

การตรวจแก้ร่างประมวล
กฎหมายแพ่งและพาณิชย์
บรรพ 1-2 พ.ศ. 2468
กรมร่างกฎหมาย

สำนักงานคณะกรรมการกฤษฎีกา
ทำขึ้นรื้อหน้า
กรุงเทพ ฯ 10200.

79

การตรวจแก้ร่างประมวลกฎหมายแพ่งและพาณิชย์

บรรพ 1 – 2 พ.ศ. 2468

กรมร่างกฎหมาย

“Archives of the History of Thai Codification”

Roll 12-5 (Vol.79)

Period: [18 ก.ค. 2468 – 18 พ.ย. 2568]

[Part 1]

บรรพ ๑ (มาตรา ๑ – ๑๙๓)

A.	Austrian Civil Code.
Arg.	Argentine Civil Code.
Arg.Com.	Argentine Commercial Code.
B. of Ex. Act.	Bill of Exchange Act 1882. 45 & 46 Vict.C. 16.
Becker Com.	The principles and practice of the Civil Code of Japan by J. E. de Becker.
Brazil. (Br.)	Civil Code of Brazil.
Brazil Com.	Commercial Code of Brazil.
Fr.	French Civil Code.
F. C. P.	French Civil Code of Procedure.
F. Com.	French Commercial Code.
G.	German Civil Code.
G. C. P.	German Code of Civil Procedure.
G. Com.	German Commercial Code.
It.	Italian Civil Code.
It. Com.	Italian Commercial Code.
J.	Japanese Civil Code.
J. Com.	Japanese Commercial Code.
Jenk's	Jenk's Digest of English Civil Law.
Old text	The Siamese text of B. E. 2466.
Plan.	Traité Élémentaire de Droit Civil par Marcel Planiol.
Sch.	The principles of German Civil Law by J. E. Schuster.
S. C. (S.)	Swiss Civil Code.
S. O.	Swiss Code of Obligations.
Section.	Section in the text of revision.
c/p.	Compare.
Baud.	Traité Théorique et Pratique de Droit Civil par G. Baudry-Lacantinerie.
Huebner	The History of Germanic Private Law by Rudolf Huebner.

A.	Austrian Civil Code.
Arg.	Argentine Civil Code.
Arg. Com.	Argentine Commercial Code.
B. of Ex. Act.	Bill of Exchange Act 1882. 45 & 46 Vict. C. 16.
Becker Com.	The principles and practice of the Civil Code of Japan by J. E. de Becker.
Brazil. (Br.)	Civil Code of Brazil.
Brazil Com.	Commercial Code of Brazil.
Fr.	French Civil Code.
F. C. P.	French Civil Code of Procedure.
F. Com.	French Commercial Code.
G.	German Civil Code.
G. C. P.	German Code of Civil Procedure.
G. Com.	German Commercial Code.
It.	Italian Civil Code.
It. Com.	Italian Commercial Code.
J.	Japanese Civil Code.
J. Com.	Japanese Commercial Code.
Jenk's	Jenk's Digest of English Civil Law.
Old text.	The Siamese Text of B. E. 2466.
Plan.	Traité Élémentaire de Droit Civil par Marcel Planiol.
Sch.	The Principles of German Civil Law by J. E. Schuster.
S. C. (S.)	Swiss Civil Code.
S. O.	Swiss Code of Obligations.
Section.	Section in the text of revision.
c/p.	Compare.
Baud.	Traité Théorique et Pratique de Droit Civil par G. Baudry-Lacantinerie.
Huebner	The History of Germanic Private Law by Rudolf Huebner.

PRELIMINARY.

— — —

1. – This law shall be called the Civil and Commercial Code.

2. – It shall come into force on the 1st date of January B E. 246 ...

3. – On and from the day of operation of this Code, all other laws, bye laws and regulations in so far as they deal with matters governed by this Code or are inconsistent with its provisions shall be repealed.

(old. text 3)

BOOK I. GENERAL PRINCIPLES.

— — —

TITLE I. GENERAL PROVISIONS.

4. – The law must be applied in all cases which comes within the letter or the spirit of any of its provisions.

PRELIMINARY.

1. – This Law shall be called the Civil and Commercial Code.

2. – It shall come into force on the 1st. day of January B E. 246..

3. – On and from the day of operation of this Code, all other laws, bye laws and regulations in so far as they deal with matters governed by this Code or are inconsistent with its provisions shall be repealed.

(old. text 3)

BOOK I. GENERAL PRINCIPLES.

TITLE I. GENERAL PROVISIONS.

4. – The law must be applied in all cases which come within the letter or the spirit of any of its provisions.

Where no provision is applicable the case shall be decided according to the local custom.

If there is no such custom, the case shall be decided by analogy to the provision most nearly applicable, and, in default of such provision, by the general principles of law.

(S.C. 1)

5. – Every person must in the exercise of his rights and in the performance of his obligations act in good faith.

(S.C. 2)

6. – Every person is presumed to be acting in good faith.

(c/p S.C. 3. par. 1) (old text 18)

7. – Whenever interest is to be paid, and the rate is not fixed by **contract [juristic act]** or by an express provision of a law, it shall be 7 ½ per cent per year.

(J.Co.276 G.246 G.Co.352 Fr.1907 or law of April 1900. S.O.73) (old text 22)

8. – “Force majeure” denotes any event the happening or pernicious result of which could not be prevented even though a person against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation.

(The Japanese Supreme Court 25th. Nov. 1919 Becker Com. P.210)

Where no provision is applicable the case shall be decided according to the local custom.

If there is no such custom, the case shall be decided by analogy to the provision most nearly applicable, and, in default of such provision, by the general principles of law.

(S. C. 1).

5. – Every person must in the exercise of his rights and in the performance of his obligations act in good faith.

(S. C. 2)

6. – Every person is presumed to be acting in good faith.

(C/p S. C. 3. par. 1) (old text 18)

7. – Whenever interest is to be paid, and the rate is not fixed by **contract** or by an express provision of a law, it shall be 7 ½ per cent per year.

(J. Co. 276 G. 246 G. Co. 352 Fr. 1907 + law of April 1900. S.O. 73) (old text 22)

8. – “Force majeure” denotes any event the happening or pernicious results of which could not be prevented even though a person against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation.

(The Japanese Supreme Court 25th Nov. 1919 Becker Com. P.210)

9. – Whenever a writing is required by law, it is not necessary that it be written by the person from whom it is required, but it must bear his signature.

If a person is in the habit of affixing a seal in lieu of signature, the affixing of such seal is equivalent to a signature.

A finger print, cross or other such mark affixed to a document is equivalent to a signature if it is certified by the signature of two witnesses.

(old text 15)

10. – When a clause in a document can be interpreted in two senses, that sense is to be preferred which gives some effect rather than that which would give no effect.

(Fr. 1157) (c/p old text 26)

11. – In case of doubt the interpretation shall be in favour of the party who incurs the obligation.

(Eg. Fr. 1162 Walton Vol. I P. 387.) (old text 21)

12. – Whenever a sum or quantity is expressed in letters and in figures, and the two expressions do not agree, and the Court cannot ascertain the real intention, the expression in letters shall be held good.

(B. of Ex. Act. 9 No. 2) (old text 27).

9. – Whenever a writing is required by law, it is not necessary that it be written by the person from whom it is required, but it must bear his signature.

If a person is in the habit of affixing a seal in lieu of signature, the affixing of such seal is equivalent to a signature.

A finger print, cross or other such mark affixed to a document is equivalent to a signature if it is certified by the signature of two witnesses.

(old text 15)

10. – When a clause in a document can be interpreted in two senses, that sense is to be preferred which gives some effect rather than that which would give no effect.

(Fr. 1157) (Cp old text 26)

11. – In case of doubt the interpretation shall be in favour of the party who incurs the obligation.

(Eg. Fr. 1162 Walton Vol. I P. 387.) (old text 21)

12. – Whenever a sum or quantity is expressed in letters and in figures, and the two expressions do not agree, and the court cannot ascertain the real intention, the expression in letters shall be held good.

(B. of Ex. Act. 9 No. 2) (old text 27).

13. – Whenever a sum or quantity is expressed several times in letters or several times in figures, and the several expressions do not agree, and the Court cannot ascertain the real intention, the lowest expression shall be held good.

(Fr. 1327) (old text 28).

