

THE MARITIME COURT OF ONTARIO.

authorities conceded the right claimed in this respect by the Canadian Government to establish a Maritime Court here by Canadian legislation. After his return to this country, the Minister of Justice introduced a Bill into the House of Commons at Ottawa to establish such a Court. It passed both Houses of Parliament, and received the Royal assent on 28th April, 1877, and became law as "The Maritime Jurisdiction Act, 1877," 40 Vic., cap. 21.

"The first and second sections of the Act point out the maritime rights and remedies and the jurisdiction of the Maritime Court to enforce them. The rest of the Act respects the appointment of officers, judge, surrogate judges, registrar, marshal, assessors, and the providing of the proper machinery for the working of the Court for the benefit of the public according to law.

"The right to constitute what is called a suit or proceeding *in rem* in a Maritime Court is peculiar to Admiralty and Maritime Courts. The above Act confers on this Court, in the most ample manner, jurisdiction to entertain suits and proceedings *in rem*. Proceedings *in rem* are against the ship, cargo, freight, or the thing itself, and do not extend to the person unless some person intervenes and assumes the responsibilities of the controversy. But so far as the ship or thing itself is concerned, all the world are bound by the decree of the Court. By the regular process of the Court, all parties who have an interest in the thing are warned to come in and defend it, and therefore it is said that the whole world are parties to an Admiralty cause, and bound by its decision. The right to proceed *in rem*, to enforce what is termed, in maritime phraseology, maritime lien by legal process, is one of the prominent attributes of a Court of Maritime Jurisdiction. A maritime lien is a legal claim or privilege which a person has on the ship, cargo, or thing to satisfy a demand or claim against it. It does not include or require possession like ordinary common law liens, but travels with the ship or thing (the *res*) into whosoever's possession it comes. Proceedings *in rem* enable a plaintiff to enforce such specific lien on the property to which the lien attaches.

"The Dominion Maritime Jurisdiction Act of 1877 provides that the Maritime Court of Ontario shall have, as to inland waters of Ontario, all such jurisdiction as belong in similar matter within the reach of its process to any existing British Vice-Admiralty Court. The Imperial Act, 26 Vic., cap. 24, the Vice-Admiralty Courts Act of 1863, indicate the matters of which our Maritime Court have jurisdiction, namely:—Claims for seamen's wages, for master's wages, and for his disbursements on account of the ship; for pilotage; for salvage of any ship or vessel or of life or goods therefrom; for towage; for damage

done by any ship or collision; claims in respect of bottomry or respondentia bonds; claims in respect of any mortgage where the ship has been sold by a decree of the Court and the proceeds are under its control; claims between the owners of any ship or vessel touching the ownership, possession, employment or earnings of such ship or vessel; claims for necessities supplied in this Province to any ship or vessel of which no owner or part owner is domiciled within this Province at the time of the necessities being supplied; claims in respect of building, equipping or repairing within any British possession of any ship or vessel of which no owner is domiciled within the possession at the time of the work being done. These are the principal matters of which the new Court shall have jurisdiction. This Court shall not have jurisdiction in any prize cause or in any criminal matter, breaches of the regulations, relations relating to the Royal Navy, or of any seizure for breaches of the revenue laws, or of any violations of the Foreign Enlistment Act, or of the laws made relating to the abolition of the slave trade, or to the capture and destruction of pirates and piratical vessels, and other matters, which were in former times decided in the Prize Court.

"The Governor-General in Council may from time to time appoint surrogate or substitute judges, who shall have such of the powers of the judge as may be conferred by his commission. Surrogate judges should be appointed at some of the prominent points as soon as possible.

"I have dwelt on this subject at some length, looking upon the matter as I do, as a subject of new interest and special importance to a large and meritorious class of people in Ontario. The 'Maritime Jurisdiction Act, 1877,' was enacted by Canadian legislation with the consent of the Imperial authorities, being the first time I believe that local legislation was employed to regulate maritime laws in the dominions of the Crown abroad any where. This all-important Act extends for the first time admiralty or maritime rules and jurisdiction to the great lakes, the inland seas, rivers, and canals of Ontario, and abrogates for ever the narrow and old fashioned ideas which confined the authority of maritime rules and laws within the ebb and flow of the tide, high water mark, and below the first bridge. For the future under our Maritime Act navigability, so far as the water is concerned, will be the true test of maritime jurisdiction.

"And why should it not be so? the navigation and water commerce of our great lakes, rivers, and canals are essentially the same as that carried on elsewhere within the ebb and flow of tides. It has been properly remarked by an intelligent American writer, that in all the arrangements in lake and river commerce, there is