

**AN ACT to repeal an act entitled "An act concerning the lien of mechanics and others for the cost of repairs and improvements on real estate."**

*Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:*

§ 1. That all and every dwelling house or other building here- Building liable for work, &c.  
after constructed and erected within the Territory of Wisconsin, shall be subject to the payment of the debts contracted for, or by reason of any work done, or materials found, and provided by any brick maker, brick layer, stone cutter, mason, lime merchant, carpenter, painter and glazier, iron monger, plasterer and lumber merchant, or any other persons employed in erecting or furnishing materials for and in the erection and construction of such house or other building, before any other lien which originated subsequent to the commencement of such house or other building.

§ 2. That if such dwelling house or other building, or any When to file lien.  
portion thereof, shall have been constructed under contract or contracts, entered into by the owner thereof, or his or her agent, with any person or persons, no person, who may have done work for such contractor or contractors, or furnished materials for him or them, on his or their order or authority, shall have or possess any lien on said house or other building, for work done or materials so furnished, unless the person or persons so employed by such contractor to do work or furnish materials for such building, shall, within thirty days after being so employed to work, or having furnished materials as aforesaid, give notice in writing to the owner or owners of such building, or to his or their agents, that he or they are so employed to work or to furnish, or have furnished, materials, and that they claim the benefit of the lien granted by this act.

§ 3. That no claim of any sub-contractor shall be a lien under Contractor liable to sub-contractor.  
this act, except so far as the owner may be indebted to the contractor at the time of giving notice of such claim as aforesaid, or may become indebted afterwards to him as such contractor.

§ 4. That no such debt for work and materials shall remain a Limitation of lien.  
lien upon such lands, houses or other buildings, longer than one year from the time of furnishing of materials or the performance

of the labor, unless an action for the recovery of the same be instituted within the same time.

Petition when filed shall be a lien.

§ 5. The claim or petition may be filed in court, or in the clerk's office in vacation; and from the time of filing the same said claim or petition shall be lien on said property for the time hereinafore provided.

Petition what to contain.

§ 6. The petition or claim shall contain a brief statement of the contract or demand on which it is founded, and of the amount due thereon, with a description of the premises, and all other material facts in relation thereto.

Satisfaction, how entered.

§ 7. Each and every person having received satisfaction for his or their debt for which a claim is or has been or shall be filed, or action brought, shall, at the request of any person interested in the building on which the same was a lien, or in having the same lien removed, or of his or their legal representatives, on payment of the costs of the claim or action, and on tender of the cost of office for entering satisfaction, within six days after such request made, enter satisfaction of the claim in the office where such claim was or shall be filed in such action brought, which shall forever thereafter discharge, defeat and release the same.

Must enter satisfaction.

§ 8. If such person, having received satisfaction as aforesaid by himself or his attorney, shall not, within six days after request and payment of the costs of the claim or action and tender as aforesaid, by himself or his attorney duly authorized, enter satisfaction as aforesaid, he, she or they neglecting so to do, shall forfeit and pay unto the party or parties aggrieved any sum of money not exceeding one-half of the debt for which the claim is filed or action brought, as aforesaid, to be sued for and demanded by the person or persons damaged, in like manner as other debts are now received by existing laws for the recovery of debts.

Actions, how brought.

§ 9. In all cases of lien created by this act, the person having a claim filed agreeable to its provisions, may at his discretion proceed to recover it by personal action, according to the nature of the demand, against the debtor, his executors or administrators, or by *scire facias*, against the debtor or owner of the building.

Service, how made.

§ 10. When the proceedings are by *scire facias*, the writ shall be served in like manner as a summons upon the person named therein, if to be found within the county, and if not found within the county, then by fixing a copy of the writ upon the door of the

building against which the claim is filed; and upon the return of service and failure of the defendant to appear, the court shall render judgment as in case of summons; but if they or either of them appear, they may plead and make defence, and the like proceedings shall be had as in personal action for the recovery of debts: *Provided*, that no judgment rendered in such *scire facias* shall warrant the issuing an execution except against the building or buildings upon which the lien existed as aforesaid.

§ 11. The act of the Revised Statutes entitled "An act concerning the lien of mechanics and others for the costs of repairs and improvements on real estate," is hereby repealed. Act repealed.

APPROVED, February 14, 1842.

## AN ACT to amend the act of the Revised Statutes entitled "An act concerning the writ of attachment."

*Be it enacted by the Council and House of Representatives of the Territory of Wisconsin, as follows:*

§ 1. A writ of attachment may be issued as the first process in personal actions, in the cases following, and no others: First, when the defendant is not a resident of the Territory; second, when the defendant has departed, or is about to depart from the Territory, with intent to abscond; and third, when the defendant is about fraudulently to remove, convey or dispose of his property, so as to hinder or delay the creditor or creditors suing out such writ. When writ may issue.

§ 2. To authorize the issuing an attachment in any case, the defendant must be indebted to the plaintiff in a cause of action arising out of, founded upon or springing in contract, or upon the judgment or decree of some court of law or chancery. Cause of action, on what founded.

§ 3. The facts necessary to entitle a party to a writ of attachment shall be proven to the satisfaction of a district judge, or of a supreme court commissioner of the proper county, by the affidavit of the plaintiff or some credible witness, stating therein the nature and amount of the plaintiff's demand, and the circumstances upon which the belief of such facts is founded; and such officer. Oath or affidavit of some person.