

CHAPTER XV.

BOATMEN.

An act concerning boatmen, boats, and vessels.

ARTICLE I. Of boatmen, their duties, and liabilities.

II. Of the mode of procedure by and against boats and vessels.

ARTICLE I.

Of boatmen, their duties, and liabilities,

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| <p>§ 1. Contracts to be specifically performed.
 2. May be in writing.
 3. To be acknowledged.
 4. Original copy evidence.
 5. Memorandum of the day and hour, boatman to render himself.
 6. Upon complaint made justice may issue a warrant.
 7. Justice shall determine complaint in a summary manner.
 8. Crew liable for negligence.
 9. Boatmen making complaint, justice to issue a summons.
 10. May discharge complainant.
 11. Master or owner not to sell or barter certain things to boatmen.</p> | <p>12. Charge for spirituous liquors not recoverable, except in some cases.
 13. Penalty for harboring boatmen.
 14. No sum above five dollars to be recovered until end of voyage.
 15. Note taken from boatman and antedated, void.
 16. Proceedings to conform to proceedings in civil cases.
 17. Trial by jury.
 18. Proceedings to be summary.
 19. Boatmen shall not be arrested until arrearages are paid, &c.
 20. Appeal allowed.
 21. This act to extend to contracts made without this Territory.</p> |
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Be it enacted by the governor and legislative assembly of the Territory of Kansas, as follows:

SECTION 1. All contracts and agreements entered into by any person, for rowing or navigating any boat or vessel, of any description, on the navigable waters within the jurisdiction of this Territory, shall be specifically performed according to the intent and meaning thereof.

SEC. 2. The owner, master, or commander of any boat or vessel, bound on a voyage from any place within this Territory, may, before the boat or vessel proceeds on such voyage, make an agreement in writing with any boatman engaged on board such boat or vessel, in the navigation thereof, declaring the voyage, the term of time, and the wages for which such boatman shall be engaged.

SEC. 3. Such contract shall be acknowledged by the parties before some justice of the peace or notary public, and filed by said officer in his office.

SEC. 4. The original, or a copy of such contract, duly certified under the hand of such officer, shall be received in evidence in any court in this Territory.

SEC. 5. At the foot of every such contract, there shall be a memorandum of the day and hour in which such boatman shall render him-

self on board the boat or vessel for which he has engaged, and for every hour he shall neglect or refuse to render himself on board, he shall forfeit one day's pay.

SEC. 6. If any boatman shall wholly neglect or refuse to render himself on board of any such boat or vessel, or having rendered himself, shall afterwards desert, or shall misbehave, neglect, or refuse to do his duty, quit the boat or vessel, or otherwise violate his engagements, any justice of the peace shall, on complaint of the owner, master, or commander, or other competent person, on oath or affirmation, issue his warrant, directed to any constable, commanding him to bring the delinquent forthwith before such justice.

SEC. 7. The justice shall hear and determine the complaint in a summary manner, and shall have power and authority to discharge the delinquent, or cause him to be sent on board, and placed in the custody of the master or commander; and may render judgment against him, for any sum not exceeding ninety dollars, unless he will enter into bond to the master or commander, with sufficient sureties, to be approved of by the justice, in a sum of at least two hundred dollars, conditioned that he will, during the remainder of the voyage, do his duty according to his contract.

SEC. 8. If any boat or vessel, or part of her cargo, tackle, apparel, or furniture, shall be lost, injured, or destroyed, during any voyage, or while in port, through the neglect or fault of the crew or any part of them, the master or commander may have an action against such crew, or as many of them as can be found, and recover the value of the property so lost, injured, or destroyed.

SEC. 9. If any boatman shall make complaint before any justice of the peace, that any master or commander of any boat or vessel, in the navigation of which such boatman is engaged, has failed to supply him with necessary provisions, or treated him with unusual severity or cruelty, or has otherwise failed to perform his contract, it shall be the duty of such justice to issue a summons, directed to the constable or other person by him specially directed to serve the same, requiring such master or commander to appear before him and answer the complaint.

SEC. 10. If he find it just, he may discharge the complainant, and such boatman may recover against such master or commander the wages justly due him, according to the services rendered, notwithstanding such contract may be entire, in any court having jurisdiction, and may also have his action for any injury he may have sustained by reason of the conduct or fault of the master or commander.