14. – Whenever a document is executed in two versions, one in the Siamese language, the other in another language, and there are discrepancies between the two versions, and the Court cannot ascertain which ~~w~~ [v]ersion was intended to govern, the document executed in the Siamese language shall govern.

(old text 29).

13. - Whenever a sum or quantity is expressed several times in letters or several times in figures, and the several expressions do not agree, and the Court cannot ascertain the real intention, the lowest expression shall be held good.

(Fr. 1327) (old text 28).

14. - Whenever a document is executed in two versions, one in the Siamese language, the other in another language, and there are discrepancies between the two versions, and the Court cannot ascertain which ~~w~~ version was intended to govern, the document executed in the Siamese language shall govern.

(old text 29)

TITLE II. PERSONS.

CHAPTER I. NATURAL PERSONS.

PART I. PERSONALITY.

15. – Personality begins with the full completion of birth as a living child and ends with death.

A child “en ventre sa mere” is capable of rights provided that it is thereafter born alive.

(S.31 c/p old text 39).

16. – If it is not possible to ascertain the date of birth of a person, his age is calculated from the first day of the official year during which such birth took place.

(c/p old text 41 and Compare Conscription Law B.E. 2460 S.21)

TITLE II.

PERSONS.

CHAPTER I. NATURAL PERSONS.

PART I. PERSONALITY.

15. – Personality begins with the full completion of birth as a living child and ends with death.

A child “en ventre sa mere” is capable of rights provided that it is thereafter born alive.

(S. 31 c/p old text 39).

16. – If it is not possible to ascertain the date of birth of a person, his age is to be calculated from the first day of the official year during which such birth took place.

(c/p old text 41 and Compare Conscription Law B.E. 2460 S.21).

17. – When several persons have perished in a common peril, and it is not possible to determine which of them perished first, they will be presumed to have died simultaneously.

(G. 20. Brazil 11. S. 32 Austria 25. It. 924).

18. – If the right to use of a name by a person entitled to it is disputed by another, or if the interest of the person entitled is injured by the fact that another uses the same name without authority, then the person entitled may demand from the other abatement of the injury. If a continuance of the injury is to be apprehended, he may apply for an injunction.

(G. 12).

17. – When several persons have perished in a common peril, and it is not possible to determine which of them perished first, they will be presumed to have died simultaneously.

(G. 20. Brazil 11. S. 32. Austria 25. It. 924).

18. – If the right to the use of a name by a person entitled to it is disputed by another, or if the interest of the person entitled is injured by the fact that another uses the same name without authority, then the person entitled may demand from the other abatement of the injury. If a continuance of the injury is to be apprehended, he may apply for an injunction.

(G. 12).

PART II. CAPACITY.

19. – On completion of twenty years of age a person **ceases** to be a minor and becomes Sui Juris.

(J.3. S.14. Compare G.2)

20. – A minor becomes Sui Juris upon marriage provided that the male minor marries after the completion of his seventeen years and the female minor after the completion of her fifteen years.

(S.14. J.765)

21. – For the doing of a juristic act, a minor must obtain the consent of his legal representative. All acts done by him without such consent are voidable except in the **three** [four] following sections.

(old text 46 S.C.19. J.4)

22. – A minor can do all acts by which he merely acquires a right or is freed from a duty.

(old text 47 J. 4)

PART II. CAPACITY.

19. – On the completion of twenty years of age a person **ceases** to be a minor and becomes Sui Juris.

(J.3. S.14 Compare G.2)

20. – A minor becomes Sui Juris upon marriage provided that the male minor marries after the completion of his **seventeen** years and the female minor after the completion of her fifteen years.

(S.14. J.765)

21. – For the doing of a juristic act, a minor must obtain the consent of his legal representative. All acts done by him without such consent are voidable except in the ~~three~~ ^{four} following sections.

(old text 46 S.C.19. J.4)

22. – A minor can do all acts by which he merely acquires a right or is freed from a duty.

(old text 47 J.4)

23. – A minor can do all acts which are strictly personal.
(old text 48 S.C. 19)

24. – A minor can do all acts which are suitable to his condition in life, and actually required for his reasonable needs.
(old text 49 Jenk's 50)

25[26]. – When the legal representative permits a minor to dispose of property for a purpose specified by him, the minor may within the limits of such purpose dispose of it at his pleasure. He may do the same as to property which he has been permitted to dispose of without any purpose being specified.

(J.5)

26[27]. – A minor may ask permission from his legal representative to carry on one or more businesses. In case of refusal by the latter, the Court may, on application by the minor, make an order authorising him to carry on business if it is of opinion that the order will be advantageous to him.

(old text 50; G. 5.)

25. – A minor, after completing fifteen years of age, can make a will.

(J. 1061)

23. – A minor can do all acts which are strictly personal.

(old text 48 S. C. 19)

24. – A minor can do all acts which are suitable to his condition in life, and actually required for his reasonable needs.

(old text 49 Jenk's 50)

25. – When the legal representative permits a minor to dispose of property for a purpose specified by him, the minor may within the limits of such purpose dispose of it at his pleasure. He may do the same as to property which he has been permitted to dispose of without any purpose being specified.

(J. 5)

26. – A minor may ask permission from his legal representative to carry on one or more businesses. In case of refusal by the latter, the Court may, on application by the minor, make an order authorising him to carry on business if it is of opinion that the order will be advantageous to him.

(old text 50; G. 5.)

25. – A minor, after completing fifteen years of age, can make a will.

(J. 1061)

27[28]. – A person who has been permitted to carry on one or more businesses, has the same capacity in relation to such businesses as a person Sui Juris.

If in such case the minor is not capable of conducting the business, the permission may be withdrawn either by the legal representative or by the Court **[as the case may be]**.

(J. 6.)

28[29]. – A person of unsound mind may be adjudged incompetent by the Court on the application of the wife, husband, ascendants, descendants, guardian or curator, or of the Public Prosecutor.

The Order of the Court shall be published in the Government Gazette.

(Fr. 490; J. 7; old text 54).

29[30]. – A person adjudged incompetent must be placed under guardianship.

(J. 8).

27. – A minor who has been permitted to carry on one or more businesses, has the same capacity in relation to such businesses as a person Sui Juris.

If in such case the minor is not capable of conducting the business, the permission may be withdrawn either by the legal representative or by the Court *as the case may be.*
(J. 6.)

28. – A person of unsound mind may be adjudged incompetent by the Court on the application of the wife, husband, ascendants, descendants, guardian or curator, or of the Public Prosecutor.

The order of the Court shall be published in the Government Gazette.

(Fr. 490; J. 7; old text 54).

29. – A person adjudged incompetent must be placed under guardianship.
(J. 8).

30[31]. – An act done by a person adjudged incompetent is voidable.

(j. 9).

31[32]. – An act done by a person of unsound mind but not adjudged incompetent is voidable only when it is proved that the act was done at a time when he was actually of unsound mind, and the other party had knowledge of such unsoundness.

(old text 56).

32[33]. – If the cause of the incompetency ceases to exist, the Court shall on the application of the person himself or of any of the persons mentioned in Section **28[29]** revoke the adjudication.

The order of the Court revoking the adjudication shall be published in the Government Gazette.

(j. 10).

30. – An act done by a person adjudged incompetent is voidable.
(๗.๙).

31. – An act done by a person of unsound mind but not adjudged incompetent is voidable only when it is proved that the act was done at a time when he was actually of unsound mind, and the other party had knowledge of such unsoundness.
(Old text 56).

32. – If the cause of the incompetency ceases to exist, the Court shall on the application of the person himself or of any of the persons mentioned in Section **28** revoke the adjudication.

The order of the Court revoking the adjudication shall be published in the Government Gazette.

(๗.1๐).

33[34]. – A person who is incapable of managing his own affairs because of physical or mental infirmity, habitual prodigality, or habitual intoxication, may be adjudged as quasi-incompetent and placed under curatorship by the Court upon an application by any of the person specified in Section **28[29]**.

The order of the Court shall be published in the Government Gazette.

(Old text 59; J. 11).

34[35]. – A quasi-incompetent person must obtain the consent of his curator for doing the following acts:

- (1) Receiving or employing capital;
- (2) Contracting a loan or giving security;
- (3) Doing any act whose object is the acquiring of, or parting with a right in an immovable or a valuable movable;
- (4) Doing any act relating to lawsuits, except that he may apply for the removal of his curator;
- (5) Making a gift, a compromise or an agreement to submit to arbitration;
- (6) Accepting or renouncing a succession;
- (7) Refusing a gift or a legacy, or accepting a gift or a legacy encumbered with a charge;
- (8) Constructing, rebuilding or enlarging buildings or making extensive repairs;

34
33. – A person who is incapable of managing his own affairs because of physical or mental infirmity, habitual prodigality, or habitual intoxication, may be adjudged as quasi-incompetent and placed under curatorship by the Court upon an application by any of the persons specified in Section **28**.

