

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY LORING, SHORT & HARMON
AND
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1884.

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ERRATA:

**The following two leaves are
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

ERRORS.

ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

ERROR IN THE COMMISSIONER’S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

ERRORS IN THE MARGINAL REFERENCES.

Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”

“ 66, § 24.—Erase “*Resolve of 1837*, c. 52.”

“ 69, § 44.—Supply “*Resolve of 1840*, c. 107.”

“ 72, § 68.—Erase “*See c. 6*, §§ 40-67.”

“ “ § 70.—Erase “*R. S.*, c. 2, § 66.”

“ 79, § 12, (note b).—“*See c. 18*, § 73” should read “*See c. 18*, § 75.”

“ “ “ “ “*See c. 30*, § 15” should read “*See c. 30*, § 16.”

“ “ § 14.—Supply “*See c. 18*, § 75.”

“ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”

“ 84, § 46.—“*See c. 18*, § 67” should read “*See c. 18*, § 59.”

“ 86, § 59, ¶ i, (note b).—“*See c. 17*, §§ 25-29” should read “*See c. 17*, §§ 27, 28.”

“ “ “ ¶ vi, (note e).—“*See c. 18*, § 15” should read “*See c. 18*, § 17.”

“ 92, note.—“*c. 18*, §§ 39, 103” should read “*c. 18*, §§ 39, 97.”

“ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”

“ 108, § 86.—“*Art. ii*, § 2” should read “*Art. ii*, § 1, ¶ 2.”

“ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”

“ 176, § 27.—“*Resolve of 1883*, c. 20” should read “*Resolve of 1883*, c. 86.”

“ 183, § 5.—“*See* § 93, ¶ 6” should read “*See* § 93, ¶ v.”

“ 202, § 102.—“1883, c. 229” should read “*See c. 115*, § 1.”

“ 209, § 1.—Supply “1880, c. 215.”

“ 210, § 7.—Supply “1880, c. 215.”

“ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”

“ 270, § 16.—Supply “1880, c. 215.”

“ 330, § 26.—“*See c. 40*, § 77” should read “*See c. 40*, § 74.”

“ “ § 28.—“*See c. 40*, § 38” should read “*See c. 40*, §§ 33, 40.”

“ 374, § 23.—“*See* § 17” should read “1880, c. 234, § 1.”

“ 384, § 74.—Add “1883, c. 138, § 3.”

“ “ “ “ “1883, c. 144, § 4.”

“ 506, § 1.—Supply “*See* 1880, c. 215.”

“ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”

“ 709, § 105.—“*See c. 134*, § 13” should read “*See c. 134*, § 19.”

“ 773, § 42.—Supply “1883, c. 198, § 2.”

“ 804, § 35.—“*See c. 134*, § 26” should read “*c. 134*, § 26.”

“ 861, § 1.—“*R. S.*, c. 2, § 20,” } should read “1883, c. 221.”
“ “ “ “*R. S.*, c. 115, § 1.” }

“ 862, § 4.—“*See c. 63*, §§ 32 to 39” should read “*See c. 63*, § 35.”

ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."
 " " § 9.—Erase "60 *Me.*, 533."
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."
 " 728, § 12.—Erase "68 *Me.*, 30."
 " 750, § 5.—Erase "20 *Me.*, 325."
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."
 " 885, § 1.—Erase "62 *Me.*, 285."
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

faction and payment under his hand to be entered in the margin of the record of such mortgage in the register's office. (a)

SEC. 29. A mortgage may be discharged on the record thereof in the office of the registry of deeds by an attorney at law, authorized in writing by the mortgagee or person claiming under him; *provided, however*, that said writing is first recorded or filed in said office and a minute of the same is made by the register on the margin of the page in connection with said discharge.

SEC. 30. If the purchaser of an equity of redemption, sold on execution, has satisfied and paid to the mortgagee, or those claiming under him, the sum due on the mortgage, the mortgagor, or those claiming under him, having redeemed the equity of redemption within one year after such sale, may redeem such mortgaged estate from such purchaser, or any person claiming under him, within the time and in the manner that he might have redeemed it of the mortgagee if there had been no such sale made, and within such time only.

SEC. 31. When the mortgagee or person claiming under him has taken possession of the mortgaged premises, and the debt secured by the mortgage is paid or released after condition broken and before foreclosure perfected, the mortgagor or person claiming under him may maintain a writ of entry to recover possession of said premises, the same as if paid or released before condition broken.

CHAP. 90.

R.S., c. 90, § 26.

How mortgage may be discharged by attorney at law.
1874, c. 233, § 2.

—proviso.

Redemption of estate from purchaser of equity.
R.S., c. 90, § 27.
2 Me., 343.
6 Me., 237.
7 Me., 103.
21 Me., 105.
46 Me., 437.
49 Me., 266.
52 Me., 407.
55 Me., 253.

Writ of entry against mortgagee in possession, after mortgage has been paid and before foreclosure is perfected.
R.S., c. 90, § 28.
67 Me., 361.

CHAPTER 91.

MORTGAGES OF PERSONAL PROPERTY. LIENS AND THEIR ENFORCEMENT.

MORTGAGES OF PERSONAL PROPERTY.

- SEC. 1. Mortgages are not valid except between the parties, unless recorded by the clerk of the town where mortgagor lives, or possession of the property is taken.
2. Clerk shall record mortgages of personal property in a book, noting therein, and on the mortgage, when they are received.
3. How mortgages may be redeemed after breach of condition; the mortgaged property may be replevied, if not immediately restored.
4. Notice of foreclosure, how to be given and served.
5. Sworn copy of notice shall be recorded, and a copy of the record is evidence of the facts. Mortgagee or assignee out of the state, shall appoint agent to receive pay, or right to redeem is not forfeited.
6. Right of redemption is forfeited in sixty days. Exceptions.
7. Redemption of property held as security for debt by Holmes' note. Parties may stipulate for its relinquishment.

