preferences which they respectively cla.. s..all supersede every other lien or encumbrance to the time when the work was commenced o. materials furnished? I find none such, which will have the effect of giving preference over a garnishment served on the owner against the contractor, after the work was commenced, but before the filing and serving notice of lien.

It is laid down in Philips on Mechanics' Liens, sec. 249:—"If an act provides 'that the liens shall be preferred to every other lien or encumbrance which shall have attached upon the property, subsequent to the time when the work was commenced or materials furnished,' the lien of a sub-contractor takes precedence over a garnishment served on the owner against the head contractor, after the work was commenced, but before the filing and serving notice of lien. The lien of a mechanic does not, however, prevent an attachment as between creditors. The mechanic alone can assert his lien to defeat the attachment, and the amount of his lien being subsequently paid the surplus is bound by the attachment." This is all predicated on the hypothesis that the act creating mechanics' liens contains a provision such as neither of our Provincial Acts contemplates or furnishes. I find this point very much pressed and dwelt upon in argument in this case, that an attaching creditor can acquire no higher or better rights to the property or assets attached than the primary debtor had when the attachment took place, and that garnishment is a purely statutory proceeding, and cannot be pushed in its operation beyond the statutory authority under which it is resorted to. I fully assent to these propositions; but I find it clearly laid down on the other hand, to which I also assent, that "there is no distinction to be observed in the construction of statutes creating these liens and other expressions of legislative will" (see Philips on Mechanics' Liens, sec. 14), and again, "as acts in relation to mechanics' liens establish a system out of the course of the common law, when points arise evidently not foreseen by the legislature, and upon which the statutes have not spoken, the grounds of decision to be resorted to must be the general scope and spirit of the enactment. The analogy of cases, which have already been settled, and such considerations of policy as may be supposed to have had their influence on the minds of the lawmakers, and to aim at such results as will most effectually promote the interest and security of those classes of men whom the system was designed to favour." . . . So where an injustice would result from the construction of an act it should not be adopted without the most explicit language. This is a conflict of creditors arising from the preference afforded to two different classes of creditors under two several Acts of Parliament. Each seeks his own advantage to the exclusion of the others, and is a case not reached by the Creditors Relief Act, under which the policy of the legislature seems to favour a rateable division of the assets of a debtor amongst all his creditors, without priority or preference in certain cases. And with this conflict each of the two Acts of Parliament is set up as favouring the side of the contestants who have acted under the provisions of either.

Under the garnishee clauses of the Division Courts Act there is no provision for any other course than that of the exclusive benefit of the attaching creditor, to the extent of the debt claimed and the amount attached. Under the Mechanics' Lien Act there is no provision for creditors generally, but only for certain specified classes of creditors to the exclusion of such as have taken proceedings here under the garnishment clauses of the Division Courts Act.

In this case I find the 124th, 133rd, 137th and 138th sections of the Division Courts Act are quite as clear, absolute and positive as are those of the Mechanics' Lien Act, for the service of the summons in a garnishee proceeding has the effect not only of "attaching" (which means, in law, *taking*, *seizing*, or *distraining*) but also of "binding" in the hands of the garnishee ("subject to the rights of other parties" to whom I shall refer presently) the debt sought to be garnished from the time of such service until a final decision, made on the hearing of the summons; and any payment of such debt by the garnishee, during such period to any one other than the primary creditor or into Court, for satisfying his claim is declared, to the extent of such claim, to be void, etc., unless the judge otherwise orders. Thus we see that the debt is, as it were, tied up for the satisfaction of the claim of the garnishor, and kept under seizure until and unless the judge otherwise orders.

The subjecting the debt so garnished to the rights of other parties does not mean those creditors who are pursuing their remedies under other statutes, because the law does not favour a creditor adopting a multiplicity of remedies at the same time. If he chooses his remedy and his forum he is expected to confine himself to these, and not to indulge in every weapon within his reach. Section 142 provides a remedy for the rights of other parties who may be interested in the subject attached, although there may be judgment against the garnishee, or even if the money has been paid over by him, and then the parties may "be remitted to their original rights in respect thereto." This,