

Section 1. That the regular biennial session of the legislative assembly of the territory of Dakota shall commence on the second Tuesday in January, in the year one thousand eight hundred and seventy-seven, and biennially thereafter on the second Tuesday of January. When session to commence.

SEC. 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed. Conflicting acts repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage and approval. When to take effect.

Approved, January 9, 1875.

MECHANICS LIEN.

CHAPTER LXVII.

JURISDICTION OF PROBATE COURTS TO ENFORCE MECHANICS LIEN.

AN ACT to provide for the jurisdiction of the probate courts to enforce mechanics liens, and the proceedings and practice therein.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

SECTION 1. That the probate courts of this territory shall have concurrent jurisdiction with the district courts of this territory, to enforce mechanics liens where the amount of the lien claimed is one hundred dollars or less. Probate courts jurisdiction to enforce mechanic's liens.

SEC. 2. That the issue, trial, practice and proceedings, to enforce mechanics liens in the probate courts, shall be the same as in civil actions in the justices' courts in this territory, except as hereinafter provided for. Manner of trial.

SEC. 3. The summons shall be the same as is now required in justices' court, with the words added thereto, "this action is to enforce a mechanics' lien." Form of summons.

SEC. 4. When the defendant cannot be summoned, as provided in the justices' code, in actions on contract, notice shall be given to the defendant, and the notice put up or published in the same form and manner as is required in attachment cases, when the defendant cannot be summoned, and the notice shall state that a summons has been issued against him, How defendant to be summoned.

to enforce a mechanics' lien; and that unless he appear before the probate court, at some time and place to be mentioned in said notice, not less than twenty, nor more than ninety days from the date thereof, judgment will be rendered against him, and the property sold upon which the lien was obtained. The proof of setting up the notices may be made in same manner as in attachment cases.

Proceedings
after notifica-
tion of failure
of defendant to
appear.

SEC. 5. When the defendant shall be notified as aforesaid, and shall not appear and answer to the action, his default shall be entered, and the same proceedings be had till judgment is rendered as in attachment cases; and the plaintiff, or some person in his behalf, shall execute a bond before execution is issued, as is required in attachment cases.

Judgments,
how entered.

SEC. 6. Judgments shall be entered establishing the amount of the lien, interest and costs, and specify upon what property it is made a lien.

Form of exe-
cution.

SEC. 7. The executions issued upon such judgments shall be the same as is required in the district court, except the execution shall direct the officer to sell all the right, title and interest that the owner or judgment debtor had in the premises or property mentioned in the judgment, at the time the materials are furnished, labor performed, or the time the lien attached, or at any time thereafter.

Appeals.

SEC. 8. Either party may appeal from the judgment rendered by the probate court, in these cases, the same in all respects, as from a judgment rendered by a justice of the peace, upon performing the same conditions and requirements as is required in appealing from judgments rendered by justices of the peace.

Transcript of
judgment filed
in dist. court
constitutes a
lien.

SEC. 9. A certified transcript of such judgments may be filed and docketed in the office of the clerk of the district court in the county where the judgment was obtained, or any other county in this territory, and they shall be judgments of the district court, and shall be a lien on real property the same as judgments obtained in the district court from the time of filing and docketing said transcript.

Conflicting
acts repealed.

SEC. 10. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

When to take
effect.

SEC. 11. This act shall take effect and be in force from and after the date of its passage and approval.

Approved, January 15, 1875.