

Privilege upon moveables.

“Employees of railway companies, engaged in manual labor, have also the same privilege upon all the moveable property of the company, for arrears not exceeding three months.”

C. C., 2009, §9, amended.

**3.** Paragraph 9 of article 2009 of the said Code is amended by inserting after the word : “wages,” in the first line, the words : “and those of employees of railway companies engaged in manual labor.”

Coming into force.

**4.** This act shall come into force on the day of its sanction.

## CAP. XLII.

An Act to amend the Civil Code with respect to the privileges of architects, builders, laborers, workmen and suppliers of materials.

[Assented to 21st December, 1895.]

**H**ER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

C. C., 2009, §7, replaced.

**1.** Paragraph 7 of article 2009 of the Civil Code, as replaced by the act 57 Victoria, chapter 46, section 1, is again replaced by the following :

Claim of laborer, &c.

“7. The claim of the laborer, workman, architect and builder, subject to the provisions of article 2013.

C. C., 2013, 2013a to 2013e, replaced.

**2.** Articles 2013, 2013a, 2013b, 2013c, 2013d and 2013e of the said Code, as enacted by section 2 of the said act, are replaced by the following :

Right of preference of laborer, &c.

“**2013.** The laborer, workman, architect and builder have a right of preference over the vendor and other creditors, on the immovable, but only upon the additional value given to the immovable by the work done.

If proceeds are insufficient to pay.

In case the proceeds are insufficient to pay the laborer, workman, architect and builder, or in cases of contestation, the additional value given by the work is established by a relative valuation effected in the manner prescribed in the Code of Civil Procedure.

Privilege only on additional value.

The aforesaid privileged claim is paid only upon the amount established as being the additional value given to the immovable by the work done.

Ranking of privilege of laborer, &c.

“**2013a.** For the purposes of the privilege, the laborer, workman, architect and builder rank as follows :

1. The laborer ;
2. The workman ;

3. The architect ;
4. The builder.

“ **2013b.** The right of preference or privilege upon the immovable exists, as follows : Right of preference exists:

Without registration of the claim, in favor of the debt due the laborer, workman and the builder, during the whole time they are occupied at the work or while such work lasts, as the case may be ; and, with registration, provided it be registered within the thirty days following the date upon which the building has become ready for the purpose for which it is intended. Without registration,  
With registration.

But such right of preference or privilege shall exist only for one year from the date of the registration, unless a suit be taken in the interval, or unless a longer delay for payment has been stipulated in the contract. For one year, unless suit brought, &c.

“ **2013c.** The preservation of the privilege is subject to the following conditions : Conditions of preservation of privilege.

The laborer and workman must give notice in writing, or verbally before a witness, to the proprietor of the immovable, that they have not been paid for their work, at and for each term of payment, due to them. Notice to proprietor by laborer, &c.

Such notice may be given by one of the employees in the name of all the other laborers or workmen who are not paid, but in such case the notice must be in writing. Notice by one for several.

The architect and builder shall likewise inform the proprietor of the immovable, or his agents, in writing, of the contracts which they have made with the chief contractor, within eight days from the signing of the same. Notice by architect and builder.

“ **2013d.** In order to meet the privileged claims of the laborer and workman, the proprietor of the immovable may retain an amount equal to that which he has paid or will be called upon to pay, according to the notices he has received, so long as such claims remain unpaid. Retention by proprietor of amount to cover claims.

“ **2013e.** In the event of a difference of opinion between the creditor and the debtor, with respect to the amount due, the creditor shall, without delay, inform the proprietor of the immovable, by means of a written notice which shall also mention the name of the creditor, the name of the debtor, the amount claimed and the nature of the claim. In case of difference of opinion as to amount of claim.

The proprietor then retains the amount in dispute until notified of an amicable settlement or a judicial decision. Retention of amount unless settled, &c.

“ **2013f.** The sale to a third party by the proprietor of the immovable or his agents, or the payment of the whole or a portion of the contract price, cannot in any way affect Sale, &c., not to affect rights of privilege, &c.

the claims of persons who have a privilege under article 2103, and who have complied with the requirements of articles 2103*a*, 2103*b*, 2103*c*, and 2103.