The order of the Court shall be published in the Government Gazette.

(Old text 59; J. 11).

35
34. – A quasi-competent person must obtain the consent of his curator for doing the following acts:

- (1) Receiving or employing capital;
- (2) Contracting a loan or giving security;
- (3) Doing any act whose object is the acquiring of, or parting with a right in an immovable or a valuable movable;
- (4) Doing any act relating to lawsuits, except that he may apply for the removal of his curator;
- (5) Making a gift, a compromise or an agreement to submit to arbitration;
- (6) Accepting or renouncing a succession;
- (7) Refusing a gift or a legacy, or accepting a gift or a legacy encumbered with a charge;
- (8) Constructing, rebuilding or enlarging buildings or making extensive repairs;

(9) Hiring or letting property longer than six months if the property is movable or three years if the property is immovable;

In proper circumstances the Court may order that the quasi-incompetent person must obtain the consent of the curator for acts other than those mentioned in the foregoing paragraph.

Any act contrary to the foregoing provisions is voidable.

(old text 60, 61; J. 12; de Becker principles p. 11, 12; Fr. 513; Br. 459).

36. - If the cause of the quasi-incompetency ceases to exist, the provisions of Section 33 shall apply correspondingly.

(J. 13).

37. - A married woman has, as regards her separate property, the same capacity as a person Sui Juris.

(Siamese and English Jurisprudence Jenk's 71).

38. - Subject to the following provisions a married woman cannot, without the permission of her husband, do any act binding the joint property (Sin borikon).

Any act contrary to this provision is voidable.

(สำหรับคำว่า "สินบริคณห์" กฎหมายลักษณะ หัวเมีย มาตรา ๗๒ - ๗๓ "Common property" G. 1438, 1519).

(9) Hiring or letting property longer than six months if the property is movable or three years if the property is immovable;

In proper circumstances the Court may order that the quasi-incompetent person must obtain the consent of the curator for acts other than those mentioned in the foregoing paragraph.

Any act contrary to the foregoing provisions is voidable.

(old text 60, 61; J. 12; de Becker principles p. 11, 12; Fr. 513; Br. 459).

36. - If the cause of the quasi-incompetency ceases to exist, the provisions of Section 33 shall apply correspondingly.

(J. 13).

37. - A married woman has, as regards her separate property, the same capacity as a person Sui Juris.

(Siamese and English Jurisprudence Jenk's 71).

38. - Subject to the following provisions a married woman cannot, without the permission of her husband, do any act binding the joint property (Sin borikon).

Any act contrary to this provision is voidable.

(สำหรับคำว่า "สินบริคณห์" กฎหมายลักษณะ หัวเมีย มาตรา ๗๒ - ๗๓ "Common property" G. 1438, 1519).

39. – In the following cases a married woman does not require the permission of her husband for doing any act binding her portion of the **sin beriken** [Common property].

- (1) If it is uncertain whether the husband is living or dead;
- (2) If the husband has deserted her;
- (3) If the husband has been adjudged incompetent of quasi-incompetent;
- (4) If the husband because of unsoundness of mind is placed in a hospital **or a private house [to be taken care of] to be taken care of;**
- (5) If the husband has been sentenced to an imprisonment for one year or a severer penalty and is undergoing such penalty;

(J. 17).

40. – A married woman can, without the permission of her husband, make a will dealing with per portion of the **[Common property] sin beriken.**

(Fr. 226, 905; Dika 664/2465).

41. – If a married woman is permitted by her husband to carry on a separate business, his permission is not necessary for such juristic acts and legal proceedings as come within the scope of the business.

A permission is implied if she carries on the business with the knowledge of and without any objection by her husband.

In any case the married woman can only bind her portion of the **[Common property] sin beriken.**

(G. 1405).

39. – In the following cases a married woman does not require the permission of her husband for doing any act binding her portion of the ^{Common property} **sin beriken**.

- (1) If it is uncertain whether the husband is living or dead;
 - (2) If the husband has deserted her;
 - (3) If the husband has been adjudged incompetent or quasi-incompetent;
 - (4) If the husband because of unsoundness of mind is placed in a hospital **or a private house [to be taken care of] to be taken care of;**
 - (5) If the husband has been sentenced to an imprisonment for one year or a severer penalty and is undergoing such penalty;
- (J. 17).

40. – A married woman can, without the permission of her husband, make a will dealing with her portion of the ^{Common property} **sin beriken.**

(Fr. 226, 905; Dika 664, 2465).

41. – If a married woman is permitted by her husband to carry on a separate business, his permission is not necessary for such juristic acts and legal proceedings as come within the scope of the business.

A permission is implied if she carries on the business with the knowledge of and without any objection by her husband.

In any case the married woman can only bind her portion of the ^{Common property} **sin beriken.**

(G. 1405).

79 / 27

42. – A husband may revoke or restrict the permission granted by him; but such revocation or restriction cannot be set up against a person acting in good faith.

(J. 16).

43. – If the permission of the husband is unreasonably withheld [or revoke] a married woman may apply to the Court for an order granting her permission to deal with her portion of the [Common property] ~~sin borikon~~.

The husband must be summoned to appear at the hearing of the application.

The Court may grant the order if it is of opinion that it will be advantageous to her; and it may revoke or restrict such order as it may think fit.

(c/p old text 27; Fr. 219).

42. – A husband may revoke or restrict the permission granted by him; but such revocation or restriction cannot be set up against a person acting in good faith.

(J. 16).

43. – If the permission of the husband is unreasonably withheld, a married woman may apply to the Court for an order granting her permission to deal with her portion of the ~~sin borikon~~.

The husband must be summoned to appear at the hearing of the application.

The Court may grant the order if it is of opinion that it will be advantageous to her; and it may revoke or restrict such order as it may think fit.

(c/p old text 27; Fr. 219).

PART III. DOMICILE.

44. – The domicile of a natural person is the place where he has his principal residence.

(old text 38[43]; Fr. 102; J. 21)

45. – If a natural person has several residences where he lives alternately, or various centers of habitual occupations, either one of the former or latter shall be considered his domicile.

(Br. 32; G. 7).

46. – If the domicile is not known, the place of residence is deemed to be his domicile.

(J. 22).

47. – The domicile of a natural person, who has no habitual residence, or employs his life in voyages without a central place of business, shall be held to be the place where is found.

(Br. 33).

PART III.

DOMICILE.

44. – The domicile of a natural person is the place where he has his principal residence.

(old text 38, Fr. 102; J. 21).

45. – If a natural person has several residences where he lives alternately, or various centers of habitual occupations, either one of the former or latter shall be considered his domicile.

(Br. 32; G. 7).

46. – If the domicile is not known, the place of residence is deemed to be his domicile.

(J. 22).

47. – The domicile of a natural person, who has no habitual residence, or employs his life in voyages without a central place of business, shall be held to be the place where he is found.

(Br. 33).

48. – The domicile is changed by transferring the residences with manifest intention of changing it.

(Br. 34; J. 7).

49. – If for the purpose of any act a special domicile has been selected, that is deemed to be the domicile in respect to such act.

(J. 24; Br. 42; Arg. 101).

50. – A married woman takes the domicile of her husband. If the husband establishes a domicile in a place in a foreign country to which she does not follow and is not bound to follow him, she does not take his domicile.

So long as the husband has no domicile or his domicile is not known or the married woman does not take his domicile, she may have a separate domicile.

(G. 10; S. 25).

51. – The domicile of a minor or an incompetent person is that of his legal representative.

(old text 45; Br. 36).

48. – The domicile is changed by transferring the residence with manifest intention of changing it.

(Br. 34; J. 7).

49. – If for the purpose of any act a special domicile has been selected, that is deemed to be the domicile in respect to such act.

(J. 24; Br. 42; Arg. 101).

50. – A married woman takes the domicile of her husband. If the husband establishes a domicile in a place in a foreign country to which she does not follow and is not bound to follow him, she does not take his domicile.

So long as the husband has no domicile or his domicile is not known or the married woman does not take his domicile, she may have a separate domicile.

