Held, following *Russell* v. *French*, 28 O.R. 215, that the percentages required by s. 9 of the Act to be retained by the owner from the contractor are intended to form a fund for the protection of sub-contractors, not subject to be affected by the failure of the contractor to perform his contract fully; and, as the plaintiff's lien was the only one filed and enforceable, he was entitled to have his lien declared valid for $150, being twenty per cent. of the $750 paid by the owner which was shewn to be the actual value of the work done and materials furnished.

It was also claimed on behalf of the defendant that the plaintiff's work was done under three different contracts between him and the contractor, and that, as to the first one, the putting in of a furnace, his lien was not filed within the time required. He swore that the putting in of the furnace, of the soft water tank, and of the pump, although ordered at different times, was done by him as one job.

Held, that, when a tradesman is doing such jobs, all in his line of business, although ordered or requested to do first one and then another, he should not be required, in order to secure payment, to file a lien after completing each piece of work. Filing the lien when he has completed all the separate pieces or work should be considered sufficient.

Potts, for plaintiff. *Robson*, for defendant.

Full Court.] HICKEY v. LEGRESLY. [July 14.

Foreign judgment—Pleading defences that had been set up in the original action—King's Bench Act—Embarrassment or delay as ground of striking out pleadings.

This action was brought on a judgment recovered in the Supreme Court of Cape Breton. The defendant pleaded a number of defences to the original cause of action in Nova Scotia with a further allegation that, according to the laws of that Province, the facts so pleaded would constitute a good defence there. These defences had been actually raised in the original action. Plaintiff then applied for an order striking out these defences.

Sub-s. (1) of s. 38 of R.S.M. 1902, c. 40, enacts that, in an action on such a judgment, the defendant "may plead to the action on the merits, or set up any defence which might have been pleaded to the original cause of action for which such judgment has been recovered," with the proviso that "the opposite party shall be at liberty to apply to the Court or a judge to strike out any such pleading or defence upon the ground of embarrassment or delay."