

as if such mention had been made in the said deed; provided always, that the formalities, of which mention should have been made, have been duly complied with.

**2.** The provisions of this act shall not affect pending cases. Pending cases not affected.

CAP. XLVI.

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

[Assented to 8th January, 1894.]

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

**1.** Paragraph 7 of article 2009 of the Civil Code is replaced by the following : C. C., art. 2009, § 7, replaced.

“ 7. The claim of the labourer, workman, supplier of building materials and builder (chief contractor), subject to the provisions of article 2013.” Claims of labourer, &c.

**2.** Article 2013 of the said Code is replaced by the following articles : C. C., art. 2013, replaced.

“ **2013.** The labourer, workman, supplier of building materials and the builder (chief contractor) have a right of preference upon immoveables, to the amount of the increased value given by the work done or materials furnished, over any other creditor, except the creditor having one of the privileges mentioned in the first six paragraphs of article 2009, and shall further have a preference over all chirographic creditors upon the said immoveables. Preference of labourer, &c., upon immoveables.”

“ **2013a.** The privilege of the labourer, workman, supplier of materials and builder (chief contractor) ranks as follows : Ranking of claims of labourer, &c.”

1. The labourer ;
2. The workman ;
3. The supplier ;
4. The chief contractor.

“ **2013b.** The right of preference or privilege upon the immoveable exists as follows : Right of preference exists;”

1. Without registration of the claims in favour of the debt due the labourer, workman, supplier of materials and the builder (chief contractor), during the whole time they are occupied at the work or while such work lasts, as the Without registration;

With registration. case may be ; and with registration, provided it be registered within the thirty days following the completion or the cessation of the work.

How long such preference exists. 2. But such right of preference or privilege shall exist only for two years 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.

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

Notice to proprietor, by labourer, &c. 1. The labourer and workman must give notice in writing, or verbally before a witness, to the proprietor of the immoveable, that they have not been paid for their work, for each term of payment due.

How given. Such notice may be given by one of the employees in the name of all the other labourers or workmen who are not paid.

Notice by supplier of materials to proprietor. 2. 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.

Notice by sub-contractor to proprietor. 3. The sub-contractor shall, within eight days from the signing of the contracts, also inform the proprietor or the *bailleur de fonds*, or either of them, as the case may be, or his agents, of the contracts he has entered into with the chief contractor.

Retention by proprietor of amount claimed. “ **2013d.** In order to meet the privileged claims of the labourer, workman and supplier of materials, the proprietor of the immoveable 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.

Notice to proprietor, if difference as to amount of claim. “ **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 immoveable, by means of a notice which shall also mention the name of the creditor, the name of the debtor, the amount claimed and the nature of the claim.

Proprietor to retain in meantime. The proprietor retains the amount in dispute until notified of an amicable settlement or a judicial decision.”

C. C., art. 2103, replaced. **3.** Article 2103 of the said Code is replaced by the following articles :

Notice required to preserve privilege, and when it bears date. “ **2103.** The privilege of the persons mentioned in article 2103 dates, in the cases mentioned in paragraph 1 of article 2103b, 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.

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.

Duty of registrar on registering.

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, &c.

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 by creditor.

“ 2103a. The sale to a third party by the proprietor of the immoveable or his agents, or the payment of the whole or a portion of the contract price, cannot in any way affect the claims of persons who have a privilege under article 2013, and who have complied with the requirements of articles 2013a, 2013b, 2013c, and 2103 of this Code.”

Claims not affected by sale of property or payment of contract price, &c.

4. All articles of the Civil Code inconsistent with the provisions of this act are repealed.

Repealing clause.

FORM A.

*Form of notice or memorial.*

I, A. B. (*name and residence of claimant*), 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,	}	Signature,
C. D.		
Justice of the Peace,	}	A. B.
(or Commissioner of the Superior Court.)		