(G. 10; S. 25).

51. – The domicile of a minor or an incompetent person is that of his legal representative.

(old text 45; Br. 36).

52. – Public officials are considered as domiciled in the place where they exercise their functions, provided that such functions are not temporary, periodical or mere commission.

(Br. 37; Arg. 90).

52. – Public officials are considered as domiciled in the place where they exercise their functions, provided that such functions are not temporary, periodical or mere commission.

(Br. 37; Arg. 90).

PART IV. DISAPPEARANCE.

53. – If a person has left his domicile or residence without having appointed an agent with general authority and it is uncertain whether he is living or dead, the Court may, on the application of any interested person or of the Public Prosecutor, order such provisional measures to be taken as may be necessary for the management of property of such person.

The Court may appoint a manager of the property after one year has elapsed from the day when he has left his domicile or residence if no news of him has ever been received, or from the day when he has last been seen or heard of.

(old text 64; J. 25; Br. 463; G. 1911; Fr. 112. 114).

54. – The foregoing section applies if an agent with general authority has been appointed by the absent person but his authority comes to an end, or it appears that his management is likely to cause injury to the absent person.

(old text 65; J. 25).

55. – The court may, on the application of any interested person or of the public

PART IV.

DISAPPEARANCE.

53. – If a person has left his domicile or residence without having appointed an agent with general authority and it is uncertain whether he is living or dead, the Court may, on the application of any interested person or of the Public Prosecutor order such provisional measures to be taken as may be necessary for the management of the property of such person.

The Court may appoint a manager of the property after one year has elapsed from the day when he has left his domicile or residence if no news of him has ever been received or from the day when he has last been seen or heard of.

(old text 64; J. 25; Br. 463; G. 1911; Fr. 112. 114).

54. – The foregoing section applies if an agent with general authority had been appointed by the absent person but his authority comes to an end or it appears that his management is likely to cause injury to the absent person.

(old text 65; J. 25).

55. – The Court may on the application of any interested person or of the Public

prosecutor, order an inventory of the property to be made by the agent with general authority.

(J. 27 par. 2).

56. – If it is necessary for the agent with general authority to do any act beyond the scope of his authority, he may do so on obtaining permission of the Court.

(old text 66; J. 28).

57. – The manager appointed by the Court must make an inventory of the property of the absent person at the time when he assumes the management; such inventory shall be made in the presence of, and signed by two witnesses.

(old text 67; J. 27 par. 1).

58. – The manager has the powers of an agent with general authority. For acts beyond the scope of his authority he must obtain the previous permission of the Court.

(old text 68; J. 28).

59. – If the absent person has appointed an agent with special authority, the manager cannot interfere with such special agency,

79/33

Prosecutor order an inventory of the property to be made by the agent with general authority.

(J. 27 par. 2).

56. – If it is necessary for the agent with general authority to do any act beyond the scope of his authority, he may do so on obtaining permission of the Court.

(old text 66; J. 28).

57. – The manager appointed by the Court must make an inventory of the property of the absent person at the time when he assumes the management; such inventory shall be made in the presence of, and signed by two witnesses.

(old text 67; J. 27 par. 1).

58. – The manager has the powers of an agent with general authority. For acts beyond the scope of his authority he must obtain the previous permission of the Court.

(old text 68; J. 28).

59. – If the absent person has appointed an agent with special authority, the manager cannot interfere with such special agency

but he can apply to the Court for an order removing the agent if it appears that his management is likely to cause injury to the absent person.

(old text 69; plan I No. 625).

60. – The court may, at any time, of its own motion or on the application of any interested person or of the public prosecutor:

- (1) Require the manager to give security for the management and return of the property entrusted to him;
- (2) Require him to give information as to the condition of the property;
- (3) Remove him for reasonable cause and appoint another manager in his stead.

(old text 70; J. 29 par. 1.).

61. – The court may order that the manager shall receive a remuneration to be paid out of the property of the absent person.

(old text 71; J. 29 par. 2).

62. The authority of the manager comes to an end:

- (1) Upon the return of the absent person;
- (2) Upon proof of certainty of the life or death of the absent person;

but he can apply to the Court for an order removing the agent if it appears that his management is likely to cause injury to the absent person.

(old text 69; plan. I No. 625).

60. – The Court may, at any time, of its own motion or on the application of any interested person or of the Public Prosecutor:

- (1) Require the manager to give security for the management and return of the property entrusted to him;

(2) Require him to give information as to the condition of the property;

(3) Remove him for reasonable cause and appoint another manager in his stead.

(old text 70; J. 29 par. 1.).

61. – The Court may order that the manager shall receive a remuneration to be paid out of the property of the absent person.

(old text 71; J. 29 par. 2).

62. – The authority of the manager comes to an end:

- (1) Upon the return of the absent person;
- (2) Upon proof of certainty of the life or death of the absent person;

- (3) Upon the resignation or the death of the manager;
- (4) Upon the adjudication of disappearance;
- (5) Upon removal of the manager by the Court.

(Plan I No. 636; old text 72).

63. – In so far as it is not contrary to or inconsistent with his Part, the Title XV of Book III concerning Agency applies to the management of the property of the absent person.

(old text 73).

64. If a person has left his domicile or residence and it has been uncertain for seven years whether he is living or dead, the court may, on the application of any interested person or of the Public Prosecutor, adjudge that such person has disappeared.

The same applies to a person who has gone to the seat of a war, or has been on a ship which was lost, or has come into any other peril of his life, if it is uncertain whether he is living or dead for three years after the war has come to an end, the ship has been lost or the other peril has passed.

(old text 74; J. 30).

(3) Upon the resignation or the death of the manager;

(4) Upon the adjudication of disappearance;

(5) Upon removal of the manager by the Court.

(Plan. I No. 636; old text 72).

63. – In so far as it is not contrary to or inconsistent with this Part, the Title XV of Book III concerning Agency applies to the management of the property of the absent person.

(old text 73).

64. – If a person has left his domicile or residence and it has been uncertain for seven years whether he is living or dead, the Court may, on the application of any interested person or of the Public Prosecutor, adjudge that such person has disappeared.

The same applies to a person who has gone to the seat of a war, or has been on a ship which was lost, or has come into any other peril of his life, if it is uncertain whether he is living or dead for three years after the war has come to an end, the ship has been lost or the other peril has passed.

(old text 74, J. 30).

65. – A person against whom an adjudication of disappearance has been made is deemed to have died at the completion of the period specified in the foregoing section.

(J. 31).

66. – If it is proved that the person who disappeared is living, or that he died at a time different from that specified in foregoing section, the Court must upon the application of such person or any interested person or the Public Prosecutor revoke the adjudication; but this does not affect the validity of acts done in good faith between the adjudication and the revocation.

A person who has acquired property under the adjudication but loses his right by its revocation is bound to return such property only so far as he is still enriched by it.

(old text 76; J. 32).

67. – The adjudication of disappearance and its revocation shall be published in the Government Gazette.

(c/p Fr. 118).

35. – A person against whom an adjudication of disappearance has been made is deemed to have died at the completion of the period specified in the foregoing section.

(J. 31).

66. – If it is proved that the person who disappeared is living, or that he died at a time different from that specified in the foregoing section, the Court must upon the application of such person or of any interested person or the Public Prosecutor revoke the adjudication; but this does not affect the validity of acts done in good faith between the adjudication and the revocation.

A person who has acquired property under the adjudication but loses his right by its revocation is bound to return such property only so far as he is still enriched by it.

(old text 76; J. 32).

67. – The adjudication of disappearance and its revocation shall be published in the Government Gazette.

(c/p Fr. 118).

CHAPTER II. JURISTIC PERSONS.

PART I. GENERAL PROVISIONS.

68. – A juristic person can come into existence only by virtue of the provisions of this Code or of **some** other law.

(old text 78; J. 33).

69 – A juristic person has rights and duties in conformity with the provisions of law within the scope of its object as defined in the regulation or constitutive act.

(J. 43).

70. – Subject to foregoing section a juristic person enjoys the same rights and is subject to the same duties as a natural person, except those which by reason of their nature, may only be enjoyed or incurred only by a natural person.

(old text 79; S.C. 53).

71. – The domicile of a juristic person is the place where it has its principal office or establishment or which has been selected as a special domicile in its regulation or constitutive act.

CHAPTER II. JURISTIC PERSONS.

PART I. GENERAL PROVISIONS.