SEC. 11. It shall not be lawful for the master, commander, or owner of any boat or vessel to sell or barter any flour, biscuit, or other provisions to any boatman, whilst said boatman is in his service, and during the voyage.

SEC. 12. No charge made against any boatman for spirituous liquors, while employed or during his engagement, shall be recoverable or allowed, but at a reasonable rate; nor for any sum exceeding the one-tenth part of his wages, for the time in which the charges shall be made.

SEC. 13. If any person shall harbor or secrete any boatman be-

longing to any boat or vessel, knowing him to belong thereto, every such person shall pay ten dollars for every day he shall harbor or secrete such boatman, to be recovered, by the master or commander, in an action of debt.

SEC. 14. No sum exceeding five dollars shall be recovered from any boatman, by any person, for any debt contracted during the time such boatman shall actually belong to any boat or vessel, until the voyage for which such boatman engaged shall be ended.

SEC. 15. If any person shall take a note or other security, in writing, from any boatman, after he has entered into a contract, as aforesaid, and the same be ante-dated, with intent thereby to stop the boatman from proceeding on his voyage, such note or other security shall be null and void; and the person taking the same, his aiders and abettors, shall pay to the use of the person prosecuting the same double the sum specified in such note or security, to be recovered by action of debt in any court having jurisdiction.

SEC. 16. The proceedings to be had before a justice of the peace, under this act, shall be conformed, as near as circumstances will admit, to the course of proceedings prescribed by law, in matters of a civil nature, before justices of the peace.

SEC. 17. When the sum in controversy exceeds twenty dollars, either party may require a jury, as in other cases.

SEC. 18. In all cases under this act proceedings shall be summary; and the justice shall proceed to the hearing, determination, and execution, in the most speedy manner that justice and the nature of the case will permit.

SEC. 19. If, upon the examination of any complaint made against a boatman, it shall appear that any part of the wages of such boatman is due and unpaid, no warrant to apprehend such boatman and send him on board, or subject him to the authority of the master or commander, shall be issued, until such arrearages are paid or tendered.

SEC. 20. Either party may appeal to the circuit court, as in other cases of appeals from justices' courts; but no such appeal shall operate to defeat or delay the execution of any warrant for placing the boatman in the custody of the master or commander, where such boatman is adjudged to an immediate performance of his contract.

SEC. 21. The provisions of this act shall extend to all written contracts made without the limits of this territory, for rowing or navigating boats upon the navigable waters within this territory, or bordering thereon, whensoever any boat concerning which such contract has been made, and the hands thereof are found within the jurisdiction of this territory.

ARTICLE II.

Of the mode of procedure by and against boats and vessels.

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| <p>§ 1. Liability of master, owner, agent, or consignee of boat or vessel.</p> <p>2. Priority of claim. Precedence of lien.</p> <p>3. Suits may be instituted against the boat or vessel; proceedings.</p> <p>4. What the complaint shall set forth; affidavit required.</p> <p>5. Warrant to issue; what it shall contain.</p> <p>6. Warrant, how returnable; proceedings.</p> <p>7. Who may appear and plead.</p> <p>8. Power of court to prescribe the time of pleading; trial, when to be had.</p> <p>9. If bond given to plaintiff by captain, owner, &c., before final judgment, boat to be discharged.</p> <p>10. If bond be given to the sheriff, &c., boat to be delivered.</p> <p>11. Application to be made for order of sale, when. Order. Notice. Sale. Return.</p> <p>12. Master, owner, &c., may at any time give bond before sale.</p> <p>13. Officer selling to execute to purchaser a bill of sale.</p> <p>14. Upon such sale, court to appoint a time when creditors shall appear and exhibit their demands. Notice to be given.</p> <p>15. Exhibition of demands; duty of court and proceedings thereon.</p> <p>16. Claims allowed, to be classed according to the order of liens. Court to order distribution. Proceedings thereon.</p> <p>17. Continuance may be granted. Duty of court in case of continuance, or appeal.</p> <p>18. Upon final rejection of claim, where the money has been retained, distribution how made.</p> <p>19. Costs, by whom paid.</p> <p>20. Judgment under this act. What it shall specify. <i>Fieri facias</i> thereon.</p> <p>21. Judgment may be rendered against the principal and security in the bond, when.</p> | <p>§ 22. Executions, how issued and returned.</p> <p>23. Justices of the peace have jurisdiction in certain cases. Plaintiff, in suits before justices, to make affidavit. Nature thereof.</p> <p>24. Proceedings in such suits, how conducted. Justice not to order sale of boat or vessel.</p> <p>25. Warrant issued by justice, returnable forthwith.</p> <p>26. How served and returned.</p> <p>27. Continuance not granted to plaintiff, unless, &c.</p> <p>28. Fees allowed officers, &c.</p> <p>29. Appeal to be allowed. Writ of error may be prosecuted.</p> <p>30. No person to bind boat by admission of indebtedness.</p> <p>31. Captain or clerk becoming interested in demand, shall be no longer a lien.</p> <p>32. Wages, what shall be recovered. Suit, when to be instituted.</p> <p>33. All suits, except first class, to be commenced within six months.</p> <p>34. Boat taking cord wood without consent of owner to pay treble damages and twenty dollars penalty.</p> <p>35. Boat or vessel may institute suit, when. Lien on transported property.</p> <p>36. Joint owner or owners may institute suit against boat, when. To notify other owners.</p> <p>37. Majority of owners may appoint a master and dismiss him. Such master, when dismissed, to deliver over boat, effects, &c.</p> <p>38. Failure to deliver, proceedings to compel. Application to justice.</p> <p>39. Justice to hear cause in a summary manner. Judgment.</p> <p>40. Majority in interest of owners to determine in what trade boat may be employed. Proceedings in case part owner refuses. Bond to be given, &c.</p> |
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SECTION 1. Every boat or vessel used in navigating the waters of this Territory shall be liable and subject to a lien in the following cases:

First. For all wages due to hands or persons employed on board such boat or vessel, for work done or services rendered on board the same, except for wages which may be due to the master or the clerk thereof.

Second. For all debts contracted by the master, owner, agent, or consignee of such boat or vessel, on account of stores or supplies furnished for the use thereof, or on account of labor done, or materials furnished, by mechanics, tradesmen, or others, in the building, repairing, getting out, furnishing, or equipping thereof.

Third. For all sums due for wharfage or anchorage of such boat or vessel within the Territory.

Fourth. For all demands or damages accruing from the non-performance or mal-performance of any contract of affreightment, or of any contract touching the transportation of persons or property, entered into by the master, owner, agent, or consignee of such boat or vessel; and for damages for injuries done to persons or property by such boat or vessel.*

SEC. 2. The classes of claims above specified shall have priority according to the order in which they are above enumerated, and the liens under this act shall have the precedence of all other liens and claims against such a boat or vessel.

SEC. 3. Every person claiming the benefit of a lien, in either of the classes above enumerated, may commence his suit under this act, against the boat or vessel, by name, by filing a complaint against such boat or vessel with the clerk of the court having jurisdiction of the subject matter of the county in which the boat or vessel may be found.

SEC. 4. The complaint shall set forth the plaintiff's demand in all its particulars, and on whose account the same accrued; it shall be verified by the affidavit of the plaintiff, or some credible person for him, and stand in lieu of a declaration.†

SEC. 5. When such complaint shall be filed the clerk shall issue a warrant thereon, commanding the sheriff to seize the boat or vessel mentioned in the complaint, with her tackle, apparel, and furniture, and retain the same until discharged by due course of law.

SEC. 6. Such warrant shall be returnable to the same term as a summons issued at the same time would be made returnable, and, upon the return thereof, proceedings shall be had against the boat or vessel in the same manner as if suit had been instituted against the person on whose account the demand accrued.

SEC. 7. The owner, captain, agent, consignee, or any creditor of such boat or vessel, may appear to the action, on behalf of the boat or vessel, and plead thereto and defend the same; but no person shall have power to confess judgment for such boat or vessel, or in any manner to admit the plaintiff's demand, unless he is authorized, in writing, by all the owners to do so.

SEC. 8. The several courts shall have power, by rule, to prescribe the time and manner of filing the pleadings or other papers, and of taking any needful steps in suits under this act, where the same is not herein prescribed; but in all such suits the trial shall be had at the first term, unless a continuance shall be granted for cause shown; but no continuance shall operate to discharge the boat or vessel from custody.