Notice to proprietor by supplier of materials.

“**2013g.** The supplier of materials shall, before delivery of the materials, give notice in writing to the proprietor of the immoveable, of the contracts made by him for the delivery of materials, and mention the cost thereof and the immoveable for which they are intended.

Retention by proprietor of amounts sufficient to cover claim.

“**2013h.** In order to meet the privileged claims of the suppliers of materials, the proprietor of the immoveable retains, on the contract price, an amount equal to that mentioned in the notices he has received.

Effect of notice.

“**2013i.** The notices mentioned in article 2013g have the effect of an attachment by garnishment on the contract price.

Time when suit to be brought.

Within the three months following the notice given in accordance with article 2013g, the interested parties must take legal proceedings to have the debtor condemned and the seizure declared valid, otherwise the latter lapses; and, to such suit, the proprietor of the immoveable must be made a party.

If proprietor erects building himself.

“**2013j.** In the event of the proprietor of the immoveable erecting the building himself without the intermediary of any contractor, the notices mentioned in article 2013g may be given to the person or persons who lend or may lend money to the person building, and thereupon the latter shall, *mutatis mutandis*, be subject to the provisions of the preceding articles.

Transfer of contract price cannot be set up against claim of supplier of materials, &c.

“**2013k.** No transfer of any portion of the contract price or of the amount borrowed, as the case may be, either before or during the execution of the work, can be set up against the said suppliers of materials; nor can any payment, exceeding the cost of the work done, according to a certificate of the architect or superintendent of the works, affect their rights.

Hypothecary claims of suppliers of materials.

“**2013l.** On notice given to the proprietor in virtue of article 2013g and registered according to article 2103, the suppliers of materials shall have a hypothecary privilege which shall rank after the hypothecs previously registered and the privileges created by this act.”

C. C., 2103 and 2103*a*, replaced.

**3.** Articles 2103 and 2103*a* of the said Code, as enacted by section 3 of the said act, are replaced by the following article :

"**2103.** The privilege of the persons mentioned in article 2013 dates, in the cases mentioned in the first clause of article 2013*b*, only from the registration, within the proper delay, at the registry office of the division in which is situated the immoveable affected by the inscription, of a notice or memorial, drawn up according to form A, with a deposition of the creditor, sworn to before a justice of the peace or a commissioner of the Superior Court, setting forth the nature and the amount of the claim and describing the immoveable so affected.

Time from which privilege dates as against immoveables.

2. In registering such memorial, it is sufficient to mention, opposite the official number of the cadastre which describes the immoveable, if the cadastre be deposited, or opposite the title of the registered deed, if the cadastre be not yet deposited, the name of the claimant and the amount due at the time the memorial is filed.

Description of property on registration.

3. The memorial shall be made out in duplicate, one copy of which shall remain in the archives of the registry office and the other be delivered to the creditor with the registrar's certificate thereon.

Memorial to be in duplicate.

4. The creditor shall, within three days from the registration of the memorial, give a written notice to the proprietor of the immoveable, or to his agents, if he cannot be found."

Notice to proprietor of registration.

4. The act 57 Victoria, chapter 46, and all other provisions of the Civil Code inconsistent with this act, are repealed.

Inconsistent provisions repealed.

## FORM A.

### *Form of notice or memorial.*

I, A. B., (*name and residence of creditor*), do hereby declare that I have worked upon the immoveable of (*name of the proprietor*), at the following work (*nature of the work*),—(or I have supplied, *if he be a supplier*, etc., as the case may be) since (*give the date*) ; that the amount due me is (*amount of the claim*) ; that the immoveable on which I have worked is described as follows : *Number of cadastre or description by metes and bounds as much as possible.*)

|  |        |              |
|--|--------|--------------|
| Sworn before me, at                      | , this | } Signature, |
| day of                                   | 18 .   |              |
| Signature,                               |        |              |
| C. D.,                                   |        |              |
| Justice of the Peace,                    |        |              |
| (or Commissioner of the Superior Court.) |        | A. B.        |