68. – A juristic person can come into existence only by virtue of the provisions of this Code or of ~~some~~ other law.
(old text 78; J. 33). H.C. 2 + 4 July

69. – A juristic person has rights and duties in conformity with the provisions of law within the scope of its object as defined in the regulation or constitutive act.
(J. 43).

70. – Subject to the foregoing section a juristic person enjoys the same rights and is subject to the same duties as a natural person, except those which by reason of their nature, may be enjoyed or incurred only by a natural person.
(old text 79; S.C. 53).

71. – The domicile of a juristic person is the place where it has its principal office or establishment or which has been selected as a special domicile in its regulation or constitutive act.

The place where it has a branch office may also be considered ~~to be~~ its domicile as to the acts there performed.

(old text 80; S.C. 56; Br. 35 par. 4 § 3; J. 50;).

72. – The following are juristic persons:

- (1) Public bodies,
- (2) Monasteries,
- (3) Registered partnerships,
- (4) Limited compa~~n~~ies,
- (5) Associations,
- (6) Authorized foundations.

(old text 81).

73. – Public bodies are Ministries and Departments of the Government, Local Administrations and Municipalities.

(old text 82).

74. – Public bodies and Monasteries are governed by the law and regulations relating thereto.

(old text 83 par. 1).

75. – The will of a juristic person is declared through its representatives.

(S.C. 55; Br. 17).

The place where it has a branch office may also be considered ~~to be~~ its domicile as to the acts there performed.

(old text 80; S.C. 56; Br. 35 par. 4 § 3; J. 50;)

72. – The following are juristic persons:

- (1) Public bodies,
- (2) Monasteries,
- (3) Registered partnerships,
- (4) Limited companies,
- (5) Associations,
- (6) Authorized foundations.

(old text 81)

73. – Public bodies are Ministries and Departments of the Government, Local Administrations and Municipalities,

(old text 82).

74. – Public bodies and Monasteries are governed by the laws and regulations relating thereto.

(old text 83 par. 1).

75. – The will of a juristic person is declared through its representatives.

(S.C. 55; Br. 17).

76. – A juristic person is bound to make compensation for any damage done to other persons by its manager[s] or other representatives in the exercise of their functions, saving its right of recourse against the causers of the damage.

If damage is done to other persons by an act which is not within the scope of the object of the juristic person, those members or managers who voted in favour of such act, are jointly liable to make compensation.

(J. 44; Br. 15; G. 31).

77. – When there are several managers, if it is not otherwise provided in the regulations or the constitutive act or otherwise provided by law, decisions as to the affairs of the juristic persons are made by a majority of the managers.

(J. 52 par. 2).

78. – Any restriction of modification of the powers of representation of the managers cannot be set up against third person acting in good faith.

(J. 54; G. 26).

76. – A juristic person is bound to make compensation for any damage done to other persons by its manager or other representatives in the exercise of their functions, saving its right of recourse against the causers of the damage.

If damage is done to other persons by an act which is not within the scope of the object of the juristic person, those members or managers who voted in favour of such act, and those managers and other representatives who executed it, are jointly liable to make compensation

(J. 44; Br. 15; G. 31).

77. – When there are several managers, if it is not otherwise provided in the regulations or the constitutive act or otherwise provided by law, decisions as to the affairs of the juristic person are made by a majority of the managers.

(J. 52 par. 2).

78. – Any restriction or modification of the powers of representation of the managers cannot be set up against third persons acting in good faith.

(J. 54; G. 26).

79. – If a vacancy occurs among the managers, and there is reason to apprehend that damage might ensue from delay, the Court **[may]** on the application of any interested person or of the Public Prosecutor appoints a temporary manager.

(old text 90; J. 56; G. 29 c/p old text 90).

80. – In a matter in which the interests of a juristic person conflict with those of a manager, the latter has no representative power. In such case a special representative must be appointed according to the provisions of the foregoing section.

(J. 57).

79. – If a vacancy occurs among the managers, and there is reason to apprehend that damage might ensue from delay, the Court ^{may} on the application of any interested person or of the Public Prosecutor appoints a temporary manager.

(old text 90; J. 56; G. 29 c/p old text 90).

80. – In a matter in which the interests of a juristic person conflict with those of a manager, the latter has no representative power. In such case a special representative must be appointed according to the provisions of the foregoing section.

(J. 57).

PART II FOUNDATIONS.

81. – A foundation consists of property appropriated to charitable, religious, scientific, literary or other purpose for the public benefit and not for sharing profit.

(c/p old text 84; G. 80; Sch. p. 41; J. 34).

82. – A foundation must be created by an instrument in writing containing the following particulars:

- (1) The name of the foundation,
- (2) Its objects,
- (3) The address of its office, if any,
- (4) Provisions relating [as] to its property,
- (5) The rules for its management,

(5) The [Provisions as to the] appointment and dismissal of its managers.

(c/p old text 85 par. 1 and 86; J. 37).

83. – If a foundation is created by an act inter vivos, the provisions relating to Gifts apply mutatis mutandis.

If it is created by will, the provisions relating to Inheritance apply mutatis mutandis.

(J. 39, 41; G. 80; Br. 24).

PART II FOUNDATIONS.

81. – A Foundation consists of property appropriated to charitable, religious, scientific, literary or other purposes for the public benefit and not for sharing profit.

(c/p old text 84; G. 80; Sch. p. 41; J. 34).

82. – A foundation must be created by an instrument in writing containing the following particulars:

- (1) The name of the foundation,
- (2) Its objects,
- (3) The address of its office, if any,
- (4) Provisions relating to its property,
- (5) The rules for its management,
- (5) The appointment and dismissal of its managers.

(c/p old text 85 par. 1 and 86, J. 37).

83. – If a foundation is created by an act inter vivos, the provisions relating to Gifts apply mutatis mutandis.

If it is created by will, the provisions relating to Inheritance apply mutatis mutandis.

(J. 39, 41; G. 80; Br. 24).

84. – If the founder dies without having made provision as to its name, the office or the manner of the appointment or dismissal of its managers, this shall be done by the Court on the application of any interested person or of the Public Prosecutor.

(J. 40).

85. – A foundation may be constituted as a juristic person upon authorization by the Government.

Within fourteen days after the authorization being granted, a summary of the particulars of the foundation shall be caused to be published in the Government Gazette by the competent minister.

(c/p old text 85 par. 2, 87 par. 2).

86. – The authorization of a foundation lies entirely in the discretion of the Government and may be granted subject to such conditions as they think fit.

(c/p old text 87 par. 1).

87. – In case of authorized foundation the property appropriated by an act inter vivos vests in such foundation from the time when the authorization is granted.

(J. 42).

84. – If the founder dies without having made provision as to its name, the office or the manner of the appointment or dismissal of its managers, this shall be done by the Court on the application of any interested person or of the Public Prosecutor.

(J. 40)

85. – A foundation may be constituted as a juristic person upon authorization by the Government.

Within fourteen days after the authorization being granted, a summary of the particulars of the foundation shall be caused to be published in the Government Gazette by the competent minister.

(c/p old text 85 par. 2, 87 par. 2).

86. – The authorization of a foundation lies entirely in the discretion of the Government and may be granted subject to such conditions as they think fit.

(c/p old text 87 par. 1).

87. – In case of authorized foundation the property appropriated by an act inter vivos vests in such foundation from the time when the authorization is granted.

(J. 42).

88. – In its relation with third persons an authorized foundation is represented by its managers.

(old text 88 par. 1; c/p J. 53; G. 26).

89. – The relation between an authorized foundation and its managers and between these and third persons are governed by the provisions of this Code concerning Agency.

(c/p old text 89).

90. – Every foundation is subject to supervision of the Government. Any official commissioned to that effect by the Government shall have access to the books and accounts of the foundation at any reasonable time. He can examine the managers and any agents or employees of the foundation on any matters relating to it.

(old text 91; J. 67).

91. – If the managers mismanage or act contrary to the instrument creating the foundation, the Court may on application of the Public Prosecutor or any interested person, dismiss the managers and appoint one or more new managers.

88. – In its relation with third persons an authorized foundation is represented by its managers.

(old text 88 par. 1; c/p J. 53; G. 26).

89. – The relation between an authorized foundation and its managers and between these and third persons are governed by the provisions of this Code concerning Agency.

(c/p old text 89).

90. – Every foundation is subject to supervision of the Government. Any official commissioned to that effect by the Government shall have access to the books and accounts of the foundation at any reasonable time. He can examine the managers and any agents or employees of the foundation on any matters relating to it.