SEC. 9. If the captain, owner, agent, or consignee, shall, before

* *Bridgeford et al. vs. Steamboat Elk*, 6 Missouri Rep., 356. *Erskine & Gore vs. Steamboat Thames*, 6 Missouri Rep., 371. *Perpetual Insurance Company vs. Steamboat Detroit*, 6 Missouri Rep., 374. *Camden & Co. vs. Steamboat Georgia*, 6 Missouri Rep., 381. *Russell vs. Steamboat Elk*, 6 Missouri Rep., 553.

† *Byrne vs. Steamboat Elk*, 6 Missouri Rep., 555. *Steamboat General Brady vs. Buckley & Randolph*, 6 Missouri Rep., 55; 8 *Johnson vs. Strader et al.*, 3 Missouri Rep., 254.

final judgment, give bond to the plaintiff, with sufficient security, to be approved by the court, or the judge or clerk thereof in vacation, or the justice of the peace before whom the action may be pending, conditioned to satisfy the amount which may be adjudged in favor of the plaintiff, against such boat or vessel, with all costs, the boat or vessel, with its tackle, apparel, and furniture, shall be discharged from further detention by the officer having the custody thereof, and shall be discharged from the lien of the plaintiff's demands.

SEC. 10. If the captain, owner, agent, or consignee of any boat or vessel, seized and held by virtue of any warrant under this act, shall give bond to the sheriff or other officer having custody thereof, with good security, to be approved by such officer, in double the value of the boat or vessel, conditioned for the return of the same at a time and place to be therein specified, the sheriff or other officer shall deliver the boat or the vessel to the person giving such bond; but the lien of the claim sued on shall not be discharged or affected by such proceedings.

SEC. 11. If a boat or vessel shall be seized under this act, and no person shall, within five days after the seizure, give bond, according to some one of the two preceding sections, the sheriff or other officer having custody thereof, shall make a statement of the facts to the court in which the suit was instituted, or the judge thereof in vacation, and apply for an order of sale, and such court or judge shall hear the application without delay, and may make an order that the sheriff or other officer shall sell the boat or vessel to the highest bidder, for cash, after giving such notice as may be prescribed in the order, not less than twenty days, by publication in some newspaper published in or nearest to the county; and upon such sale being made, the officer making the same shall retain the money arising therefrom, subject to the order of the court under whose authority the sale was made; and the officer making the sale shall make return of his proceedings, under the order of sale, into the court from which the order issued.

SEC. 12. The master, owner, agent, or consignee of the boat or vessel, may, at any time before a sale is made under the last preceding section, give bond, as provided either in the ninth or tenth section of this act, and with the effect in the said sections prescribed.

SEC. 13. When any boat or vessel shall be sold, under the eleventh section of this act, the officer making the sale shall execute to the purchaser a bill of sale therefor, and such boat or vessel shall, in the hands of the purchaser and his assigns, be free and discharged from all previous liens and claims under this act.

SEC. 14. When a boat or vessel shall be sold under the foregoing provisions of this act, the court by whose authority the sale was made shall appoint a time at which all creditors of the boat, having a lien upon the same, shall appear and exhibit their demands in such court against such boat; and the court shall cause a notice of such appointment to be given to the creditors of the boat by a proper publication in a newspaper, which notice shall be in the form and published in the manner which the court may prescribe in each case.

SEC. 15. At the time appointed by the court for the exhibition of

demands against the boat or vessel sold, the creditors of such boat or vessel shall exhibit their demands to the court, and the court shall proceed to hear and allow or reject the same; and any party interested in the boat, or a creditor thereof, or any agent therefor, may appear and object to the allowance of any demand; and if either party require a jury, the claim shall be submitted to a jury under the direction of the court, without any formal pleadings, the court having power to grant a new trial as in ordinary suits at law, and with the same right of appeal by either party as in ordinary suits.

SEC. 16. When the claims against a boat or vessel are decided, those that are allowed shall be classed according to the order of liens, as in this act prescribed, and the court shall order the distribution of the net proceeds of the sale of the boat or vessel among the creditors whose claims are thus allowed, applying the money to the entire payment of claims in a prior class before any payment shall be made upon claims in a subsequent class; and when the money to be applied to any class shall be insufficient to pay all the claims of that class, it shall be apportioned rateably among the claims in such class.

