

But in spite of the fact that the French Code is less clear than ours, the *Cour de Cassation* has held that the prescription of the action by the workman is not suspended by his minority or interdiction. (1) The ground of this decision in France is that the general policy of the Act, in fixing a short period of prescription, was to limit the liability of the employer to cases which were brought within so short a time after the accident as to make the connection between the injury and the accident capable of verification. M. Cabouat though with some hesitation, agrees in this view. There are judgments by several Courts of Appeal in the opposite sense. (2) And this latter view has the support of M. Sachet, who argues that this ground of suspension of prescription is created by the law as a protection for minors and other incapables, that in cases of accidents to young workmen such protection is eminently desirable, and that the shorter the period of prescription, the more necessary it is to protect incapable persons against being deprived of their rights. For the reasons above stated, I do not think this argument would be sound under our law.

132. Suspension on the Ground of Impossibility of Action.

There may be cases in which it is impossible for the plaintiff to take action, not on account of his minority or mental incapacity, but for some other reason such as, for example, that in consequence of a war the law courts are closed. (3)

This case is not covered by the terms of article 2269 of the Civil Code which has been cited above, and there is no doubt that the prescription of the action under this Act might, like other rights of action, be suspended by an impossibility of this kind. (4)

(1) Cass., 8 déc., 1903, D., 1904, I. 161.

(2) Paris, 27 juillet, 1901, S., 1902, 2. 64; Cabouat, v. 2, n. 956.

(3) Cass., 17 août, 1874, D. 75, 1, 209; Merlin, Rep. v. Prescription, sect. 1, n. 7.

(4) See *City of Montreal v. Cantin*, 1904, 35 S. C. R. 223, 1906, 15 K. B. 103 (P. C.).