

shall take precedence of all judgments and of all executions not completely executed, by payment, subject to the lien, if any, of an execution creditor for his costs, where there is but one execution in the Sheriff's hands, or to the lien, if any, of the creditor, for his costs, who has the first execution in the Sheriff's hands."

A judgment for alimony, in spite of the words "all judgments" used in the Act, is not within this section. See *Abraham V. Abraham*, 19 O.R., 256.

The first execution creditor's lien extends to the entire costs of the action, and is not limited to the costs of his execution as was contended. See *Regan V. Clarkson*, 16 A.R., 311.

The words "in the Sheriff's hands" excluded executions in the Division Court from the benefit of this section, being in the bailiff's hands, but this is provided for by the Division Court Act; so that where the defendant in an action in that Court "makes an assignment for general benefit of his creditors" the bailiff will, until his fees and disbursements upon the writ of execution are fully paid and satisfied, have a lien therefor upon so much of the goods as will reasonably satisfy the same, but in the event of a dispute as to the proper amount of said fees and disbursements, the amount claimed therefor may be paid into Court until the proper amount shall be certified by the Judge, and on such payment into Court the said lien shall cease and determine.

Garnishee proceedings in the Division Court are not superseded by Section 9, and the Garnishee must pay the primary creditor who obtains judgment, not the assignee, the words "all judgments" in this section meaning all judgments against the debtor. *Wood V. Joslin*, 18 A.R., 59.

See *Clarkson V. Severs*, 17, O.R., as to the meaning of "executed by payment," being executed by payment to the Sheriff.

The assignee is the proper person to distribute funds realized in a Mortgage action where creditors had not proved their claims before the Master at the date of assignment. *Carter V. Stone*, 20 O.R., 340.

No advantage shall be taken or gained by any creditor of any mistake, defect or imperfection in any assignment under this Act for the general benefit of credi-