

Where action shall be brought.

ceeding in Her Majesty's Court of Queen's Bench or Common Pleas in Upper Canada, which action shall be brought in the Court of Queen's Bench or Common Pleas, within the County or United Counties in which the lands so given in security lie, and may be brought in the names of the President and Treasurer of such Society, describing them to be such President and Treasurer, or in the Corporate name of the Society. 5

What allegations and proof shall be necessary in actions on such stipulations.

II. And be it enacted, That in any action or proceeding to be instituted by any such Society for the purpose of realizing or bringing to sale any property or estate assigned, mortgaged or transferred to the Society by any person or persons as aforesaid, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant assigned, mortgaged or transferred the real estate (describing the same) to the Society, and that the amount, or a sufficient part of the amount, stipulated by him to be paid, has become and remains due and owing, whereby by virtue of this Act, and of the Act hereby amended, an action hath accrued to the Society, to have the said estate and property sold; and in order to maintain such action, it shall be sufficient, in addition to the customary evidence of the assignment, mortgaging or transfer of the said property or estate, to prove by any one witness, (whether in the employment of the Society or not) or by the books of the Society or any other means, that the defendant is in arrears and indebted to the Society in or exceeding a sum on the accruing of which by the terms of such assignment, mortgage or other agreement, the Society may have the right to have the said property or estate sold; and thereupon the Court shall pass judgment for the said amount, and by such judgment order the property to be sold by the Sheriff of the County or United Counties wherein it may lie, after three insertions in the course of three months, at least, in any newspaper published in the County or Counties where the lands or property may lie, and it shall not be necessary for the Sheriff to go through any formalities in seizing the said lands or otherwise; and all such proceedings shall, in so far as may be, and if it be not otherwise herein directed, be conducted in like manner as proceedings under ordinary writs of execution, and the deed to be given by the Sheriff shall have the like effect and be in the same form (as far as may be) as a deed given under an ordinary writ of execution: Provided always, that the Sheriff shall, in addition to his disbursements, be entitled to deduct only two per centum commission from the gross proceeds of sale (which two per centum shall be in lieu of poundage,) and to take and receive the sum of *twenty shillings*, and no more, for the drawing of the deed, which *twenty shillings* is to be paid by the purchaser at such sale. 10 15 20 25 30 35 40 45 50