

C H A P. 51

An Act to amend articles 1220 and 2143 of the Civil Code
with regard to certain writings executed out of the
Province of Quebec

[Assented to 22nd December, 1916]

HIS MAJESTY, with the advice and consent of the
Legislative Council and of the Legislative Assembly
of Quebec, enacts as follows:

1. Article 1220 of the Civil Code, as amended by the C. C., art.
acts 62 Victoria, chapter 49, section 1, 9 Edward VII, 1220, am.
chapter 70, section 1, and 3 George V, chapter 47, section
1, is again amended by inserting therein, in paragraph 5
thereof, after the words added by the act 3 George V,
chapter 47, section 1, the words: "before the Agent-
General of the Province in the United Kingdom, for the
United Kingdom, or".

2. Article 2143 of the Civil Code is amended by adding C. C., art.
thereto a new paragraph, as follows: 2143. am.

"When it is executed in the United Kingdom, it may Deposition.
also be proved therein by an affidavit sworn to before the
Agent-General of the Province in the United Kingdom."

3. This act shall come into force on the day of its Coming into
sanction. force.

C H A P. 52

An Act to amend the Civil Code with reference to privileges
of workmen, builders, and other persons

[Assented to 22nd December, 1916]

HIS MAJESTY, with the advice and consent of the
Legislative Council and of the Legislative Assembly
of Quebec, enacts as follows:

1. Paragraph 7 of article 2009 of the Civil Code, as C. C., art.
replaced by the act 59 Victoria, chapter 42, section 1, 2009, am.
is again replaced by the following:

"7. The claim of the workman, supplier of materials,
builder and architect, subject to the provisions of article
2013 and following;"

C. C., arts.
2013-2013l,
repealed.

2. Articles 2013, 2013a, 2013b, 2013c, 2013d, 2013e, 2013f, 2013g, 2013h, 2013i, 2013j, 2013k and 2013l, of the Civil Code, as enacted, replaced or amended, as the case may be, by the acts 59 Victoria, chapter 42, and 4 Edward VII, chapter 43, are repealed.

C. C., arts.
2013-2013f,
enacted.

3. The following articles are inserted in the Civil Code in the place and stead of the articles repealed by section 2, to wit:

Privilege of
workman,
&c.

"2013. The workman, supplier of materials, builder and architect have a privilege and a right of preference over all other creditors, on the immoveable, but only upon the additional value given to such immoveable by the work done or by the materials.

Definition
of terms.

"2013a. The word "workman" includes the artisan, the laborer and generally every one who makes his living by manual labor.

The words "supplier of materials" include the supplier not only of raw materials but also of every manufactured object which enters into any construction.

The word "builder" includes both contractor and sub-contractor.

The words: "end of the work" mean the date at which the construction is ready for the use for which it is intended.

How to
arrive at
additional
value.

"2013b. In case the proceeds are insufficient to pay all the claims, the additional value given to the property is established by a relative valuation ordered by a judge, upon summary petition presented by any interested party, after such notice as the judge deems necessary.

The judge appoints, in his discretion, one or three experts, who proceed with the valuation, and make their return within the delay and according to the formalities ordered.

On the question of valuation, their decision, after homologation by the judge, is final and unappealable.

Rank of
privileges.

"2013c. Such privileges rank as follows:

1. The workman;
2. The supplier of materials;
3. The builder;
4. The architect.

Privilege of
workman.

"2013d. The workman has a privilege, by reason of the work he has done on an immoveable, for arrears up to twenty days, whether he was engaged by the proprietor or by a contractor. No formality is necessary to secure this privilege.

Such privilege shall subsist for thirty days after the end of the work, and need not be registered. But the privilege is extinguished on failure of the workman to sue his debtor within such delay, and to bring the proprietor into the case, as well as the registrar of the division in which the property is situated, in order to give notice of such privilege to the latter, who must make note of the suit in the index of immoveables.

During the whole period and up to the end of the work, the proprietor is entitled to retain, on the contract price, an amount sufficient to pay the privileged claims. Any amount fixed by the sworn certificate of the architect or engineer in charge of the work shall be deemed sufficient, and, failing such architect or engineer, a like certificate may be given by a licensed architect or a duly qualified engineer of this Province, who may be agreed upon by the interested parties, or, failing such agreement, appointed by a judge of the Superior Court.

The builder may not exact any payment on the contract price before he furnishes to the proprietor a statement, under his signature, of all amounts due by him for labor and materials.

Several workmen may join in one action, the costs of which shall be those of a personal action for the amount claimed.

"2013e. The supplier of materials has a privilege on the immoveable in the construction of which the materials supplied to the proprietor or builder have been used, or for the construction of which they have been specially prepared.