(a) What constitutes a discharge; 5 Me., 275; 6 Me., 260; 17 Me., 371; 18 Me., 11; 24 Me., 335; 25 Me., 346, 462; 27 Me., 219; 31 Me., 394; 33 Me., 451; 39 Me., 22; 44 Me., 115; 45 Me., 103; 54 Me., 466.

What does not; 17 Me., 371; 22 Me., 87; 23 Me., 390; 24 Me., 437; 29 Me., 451; 31 Me., 313; 34 Me., 51, 302; 37 Me., 13; 48 Me., 111; 49 Me., 416; 50 Me., 131, 176; 52 Me., 186; 56 Me., 159.

CHAP. 91.

LIENS ON VESSELS.

- SEC. 8. Lien on vessel for four days after launching. In case of uncompleted contract, lien is extended to four days after its completion. Lien on materials before they are used. Lien on vessels by dry docks and marine railways.
9. Form of writ for enforcing lien; where returnable.
10. Specifications must be annexed to writ, and be sworn to.
11. Attachment, how to be made before vessel is launched. Possession, when to be taken by officer; if before launching, work must not be hindered. Attachment, how to be made after the vessel is launched. Sale of attached vessel when liable to depreciate in value.
12. Service of writ on debtor and on owners. Form of notice to owners; how to be served; and to be posted fourteen days before court.
13. Writs made after the first attachment shall be served by the same officer. If he is disqualified, by any qualified officer.
14. Action how to be entered on docket, and who may defend on giving bond.
15. Defendant may offer to be defaulted, and its effect. Vessel owners may admit a certain sum to be due, and its effect.
16. Court shall decide questions of costs, as in equity.
17. What questions shall be submitted to the jury and found in verdict; or if jury trial is waived, they shall be decided by court.
18. Judgment, how to be rendered against defendant.
19. Right of exceptions, as in other cases.
20. Court may order vessel to be sold on execution. Proceeds shall be paid into court. Manner of sale. Title of purchaser.
21. Disposal of proceeds and of surplus.
22. When proceeds are not sufficient, they shall be distributed pro rata, and when. When double liens shall be prevented.
23. How a vessel, attached for non-lien claim by sheriff or deputy, may be attached on lien claim; how, if attached by constable.
24. How a vessel attached for lien, may be attached for non-lien claim against the owner, and its effect.
25. When vessel attached on both kinds of claims, is sold, the balance, after paying lien claims, shall be applied to non-lien claims.
26. Admiralty powers of court.

LIENS ON LIME, LIMEROCK, GRANITE AND SLATE.

- SEC. 27. Liens on lime, limerock, granite and slate for thirty days, may be enforced by attachment, with precedence of all other claims.

LIEN ON BRICKS.

- SEC. 28. Lien on bricks, how to be enforced when debtor or employer has died.

LIEN ON HEMLOCK BARK.

- SEC. 29. Lien for cutting and peeling hemlock bark.

LIENS ON BUILDINGS AND LOTS.

- SEC. 30. Liens on buildings and lots for labor and materials, and how to be enforced. If levy is made, lot may be set out. If debtor has no title to the land, lien attaches to buildings. Lien, how to be enforced on lands and buildings of minors and married women.
31. When labor or materials are not furnished by contract with owner of building, how he may prevent lien.
32. Lien is dissolved, unless sworn claim is filed in town clerk's office within thirty days. Clerk's fees.
33. Inaccuracy shall not avoid, if claim is reasonably certain in description.
34. Suit must be commenced within ninety days, or lien will be dissolved.
35. When owner dies or becomes insolvent before suit, how action shall be brought and when.
36. Lien for rent on buildings placed on leased land, how to be enforced.
37. Lien on buildings for land rent, whether under written lease or not. Proviso, if a third person is interested in the buildings.

LIEN ON LOGS AND LUMBER.

- SEC. 38. Liens on logs and lumber for labor and as cook, continue for sixty days after arrival of, at destination; they take precedence. Costs, as in equity.

SEC. 39. Boomage shall be paid by attaching officer. Lien is not defeated by taking note. Notice to owner. CHAP. 91.

LIENS ON CANNED GOODS.

SEC. 40. Lien on canned corn, grain and fruit, by persons supplying it.

LIEN ON ANIMALS FOR PASTURAGE, FOOD AND SHELTER.

SEC. 41. Lien on animals for pasturage, food and shelter.

GENERAL PROVISIONS FOR ENFORCEMENT OR DISCHARGE.

SEC. 42. Lien attachments have precedence. Suits after death and insolvency. Writ must show that they are for lien.

43. Tender of amount due discharges lien.

44. When labor or materials are not furnished by contract with owner, he may appear. If he does not, notice must be given him.

45. Judgment, how to be rendered. Plaintiff may discontinue as to any defendant. Costs, how to be apportioned.

LIENS ON GOODS AND PERSONAL BAGGAGE.

SEC. 46. Innholders and keepers of boarding houses have a lien on goods and personal baggage, and how to be enforced.

LIENS, HOW TO BE ENFORCED ON GOODS IN POSSESSION, AND CHOSSES IN ACTION.

SEC. 47. Lien on choses in action and goods in possession may be enforced by sale.

48. Petition must be filed; contents thereof.

49. Service on owners within the state.

50. Service on owners, when unknown or out of the state.

51. When owner appears, proceedings. Jury trial.

52. When owner appears, he may be required to give bond.

53. Court may order property to be sold to pay lien.

54. Disposal of the proceeds.

55. Liens for less than twenty dollars, to be enforced by trial justice. Appeal.

56. Municipal and police courts have concurrent jurisdiction.

PLEDGES.

SEC. 57. Holder of forfeited pledge may notify owner, in writing, of intended sale. How to be served and recorded.

58. Sale of pledge; proceeds, how to be applied.

MORTGAGES OF PERSONAL PROPERTY.

