
REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Alberta.]

LIMOGES v. SCRATCH.

[Dec. 9, 1910.]

Mechanics' lien—Construction of statute—Alberta Mechanics' Lien Act—Building erected by lessee—Liability of owner.

Sec. 4 of the Alberta Mechanics' Lien Act, 6 Edw. VII. c. 21 gives to any contractor or material man furnishing labour or materials for a building at the request of the owner of the land a lien on such land for the value of such labour or materials. Sub-sec. 4 of s. 2 provides that the term "owner" shall extend to and include a person having any estate or interest "in the land upon or in respect of which the work is done or materials are placed or furnished at whose request and upon whose credit or on whose behalf or with whose privity or consent or for whose direct benefit any such work is done," etc. By s. 11 "every building . . . mentioned in the fourth section of this Act, constructed upon any lands with the knowledge of the owner or his authorized agent . . . shall be held to have been constructed at the request of such owner," unless the latter gives notice within three days after acquiring such knowledge that he will not be responsible. The lessee of land, as permitted by his lease, had buildings thereon pulled down and proceeded to erect others in their place, but was obliged to abandon the work before it was finished. The owner of the land was aware of the work being done but gave no notice disclaiming responsibility therefor. Mechanics' liens having been filed under the Act,

Held, that the interest of the owner in the land was subject to such liens.

Judgment appealed from varying that at the trial (2 Alta. L.R. 109) in favour of the lienholders, affirmed. Appeal dismissed with costs.

Perron, K.C., for appellant. *Bennett*, K.C., for respondent.