(old text 91; J. 67).

91. – If the managers mismanage or act contrary to the instrument creating the foundation, the Court may on application of the Public Prosecutor or any interested person, dismiss the managers and appoint one or more new managers.

92. – A foundation comes to an end

- (1) In accordance with the provisions of the instrument creating the foundation, or
- (2) Upon its objects being fulfilled or becoming impossible, or
- (3) Upon the foundation becoming bankrupt, or
- (4) By an order of the Court as provided in the following section.

(old text 92; c/p J. 68, 70).

93. – The Court may, on application of the Public Prosecutor or of any interested person, order a foundation to be dissolved and appoint one or more liquidators in the following cases:

- (1) If it was created contrary to the provisions of the present Part or if it commits acts contrary to law, or against public order or good morals.
- (2) If for any cause whatsoever its management can no longer be carried on.
- (3) If it acts contrary to the provisions of the instrument creating the foundation, or to the conditions under which the Government has granted the authorization.

92. – A foundation comes to an end

- (1) In accordance with the provisions of the instrument creating the foundation, or
- (2) Upon its objects being fulfilled or becoming impossible, or
- (3) Upon the foundation becoming bankrupt, or

(4) By an order of the Court as provided in the following section.

(old text 92; c/p J. 68, 70).

93. – The Court may, on application of the Public Prosecutor or of any interested person, order a foundation to be dissolved and appoint one or more liquidators in the following cases:

- (1) If it was created contrary to the provisions of the present Part or if it commits acts contrary to law, or against public order or good morals.
- (2) If for any cause whatsoever its management can no longer be carried on.
- (3) If it acts contrary to the provisions of the instrument creating the foundation, or to the conditions under which the Government has granted the authorization.

The Court may, instead of ordering a dissolution dismiss the managers and appoint one or more new managers.

(c/p old text 93; c/p J. 71).

94. – Within fourteen days after an authorized foundation comes to an end the managers must in writing inform the competent authorities who shall cause a notification to that effect to be published in the Government Gazette within fourteen days after information.

95. – The provisions of law concerning Liquidation of Partnerships and Companies apply to the liquidation of foundation mutatis mutandis.

(old text 94).

96. – When a foundation comes to an end, its properties shall be transferred to such juristic person as may have been designated by the instrument creating the foundation.

In the absence of such juristic person, the Court shall, on application of the Public Prosecutor or of any interested person, appropriate the properties to such other juristic persons the purpose of which appears to be as near to the former foundation as possible.

The Court may, instead of ordering a dissolution dismiss the managers and appoint one or more new managers.

(c/p old text 93, c/p J. 71).

94. – Within fourteen days after an authorized foundation comes to an end the managers must in writing inform the competent authorities who shall cause a notification to that effect to be published in the Government Gazette within fourteen days after information.

95. – The provisions of law concerning Liquidation of Partnerships and Companies apply to the liquidation of foundation mutatis mutandis.

(old text 94).

96. – When a foundation comes to an end, its properties shall be transferred to such juristic person as may have been designated by the instrument creating the foundation.

In the absence of such juristic person, the Court shall, on application of the Public Prosecutor or of any interested person, appropriate the properties to such other juristic persons the purpose of which appears to be as near to the former foundation as possible.

Provided that if such appropriation cannot be made or if the foundation has been dissolved on account of its being contrary to the law or against public order or good morals, the Court ~~[may make an] shall~~ order ~~[vesting] that~~ its properties ~~devolve upon the [in the]~~ State.

(old text 95; c/p J. 72; G. 45, 46).

97. – Regulations for the authorization and supervision of foundations within the meaning of the present Part may be issued by the Minister responsible for the local administration.

The Minister shall cause a list of authorized foundations to be kept together with the particulars published in the Government Gazette.

(c/p old text 96).

Provided that if such appropriation cannot be made or if the foundation has been dissolved on account of its being contrary to the law or against public order or good morals, the Court ^{may make an} ~~shall~~ order ^{vesting} ~~that~~ its properties ~~devolve upon the~~ ^{in the} State.

(old text 95; c/p J. 72; G. 45, 46).

97. – Regulations for the authorization and supervision of foundations within the meaning of the present Part may be issued by the Minister responsible for the local administration.

The Minister shall cause a list of authorized foundations to be kept together with the particulars published in the Government Gazette.

c/p old text 96).

TITLE III. THINGS.

98. – Things, in the legal sense, are corporeal objects.

(G. 90; J. 85).

99. – Property includes things as well as incorporeal objects, susceptible of having a value and of being appropriated.

(Arg. 2346; Repert Carpentier Vo. Biens No. 1).

100. – Immovable property denotes land and things fixed to land or forming a body therewith. It includes real rights connected with ownership of land.

(Huebner. No. 25 p. 165; c/p G. 96; J. 86).

101. – Movable property denotes things which can be carried from one place to another, whether moving by their own motion, or being moved by an external force. It includes forces of nature susceptible of appropriation as well as rights connected with movables.

(Arg. 2352; Br. 47; S.C. 713).

TITLE III. THINGS.

98. – Things, in the legal sense, are corporeal objects.

(G. 90; J. 85).

99. – Property includes things as well as incorporeal objects, susceptible of having a value and of being appropriated.

(Arg. 2346; Repert Carpentier Vo. Biens No. 1).

100. – Immovable property denotes land and things fixed to land or forming a body therewith. It includes rights connected with ownership of land.

(Huebner. No. 25 p. 165; c/p G. 96; J. 86).

101. – Movable property denotes things which can be carried from one place to another, whether moving by their own motion, or being moved by an external force. It includes forces of nature susceptible of appropriation as well as rights connected with movables.

(Arg. 2352; Br. 47; S.C. 713).

102. – Fungible things are those movables which can, and non-fungible those which cannot, in ordinary dealings be substituted by others of the same kind, quality and quantity.

(Br. 50; G. 91; Baud. ~~vol.~~ Vol. 6 No. 18).

103. – Consumable things are movables, the use of which implies the immediate destruction of their substance or whose ultimate use consists in being disposed of.

(Br. 51; G. 92; Plan. Vol. 1. No. 1279)

104. – Divisible things are those which can be separated into real and distinct portions, each forming a perfect whole.

(Br. 52).

105. – Indivisible things are those which cannot be separated without alteration in its substance as well as those which are considered indivisible by law.

(Br. 53).

102. – Fungible things are those movables which can, and non-fungible those which cannot, in ordinary dealings be substituted by others of the same kind, quality and quantity.

(Br. 50; G. 91; Baud. ~~vol.~~ Vol. 6 No. 18).

103. – Consumable things are movables, the use of which implies the immediate destruction of their substance or whose ultimate use consists in being disposed of.

(Br. 51; G. 92; Plan. Vol. 1. No. 1279)

104. – Divisible things are those which can be separated into real and distinct portions, each forming a perfect whole.

(Br. 52).

105. – Indivisible things are those which cannot be separated without alteration in its substance as well as those which are considered indivisible by law.

(Br. 53).

106. – Things outside of commerce are such as are incapable of appropriation, and those legally inalienable.

(br. 69).

107. – A component part of a thing is that which, according to its nature or local custom is essential to its existence and cannot be separated without destroying, damaging or altering it.

Whoever is the owner of a thing has ownership in all its component parts.

(c/p Huebner. No. 27 p. 175; S.C. 642)

108. – Trees when planted for an unlimited period of time are deemed to be component parts of the land on which they stand.

Trees which grow only for a limited period of time and crops which may be harvested one or more times a year are not component parts of the land and are to be regarded as movables.

(old text 104; Dika 149/120).

ประกาศให้ข้อบังคับชั่วคราว สำหรับการเพาะปลูก ร.ศ. ๑๒๙ ร้อย ๖. ๗

109. – Things temporarily fixed to land or to a building do not become component parts. The same rule applies to a building or other structure which in the exercise of a right over another person's land has been fixed to the land by the person who has such right.

(old text 101 par. 2; G. 95; S.C. 675, 677).

106. – Things outside of commerce are such as are incapable of appropriation, and those legally inalienable.

(br. 69).

107. – A component part of a thing is that which according to its nature or local customs is essential to its existence and cannot be separated without destroying, damaging, or altering it.

Whoever is the owner of a thing has the ownership in all its component parts.

(c/p Huebner No. 27 p. 175; S.C. 642).