SEC. 1. No mortgage of personal property is valid against any other person than the parties thereto, unless possession of such property is delivered to, and retained by the mortgagee, or the mortgage is recorded by the clerk of the city, town, or plantation organized for any purpose, in which the mortgagor resides. When all the mortgagors reside without the state, the mortgage shall be recorded in said city, town, or plantation where the property is when the mortgage is made; but if a part of the mortgagors reside in the state, then in the cities, towns, or plantations in which such mortgagors reside. A mortgage made by a corporation, shall be recorded in the town where it has its established place of business. If any mortgagor resides in an unorganized place, the mortgage shall be recorded in the oldest adjoining town or plantation, organized as aforesaid, in the county. (a)

Mortgages are not valid except between the parties, unless recorded by town clerk or possession is taken. 1880, c. 193. See c. 3, § 17.

—where to be recorded.

(a) 19 Me., 169; 21 Me., 92; 22 Me., 561; 24 Me., 108, 558; 25 Me., 421; 27 Me., 404; 30 Me., 184; 31 Me., 74; 32 Me., 30, 237; 33 Me., 319; 34 Me., 209; 37 Me., 186, 545; 40 Me., 413, 562; 42 Me., 131, 174; 44 Me., 18; 45 Me., 605; 46 Me., 296, 415; 47 Me., 13, 505; 48 Me., 30, 369, 550, 586; 49 Me., 98, 567; 50 Me., 129, 396; 51 Me., 601; 53 Me., 321; 55 Me., 81; 56 Me., 464; 59 Me., 320; 65 Me., 490; 72 Me., 400; 73 Me., 198, 228.

CHAP. 91.

Clerk to note thereon, when received.
1880, c. 193.
See c. 3, § 17.

How mortgage may be redeemed, after breach of condition.
1880, c. 193.
49 Me., 39.
54 Me., 561.
64 Me., 107.
73 Me., 199.

—property may be replevied.

Notice of foreclosure, how to be given and served.
R.S., c. 91, § 4.
59 Me., 420.
73 Me., 199.

Sworn copy of notice shall be recorded; is evidence of the facts.
R.S., c. 91, § 5.

—mortgagee out of state shall appoint agent to receive pay, or there will be no forfeiture.

Right of redemption is forfeited after sixty days.
R.S., c. 91, § 6.

—exceptions.

Redemption of personal property held as security for debt.

SEC. 2. The clerk, on payment of twenty-five cents, shall record all such mortgages delivered to him, in a book kept for that purpose, noting therein, and on the mortgage, the time when it was received; and it shall be considered as recorded when received. (a)

SEC. 3. When the condition of a mortgage of personal property is broken, the mortgagor, or person lawfully claiming under him, may redeem it any time before it is sold, by virtue of a contract between the parties, or on execution against the mortgagor, or before the right of redemption is foreclosed, as hereinafter provided, by paying or tendering to the mortgagee, or the person holding the mortgage by assignment thereof, recorded where the mortgage is recorded, the sum due thereon, or by performing, or offering to perform the conditions thereof, when not for the payment of money, with all reasonable charges incurred; and the property, if not immediately restored, may be replevied, or damages for withholding it recovered in an action on the case.

SEC. 4. The mortgagee or his assignee, after condition broken, may give to the mortgagor or his assignee, when his assignment is recorded where the mortgage is recorded, written notice of his intention to foreclose the same, by leaving a copy thereof with the mortgagor or such assignee, or if the mortgagor is out of the state, although resident therein, by leaving such copy at his last and usual place of abode, or by publishing it once a week, for three successive weeks in one of the principal newspapers published in the town where the mortgage is recorded. When the mortgagor or his assignee of record is not a resident of the state and no newspaper is published in such town, such notice may be published in any newspaper printed in the county where the mortgage is recorded.

SEC. 5. The notice with an affidavit of service, or a copy of the last publication, with the name and date of the paper containing it, shall be recorded where the mortgage is recorded, and the copy of such record is evidence that the notice has been given. If the mortgagee or his assignee is not a resident of the state, he shall at the time of recording such notice, record therewith his appointment of an agent resident in the same town, to receive satisfaction of the mortgage; and payment or tender thereof may be made to him. If he does not appoint such agent, the right to redeem is not forfeited.

SEC. 6. The right to redeem shall be forfeited, except as provided in the preceding sections, if the money to be paid or other thing to be done is not paid or performed, or tender thereof made, within sixty days after such notice is recorded; but nothing in the preceding sections defeats a contract of bottomry, respondentia, transfer, assignment, or hypothecation of a vessel or goods, at sea or abroad, if possession is taken as soon as may be after their arrival in the state. (b)

SEC. 7. All personal property held as security for debt by the agreements and notes mentioned in section five of chapter one hundred and eleven is subject to redemption as provided in the four preceding sections,

(a) 19 Me., 173; 31 Me., 74; 37 Me., 186; 40 Me., 285; 43 Me., 376; 73 Me., 230.

(b) 24 Me., 136; 29 Me., 432; 31 Me., 106; 32 Me., 174; 36 Me., 49; 39 Me., 450; 55 Me., 81; 59 Me., 420.

for personal property mortgaged and to trustee process as provided CHAP. 91.
in section fifty of chapter eighty-six; but the parties may lawfully stipu- 1872, c. 71.
late in said notes, that no right of redemption shall exist after breach
thereof by non-payment.

LIENS ON VESSELS.

SEC. 8. Whoever furnishes labor or materials for building a vessel, has a lien on it therefor, which may be enforced by attachment thereof, within four days after it is launched; but if the labor and materials have been so furnished by virtue of a contract not fully completed at the time of the launching of the vessel, the lien may be enforced within four days after such contract has been completed. He also has a lien on the materials furnished, before they become part of the vessel, which may be enforced by attachment; and whoever furnishes labor or materials for a vessel after it is launched, or for its repair, has a lien on it therefor, to be enforced by attachment within four days after the work is completed; and the owners of any dry dock or marine railway, used for any vessel, have a lien on said vessel for the use of said dock or railway, to be enforced by attachment within four days after the last day in which the same is used or occupied by said vessel. (a)

SEC. 9. The form of a writ for enforcing such lien, shall be in substance as follows:

"STATE OF MAINE.

"—, ss.

To the sheriff of our county of —, or his deputy:

Greeting.

