

several mortgagees. These parties had been served, pursuant to s. 32 and s. 27 (2) of the Act, with notice of the trial, but had not otherwise been made parties to the action.

Sec. 31 of the Act provides for a special trial of such an action before a judge who disposes of all questions between all parties and persons on whom notice of trial has been served, without a reference to the Master, and has to "embody all the results in the judgment." By s. 4, sub-s. (1) the lien arises by virtue of the performance of the work, or a furnishing of the materials, and by sub-s. (2) "such lien upon registration . . . shall arise and take effect from the date of the commencement of such work or service or from the placing of such materials as against the purchasers, chargees or mortgagees under instruments registered or unregistered." Sub-s. (3) of s. 5 provides that, in case the land be encumbered by a mortgage or other charge, existing or created before the commencement of the work or of the placing of the materials or machinery upon the land, such mortgage or other charge shall have priority over a lien to the extent only of the actual value of such land at the time the improvements were commenced. By s. 2, the word "owner" extends to all persons claiming under the person who ordered the work done or materials provided, and "whose rights are acquired after the work or service is commenced, or the materials furnished have been commenced to be furnished." By s. 19, when a lien is registered under the Act, the person entitled shall be deemed a purchaser pro tanto, and within the provisions of the Registry Act, "but, except as herein otherwise provided, the Registry Act shall not apply to any lien arising under this Act." And s. 11 is as follows: "The lien created by this Act shall have priority over . . . all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of such lien as hereinafter provided."

*Held*, 1. Although an account for materials supplied may consist of items for different lots supplied at different dates on separate and distinct orders, the lien filed within the required time after the delivery of the last lot will be good to cover all the orders if given in pursuance of a general arrangement previously entered into. *Morris v. Tharle*, 24 O. R. 159, followed. *Chadwick v. Hunter*, 1 M. R. 39, not followed.

2. The claims of subsequent incumbrancers and other lien holders may be disposed of at the trial without their being made parties to the action, and although the notice of trial has been served after the time limited for bringing the action: *Cole v. Hall*, 13 P. R. 100.

3. The lien holder who registers his lien in time has priority from the date of the commencement of the work or from the placing of the materials over every conveyance, mortgage or charge made thereafter, although registered first, and such priority is not affected by s. 11 which applies only to payments or advances made subsequently to the taking effect of the lien under conveyances or mortgages otherwise having priority.