SEC. 17. The court may grant a continuance upon cause shown by either party when a claim is exhibited; but in such case, or in case of an appeal from the decision of the court upon a claim exhibited, the court shall proceed to distribute the money arising from the sale of the boat among the creditors whose claims are allowed according to the classification before directed, retaining in the hands of the officer making the sale, or subject to the order of the court, so much of the money as will satisfy the amount to which such claimant may become entitled, if his claim shall be finally allowed, together with the costs of the proceeding.

SEC. 18. Upon the final rejection of any claim, when a continuance may have been granted or an appeal taken, the money retained under the order of the court to be applied to such claims shall be distributed among the creditors whose claims have been allowed as before directed.

SEC. 19. The costs, in all cases where a demand shall be rejected, shall be paid by the claimant; where the demand is allowed, the costs shall be paid out of the money arising from the sale of the boat.

SEC. 20. If judgment in any suit under this act be rendered against any boat or vessel, the judgment shall specify to which class of liens the demand belongs; and a special writ of *fiery facias* shall be issued thereon, also specifying the class of liens to which the demand belongs, and commanding the sheriff to sell the boat or vessel, with her tackle, apparel and furniture, to satisfy the payment and all costs; and upon such writ the sheriff may sell such part of the boat or vessel, or her tackle or furniture, or such interest therein, as may be necessary to satisfy the judgment and costs.*

SEC. 21. If bond and security be given according to the ninth section of this act, and the plaintiff shall recover judgment, the judgment shall be rendered against the principal and security on the

* *Dobyns vs. sheriff of St. Louis county.* 5 Missouri Rep., 256.

bond, and not against the boat or vessel; and executions shall be issued against them as upon ordinary judgments at law.

SEC. 22. Executions issued under this act shall be proceeded on and returned as in case of executions issued in ordinary suits at law.

SEC. 23. Justices of the peace, in their respective townships, shall have jurisdiction of all cases under this act when the demand shall not exceed the sum of one hundred dollars; but every plaintiff, at the time of instituting a suit before a justice of the peace against a boat or vessel, shall make affidavit that he has not then any other demand against such boat or vessel which is a lien thereon; and if it shall be made to appear in any suit before a justice of the peace, that the plaintiff has divided his demand in order to give jurisdiction thereof to justices of the peace, such plaintiff shall lose all lien upon the boat or vessel.

SEC. 24. In all suits before justices of the peace, under this act, the proceedings shall conform to the law governing justices' courts, and as nearly as may be to the provisions of this act as applying to the courts having jurisdiction of the subject matter in dispute; but no justice of the peace shall have power to order the sale of any boat or vessel as provided for in the eleventh section of this act.

SEC. 25. Every warrant issued by a justice of the peace, under this act, shall be returnable forthwith, and upon the return thereof the justice shall hear and determine the complaint in a summary manner.

SEC. 26. All warrants issued under this act shall be served and returned as writs of attachment are served and returned.

SEC. 27. No continuance shall be granted by a justice of the peace to the plaintiff, unless a continuance has previously been granted on the application of some person defending the boat or vessel; and in such case, if the plaintiff at the time to which the suit has been continued shall show good and sufficient cause for the continuance, the justice of the peace may grant one continuance to the plaintiff.

SEC. 28. Sheriffs, constables and other officers shall receive the same fees and compensation for their services under this act, as are allowed for like services in suits by attachment.

SEC. 29. The captain, agent, owner, consignee, or other person interested in the boat or vessel, or any creditor thereof, may appeal from any judgment rendered against the boat or vessel, or may prosecute a writ of error to reverse such judgment.

SEC. 30. Neither the captain, clerk, nor other officer of any boat or vessel, shall have power to bind the boat or vessel by giving bonds or notes, or by making any other admission of the indebtedness of the boat to any person whatever.

SEC. 31. If the captain or clerk shall become interested in any demand of any other person against the boat or vessel of which he is an officer, such demand shall not be longer a lien upon the boat or vessel.

SEC. 32. No more than two months' wages shall be recovered in any suit upon a lien in the first class above enumerated; and every person claiming a lien in that class shall commence his suit within thirty days after he shall have earned two months' wages; or if the

contract for service be terminated in a shorter time than two months, then the suit shall be commenced within thirty days after such termination of the contract.

SEC. 33. All suits upon liens, in any other than the first class above enumerated, shall be commenced within six months after the cause of action shall accrue; and any failure to commence suit, as in this or the last preceding section required, shall discharge the boat or vessel from the lien of the demand claimed.