[L. S.] We command you to attach the vessel" (here give such a description of the vessel as will identify it,) "and summon all persons interested, in the manner directed by law, to appear before our justices of our — court, next to be held at —, within and for our county of —, on the — Tuesday of — next, then and there in our said court, to answer to A. B., of —, who claims a lien on said vessel for" (here describe briefly the nature of the lien,) "to the amount of — dollars and — cents, according to the specification hereto annexed, which amount, C. D., of —, who owes the same, neglects and refuses to pay, to the damage of said A. B., as he says, the sum of — dollars, which shall then and there be made to appear, with other due damages; and have you there this writ with your doings thereon.

Witness, — —, esquire, our —, at —, on the — day of —, in the year of our Lord, eighteen hundred and —.

E. F., Clerk."

Said writ shall be signed, sealed and tested like other writs in civil actions, and returned in the county where said vessel is.

SEC. 10. The specification annexed to the writ, shall contain a just, true and particular account of the demand claimed to be due the plaintiff,

Lien on vessels for labor or materials. 1873, c. 1. —in case of incomplete contracts, lien is in force for four days after completion. 1879, c. 103.

—lien on materials before they are used, how enforced. 1875, c. 1. —on vessels, by dry docks and marine railways.

Form of writ for enforcing lien. R.S., c. 91, § 8. 61 Me., 567. 69 Me., 237.

—how signed, sealed and attested, and where returnable.

Specification to be annexed to the writ.

(a) 33 Me., 479; 34 Me., 206; 36 Me., 387; 40 Me., 292, 411; 41 Me., 399; 42 Me., 81, 147; 58 Me., 98; 61 Me., 567; 69 Me., 235; 70 Me., 351; 71 Me., 464, 494; 72 Me., 129.

CHAP. 91.

R.S., c. 91, § 9.
—what to
contain, to be
verified by
oath.

61 Me., 588.
69 Me., 237.

Vessel on
the stocks,
attachment
of, how made.
R.S., c. 91, § 10.
58 Me., 99.

—possession,
when to be
taken by
officer.

—if before
launching,
work not to
be hindered.

—when ves-
sel has been
launched.

—proceed-
ings for the
sale of attach-
ed vessels lia-
ble to depre-
ciate in value.
1880, c. 243.

—proviso.

Service of
writ on
debtor and
on owners.
R.S., c. 91, § 11.

with all just credits; the names of the persons personally liable to him, and names of the owners of the vessel if known to him, and it shall be verified by the oath of one plaintiff, or of some person in his behalf, that the amount claimed in said specification is justly due from the person named in the writ and specification as owing it, and that he believes that by the law of the state, he has a lien on such vessel for the whole or a part thereof.

SEC. 11. If the vessel at the time is on the stocks, the attachment shall be made by filing in the office of the clerk of the town in which such vessel is, within forty-eight hours thereafter, a copy of so much of his return on the writ, as relates to the attachment, with the name of the plaintiff, the name of the person liable for the debt, the description of the vessel as given in the writ, the date of the writ, the amount claimed, and the court to which it is returnable, and by leaving a copy of such certificate with one of the owners of the vessel, if known to him and residing within his precinct, or with the master workman thereon; if the attachment is so made, the officer need not take possession of the vessel before it is launched, unless specially directed by the plaintiff or his attorney to do so; but he shall, as soon as may be, afterwards; he may take possession at any time before it is launched; but if he does, he shall not hinder the work thereon, or prevent or delay the launching. If at the time of attachment, the vessel is launched, it shall be attached like other personal property. And whenever a vessel has been attached as aforesaid, and the expense of retaining possession of said vessel is great, or the vessel is liable to depreciate in value by reason thereof, any attaching creditor, or an owner of said vessel may in term time or vacation, petition a justice of the supreme judicial court, praying that said vessel attached as aforesaid, may be sold, and said justice may order a hearing thereon; and due notice shall be given to all parties in interest, of the time and place appointed for said hearing, and a hearing on said petition shall be had before a justice of said court; and if it then appears to said justice to be for the benefit of all parties in interest that said vessel should be sold, he shall issue to the officer in possession of the same, or to the sheriff of the county in which said vessel has been attached, an order to sell it at public auction, and shall designate in said order the notice to be given of the time and place of said sale; and said vessel shall be sold pursuant to said order, and the proceeds of such sale, after deducting necessary expenses, shall be held by the first attaching officer or the sheriff, subject to the successive attachments, as if sold on execution; *provided, however*, that if said parties do not consent to a sale as herein provided, the provisions of sections thirty-one to forty, inclusive, of chapter eighty-one, so far as the same are applicable, shall apply to proceedings under this section.

SEC. 12. The writ shall be served on persons named as personally liable for the plaintiff's claim, as in other personal actions against them, or on the owners of the vessel, who are known or reside in the county where the vessel is, by a notice in substance, as follows, and served as summonses are:

"—, ss. To the owners of the ship or vessel," (describe it as in writ,) "Greeting. —form of notice to owners, how to be served, and to be posted fourteen days before court.

"Take notice that the above described vessel is attached on a writ in favor of —, who claims a lien thereon for the sum of — dollars and — cents," (naming the amount of the claim,) "due him by C. D., and that said writ is returnable to the — court at the term to be held at —, in and for the county of —, on the — Tuesday of —, A. D. 18—, when and where you may appear and defend if you see fit. Dated," (&c.)

"G. H., Sheriff," (or) "Deputy Sheriff;"— and by a notice in like form posted in some conspicuous place on the vessel attached. The attachment, service and notices shall be made fourteen days at least before the term of the court to which the writ is returnable.

SEC. 13. On all writs made after the first attachment and while any lien attachment is pending, the attachment and services shall be made as aforesaid by the same officer, or, if he is disqualified, by any qualified officer, by his giving notice thereof to the first attaching officer.

SEC. 14. At the return term, the actions shall be entered on the docket as follows: The person claiming the lien, as plaintiff; the person alleged to be personally liable, as defendant, and the name or other description of the vessel attached; and the owners or mortgagees of the vessel, or any plaintiff in a suit wherein it is attached for a lien, may appear and defend any action so far as relates to the validity and amount of the lien claim; but no such plaintiff shall so defend until he gives bond, to the satisfaction of the court, to pay the costs awarded against him.

