

tioned to pay all intervening damages to the leased property resulting from waste and intervening rent for the premises.

SEC. 690. On the trial of the suit in the supreme court of the District, if the jury find for complainant, they shall assess the damages and intervening rent; and in case of default the same shall be assessed by the court.

If jury find for complainant, damages.

4 July, 1864, c. 243,

s. 5, v. 13, p. 384.

SEC. 691. The fees of the justice issuing the process, and hearing the issue, and making up the record, and certifying the same, and of the officer for serving the process, shall be those allowed in civil causes.

Fees of justice and officer.

Ibid.

CHAPTER TWENTY.

MECHANICS' LIENS.

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SEC. 692. Any person who, by virtue of any contract with the owner of any building, or with the agent of such owner, performs any labor upon, or furnishes any materials, engine, or machinery, for the construction or repair of such building, shall, upon filing the notice prescribed in the following section, have a lien upon such building and the lot of ground upon which the same is situated for such labor done or materials, engine, or machinery furnished, when the amount exceeds twenty dollars.

Who may have lien.

2 Feb., 1859, c. 17, s. 1, v. 11. p. 376.

SEC. 693. Any person wishing to avail himself of the provisions of this chapter, whether his claim be due or not, shall file in the office of the clerk of the supreme court of the District, at any time after the commencement of the building and within three months after the completion of such building or repairs, a notice of his intention to hold a lien upon the property declared by this chapter liable to such lien, for the amount due or to become due to him, specifically setting forth the amount claimed.

Notice to be filed.

Ibid., s. 2.

SEC. 694. Upon failure to file the notice as prescribed in the preceding section, the lien shall be lost.

Lien lost if notice not filed.

Ibid.

Notices to be recorded.

SEC. 695. The clerk of the supreme court shall file and record, in a book provided for that purpose, all notices filed in accordance with section six hundred and ninety-three.

Ibid.

When liens expire unless action brought.

SEC. 696. The lien shall cease to exist at the expiration of one year after the completion of the building or repairs, unless, before that time, an action to enforce the same shall have been commenced in the supreme court of the District by the person having such lien against the owner with whom or with whose agent the contract was made, unless such claim be not due at the expiration of one year after such completion, in which case the action shall be commenced within three months after the same shall have become due. [See § 808.]

Ibid., s. 3, p. 377.

SEC. 697. The complaint of the plaintiff 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, the time when the building was completed, if it be completed, with a description

Complaint and prayer of plaintiff.

Ibid., s. 4.

- of the premises, and any other material facts, and shall pray that the premises may be sold and the proceeds of the sale applied to the discharge of the lien.
- Service of summons.** SEC. 698. The summons shall be served as in other cases, or, instead of service by publication, it may be made by delivering a copy thereof to the person in possession of the premises.
- Notice to purchaser.** SEC. 699. If the defendant shall have sold or disposed of the premises before the service of the summons, the court shall direct notice of the proceedings to be served on the purchaser, or his agent for the premises, who may thereupon, if he desire it, be made a party defendant in the action.
- Proceedings in action.** SEC. 700. The proceedings in an action to enforce such lien shall be the same as in other actions, except as otherwise provided in this chapter; and if judgment be rendered for the plaintiff, he may have execution issued against the premises, and thereupon the marshal shall proceed as upon executions upon real property. [See § 808.]
- Priority of liens.** SEC. 701. The liens created in pursuance of the provisions of this chapter shall have precedence over all other liens or incumbrances which attached upon the premises subsequent to the time at which the notice was given.
- Pro-rata payments.** SEC. 702. If, upon a sale of the premises on execution, the proceeds be insufficient to pay all such liens, the court shall order them to be paid in proportion to the amount, respectively, due to each, and any other property of the defendant not exempt from execution may be sold to satisfy such execution.
- Extent of lien outside of Washington and Georgetown.** SEC. 703. If the building be on any land lying outside the cities of Washington and Georgetown, the land upon which the same is erected, together with the space around the same, not exceeding five hundred square feet clear of the building, shall also be subject to the lien, if the land at the time of the erection or repair of the building shall have been the property of the person contracting for the erection or repair of the same.
- When in Washington or Georgetown.** SEC. 704. If the building be in the cities of Washington or Georgetown, the ground on which the same is erected, and a space of ground equal to the front of the building, and extending to the depth of the lot or lots on which it is erected, shall also be bound by the said lien, subject to the condition mentioned in the preceding section.
- Who may join in action.** SEC. 705. Any number of persons, having liens on the same building, pursuant to the provisions of this chapter, may join in one action, but their claims shall be stated distinctly as in a separate action, and the judgment shall show the amounts to which they are respectively entitled.
- Consolidation of actions.** SEC. 706. If several such actions be brought by different claimants, and be pending at the same time, the court may order them to be consolidated.
- Satisfaction to be entered, when; forfeiture.** SEC. 707. Whenever any person having a lien, by virtue of the provisions of this chapter, shall have received satisfaction for his claim, and the cost of his proceedings thereon, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction, within six days after such payment or tender, enter satisfaction of his demand in the office of the clerk; and upon failure to do so he shall forfeit and pay fifty dollars to the party aggrieved, and all damages which he may have sustained in consequence of such failure or neglect.
- How lien may be discharged.** SEC. 708. In all proceedings commenced under this chapter the defendant may file a written undertaking, with surety, to be approved by the court, to the effect that he will pay the judgment that may be recovered, and costs, and thereby release his property from the lien hereby created.
- When owner hold responsible for claims against contractor, &c.** SEC. 709. Any sub-contractor, journeyman, or laborer employed in the construction or repair of any building, or in furnishing any materials or machinery for the same, may give, at any time, the owner thereof notice in writing, particularly setting forth the amount of his claim and
- 2 Feb., 1859, c. 17, s. 5, v. 11, p. 377.
- Ibid.
- Ibid., s. 6.
- Ibid., s. 7.
- Ibid.
- Ibid., s. 8.
- Ibid.
- Ibid., s. 9.
- Ibid.
- Ibid., s. 10, pp. 377, 378.
- Ibid., s. 11, p. 378.
- 6 May, 1870, c.