SEC. 34. If the master or other officer of any steamboat shall take, or cause to be taken, for the use of such boat, any cord-wood from any wood-yard in this Territory, without the consent of the owner, or, having such consent, shall refuse to pay the price agreed upon, or depart without paying the same, or shall wilfully pay for less than the quantity taken, and refuse to pay for the balance, such master or other officer shall be liable to pay, and the steamboat shall also be liable to pay, to the owner of such cord-wood three times the value thereof and also the sum of twenty dollars; and treble the value of the wood taken, as also the penalty of twenty dollars, shall be a lien of the second class upon such steamboat, and may be recovered before any court having competent jurisdiction, by like proceedings and in like manner, as other demands are recoverable according to the provisions of this act.

SEC. 35. Any boat or vessel may institute suit, in the name of such boat or vessel, through the owner, master, agent or consignee thereof, for all freights due to such boat, for money advanced, and other charges and expenses incurred by and due to such boat, in receiving, transporting and supplying merchandise or any other articles transported in such boat, and shall have a lien on such property for the payment thereof; but such lien shall not continue after the property has been delivered by the master of the boat, and removed therefrom.

SEC. 36. One or more joint owners of a boat or vessel may institute a suit under this act, against the boat or vessel, by name, for all demands due to him or them, on account of such boat or vessel, for repairs, supplies furnished, money advanced, or other cause of indebtedness whatever; but no such suit shall be instituted unless the plaintiff or plaintiffs shall have notified all the other owners of the boat or vessel, in writing, of his or their intention to commence such suit at least twenty days before the commencement of the action.

SEC. 37. The majority in interest of the owners of any boat or vessel shall have power to appoint a master for such boat or vessel, and dismiss him at pleasure; and whenever a master shall be thus dismissed, he shall deliver up the boat or vessel, with all its books, papers, tackle, apparel and furniture, and all other property and effects in his possession, or under his control, as master, to such owners, or the person appointed by them to receive the same.

SEC. 38. If any master shall fail or refuse to deliver up a boat, with its property, when demanded by a majority of the owners in interest, any of such owners may make application to any justice of the peace in any county where the boat may be, and file with such justice an affidavit, stating that a majority in interest of the owners of such boat or vessel have dismissed the master, or person acting as master,

from their service as such master, and have demanded possession of the boat, with its property, and that the master has refused to deliver the same in conformity to such demand; and, thereupon, the justice of the peace shall forthwith issue a warrant to the proper constable, commanding him to take the master of such boat or vessel, and bring him forthwith before such justice of the peace, which warrant shall be executed without delay.

SEC. 39. When the master shall be brought before the justice of the peace, the justice shall hear the cause in a summary manner, and hear testimony on either side; and if it shall appear that the claimants are a majority in interest of the owners of the boat or vessel, and that they have demanded possession thereof, and that the same has been refused, the justice shall render judgment that the boat or vessel, with its books, papers, tackle, apparel and furniture, and other property belonging thereto, be restored to the claimants, and that the person proceeded against as master pay the costs; and he shall issue a writ of restitution, commanding the constable to take the boat or vessel, with its books, papers, tackle, apparel and furniture, and other property belonging thereto, and deliver the same to the claimants, and that he make the costs out of the goods and chattels of the defendant.

SEC. 40. The majority in interest of the owners of any boat or vessel shall have the right to determine in what trade the same shall be employed; but if any part owner shall refuse to consent that the boat or vessel shall be employed in a particular trade, the other owners may give him bond and security for the safe return of the boat or vessel, and may then employ the boat or vessel in such trade without his consent, and they shall be responsible for the safety of the boat while engaged in such trade; but the refusing owner shall have no share in the profits or loss of the boat whilst engaged in such trade, nor shall he be responsible for the debts contracted in such trade; he shall, however, be entitled to demand and recover at law, from the other owners who employ the boat in such trade, a reasonable compensation for the use of his share of the boat whilst she shall be thus employed. The sufficiency of the bond required in this section, and of the security therein, shall be judged and approved by the clerk of the district court of the county in which the boat may be, who shall endorse his approval thereon. The master or commander of any boat or vessel shall be required, whenever the same shall be demanded by a boatman, to pay to such boatman as much as ten per cent. upon the amount which may be due him; and if such master or commander refuse, such boatman is deemed to be hereby released from his contract.

This act shall take effect and be in force from and after its passage.