SEC. 15. The defendant may offer to be defaulted as in other cases; and the owners of the vessel may admit, in writing filed with the clerk, that a certain sum is due the plaintiff as a lien on the vessel; and if the plaintiff does not recover a greater sum as lien, he recovers no costs against such owner or the vessel or its proceeds, after the admission is filed; but such owner recovers costs thereafter.

SEC. 16. The court, except as provided in the preceding section, may decide all questions of costs and apportion them as they think proper, as in cases in equity.

SEC. 17. At the request of either party, the following questions of fact shall be submitted to a jury: "What amount claimed in the writ is due from the defendant to the plaintiff?" and "For how much of such amount has the plaintiff a lien on the vessel attached?" And the verdict shall be in answer to these questions. If the parties waive a jury trial, these questions shall be decided by the court, on a hearing or report of an auditor appointed by the court.

SEC. 18. Upon ascertaining the amount aforesaid, judgment shall be rendered in his favor against the defendant, as in other personal actions, for the amount found not to be a lien on the vessel, with such costs as the court awards; and a separate judgment shall be rendered in his favor against said defendant and the vessel attached, for the amount

Subsequent writs shall be served by same officer, unless disqualified. R.S., c. 91, § 12. Action, how to be entered on docket, and who may defend on giving bond. R.S., c. 91, § 13.

Defendant may offer to be defaulted; owners may admit certain sum due, and its effect. R.S., c. 91, § 14. 58 Me., 100. 69 Me., 240.

Court to apportion costs as in equity. R.S., c. 91, § 15. 61 Me., 498.

What questions shall be submitted to jury, or if jury trial is waived, decided by court. R.S., c. 91, § 16. 58 Me., 100. 69 Me., 240.

Judgment, how to be rendered against defendant. R.S., c. 91, § 17. 58 Me., 100. 61 Me., 567. 69 Me., 240.

CHAP. 91.

CHAP. 91. decided to be a lien, with such costs as the court awards; and separate executions shall be issued thereon.

Exceptions,
motions, &c.
R.S., c. 91, § 18.

Court may
order vessel
sold on exe-
cution, and
proceeds paid
into court.
R.S., c. 91, § 19.
58 Me., 100.
61 Me., 567.
—title of
buyer.

Distribution
of proceeds,
and of any
surplus.
R.S., c. 91, § 20.

When pro-
ceeds are not
enough, they
shall be
distributed
pro rata, and
when double
liens shall be
prevented.
R.S., c. 91, § 21.

How vessel
attached by
sheriff may
be attached
on lien claim;
when
attached by
constable.
R.S., c. 91, § 22.
61 Me., 567.

If attached
for lien, how
attached for
non-lien
claim against
owner.
R.S., c. 91, § 23.
When vessel,
attached on
both kind of
claims, is
sold.
R.S., c. 91, § 24.

Admiralty
powers of
court.
R.S., c. 91, § 25.

SEC. 19. Parties have the same right of exceptions, motions for new trial and writs of error, as in other actions.

SEC. 20. When judgment is recovered in any suit on which a vessel was attached, the court may issue an order to the attaching officer to sell it at auction, and to pay the proceeds thereof into court after deducting the expenses of sale and for taking care of the vessel while under attachment. Such officer shall sell it as other personal property is sold on execution; and the purchaser shall hold it free from any prior claim.

SEC. 21. If such proceeds are more than all the judgments recovered against such vessel, and the amounts claimed in the undecided suits, the court may order the judgments, as fast as they are recovered against said vessel, to be paid from said fund until all such suits are terminated and all judgments satisfied. The balance, if any, the court may, on petition, order to be paid to the persons legally entitled thereto.

SEC. 22. If such proceeds are not enough to pay in full the judgments recovered and the claims still undecided, the court may order the money to remain until all the suits are terminated, and then divide pro rata; or it may direct a sufficient amount to be retained to pay on the undecided claims their proportion, and divide the residue ratably among the judgments recovered, and if, after all the suits are terminated and the judgments recovered subsequent to the first division have received the same proportion as prior judgments, there is any sum remaining, it shall be divided among the judgments pro rata, and in such division the court shall make such orders as will prevent the enforcement of a double lien, and will secure the just rights of all.

SEC. 23. If the vessel has been already attached by a sheriff or his deputy, where a writ is issued for such lien claim, it shall be served by such officer; if attached by a constable, he shall give up to the officer having the lien writ the possession and the receipt upon which he attached it with his return of the facts thereon; and the attachment shall hold subject to the legal priorities of the lien claim.

SEC. 24. A vessel attached for a lien claim, may be attached by the same officer, in the ordinary manner, in a suit against the owners thereof, and such attachment shall be valid, subject to the legal priorities of the lien attachments.

SEC. 25. When a vessel attached for liens, and also in the ordinary manner, is sold by order of the court, and the proceeds are more than sufficient to satisfy the lien judgments, the surplus shall be paid to the officer, to be held upon the writs not founded on the lien claims.

SEC. 26. The court like a court in admiralty, may make all orders necessary for carrying out the provisions hereof, according to their true intent and meaning.

LIENS ON LIME, LIMEROCK, GRANITE AND SLATE.

Liens on

SEC. 27. Whoever digs; hauls, or furnishes rock for the manufacture

of lime, has a lien thereon for his personal service, and on the rock so furnished, for thirty days after such rock is manufactured into lime, or until such lime is sold or shipped on board a vessel; whoever labors in quarrying or cutting and dressing granite in any quarry, has a lien for his wages on all the granite quarried or cut and dressed in the quarry by him or his co-laborers for thirty days after such granite is cut or dressed, or until such granite is sold or shipped on board a vessel; and whoever labors in mining, quarrying or manufacturing slate in any quarry, has a lien for the wages of his labor on all slate mined, quarried or manufactured in the quarry by him or his co-laborers for thirty days after the slate arrives at the port of shipment; such liens have precedence of all other claims, and may be enforced by attachment within the times aforesaid.

