

*Laws of Her Majesty's Province of United Canada*, passed in the year 1856. Quebec: Stewart Derbyshire and George Desbarts, 1856.

20 Victoria – Chapter 50

**An Act to encourage Shipbuilding within this Province. Assented to 19th June, 1856.**

Whereas doubts have arisen as to the security of parties advancing money on Ships in the progress of construction within this Province; And whereas the removal of the same would encourage the trade: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. So soon as the keel of a vessel shall be laid within this Province, the owner thereof may mortgage, hypothecate and grant a privilege or lien on the said vessel to any person or persons contracting to advance money or goods for the completion thereof, and such mortgage, hypothecation and privilege shall apply and attach not only on and to that portion constructed at the time of the granting of the same, but also to and on the said vessel during her construction and afterwards, until the same shall be removed by payment or by the contracting parties; Provided always, that it shall not be lawful for such owner to grant more than one such mortgage, hypothecation and privilege, and all subsequent grants without the express consent of the first advancer or advancers shall be void.

II. It shall also be lawful for the said contracting parties to agree that such vessel whose keel shall be so laid as aforesaid, shall be the property of such party or parties advancing thereon as aforesaid, so that such advancer may obtain the register of the vessel and sell the same and grant a good and clear title therefor; and such agreement shall *ipso facto* transfer and vest, for the purposes aforesaid, and for the security of the said advances, not only the property of such portion of the vessel as shall be then constructed, but of the said vessel up to and after completion, and the said advancer shall give and grant the builder's certificate for the said vessel; Provided always, that nothing herein contained shall take away the right of the owner to his action of account, or such other remedy as the law affords him against the advancer.

III. It shall be lawful for the first advancer in like manner to mortgage, hypothecate and grant a privilege or lien, and to grant delivery as aforesaid, to any subsequent advancer, and so by one advancer to another; Provided always, that in such case the formalities required by this Act shall be followed, and not otherwise; And provided also, that the owner shall have his legal recourse against the first and subsequent advancer or advancers for an account jointly and severally.

IV. It shall be the duty of the proper officer to grant the register of such vessel to the advancer or his duly authorized agent producing an authentic copy of such contract, or the original when not passed before a Notary, with the certificate of registration endorsed thereon of the Registrar of the County or place where such vessel shall have been built; and in the event of more than one advancer, then to the advancer last in date duly registered as aforesaid; and such first or subsequent advancer, as the case may be, is hereby authorized and empowered to make and

grant the builder's certificate; Provided always, that if the owner produce a certificate that no such contract has been registered, he shall receive the register and grant the builder's certificate.

V. Every contract to be made under this Act, must be passed in due form before a Notary Public or in duplicate before two witnesses, and the said contract or a memorial thereof must be registered in the Registry Office of the County OT place where the said vessel shall be so built; and such contract and the rights thereon shall only avail and accrue from the date of such registration; and unless such contract be so made and registered as aforesaid, this Act shall in no way enure to the benefit of the contracting parties, or any of them.

VI. Every memorial to be registered as aforesaid shall be in writing under the hand of the advancer and attested by two witnesses, and shall contain a description of the vessel, with the designation of the ship-yard or place where she has been or is being built, the amount in money or goods to be advanced, with the names and additions and residences of the contracting parties and of the witnesses, and the date of the contract, and where the same had been passed before a Notary, the name of the said Notary, and shall be presented and delivered to the Registrar or his Deputy at the office where the same is to be registered, and the same shall be acknowledged by the advancer or advancers by whom the same shall have been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said Registrar or his deputy, who is hereby empowered to administer the said oath; and together with every such memorial there shall be produced to the said Registrar or his Deputy the contract in writing of which such memorial is to be registered, or a Notarial copy thereof if the original be executed in Notarial Form and within the custody of a Notary, or such office copy as may have validity; and the said Registrar or his Deputy shall endorse and sign the usual certificate of the registration thereof, and such certificate shall be taken as evidence of such Registry in all Courts of Law; Provided always, that any memorial to be registered as aforesaid which may be made at any place within this Province not within the County wherein the keel of the said vessel may lie, shall be entered and registered on the production and delivery to the Registrar of such County, or his Deputy, of an affidavit sworn before any one of the Judges of the Court of King's Bench or Queen's Bench, or of the Superior Court, or of the Common Pleas, by which the execution of such memorial shall be proved by one of the witnesses of the same or by the said advancer or advancers, or one of them; and any memorial to be registered which may be made or executed in Great Britain or Ireland, or in any of the Colonies or possessions be-longing to the Crown of the United Kingdom, shall be entered and registered upon the production and delivery to the Registrar or his Deputy of an affidavit sworn before the Mayor or Chief Magistrate of any City, Borough or Town corporate in Great Britain or Ireland, or the Chief Justice or Judge of any Supreme Court of any such Colony or possession, by which the execution of such memorial shall be proved by the advancer or by anyone of the witnesses to the-same; and Registrars shall charge the same fees for such registration and certificates of search or other documents as in other cases; and shall keep a separate book therefor.

VII. This Act shall not deprive any party of any legal right, action; lien, privilege or hypothec, which by law he had at the time of making any such contract, nor up to the time of registration as

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aforesaid, nor deprive any person of his right to have an account where by law he is entitled thereto.