or such interest in it as is subject to the liens, or any of them, shall be sold, and shall prescribe the place, time, terms, manner and conditions of such sale. And any justice, in term time or vacation, may order an adjournment of such sale from time to time. And a deed of the officer of the court, appointed to make such sale, recorded in the registry of deeds where the land lies, within three months after the sale, shall convey all the title of the debtor and the owner in the property ordered to be sold. And if justice requires, the court may provide in the order of sale, that the owner shall have a right to redeem the property from such sale within a time fixed in the

—how land shall be deeded.

—Owner shall have right to redeem.

order of sale. If the court shall determine that the whole of the land, on which the lien exists is not necessary therefor, it shall describe in the order of sale a suitable lot therefor, and only so much shall be sold. The lienors shall share, pro rata; provided, their bills or petitions therefor are filed with the clerk of court prior to the order of sale, and within the ninety days mentioned in sections two and three. The court may make such decree in regard to costs as is equitable.

—lienors shall share, pro rata.

SECT. 6. If the proceeds of the sale after payment of costs and expenses of sale, are insufficient to pay the lien claims and costs in full, the court may render judgment against the debtor in favor of each individual lienor, for the balance of his claim and costs remaining unpaid, and may issue executions therefor. If the proceeds of sale after the payment of costs and expenses of sale, are more than sufficient to pay the lien claims and all costs in full, the balance remaining shall be paid to the person or persons legally or equitably entitled thereto.

If proceeds are not sufficient to pay claims, court may render judgment for balance.

SECT. 7. Any owner of a building or real estate, upon which a lien is claimed as aforesaid, may petition in writing a justice of the supreme judicial court in term time or vacation, setting forth the name of the lienor, the court and county in which it is returnable or pending, the fact that a lien is claimed thereon under sections thirty, thirty-one, thirty-two and thirty-three of said chapter, the particular building or real estate, and his interests therein, its value and his desire to have it released from said lien. Such justice shall issue a written notice, which shall be served on the lienor, or his attorney, ten days at least, prior to the time fixed therein for a hearing. At the hearing, such justice may order such owner to give bonds to the lienor, in such amount and with such sureties as he may approve, conditioned to pay the amount, for which such lienor may be entitled to a lien, as determined by the court, with his costs on the petition, within thirty days after final decree or judgment. The clerk shall give the petitioner an attested copy of the petition and proceedings, with a certificate under seal of the court attached thereto, that such bond has been duly filed in his office; and the record of such copy and certificate in the registry of deeds, in the county where such real estate or interest therein lies, vacates the lien.

Owner may petition for release.

—proceedings in case of hearing.

SECT. 8. When any bill or petition provided for in this act in which a lien is claimed on real estate is filed with clerk,

Clerk shall file with registry of deeds,

CHAP. 31 he shall forthwith file a certificate setting forth the names of the parties, the date of the bill or petition, and of the filing thereof, and a description of the said real estate as described in said bill or petition in the registry of deeds for the county in which the land is situated. The register shall record the same in a suitable book and shall receive therefor the sum of twenty-five cents. For each such certificate the clerk shall be entitled to receive the sum of twenty-five cents.

Inconsistent acts, repealed.

SECT. 9. All acts and parts of acts inconsistent herewith are hereby repealed, but the passage of this act shall not affect suits pending when it takes effect.

Approved February 21, 1895.

Chapter 31.

An Act to amend section fifty-four, chapter forty, of the Revised Statutes, as amended by chapter two hundred and seventy-one of the Public Laws of one thousand eight hundred and eighty-five, relating to the number of pounds of Trout and Salmon to be taken.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

Sec. 54, ch. 40, R. S., as amended by ch. 271, Public Laws of 1885, further amended.

SECT. 1. Section fifty-four of chapter forty of the revised statutes, as amended by chapter two hundred and seventy-one, public laws of one thousand eight hundred and eighty-five, is hereby amended as follows: By striking out the word "fifty" in the third line, and insert the word 'twenty-five'; also, by striking out the word "fifty" in the eighth and twelfth lines of said section, and inserting the word 'twenty-five'; also, by adding to said section the following words, 'provided, however, that the taking of one fish, additional, when having less than twenty-five pounds, shall not be regarded a violation of the law'; so that said section as amended, shall read as follows :

Transportation of more than twenty-five pounds at any one time, how punished.

'SECT. 54. No person shall take, catch, kill, or have in possession, at any one time for the purpose of transportation, more than twenty-five pounds of land-locked salmon or trout, in all, nor shall any such be transported except in the possession of the owner thereof, under a penalty of fifty dollars for the offense, and five dollars for every pound of land-locked salmon or trout, in all, so taken, caught, killed, in possession, or transportation, in excess of twenty-five pounds, and all