

assignment to all intents and purposes, saving the right as the person so refusing to demand, and if not paid on demand to recover the money so refused from the person who tendered it.

VI. It shall be the duty of the Registrar of the proper county to register a memorial of any Instrument which may be registered under this Act, the execution of such memorial and of the Instrument to which it relates being attested and proved in the manner provided with regard to Deeds or Instruments, whereof memorials may be registered in Upper Canada; and whenever the Registration of an Instrument is mentioned in this Act the Registration of a memorial of such Instrument shall be understood to be intended.

Registry of Instruments, &c., under this Act.

VII. Any person having a Lien under this Act for any sum of money then due and payable, may bring an action under this Act to recover the same from any person then in possession of the property subject to such Lien, in either of the Superior Courts of Common Law, if the sum claimed exceeds and in the County Court if it does not exceed that sum, averring such Lien in the declaration; and if at the trial he shall prove any sum of money to be due he shall have judgment for such sum, and if he shall also prove that he has such lien, the judgment shall declare the same, the amount for which it subsists and the rank of such lien according to the provisions of this Act; and under any judgment declaring such lien the Plaintiff may take out execution against the property declared to be subject thereto, and under such execution the Sheriff may seize and sell not merely the estate and interest of the Defendant in the case, but every estate and interest therein which shall be subject to or rank after the Lien as declared by the judgment in the case, and the same shall pass to the purchaser by virtue of such sale; and the lien shall extend to all costs incurred in enforcing payment of the sum secured by it.

How a Lien under this Act may be enforced.

Judgment.

Costs.

VIII. The Defendant in any suit under the next preceding Section, not being a person bound independently of the Lien to pay the sum demanded, may instead of pleading to the action file a declaration that he does not intend to contest the Plaintiff's claim, and thereupon the suit shall proceed as if he had made default, but if the Plaintiff shall obtain judgment, he shall have execution only against the property subject to his Lien, and the Defendant shall pay no costs, except that the costs of the suit shall be added to the sum for which the Lien shall be declared by the judgment to subsist, and levied on the property declared to be subject thereto.

Provision when the Defendant does not contest the Suit or Lien.

IX. Nothing in this Act shall be construed in any way to diminish the liability of any person who would be bound to pay any sum for which a lien is hereby given, independently of such lien, or to impair any remedy against him for enforcing payment of such sum.

Act not to impair other remedies.

X. If after satisfying the sum for which the lien shall be adjudged to subsist and the costs of suit, out of the proceeds of the sale of the estates and interests declared subject to such lien, there shall remain any overplus of such proceeds, it shall remain in the Sheriff's hands subject to the order of the Court, and shall represent the estates and interest in the property subject to the lien, which may have been sold by the Sheriff, and the Court shall distribute the same to or among those parties entitled to such

Provision if there remain a balance of the proceeds after paying the Lien, &c.