108. – Trees when planted for an unlimited period of time are deemed to be component parts of the land on which they stand.

Trees which grow only for a limited period of time and crops which may be harvested one or more times a year are not component parts of the land and are to be regarded as movables.

(old text 104; Dika 149/120).

ประกาศให้ข้อบังคับชั่วคราว สำหรับการเพาะปลูก ร.ศ. ๑๒๙ ร้อย ๖. ๗

109. – Things temporarily fixed to land or to a building do not become component parts. The same rule applies to a building or other structures which in the exercise of a right over another person's land has been fixed to the land by the person who has such right.

(old text 101 par. 2; G. 95; S.C. 675, 677).

110. – Accessories are movable things, which are, according to the usual local conception or clear intention of the owner of the principal thing, attached to such things permanently for its management, use or preservation, and, by connection, adjustment or otherwise, brought by the owner into the relation with the principal thing, in which it must serve the principal thing.

Even though an accessory is temporarily severed from the principal thing, it does not cease to be an accessory.

Saving special disposition to the contrary, the accessory follows the principal thing.

(S.C. 644; Br. 59; G. 97).

111. – By fruit or fruits of a thing is meant:

(1) Natural fruits, that is to say all that which is obtained in the use of such thing according to its nature, such as the fruit of trees, and milk, hair, wool, and offspring of animals; these are capable of acquisition at the time when they are severed from the thing;

(2) Legal fruits, that is to say interest, profits, rents, dividends or other gains obtained periodically by the owner from another person for the use of the thing; these are calculated and may be acquired day by day.

(old text 105; c/p J. 88, 89).

110. – Accessories are movable things, which are, according to the usual local conception or clear intention of the owner of the principal thing, attached to such things permanently for its management, use or preservation, and, by connection, adjustment or otherwise, brought by the owner into the relation with the principal thing, in which it must serve the principal thing.

Even though an accessory is temporarily severed from the principal thing, it does not cease to be an accessory.

Saving special disposition to the contrary, the accessory follows the principal thing.

(S.C. 644; Br. 59; G. 97).

111. – By fruit or fruits of a thing is meant:

(1) Natural fruits, that is to say all that which is obtained in the use of such thing according to its nature, such as the fruit of trees, and milk, hair, wool, and offspring of animals; these are capable of acquisition at the time when they are severed from the thing;

(2) Legal fruits, that is to say interest, profits, rents, dividends or other gains obtained periodically by the owner from another person for the use of the thing; these are calculated and may be acquired day by day.

(old text 105; c/p J. 88, 89).

TITLE IV. JURISTIC ACTS.

CHAPTER I. GENERAL PROVISIONS.

112. – Juristic act are voluntary lawful acts, the immediate purpose of which is to establish between persons juristic relations, to create, modify, transfer, preserve or extinguish rights.

(Arg. 978; Br. 81).

113. – An act is void if its object is expressly prohibited by law or is impossible, or is contrary to public order or good morals.

(J. 90; Fr. 1108, 1131, 1133; G. 138; S.O. 19 – 21).

114. – An act is not void on account of its differing from a provision of any law if such law does not relate to public order or good moral.

(J. 91; Fr. 6; G. 134, 138; S.O. 19 – 22).

115. – An act which is not in the form prescribed by law is void.

(G. 125).

TITLE IV. JURISTIC ACTS.

CHAPTER I. GENERAL PROVISIONS.

112. – Juristic acts are voluntary lawful acts, the immediate purpose of which is to establish between persons juristic relations, to create, modify, transfer, preserve or extinguish rights.

(Arg. 978; Br. 81).

113. – An act is void if its object is expressly prohibited by law or is impossible or is contrary to public order or good morals.

(J. 90; Fr. 1108, 1131, 1133; G. 138; S.O. 19 – 21).

114. – An act is not void on account of its differing from a provision of any law if such law does not relate to public order or good morals.

(J. 91; Fr. 6; G. 134, 138; S.O. 19 – 22).

115. – An act which is not in the form proscribed by law is void.

(G. 125).

116. – An act which does not comply with the requirements concerning capacity of person is voidable.

(c/p old text 107; Fr. 1108; Ind. 10; Arg. 94, 95, 128).

?

CHAPTER II.

DECLARATION OF INTENTION.

117. A declaration of intention is not void on the ground that the declarant in the recesses of his mind does not intend to be bound by his expressed intention, unless this hidden intention was known to the other party.

(G. 116; Sch. p. 93).

118. – A declaration of intention made with the connivance of the other party which is fictitious is void; but its invalidity cannot be set up against third persons injured by the fictitious declaration of intention and acting in good faith.

If a juristic act is intended to conceal another juristic act, the provisions of law relating to the concealed act shall apply.

(J. 94; Sch. p. 93; G. 117; Jenk's No. 79; Br. 105).

116. – An act which does not comply with the requirements concerning capacity of person is voidable.

(c/p old text 107; Fr. 1108; Ind. 10; Arg. 94, 95, 128).

?

CHAPTER II.

DECLARATION OF INTENTION.

117. – A declaration of intention is not void on the ground that the declarant in the recesses of his mind does not intend to be bound by his expressed intention, unless this hidden intention was known to the other party.

(G. 116; Sch. p. 93).

118. – A declaration of intention made with the connivance of the other party which is fictitious is void; but its invalidity cannot be set up against third persons injured by the fictitious declaration of intention and acting in good faith.

If a juristic act is intended to conceal another juristic act, the provisions of law relating to the concealed act shall apply.

(J. 94; Sch. p. 93; G. 117; Jenk's No. 79; Br. 105).

119. – A declaration of intention is void if made under a mistake as to an essential element of the juristic act, but if the mistake was due to the gross negligence of person making such declaration he cannot avail himself of such invalidity.

(J. 95).

120. – A declaration of intention is voidable if made under a mistake as to a quality of the person or the thing which is considered as essential in the ordinary dealings.

(Walton Vol. I; p. 215).

~~121. – A declaration of intention procured by fraud or duress is voidable.~~

~~When a third person has committed a fraud in respect to a declaration of intention made to some persons, it is voidable only if the other party knew or ought to have known of the fraud.~~

~~The avoidance of a declaration of intention procured by fraud cannot be set up against a third person acting in good faith.~~

(J. 96).

122. – An act is voidable on account of fraud only when it is such that without it the act would not have been made.

(Old text 136)

119. – A declaration of intention is void if made under a mistake as to an essential element of the juristic act, but if the mistake was due to the gross negligence of person making such declaration he cannot avail himself of such invalidity.

(J. 95).

120. – A declaration of intention is voidable if made under a mistake as to a quality of the person or the thing which is considered as essential in the ordinary dealings.

(Walton Vol. I; p. 215).

~~121. – A declaration of intention procured by fraud or duress is voidable.~~

~~When a third person has committed a fraud in respect to a declaration of intention made to some persons, it is voidable only if the other party knew or ought to have known of the fraud.~~

~~The avoidance of a declaration of intention procured by fraud cannot be set up against a third person acting in good faith.~~

(J. 96).

122. – An act is voidable on account of fraud only when it is such that without it the act would not have been made.

121. – A declaration of intention procured by fraud or duress is voidable.

When a party has made a declaration of intention owing to a fraud committed by a third person, the act is voidable only if the other party knew or ought to have known of the fraud.

The avoidance of a declaration of intention procured by fraud cannot be set up against a third person acting in good faith.

121. – A declaration of intention procured by fraud or duress is voidable.

When a party has made a declaration of intention owing to a fraud committed by a third person, the act is voidable only if the other party knew or ought to have known of the fraud.

The avoidance of a declaration of intention procured by fraud cannot be set up against a third person acting in good faith.

123. – If the fraud is only incidental, that is to say, it has merely induced a party to accept more onerous terms than would otherwise have done, such party can only claim compensation for damage and cannot avoid the act.

(Walton Vol. I p. 255)

124. – In bilateral juristic acts, the intentional silence of one of the parties in respect to a fact or quality of which the other party is ignorant, is deemed to be a fraud if it is proved that, without it, the act would not have been made.

(Br. 94)

125. – If both parties acted with fraud, neither of them can allege it, to avoid the act or to claim compensation.

(Br. 97)

126. – Duress in order to make an act voidable must be such that it induces in the person affected by it a founded fear of injury to his person, his family, or his property, imminent and equal, at least, to that which he fears from the act extorted.