Such privilege, however, shall take effect only upon the registration of a notice, given to the proprietor or his representative, informing him of the nature and cost of the materials to be supplied, as well as the cadastral number of the immoveable property affected, and shall apply only to those furnished, or those specially prepared and not delivered, for the immoveable in question, after the receipt of such notice by the proprietor, and its registration.

In order to meet the privileged claims of the supplier of materials, the proprietor of the immoveable is entitled to retain on the contract price an amount equal to that mentioned in the notices he has received.

Such privilege is extinguished on failure of the supplier of materials to sue his debtor within thirty days after the end of the work, with the same formalities as those prescribed for the claim of the workman.

The supplier of materials is also entitled, in case of the

No registration required.

Proprietor may retain sufficient to pay privileged claims.

Builder to furnish statement.

Actions may be joined.

Privilege of supplier of materials.

Registration required.

Application of privilege.

Proprietor may retain amount.

Extinction of privilege.

Revendication.

insolvency of the proprietor or builder, or in case of failure to make payment at the periods agreed upon, to revendicate the materials he has supplied, but which have not yet been incorporated into the building.

Privilege of
builder or
architect.

"2013f. The builder, or the architect, has a privilege on the immovable for the work he has done as such, provided that before the expiration of thirty days after the end of the work, he registers by memorial, at the registry office of the division in which the property is situated, a statement of his claim. Notice of such registration must be given, within the same delay, to the proprietor.

Extinction
of privilege.

Such privilege is extinguished after six months following the date of the end of the work, unless the creditor take an action against the proprietor to preserve it. In such action the registrar must be called into the case, in order to give him notice of such action, and to cause him to note the same in his index of immovables.

In case of
sub-
contract.

In the case where the builder has had the work done, either wholly or in part, by sub-contract, if the sub-contractor has notified the proprietor of his contract, such sub-contractor shall have a privilege upon the immovable for all work done after such notification, provided that before the expiration of thirty days after the end of the work he registers a statement of his claim. Such privilege is subject to the same formalities as that of the builder or architect, in so far as concerns its creation and extinction. The proprietor, in case the sub-contractor has notified him of his sub-contract, is entitled to retain, on the contract price, an amount sufficient to meet the privileged claim of the sub-contractor; and any amount fixed by a certificate given in compliance with the formalities contained in article 2013*d*, shall be deemed sufficient."

C. C. 2103,
am.

4. Article 2103 of the Civil Code, as replaced by the act 59 Victoria, chapter 42, section 3, is amended:

a. By repealing the first paragraph thereof, and the form A mentioned therein, and by replacing the said first paragraph thereof by the following:

Privileges,
how created
and pre-
served.

"2103. 1. The privilege of every person, except the workman, mentioned in article 2013, is created and preserved by registration within the proper delay at the registry office of the division in which the immovable is situated, of a notice or memorial, drawn up in the form of an affidavit of the creditor or his representative, sworn to before a justice of the peace, a commissioner of the Superior Court, or a notary, setting forth the name, occupation and residence of the creditor, the nature and

amount of his claim, and the cadastral number of the immoveable so affected.”;

b. By replacing paragraph 4 thereof by the following:

“4. After the expiration of six months from the date of registration of any privileged claim or from the date of the end of the work, whichever be the latest, without an action having been taken to preserve it, any interested party may cause the registrar to radiate such claim by filing with him a written application to that effect, supported by affidavit of the expiry of such delay, and served on the privileged creditor or his representative not later than eight days prior to such filing. ^{Radiation of claim.}

“5. In the event of an action having been taken, the registrar is bound to radiate the registration of the claim upon the filing with him of a judgment dismissing the action, or other order of the Court ordering him so to do, or of a certificate from the prothonotary establishing that the action has been discontinued.” ^{In case of action.}

5. This act shall come into force on the day of its sanction, but shall not affect privileges legally acquired under the articles of the Civil Code repealed by section 2. Such privileges, legally acquired, shall remain subject to the same laws until they are extinguished. ^{Coming into force.}

CHAP. 53

An Act relating to certain amendments to be made to the cadastre of the township of Joliette, situated partly in the county of Joliette and partly in the county of Berthier

[Assented to 22nd December, 1916]

WHEREAS by reason of an error made at the time of the preparation and official deposit of the cadastre for the township of Joliette, such township was described in the proclamation of the 6th of November, 1885 (*Quebec Official Gazette*, 1885, pages 2008 and following), as being situated wholly in the county of Joliette, when, under previous acts then in force, the northeast part thereof was and still is situated in the county of Berthier;

Whereas it is expedient that such error be corrected, and that registrations erroneously made in that respect be validated;