CHAP. 91.

lime and
limerock, for
thirty days,
may be
enforced by
attachment.
1879, c. 163.
72 Me., 423.
73 Me., 161,
209.
—on granite.
—on slate.

—such liens
have preced-
ence of all
other claims.
—their
enforcement.

LIEN ON BRICKS.

SEC. 28. Whoever performs labor, or furnishes labor or wood for manufacturing and burning bricks has a lien on such bricks for such labor and wood, taking precedence of all other claims, and continuing in force for thirty days after the same are burned, suitable for use, *provided*, that said bricks remain in the yard where burnt, such lien to be enforced by attachment within that time, which attachment shall have precedence of all attachments and encumbrances not made to secure a similar lien; and such suit may be maintained although the employer or debtor is dead and his estate has been rendered insolvent, and in that case his executor or administrator may be summoned to answer thereto, and judgment shall be rendered as in other cases against executors and administrators and execution issued and enforced to satisfy such lien.

Lien on
bricks.
1872, c. 7.

—how to be
enforced.

—how suit
may be main-
tained, when
the employer
or debtor
has died.

LIEN ON HEMLOCK BARK.

SEC. 29. Whoever labors at cutting and peeling hemlock bark has a lien thereon for the amount due for his personal services, which takes precedence of all other claims, continues for thirty days, and may be enforced by attachment; *provided, however*, that such lien shall not continue after the bark has arrived at a market.

Lien on
hemlock bark
for labor.
1878, c. 30.

—proviso.

LIENS ON BUILDINGS AND LOTS.

SEC. 30. Whoever performs labor, or furnishes labor or materials in erecting, altering, 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 that such owner has in the same, to secure payment thereof with costs, to be enforced by attachment; and if a levy is made thereon, the appraisers may set out a suitable lot for said building, if they think that the whole is not needed therefor. If the debtor has no legal interest in the land on which the building is erected, the lien attaches to the building and may be enforced as before 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 suit brought to enforce it.

Lien on
buildings
and lots for
labor and
materials,
how to be
enforced.
R.S., c. 91, § 27.
16 Me., 273.
28 Me., 520.
33 Me., 144,
374.
34 Me., 199.
35 Me., 74,
297, 482.
52 Me., 301.
54 Me., 348.
71 Me., 292.
73 Me., 353.
74 Me., 552.

CHAP. 91.

Lien for labor or materials to be furnished by contract or, how prevented. 1876, c. 140. Lien will be dissolved unless sworn claim is filed in town clerk's office within thirty days. R.S., c. 91, § 29. 72 Me., 108.

—clerk's fees.

No inaccuracy avoids lien, if reasonably certain. R.S., c. 91, § 30.

Suit within ninety days, or lien is dissolved. R.S., c. 91, § 31. In case of death or insolvency of owner before suit, action, how and when to be brought. 1881, c. 5.

Lien for rent on buildings placed on leased land, how to be enforced. R.S., c. 91, § 33.

Lien on buildings for land rent, whether under written lease or not. 1879, c. 89.

—proviso, when third person has an interest in the building.

SEC. 31. If the labor or materials were not furnished by a contract with the owner of the property affected, the owner may prevent such lien for labor or materials not then performed or furnished, by giving written notice to the person performing or furnishing the same, that he will not be responsible therefor. (a)

SEC. 32. The lien mentioned in the preceding section shall be dissolved unless the claimant within thirty days after he ceases to labor or furnish materials as aforesaid, files in the office of the clerk of the town in which such building is situated, a true statement of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien, sufficiently accurate to identify it, and the names of the owners, if known; which shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf, and recorded in a book kept for that purpose, by said clerk, who is entitled to the same fees therefor as for recording mortgages.

SEC. 33. No inaccuracy in such statement relating to said property, if the same can be reasonably recognized, or in stating the amount due for labor or materials, invalidates the proceedings, unless it appears that the person making it wilfully claims more than his due.

SEC. 34. A suit to enforce the liens in the four preceding sections must be commenced within ninety days after the last labor is performed or materials are so furnished, or the lien shall be dissolved. (b)

SEC. 35. When the owner dies, or a warrant in insolvency issues against his estate within the ninety days and before the commencement of a suit, the action may be commenced within sixty days after notice given of the election or appointment of the assignee in insolvency, executor or administrator, or the revocation of the warrant; and the lien shall be extended accordingly.

SEC. 36. When a lease of land, with a rent payable, is made for the purpose of erecting a mill or other buildings thereon, such buildings and all the interest of the lessee are subject to a lien and liable to be attached for the rent due. Such attachment, made within six months after the rent becomes due, is effectual against any transfer of the property by the lessee.

SEC. 37. In all cases where land rent accrues and remains unpaid, whether under a lease, or otherwise, all buildings upon the premises while the rent accrues, are subject to a lien and to attachment for the rent due, as provided in the preceding section, although other persons than the lessee may own the whole or a part thereof, and whether or not the land was leased for the purpose of erecting such buildings: *provided, however*, that if any person except the lessee, is interested in said buildings, the proceedings shall be substantially in the forms directed for enforcing liens against vessels, with such additional notice to supposed or unknown owners, as any justice of the supreme judicial court orders, or the attachment and levy of execution shall not be valid except against the lessee.

(a) 73 Me., 354.

(b) 35 Me., 297; 54 Me., 350; 71 Me., 293.

LIENS ON LOGS AND LUMBER.

CHAP. 91.

SEC. 38. Whoever labors at cutting, hauling, rafting or driving logs or lumber, or at cooking for persons engaged in such labor, has a lien thereon for the amount due for his personal services, and the services performed by his team, which takes precedence of all other claims, except liens reserved to the State; continues for sixty days after the logs or lumber arrive at the place of destination for sale or manufacture, and may be enforced by attachment. In such actions the court has the same power to allow and apportion costs as in equity. (a)

Lien on lumber for labor and as cook. 1876, c. 64.
—continues for 60 days.
—how to be enforced.
—costs, as in equity. 1874, c. 191.

