

Merchandise transferred to car, etc., specified in entry.

voidable obstruction to navigation; and in no case shall there be permitted any breaking of the original packages of such merchandise,

SEC. 6. That merchandise so destined for immediate transportation shall be transferred, under proper supervision, directly from the importing vessel to the car, vessel, or vehicle specified in the entry provided for in Section two of this act,"

Approved, July 2, 1884.

July 2, 1884.

CHAP. 143.—An act to amend chapter twenty of the Revised Statutes relating to the District of Columbia, concerning mechanics' liens.

Mechanics' liens.
District of Columbia.
R. S. D. C., chap. 20, amended.
Who may have lien.

Notice to be filed.

Lien not to exceed amount of original contract.

Time and place for filing notice.

Notices to be recorded.

Priority of liens; exceptions.

When lien to have priority; extent of.

Proceedings in action.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every building hereafter erected or repaired by the owner or his agent in the District of Columbia, and the lot or lots of ground of the owner upon which the same is being erected or repaired, shall be subject to a lien in favor of the contractor, subcontractor, material-man, journeyman, and laborer, respectively, for the payment for work or materials contracted for or furnished for or about the erection, construction, or repairing of such building, and also for any engine, machinery, or other thing placed in said building or connected therewith so as to be a fixture: *Provided*, That the person claiming the lien shall file the notice prescribed in the second section of this act: *Provided further*, That the said lien shall not exceed or be enforced for a greater sum than the amount of the original contract for the erection or repair of said building or buildings.

SEC. 2. That any person wishing to avail himself of the provisions of this act, whether his claim be due or not, shall file in the office of the clerk of the supreme court of the District of Columbia, during the construction or within three months after the completion of such building or repairs, or the placing therein or adjacent thereto of any engine, machinery, or other thing as aforesaid, a notice of his intention to hold a lien upon the property declared by this act liable to such lien for the amount due or to become due to him, specifically setting forth the amount claimed. The clerk aforesaid shall file and record such notice in a book provided for that purpose.

SEC. 3. That the lien hereby given shall be preferred to all judgments, mortgages, deeds of trust, liens, and incumbrances which attach upon the said building or the ground aforesaid subsequent to the commencement of work on said building; and all incumbrances and liens (other than those which attached thereto prior to the commencement of said building or repairs) which by the laws of this District are required to be recorded shall be postponed to said liens unless recorded prior to the commencement of said building or repairs.

SEC. 4. That when an owner of lands contracts with a builder for the sale of lots and the erection of buildings thereon, and agrees to advance moneys toward the erection of such buildings, the lien hereinbefore authorized shall have priority to all advances made after the filing of said notices of lien, and the lien shall attach to the right, title, and interest of the owner in said building and land to the extent of all advances which shall have become due after the filing of such notice of such lien, and shall also attach to and be a lien on the right, title, and interest of the person so agreeing to purchase said land at the time of the filing of said notices of lien. When a building shall be erected or repaired by a lessee or tenant for life or years, or a person having an equitable estate or interest in such building or the land on which it stands, the lien created by this act shall only extend to and cover the interest or estate of such lessee, tenant, or equitable owner.

SEC. 5. That the proceedings to enforce the lien created by this act shall be by bill in equity, which shall contain a brief statement of the contract on which the claim is founded, the amount due thereon, the

time when the notice was filed with the clerk as aforesaid, in case such notice is required by this act, the time when the building was completed, with a description of the premises, and any other material facts; and all persons who are interested in the premises, so far as they are known, shall be made parties complainants or defendants; and said bill shall pray that the premises may be sold and the proceeds of the sale applied to the discharge of the lien. The summons shall be served as in other cases in equity. If judgment be rendered for the complainant, the court shall decree the sale of said land and premises, and shall declare the proper distribution of the fund arising from such sale; and if upon sale the proceeds be insufficient to pay all liens under this act, they shall stand as a judgment against the party who incurred the debt, if he be made or become a party to the suit, but not otherwise; and such judgment shall bear interest, and have the same force and effect, and be enforced in the same manner as in cases of judgment at law.

Service of summons.
Decree of sale, when.
Distribution of proceeds; judgments; interest.

SEC. 6. That in the case of labor done or materials furnished for the erection or repair of two or more buildings joined together and owned by the same person or persons, it shall not be necessary to determine the amount of work done or materials furnished for each particular building, but only the aggregate amount upon all the buildings so joined; and the decree of the court shall pass against all the buildings, and the land on which they are erected, as one building; but they may be sold separately if the court so decree. If a joint claim be filed, and the proof shows a separate right of action, it shall not defeat the claim, but the court may require the pleadings to be amended, if necessary, upon such terms as it shall prescribe, and proceed to adjudicate the rights of the parties as to law and justice shall appertain.

Decree of court in case of more than one building, etc.