the service rendered, for which his employer is indebted to him, and that he holds the owner responsible, and the owner of the building shall be liable for the claim, but not to exceed the amount due from him to the employer at the time of notice, or subsequently, which may be recovered in an action.

89, s. 1, v. 16, p. 119.

SEC. 710. Whenever any sub-contractor, journeyman, or laborer shall recover any such claim from the owner of the building, the same may be set off by the owner in any action brought against him by the person who otherwise would be entitled to recover the same under the contract.

Amount recovered may be a set-off.

Ibid., s. 2.

LIENS UPON PERSONAL PROPERTY FOR WORK DONE.

SEC. 711. Any person, having possession of the same, who shall make, alter, repair, or bestow any labor on any article of personal property, at the request of the owner or lawful possessor thereof, shall have a lien on such property so made, altered, or repaired, or upon which labor has been bestowed, for his just and reasonable charges for the labor he has performed and the materials he has furnished; and such person may hold and retain possession of the same until such just and reasonable charges shall be paid; but if possession pass from such person by his consent, the lien shall cease.

Liens upon personal property.

2 Feb., 1859, c. 17, s. 12, v. 11, p. 378.

SEC. 712. The provisions of the preceding section shall not interfere with any special agreement of the parties.

Special agreements.

Ibid., s. 13.

CHAPTER TWENTY-ONE

INTEREST AND USURY.

- Sec. 713. Rate of interest allowed.
- 714. Special contracts; limit.
- 715. Unlawful contracts; forfeiture.

- Sec. 716. Recovery, when interest unlawfully taken.
- 717. Banking laws not changed.

SEC. 713. The rate of interest upon judgments or decrees, and upon the loan or forbearance of any money, goods, or things in action, shall continue to be six dollars upon one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or shorter time, except as provided in this chapter.

Rate of interest allowed.

22 April, 1870, c. 59, s. 1, v. 16, p. 91. United States vs. Kendall, 5 Cranch, 5 Cranch, C. C., 298; 5 Cranch, C. C., 523.

C. C., 385; *Burr vs. Burch*, 5 Cranch, C. C., 506; *Bradley vs. McKee*, 5 Cranch, C. C., 518; *Hill vs. Scott*, 5 Cranch, C. C., 523.

SEC. 714. In all contracts made it shall be lawful for the parties to stipulate or agree in writing that the rate of ten per centum per annum, or any less sum, of interest shall be taken and paid upon every one hundred dollars of money loaned, or in any manner due and owing from any person or corporation in the District.

Special contracts; limit.

22 April, 1870, c. 59, s. 2, v. 16, p. 91.

SEC. 715. If any person or corporation shall contract to receive a greater rate of interest than ten per cent. upon any contract in writing, or six per cent. upon any verbal contract, such person or corporation shall forfeit the whole of the interest so contracted to be received, and shall be entitled only to recover the principal sum due to such person or corporation.

Unlawful contracts; forfeiture.

Ibid., s. 3.

SEC. 716. If any person or corporation within the District shall directly or indirectly take or receive any greater amount of interest than is provided for in this chapter, upon any contract or agreement whatever, it shall be lawful for the person, or his personal representative, or the corporation paying the same, to sue for and recover all the interest paid upon any such contract or agreement from the person or his personal representatives, or from the corporation receiving such unlawful interest; but the suit to recover back such interest shall be brought within one year after such unlawful interest shall have been paid or taken.

Recovery, when interest unlawfully taken.

Ibid., s. 4. *Riddle vs. Mandeville*, 1 Cranch, C. C., 95; *Oliver vs. Decatur*, 4 Cranch, C. C., 461.

SEC. 717. Nothing in this chapter shall be construed to change the general laws in force in relation to banking associations organized under the provisions of Title LXII, of the Revised Statutes, "NATIONAL BANKS." [See R. S. U. S., §§ 5197, 5198.]

Banking laws not changed.

22 April, 1870, c. 59, s. 5, v. 16, p. 91.