SEC. 39. The officer making such attachment may pay the boomage thereon, not exceeding the rate per thousand on the quantity actually attached by him, and return the amount paid on the writ, which shall be included in the damages recovered. The action or lien is not defeated by taking a note, unless it is taken in discharge of the amount due and of the lien. Such notice of the suit, as the court orders, shall be given to the owner of the logs or lumber, and he may be admitted to defend it. (b)

Boomage may be paid by officer. R.S., c. 91, § 35.
—lien is not defeated by taking note.
—notice to owner.

LIENS ON CANNED GOODS.

SEC. 40. Whoever furnishes corn or other grain or fruit, for canning or preservation otherwise, has a lien on such preserved article, and all with which it may have been mingled, for its value when delivered, including the cans and other vessels containing the same, and the cases, for thirty days after the same has been delivered, and until it has been shipped on board a vessel or laden in a car, which lien may be enforced by attachment within that time.

Lien on canned corn, grain, and fruit, by suppliers. 1883, c. 198, § 1.

LIENS ON ANIMALS FOR PASTURAGE, FOOD AND SHELTER.

SEC. 41. Whoever pastures, feeds or shelters animals, by virtue of a contract with or by consent of the owner, has a lien thereon for the amount due for such pasturing, feeding or sheltering, to secure payment thereof with costs, to be enforced in the same manner as liens on goods and personal baggage by innholders or keepers of boarding-houses.

Lien on animals for pasturage, food and shelter. 1873, c. 125. See § 46. 63 Me., 533.

GENERAL PROVISIONS FOR ENFORCEMENT OR DISCHARGE.

SEC. 42. Suits to enforce any of the liens before named have precedence of attachments and encumbrances made after the lien attached, and not made to enforce a lien, and may be maintained although the employer or debtor is dead and his estate has been represented insolvent; and his executor or administrator may be summoned and held to answer to an action brought to enforce the lien. The declaration must show that the suit is brought to enforce the lien; but all the other forms

Lien attachments have precedence of other encumbrances, and are upheld although debtor dies and estate is insolvent. R.S., c. 91, § 36. —writ must show lien.

(a) 9 Me., 22; 24 Me., 219; 33 Me., 291, 431; 34 Me., 276, 287; 35 Me., 128; 36 Me., 538, 544; 38 Me., 82, 131; 43 Me., 585; 45 Me., 319, 567; 46 Me., 365; 49 Me., 77; 56 Me., 152, 298; 66 Me., 57, 67; 71 Me., 118; 72 Me., 440; 74 Me., 240.

(b) 35 Me., 128; 41 Me., 471; 43 Me., 456, 585; 47 Me., 144, 156; 50 Me., 430; 61 Me., 489, 493; 66 Me., 140.

CHAP. 91. and proceedings therein, shall be the same as in ordinary actions of
 Sec.c.6, §14, ¶2. assumpsit. (a)

Tender, discharge by. SEC. 43. All liens named herein may be discharged by tender of the
 R.S., c.91, § 37. sum due, made by the debtor or owner of the property, or his agents.
 66 Me., 59.

If contract was not with owner, he may appear voluntarily. SEC. 44. In all lien actions, when the labor or materials were not
 1879, c.136, § 1. furnished by a contract with the owner of the property affected, such
 —if not, owner may voluntarily appear and become a party to the suit. If he
 notice. does not so appear, such notice of the suit as the court orders, shall be
 given him, and he shall then become a party to the suit.

Judgment, how to be rendered. SEC. 45. In any such action, judgment may be rendered against the
 1879, c.136, § 2. defendant and the property covered by the lien, or against either, for
 —plaintiff may discontinue as to any defendant. so much as is found due by virtue of the lien, and if the amount due
 —costs, how apportioned. exceeds the amount so covered, then a separate execution shall be issued
 to the plaintiff against the defendant for such excess, and the plaintiff
 may discontinue as to any defendant. The court may apportion costs
 as justice requires.

LIEN ON GOODS AND PERSONAL BAGGAGE.

Lien on goods and personal baggage, to secure payment for board and lodging. SEC. 46. Innholders or keepers of boarding-houses have a lien on
 1876, c. 99. the goods and personal baggage of their guests and boarders, to secure
 35 Me., 154. the payment of any money due from them for board or lodging, and
 38 Me., 192. may enforce the same by a sale of such goods or baggage, in the manner
 42 Me., 51. following: After such goods or personal baggage have remained in the
 —goods and baggage, unredeemed, possession of such innholder or boarding-house keeper for six months,
 may be sold. unredeemed, they may be sold at auction to pay the sum due for board
 —notice of sale, to be given. or lodging, and the expense of advertising and selling the same. Such
 innholder or boarding-house keeper shall give thirty days' notice of the
 time and place of such sale, in a newspaper published in the town where
 such articles are held, if any, otherwise notice thereof shall be posted in
 three conspicuous places therein; said notice shall give a description of
 such articles, and the name of the owner; and the proceeds of sale, after
 deducting all charges and expense of advertising and notice, shall be
 applied in satisfaction of the claim upon which such articles are sold,
 and the balance, if any, shall be held for the benefit of the person
 entitled thereto. All such sales shall be recorded in the office of the
 town clerk where the sale takes place, in a suitable book open to public
 inspection, in which the articles sold shall be correctly described, with
 the charges and expenses of advertising and selling, and the prices at
 which they were sold.

LIENS HOW TO BE ENFORCED ON GOODS IN POSSESSION AND CHOSSES IN ACTION.

May be enforced by sale. SEC. 47. Whoever has a lien on any stock or certificate thereof, bond,
 1883, c. 110. note, account, or other chose in action, or on any other personal property
 69 Me., 428. in his possession, may enforce it by a sale thereof, as hereinafter provided.

