

should be marred and encumbered by these petty liens when the owner has been absolutely innocent of any default?

Since writing the above the writer, in delving in the records of our law journals, has discovered the following evidence that this Act has, on more than one occasion, similarly affected the sensibilities of our profession in years gone by.

In the CANADA LAW JOURNAL of 1876 (12 C.L.J.) at p. 300 we find the following expression of opinion: "At least one clause of the Mechanics' Lien Act (that most absurd and hurtful of all illogical legislation) wears a most threatening aspect, portending the necessity of many a pitched battle on every word of it ere it be fully subdued to the uses of the much enduring public."

And in the edition of 1877 (13 C.L.J., p. 8) the following well merited compliment is paid to the Act: "The manifest injustice to which our present mode of tinkering statutes sometimes leads is well illustrated by the case of *Walker v. Walton*. (13 C.L.J. 8, 24 Grant 209, 1 A.R. 579). In that case the plaintiff acquired a lien under the Mechanics' Lien Act of 1873, and duly registered his lien as required by that Act. The plaintiff, however, had given the defendant credit which did not expire until after the passing of the Mechanics' Lien Act of 1874; he consequently had not commenced a suit before that Act came into operation.

"Under the Act of 1873, section 4, it would have been sufficient to keep the plaintiff's claim alive if he had commenced his suit and registered a *lis pendens* within 90 days after the period of credit expired. The 14th section of the Act of 1874, however, provides 'that every lien shall absolutely cease to exist after the expiration of thirty days after the work shall have been completed . . . unless in the meantime proceedings shall have been instituted to realize the claim under the provisions of this Act, and a certificate thereof is duly registered, &c.' And the 20th section comes in with the usual, although unnecessary declaration that all Acts inconsistent with the provisions of this Act are hereby repealed.