

made is *Sterling Lumber Co. v. Jones*, 36 O.L.R. 153, which, however, merely purports to follow prior decisions without attempting to examine whether such decisions are well founded.

The question involved is, the status of a mechanic's lien during that period which may intervene between the commencing of the work, or the furnishing of materials, and the period limited by the Act for registering the lien, or a certificate of *lis pendens* in an action to enforce the lien, and whether or not during that period it can be cut out by an alienation by the owner to a *bonâ fide* purchaser for value without actual notice of the lien. The Appellate Division decided that the lien may be defeated by the alienation of the property subject to the lien to a *bonâ fide* purchaser for value without notice.

A perusal of the Mechanics' Lien Act appears to disclose a solicitous intention to protect as far as possible mechanics and labourers from being deprived of the fruit of their labours by any subsequent transfer of the property which is the subject of the lien, but when its language, which seems plain and specific, comes to be submitted to judicial scrutiny, it is held to fall short of effecting its apparent intention.

In the first place, a mechanic or labourer doing work or furnishing materials is, from the commencement of the work, or the furnishing of the materials, declared by the Act entitled to a lien on the interest of the owner in the land on which the work is done or materials furnished, and the Act, sec. 2 (d), defines the "owner," to include any person or body corporate or politic, including a municipal corporation and a railway company having any estate or interest in the land upon or in respect of which the work or service is done, or materials are placed or furnished at whose request and

- (i) upon whose credit, or
- (ii) on whose behalf, or
- (iii) with whose priority and consent, or
- (iv) for whose direct benefit

work or service is performed, or materials are placed or furnished, and all persons claiming under him or them *whose rights are acquired after* the work or service in respect of which the