(a) 28 Me., 520; 33 Me., 144, 292; 34 Me., 281, 287; 35 Me., 297; 36 Me., 387; 37 Me.,
 552; 38 Me., 131; 41 Me., 371; 42 Me., 81, 130, 149; 45 Me., 295, 319; 50 Me., 430;
 53 Me., 321; 61 Me., 494, 497; 63 Me., 564; 65 Me., 577; 66 Me., 58.

SEC. 48. The person claiming the lien may file, in the supreme judicial or superior court in the county where he resides, or in the office of the clerk thereof, a petition briefly setting forth the nature and amount of his claim, a description of the article possessed, and the name and residence of its owners, if known to him, and a prayer for process to enforce his lien.

CHAP. 91.

Petition may be filed; contents thereof. R.S., c. 218.

SEC. 49. If the owners are set forth in a petition filed in the clerk's office, and are residents of the state, the clerk may issue an order of notice, to be given by serving them with a copy of the petition and order thereon, fourteen days before the next term of the court in such county.

Service on owners within the state. R.S., c. 91, § 41.

SEC. 50. If the owners are not known, or are not residents of the state, or if the petition is filed in court, the court may order reasonable notice of at least fourteen days to them and to others interested, returnable at the same or a subsequent term; to be given by personal service of a copy of the petition with the order of court thereon, or by publication in a newspaper, or both, as the court directs.

Service on owners, when unknown, or out of the state. R.S., c. 91, § 42.

SEC. 51. At the time fixed in the notice, any party interested in the article as owner, mortgagee, or otherwise, may appear, and after appearance, the proceedings shall be the same as in an action on the case in which the petitioner is plaintiff and the party appearing is defendant. Questions of fact, at the instance of either party, shall be submitted to a jury on an issue framed under the direction of the court.

When owner appears, proceedings. R.S., c. 91, § 43.

—jury trial.

SEC. 52. If, in the opinion of the court, the article on which the lien is claimed is not of sufficient value to pay the petitioner's claim, with the probable costs of suit, the court may order the persons appearing in defence to give bond to the petitioner, with sufficient sureties approved by the court, to pay such costs as are awarded against him, so far as they are not paid out of the proceeds of the articles on which the lien is claimed.

Owner may be required to give bond for costs. R.S., c. 91, § 44.

SEC. 53. After trial and final adjudication in favor of the petitioner, the court may order any competent officer to sell the article on which the lien is claimed, as personal property is sold on execution, and out of the proceeds, after deducting his fees and the expenses of sale, to pay to the petitioner the amount and costs awarded him, and the balance to the person entitled to it, if he is known to the court, otherwise into court.

Court may order property to be sold to pay lien. R.S., c. 91, § 45. See c. 84, §§ 3-8.

SEC. 54. Money paid into court may be paid over to the person legally entitled to it, on petition and order of the court. If it is not called for at the first term after it is paid into court, it shall be paid into the county treasury; and if afterwards the person entitled to it petitions and establishes his claim to it, the court may order the county treasurer to pay it to him.

Disposal of proceeds. R.S., c. 91, § 46.

SEC. 55. Liens for less than twenty dollars, may be enforced before any trial justice for the county where the person having the lien resides, and all proceedings, rights, and liabilities, shall be the same as hereinbefore provided, so far as the nature of the tribunal admits; and either party may appeal, as in other cases.

When lien is for less than twenty dollars, trial justices have jurisdiction. R.S., c. 91, § 47. —appeal.

SEC. 56. Municipal and police courts have jurisdiction concurrent with the supreme judicial and superior courts and trial justices in their

Concurrent jurisdiction of municipal

CHAP. 91. respective counties, of liens and proceedings relative thereto, for an amount not exceeding their jurisdiction in other civil actions, to be enforced as provided in this chapter.

and police
courts.
1875, c. 28.

PLEDGES.

Pledge for
payment of
money,
notice for
sale of.
1875, c. 53, § 1.

—notice, how
to be served

—shall be
recorded.

Pledge, sale
of.
1875, c. 53, § 2.

—proceeds,
how applied.

SEC. 57. The holder of stocks, bonds or other personal property in pledge for the payment of money or the performance of any other thing, may, after failure to pay or perform, give written notice to the pledgeor that he intends to enforce payment by a sale of the pledge; which notice shall be served by leaving a copy with the pledgeor, if he resides within the state and his residence is known to the holder, otherwise by publishing it at least once a week for three successive weeks, in one of the principal newspapers, if any, in the city or town where the pledgee resides, otherwise, in one of the principal newspapers published in the county, or in the state paper. Such notice, together with an affidavit of service, shall be recorded in the clerk's office of the city or town where the pledgee resides.

SEC. 58. If the money to be paid or the thing to be done is not paid or performed, or tender thereof made, within sixty days after such notice is so recorded, the holder may sell the pledge at public auction, and apply the proceeds to the satisfaction of the debt or demand and the expenses of the notice and sale, and any surplus shall be paid to the party entitled thereto on demand.

CHAPTER 92.

THE RIGHT OF ERECTING MILLS AND MILL-DAMS, OF FLOWING LANDS AND OF DIVERTING WATER FOR THE SUPPLY OF MILLS; AND THE MODE OF OBTAINING DAMAGES. PROTECTION OF WAYS FROM OVERFLOW. INSPECTION OF DAMS AND RESERVOIRS.

ERECTION OF MILLS AND DAMS, AND RIGHTS OF FLOWAGE.

- SEC. 1.** Right to erect and maintain mill-dams, and to divert water by a canal for mills.
2. No dam or canal shall injure a mill or canal previously built.
 3. Restriction as to height of the dam, length of time, and quantity of water.
 4. Damages for flowing, or diversion, are recoverable on complaint.
 5. Form of complaint.
 6. How presented and served. May be inserted in writ, and how served.
 7. What may be pleaded in bar.
 8. Mode of trial. Costs for respondent, if complainant fails.
 9. Proceedings, if complainant recovers. Commissioners shall determine gross damages. If owners do not pay them, then annual damages stand as the judgment of court.
 10. If owners pay, judgment bars further complaint, unless dam is raised.
 11. Owners may apply to have damages assessed in gross. Proceedings.