



1st Session, 8th Parliament, 27 Victoria, 1868.

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## BILL.

An Act to facilitate the collection of demands against Vessels in Upper Canada.

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Received and read first time, Thursday,  
20th August, 1868.

Second reading, Wednesday, August 26th,  
1868.

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Honorable Mr. CURRIE.

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# BILL.

An Act to facilitate the collection of demands against vessels in Upper Canada.

HER Majesty, by and with the consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. All steamboats and other water craft of twenty tons burden and upwards, navigating the waters within, or bordering upon, Upper Canada, shall be liable, and such liability shall be a lien thereon, for all debts contracted on account thereof in Upper Canada, by the master, owner, steward, consignee or other agent, for materials, supplies or labor in the building, repairing, furnishing or equipping the same, or for insurance, or dues for wharfage or towage, or for labor on such vessel; and also for damages arising out of any contract for the transportation of goods or persons, or for injuries done to persons or property by such craft.
2. Any person having such demand may proceed against the owner or owners, or master, of such craft, or against the craft itself.
3. When suit shall be commenced against the craft, it shall be commenced by a writ of attachment against the craft, naming such vessel if she have a name, and if not, giving a substantial description of the same; and such writ of attachment shall only issue out of the County or Superior Courts upon the order of a Judge of any one of such Courts;— but when the cause of action is within the jurisdiction of a Division Court, the attachment shall issue upon the affidavit of the Plaintiff, his Attorney or agent, stating the cause of such action, and without a Judge's order.
4. The clerk of the proper Court shall, upon such order and præcipe, or affidavit, as the case may be, issue a writ of attachment directing the seizure of such craft, or such part of her apparel or furniture as may be necessary to satisfy the demand, and the detention of the same until discharged by due course of law; and the officer executing the writ shall return with it an inventory of the effects seized and held under it.
5. The Owner, Master, Steward, Consignee or other agent of such vessel may release the property seized, upon entering into a bond to the officer seizing the same, with two good and sufficient sureties in double the amount of the demand for which such craft may be attached, conditional that such property, or double the amount for which such vessel is detained, shall be forthcoming to answer the judgment under such seizure.
6. Upon the return of the attachment, the pleadings and other proceedings shall be, as in other cases of process, served and returned; and any person having an interest in such vessel may cause or procure a defence to be entered into and set up in such action, for such vessel; and after judgment the property seized and still held may be sold upon

Certain craft to be liable for debts and damages incurred in respect thereof.

Remedy against owner or craft.

Suit against craft to be commenced by attachment.

Duty of Clerk of Court and of Officer executing the writ.

Property seized may be released on bond for double the amount claimed.

Proceedings before and after judgment.

execution to satisfy the judgment, and the overplus money, if any, shall be returned by the officer, on demand, to the person entitled to receive the same; and if the proceeds of such sale fall short of satisfying the judgment and costs, the balance shall remain to be collected as on other judgments; and in case the judgment shall be against the Plaintiff, the property seized shall be restored, and the costs of the defence shall be awarded and collected as in other cases. 5

Jurisdiction  
of Courts.

7. The writ of attachment shall issue out of the Court having proper jurisdiction in the matter; but in actions of, or where the amount claimed does not exceed forty dollars, and in actions on contract or for debt, where the amount claimed does not exceed one hundred dollars, a Division Court of the County in which the craft may be at the time the writ of attachment issues shall have jurisdiction. 10

Writ of attachment may be set aside.

8. The Court out of which the writ issues, or any Judge thereof, may, for good cause, and on the application of any party interested, set aside any such writ of attachment and all proceedings thereon. 15

Consequences of commencing a suit without good cause.

9. If any such suit is commenced without reasonable or proper cause, the person commencing such suit shall be liable to make compensation to the owner of such vessel for the amount of damages by him sustained by reason of such suit; and the defendant, if appearing and defending any suit commenced by writ of attachment under this Act, and damaged as aforesaid, shall give notice in writing with his plea, or six days before the trial of the cause, if the action be in a Division Court, that such action or suit was commenced without reasonable or probable cause to the damage of the said craft and its owners; and if the Judge or Jury before whom the said cause is tried shall find at the trial that such suit was commenced without reasonable or probable cause, such Judge or Jury, as the case may be, shall assess the amount of such damage, and judgment shall be entered and execution issued for such amount and costs. 20 25 30

Debtor not a competent witness.

10. In suits under this Act the owner of the craft seized, or other party contracting the debt or incurring the liability, shall not be a competent witness on behalf of the craft.

Notice of sale of vessel seized.

11. No vessel seized under the provisions of this Act shall be sold until one month's notice of such sale is first given in the *Canada Gazette*, and some newspaper published in the County where the seizure takes place. 35

Order for writ to specify amount.

12. The order for every writ of attachment shall specify the amount for which the same shall issue.

Courts to make rules and forms, and fix a tariff.

13. The Superior Courts of Common Law at Toronto, or any three of the Judges of such Courts, may make rules and forms for regulating procedure and practice of the said Courts, and fix a tariff of costs for service under this Act and such rules. 40

Application.

14. This Act shall only apply to Upper Canada.