

## IN RE TUG "ROBB"—DIVISION COURT—BURT V. WALLACE.

wrongful dismissal by the master of a vessel engaged under special wages agreement. The words "claim for wages," used in the County Court Admiralty Jurisdiction Act, 1868, and in the Vice-Admiralty Court Act, 1863, are the same. In the face of the cases of the *Great Eastern* and the *Blessing*, just referred to, this point must be decided against the defendant.

On the whole, the judgment of the Court should be for petitioner, and the demurrer overruled.

*Demurrer overruled.*

IN THE FOURTH DIVISION COURT—  
COUNTY OF ONTARIO.

BURT V. WALLACE.

*Mechanic's lien—Division in which to issue summons—Form of order.*

Where a Mechanic's Lien is within the jurisdiction of the Division Courts, the summons should be issued and the order be made in that division in which the cause citation arose or the defendant lives.

This was an application by summons to the junior judges of the county of Ontario for an order for sale of lands, in the township of Uxbridge, under the Mechanics' Lien Act. The amount of the lien was \$85, and the contract was made, and the defendant resided in Uxbridge.

His Honour refused a summons as County Judge, but directed one to issue, in the terms asked for, from the Uxbridge Division Court, that being the division in which the cause of action arose, and also in which the defendant resided. On the return of the summons, the parties were heard.

DARTNELL, J. J. The lien is proved and the defendant is shewn to have an equitable interest upon which it will attach. The order will be for payment in a month, or in default a sale. No sale can take place for 12 months, and as the Division Court has no machinery for the sale of lands, the sale will be by the judge, acting as if a Master in Chancery.

His Honour subsequently settled the following form of order:—

*In the Division Court—In the matter of the Mechanics' Lien Act, and between A. v. B.*

This matter and cause coming on before me G. H. D., J. J. C. O. upon reading the sum-

mons granted herein, and the several enlargements thereof, and upon hearing the parties by their agents, and the witnesses adduced on their behalf.

I declare that the plaintiff has a lien upon the estate and interest of the defendant in the following lands and premises, viz., under the Mechanics' Lien Act for the value of the materials provided and work done as hereinafter mentioned, but subject nevertheless to a vendor's lien for unpaid purchase money in favor of one C. M. for \$

And I find there is due to the plaintiff for the said value of the materials provided and work done the sum of \$ and I have computed interest on that amount from the 1st July, 1880, until the time hereinafter appointed for the payment and find the same amounts to \$ and I find the costs of these proceedings amounts to the sum of \$, which in all amounts to the sum of \$, and upon the defendant paying that sum into the (*name of Bank*), to the joint credit of the plaintiff and the clerk of the said court, between banking hours of the 6th day of February next, I do order and declare that the said plaintiff do release and discharge his said lien; but in default of the defendant making such payment by the time aforesaid, I do order and decree that the estate and interest of the said defendant be sold by public auction, tender or private contract, with the approbation of the Judge of the said Division Court, and the purchaser is to pay his purchase money into the said Court to the credit of this cause, and the said Judge is to settle the conveyance to the purchasers, in case the parties differ about the same, in which all proper parties are to join as the said Judge shall direct.

And I do further order and decree that the purchase money, when so paid in, shall be applied: 1st. In payment to the said plaintiff of his costs of this suit. 2nd. In payment to the plaintiff of the amount so due to him for principal and interest; and the residue of the purchase money I direct to be paid to the said defendant. But in the event of the purchase money being insufficient to pay the claim of the plaintiff, with subsequent interest and costs, I do order that the defendant do pay to the plaintiff the amount remaining due to him forthwith after service upon him of this order and the said Judge's certificate of such deficiency.

Dated, &c.