Joint claimants.

SEC. 7. That any person entitled to a lien under this act may commence his suit to enforce the same at any time within one year from and after filing the notice aforesaid or the completion of said building or repairs, but no final adjudication shall be had until all persons who shall become interested in the building subject to such lien under the provisions of this act shall have an opportunity to be heard in said suit, providing such interest was vested at the time said suit was brought, or be acquired within three months thereafter, and such persons shall intervene in said suit within said term of three months.

Time of commencing suit.
Right of parties to suit to be heard, etc.

SEC. 8. That all or any number of persons having liens on the same building pursuant to the provisions of this act may join in one suit, but their respective claims may be stated distinctly in separate paragraphs, and the judgment shall show the amount to which they are respectively entitled. If several suits shall be brought by different claimants, and be pending at the same time, the court may order them to be consolidated.

Consolidation of actions.

SEC. 9. That if said building be on any land lying outside the cities of Washington and Georgetown, and there is any contest as to the dimensions of the ground claimed to be subjected to the lien declared by this act, it shall be the duty of the court to issue an order to the surveyor of said district, or some other surveyor, to examine the said building, or the place at which said building is being or has been erected or repaired, and to make a report to the court, in which he shall sufficiently designate and describe by metes and bounds, and by a draught if necessary, the limits and extent of ground; and if approved by the court such report shall be conclusive upon all parties concerned; and the land so designated in such report shall, together with said buildings, be subjected to and charged with said lien.

Extent of lien outside of Washington and Georgetown.

SEC. 10. That whenever any person having a lien by virtue of the provisions of this act shall have received satisfaction for his claim and the cost of his proceedings therein, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction, within two days after such payment or tender, enter satisfaction of his demand in the office of the clerk aforesaid; and upon failure to do so he shall forfeit fifty dollars to the party aggrieved, and

Satisfaction to be entered, when; forfeiture.

- all damages which he may have sustained by reason of such failure or neglect.
- How lien may be discharged. SEC. 11. That in all proceedings under this act the defendant may file a written undertaking, with two or more sureties, to be approved by the court, to the effect that he and they will pay the judgment that may be recovered, and costs, which judgment shall be rendered against all persons so undertaking, and thereby release his property from the lien hereby created. No such undertaking shall be approved by the court until the complainants shall have had at least two days' notice of the defendant's intention to apply to the court therefor, which notice shall give the names and residences of the persons to be offered as sureties, and the time when the motion for such approval will be made; and such sureties shall make oath, if required, that they are worth, over and above all debts and liabilities, double the amount of said lien. The complainants, or any of them, may appear in open court and make their objection to such approval, or file in the office of the clerk of the court their or his objections in writing to such approval. If such undertaking be approved before the filing of the aforesaid bill in equity to enforce said lien, the said sureties shall be made parties thereto; and if after the filing of said bill, said sureties, upon the approval of said undertaking, shall ipso facto become parties thereto; and in either case the decree of the court shall run against them as well as the principal on such undertaking.
- Notice of application for discharge of lien; terms of. SEC. 12. That any person or persons who shall furnish, at the request of the owner or his agent, materials to do any work on or labor in filling up any lot, or in erecting or constructing any wharf or other permanent fixtures thereon, or in dredging out the channel in front of any wharf, under contract with the owner or his agent, shall be entitled to enforce a lien therefor upon the lots or wharves.
- Liens, etc., on lot, wharf, etc. SEC. 13. That any mechanic or artisan who shall make, alter, or repair any article of personal property, at the request of the owner, shall have a lien thereon for his just and reasonable charges for his work done and materials furnished, and he may retain the same in his possession until such charges shall be paid; and if not paid at the end of six months after the work is done, he may proceed to sell the property at public auction, by giving notice once a week for three consecutive weeks in some daily newspaper published in the District of Columbia; and the proceeds of such sale shall be applied first in the discharge of such lien and the expense of selling such property, and the remainder, if any, shall be paid over to the owner thereof.
- Liens upon personal property. SEC. 14. That so much and such parts of chapter twenty of the Revised Statutes relating to the District of Columbia, and all other acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed; and this act shall take effect from the date of its passage.
- Repeal provisions. Approved, July 2, 1884.

July 3, 1884.

CHAP. 147.—An act to extend the benefits of section four of an act entitled "An act making appropriations for the support of the Army for the year ending June thirtieth, eighteen hundred and sixty-six," approved March third eighteen hundred and sixty-five.

13 Stat., 497.

Three months' extra pay to heirs, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section four of an act entitled "An act making appropriations for the support of the Army for the year ending June thirtieth, eighteen hundred and sixty-six," approved March third, eighteen hundred and sixty five, be so construed as to entitle to the three months' pay proper provided for therein the heirs or legal representatives of all officers of volunteers specified therein who were killed or who died in the service between the third