

HOUSE No. 351.

Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 10, 1888.

The Committee on the Judiciary, who were instructed to inquire into the expediency of amending the law relative to notice and service of notice of petitions for the enforcement of liens on buildings and land, report the accompanying Bill.

For the Committee,

SIDNEY P. SMITH.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Eighty-eight.

AN ACT

Relative to Notice and Service of Notice of Petitions
for the Enforcement of Liens on Buildings and
Lands.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the
same, as follows:*

1 SECTION 1. Section thirteen of chapter one
2 hundred and ninety-one of the Public Statutes is
3 amended by striking out the words "whether
4 filed as a petition or inserted in a summons," in
5 the first line thereof, so that said section as
6 amended shall read as follows: *Section 13.* The
7 petition shall contain a brief statement of the con-
8 tract on which it is founded and of the amount
9 due thereon, with a description of the premises
10 subject to the lien and all other material facts and
11 circumstances, and shall pray that the premises
12 may be sold and the proceeds of the sale applied
13 to the discharge of the demand.

1 SECT. 2. Section sixteen of chapter one hun-
2 dred and ninety-one of the Public Statutes is
3 amended so as to read as follows: *Section 16.* The
4 court in which the petition is entered, or the clerk
5 thereof when the court is not in sitting, or the
6 justice of said court shall issue a precept to
7 any officer authorized by law to serve such pre-
8 cept commanding him to summon the owner of
9 the building or structure fourteen days at least
10 before the return day of said precept, that he
11 may appear and answer said petition, and also
12 to give notice of the filing of said petition to the
13 debtor, when said debtor is not the owner of the
14 building or structure, and to all creditors who
15 have a lien of the same kind upon the same
16 estate. Such precept shall be in substance as
17 follows : —

COMMONWEALTH OF MASSACHUSETTS.

18 [L. S.] ss. To the sheriffs of our
19 several counties or their deputies or [to any con-
20 stable of the city or town of in said county]
21 greeting :
22 We command you to summon , the
23 alleged owner of a certain building or structure
24 on real estate [description] that he appear before
25 court at within [and for]
26 our said county of on then and
27 there in our said court to answer unto a petition
28 for lien which petitioner hath filed in
29 said court to enforce a lien upon said building or
30 structure and the interest of said alleged owner

31 in the lot of land upon which the same is situated
32 to secure payment of a debt amounting to
33 dollars and cents, alleged to be due said
34 petitioner [for labor performed on said building
35 or structure, or for labor furnished, or for mate-
36 rials furnished and actually used on said building
37 or structure, as the case may be], and the costs
38 which may accrue in enforcing such lien.

39 And we further command you to notify
40 the debtor in said petition mentioned,
41 and all creditors other than the petitioner having
42 liens of the same kind upon the same estate, that
43 said petition has been filed in our said court.
44 And have you there this precept with your doings
45 therein.

46 Witness Esquire, at this
47 day of in the year of our Lord
48 one thousand eight hundred and .

[*Clerk or Justice.*]

49 Service of such precept shall be made upon
50 said owner, debtor and each of said creditors
51 fourteen days at least before the return day of
52 said precept, by serving them each with an at-
53 tested copy of said precept, and by posting a like
54 attested copy upon said building or structure.
55 The fees of the officer for such service shall be
56 fifty cents for each person on whom served, and
57 thirty cents for each copy, with fees for travel, as
58 in the service of other civil process. If the peti-
59 tion is entered in a police, district or municipal
60 court, or before a trial justice, the day for the

61 appearance and answer shall be fixed at not more
62 than sixty days from the day of entry.

1 SECT. 3. Section seventeen of chapter one
2 hundred and ninety-one of the Public Statutes
3 is amended so as to read as follows: *Section 17.*
4 If it appears to the court or justice that any of
5 the parties entitled to notice are absent from the
6 Commonwealth so that it is probable that they
7 cannot be found to be served with the precept or
8 notice, the petition shall stand continued until
9 such notice shall be given as the court or justice
10 shall direct.

1 SECT. 4. Section twelve of chapter one hun-
2 dred and ninety-one of the Public Statutes, and
3 all acts and parts of acts inconsistent with the
4 provisions of this act are hereby repealed.

1 SECT. 5. This act shall take effect on the first
2 day of September in the year eighteen hundred
3 and eighty-eight and shall not apply to proceed-
4 ings begun prior to that date.

