

new action, within one year after such judgment is reversed, or given against the plaintiff, and not after.

APPROVED, January 25, 1839.

## MECHANICS.

AN ACT relative to Mechanics' liens, and for other purposes.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa.* That in all cases hereafter, where any contract shall be made between the proprietor or proprietors of any tract of land or town lot on the one part, and any person or persons on the other part, for the erecting or repairing any house, or other building, mill or machinery of any description whatever, or their appurtenances, or for furnishing labor or materials for the purposes aforesaid, and every other person who may have furnished materials which may have been used in the construction of such house, building or mill, by special agreement, the person or persons who shall, in pursuance of such contract, have furnished labor or materials for such purpose, or who shall have furnished such materials as aforesaid, shall respectively have a *lien*, to secure the payment of the same, upon such house, or other building, mill, or machinery, and on the lot or tract of land on which the same shall be erected. Lien on building and lot for materials and labor.

SEC. 2. When any person or persons shall wish to avail himself, herself, or themselves, of the benefit of such *lien*, he, she, or they shall commence his, her, or their action in any court having jurisdiction of the same, within six months from the time payment should have been made, by virtue of any such contract by which such lien shall have been claimed. And if such suit be commenced in the district court, it shall be by bill or petition, describing, with common certainty, the tract of land, town lot, building, mill, or machinery, upon which said lien is intended to be made to operate, and also the nature of the contract or indebtedness, with a bill of particulars of his account; which bill or petition shall be filed in the clerk's office of the proper county, and docketed by the clerk on the common law appearance docket. The courts, trying such causes, shall be governed by the same rules of evidence that are now observed in When action to be commenced. Bill or petition to be filed. Particulars of the account.

suits at law, and give judgment according to the justice and equity of the case.

Special execution to be issued.

SEC. 3. The clerk of the court, when judgment has been had under the provisions of this act, on application, shall issue a special execution, directed to the sheriff of the proper county, describing the property upon which said *lien* is made to operate, and out of which said judgment and costs are to be collected, or so much thereof as said property will bring; and no other property of the said defendant, in any suit as aforesaid, shall be bound for the payment of such judgment, unless the claimant shall hold collateral security for the payment of the same.

Proceedings before a justice of the peace under this act.

SEC. 4. Any person or persons, wishing to avail himself, herself, or themselves, of the benefit of the *lien* under this act, by suit before a justice of the peace, shall, upon the commencement of such suit, file an account setting forth, with common certainty, the property upon which said lien is intended to be made to operate, and whether it is for work and labor done, or materials furnished; and upon the trial of said cause, the justice of the peace, trying the same, shall hear the proof, and if it shall appear that the defendant in such cause is indebted to the plaintiff, he shall give judgment for the amount so due, and, on application of the plaintiff, said justice of the peace shall give a transcript of the judgment, and certify the same to be for work and labor done, or materials furnished (as the case may be), and also a description of the property subject to such *lien*; which transcript and certificate shall be filed in the clerk's office of the proper county in which said judgment shall have been rendered, and, when filed, it shall have the same effect as a judgment of the district court, and execution shall issue in the same manner, and have the same effect, as an execution issued upon a judgment rendered in the district court under this act: *Provided*, That either of the parties, in such suit, shall have the same right to appeal that is, or hereafter may be, allowed for the judgment of justices of the peace in other cases.

Right of appeal.

Benefit of the act extended to persons employed on mineral ground.

SEC. 5. And it is further provided by this act, that when any person is employed to work on mineral ground, where mineral is found, he shall have all the benefit of this act, and shall have a *lien* on a sufficient quantity of mineral, on the lot where he may be employed, to pay him for any just demand

which he may have, in consequence of labor that he may have performed on the same.

SEC. 6. All acts, and parts of acts, coming within the purview of this act, are hereby repealed. This act to take effect from and after its passage. Repealing clause.

APPROVED, December 17, 1838.

## MILITIA.

AN ACT to organize, discipline, and govern the Militia of this Territory.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That immediately after the passage of this act, the militia of this territory shall be arranged into divisions, brigades, regiments, battalions, and companies. It shall consist of infantry or district companies, light infantry, riflemen, artillery men, and dragoons or mounted riflemen. There shall be three divisions, as follows, viz: The counties of Lee, Van Buren, Jefferson, Henry, and Des Moines, shall form the first division. The counties of Louisa, Slaughter, Keokuck, Johnson, Linn, Cedar, Scott, and Muscatine, shall form the second division. And the counties of Clinton, Jones, Jackson, Du Buque, Clayton, Delaware, Fayette, Buchanan, and Benton, shall form the third division. A division shall consist of not less than two, nor more than three brigades; a brigade shall consist of not less than two, nor more than five regiments; a regiment shall consist of not less than five, nor more than ten companies, two of which shall be light infantry or riflemen; each company shall consist of not less than thirty, nor more than one hundred men, exclusive of commissioned officers. Militia how to be arranged. Divisions.

SEC. 2. That whenever a county or district of country is distant, or so detached that in the opinion of the Governor it would be inconvenient for the persons residing therein to belong to an organized regiment, they shall be organized as a separate battalion, under the command of a major, and be subject to the same rules and regulations in all respects that regiments are subject to. Detached districts may form separate battalions.

SEC. 3. That to a division there shall be one major-general; to a brigade one brigadier-general; to a regiment one colonel, one lieutenant-colonel, Officers.