(Br. 98)

123. – If the fraud is only incidental, that is to say, it has merely induced a party to accept more onerous terms than he would otherwise have done, such party can only claim compensation and cannot avoid the act.

(Walton Vol. I p. 255)

124. – In bilateral juristic acts, the intentional silence of one of the parties in respect to a fact or quality of which the other party is ignorant, is deemed to be a fraud if it is proved that, without it, the act would not have been made.

(Br. 94)

125. – If both parties acted with fraud, neither of them can allege it, to avoid the act or to claim compensation.

(Br. 97)

126. – Duress in order to make an act voidable must be such that it induces in the person affected by it a founded fear of injury to his person, his family, or his property, imminent and equal, at least, to that which he fears from the act extorted.

(Br. 98)

127. - The threat of the normal exercise of a right, or simple reverential fear, is not considered as duress.

(Br. 100)

128. - Duress vitiates the juristic act, even when it is exercised by a third person.

(Br. 101)

129. - In determining a case of mistake, fraud or duress, the sex, age, position, health, temperament of the complaining party person aggrieved patient, and all other circumstances, which may bear upon its gravity, shall be taken into consideration.

(Br. 99; Old text 141)
F 1117

* 8th August

130. - A declaration of intention made to a person at a distance takes effect from the time when it reaches the other party. It does not become effective if a revocation reaches him previously or simultaneously.

Even though the person who made a declaration of intention dies or becomes incapacitated after it has been sent, the validity of the declaration is not impaired thereby.

(J. 97)

79/68

127. - The threat of the normal exercise of a right, or simple reverential fear, is not considered as duress.

(Br. 100)

128. - Duress vitiates the juristic act, even when it is exercised by a third person.

(Br. 101)

129. - In determining a case of mistake, fraud or duress, the sex, age, position, health, temperament of the complaining party person aggrieved patient, and all other circumstances, which may bear upon its gravity, shall be taken into consideration.

(Br. 99; Old text 141) * 8th August
F 1117

130. - A declaration of intention made to a person at a distance takes effect from the time when it reaches the other party. It does not become effective if a revocation reaches him previously or simultaneously.

Even though the person who made a declaration of intention dies or becomes incapacitated after it has been sent, the validity of the declaration is not impaired thereby.

(J. 97)

131. If the declaration of intention is made to a minor or a person adjudged incompetent at the time when he receives the declaration of intention, such declaration cannot be set up against him but this does not apply after his [legal] lawful representative has knowledge of it.

(J. 98)

132. – In the interpretation of a declaration of intention, the true intention is to be sought rather than the literal meaning of the words or expressions.

(G. 133).

131. - If the other party is a minor or has been adjudged incompetent at the time when he receives the declaration of intention, such declaration cannot be set up against him but this does not apply after his ^{legal} ~~lawful~~ representative has knowledge of it.

(J. 98)

132. - In the interpretation of a declaration of intention, the true intention is to be sought rather than the literal meaning of the words or expressions.

(G. 133).

CHAPTER III. VOID AND VOIDABLE ACTS.

133. – The nullity may be alleged at any time by any interested person.

(c/p old text 112; Br. 146.).

134. – A void act cannot be ratified.

(old text 113; J. 119).

135. – If any part of an act is void the whole act is void unless it may be assumed under the circumstances of the case that the parties intended the valid part of the act to be severable from the invalid part.

(Sch. p. 81; G. 139).

136. – If a void act complies with the requirements of another act it is valid as the other act, if it may be assumed that such validity would have been intended by the parties, had they known of the invalidity of the intended act.

(G. 140; Sch. p. 82; Dika 690/123).

CHAPTER III VOID AND VOIDABLE ACTS.

133. – The nullity of a void act may be alleged at any time by any interested person.

(c/p old text 112; Br. 146.).

134. – A void act cannot be ratified.

(old text 113; J. 119).

135. – If any part of an act is void the whole act is void unless it may be assumed under the circumstances of the case that the parties intended the valid part of the act to be severable from the invalid part.

(Sch. p. 81; G. 139).

136. – If a void act complies with the requirements of another act it is valid as the other act, if it may be assumed that such validity would have been intended by the parties, had they known of the invalidity of the intended act.

(G. 140, Sch. p. 82; Dika 690/123).

137. – A voidable act may be avoided by the incapacitated person or the person who has made the defective declaration of intention or by a legal representative, or curator or heir of such person.

A voidable act done by a married woman may be avoidable by her husband.

(old text 110; J. 120).

138. – When a voidable act is avoided, it is deemed to have been void from the beginning.

If a person knew or ought to have known of the voidability, he is deemed, if the act is avoided, to have known that the act was **void [invalid]**.

The parties shall be **re[s]**tored to the condition in which they were previously, and if it is not possible to so restore them, they shall be indemnified with an equivalent.

(J. 121; Br. 158; G. 142 par. 2).

139. – If any person specified in Section 137 ratifies a voidable act, it is deemed to have been valid from the begin[n]ing; but the right of third persons cannot be affected thereby.

(J. 122).

137. – A voidable act may be avoided by the incapacitated person or the person who has made the defective declaration of intention or by a legal representative, or curator or heir of such person.

A voidable act done by a married woman may be avoided by her husband.

(old text 110; J. 120).

138. – When a voidable act is avoided it is deemed to have been void from the beginning.

If a person knew or ought to have known of the voidability, he is deemed, if the act is avoided, to have known that the act was **void**.

The parties shall be **re[st]**ored to the condition in which they were previously, and if it is not possible to so restore them, they shall be indemnified with an equivalent.

(J. 121; Br. 158; G. 142 par. 2).

139. – If any person specified in Section 137 ratifies a voidable act, it is deemed to have been valid from the beginning; but the rights of third persons cannot be affected thereby.

(J. 122).

140. – If the other party to a voidable act is a determinate person such act is avoided or ratified by a declaration of intention made to him.

(J. 123; G. 143).

141. – A ratification is valid only if it is made after the state of facts forming the ground of voidability has ceased to exist.

When a person adjudged incompetent acquires knowledge of such act after he has recovered his capacity, he can ratify it only after acquiring knowledge.

The provisions of the foregoing two paragraphs do not apply to a ratification by the legal representative or curator.

(J. 124).

142. – If after the time when according to foregoing section ratification could be made, any of the following facts takes place in regard to a voidable act, it is deemed to be ratified, unless a reservation is expressed, such as:

- (1) The obligation assumed by the act has been fully or partially performed,
- (2) The performance of the obligation under the act has been demanded,
- (3) A novation of the obligation has been effected,

140. – If the other party to a voidable act is a determinate person such act is avoided or ratified by a declaration of intention made to him.

(J. 123; G. 143).

141. – A ratification is valid only if it is made after the state of facts forming the ground of voidability has ceased to exist.

When a person adjudged incompetent acquires knowledge of such act after he has recovered his capacity, he can ratify it only after acquiring knowledge.

The provisions of the foregoing two paragraphs do not apply to ratification by a legal representative or a curator.

(J. 124).

142. – If after the time when according to the foregoing section ratification could be made, any of the following facts takes place in regard to a voidable act, it is deemed to be ratified, unless a reservation is expressed, such as :-

- (1) The obligation assumed by the act has been fully or partially performed,
- (2) The performance of the obligation under the act has been demanded,
- (3) A novation of the obligation has been effected,

(4) Security has given for the obligation,

(5) The whole or part of the right or liability arising out of the voidable act has been transferred.

(J. 125).

143. – A voidable act cannot be avoided later than one year from the time when ratification could have been made. The same applies if ten years have elapsed since the act was done.

(c/p J. 126; old text 142, 144).

(4) Security has been given for the obligation,

(5) The whole or part of the right or liability arising out of the voidable act has been transferred.

(J. 125).

143. – A voidable act cannot be avoided later than one year from the time when ratification could have been made. The same applies if ten years have elapsed since the act was done.

(c/p J. 126; old text 142, 144).

CHAPTER IV. CONDITIONS AND TIME OF COMMENCEMENT OR ENDING.

144. – A clause which subordinates the effect of a juristic act to a future and uncertain event, is considered a condition.

(Br. 114; c/p Plan. Vol. I No. 325).

145. – A juristic act subject to a condition precedent takes effect when the condition is fulfilled.

A juristic act subject to a condition subsequent ceases to have effect when the condition is fulfilled.

If the parties to the act have declared an intention that the effect of the fulfilment of a condition shall relate back to a time before its fulfilment, such intention is to govern.

(J. 127).

146. – Any party to a juristic act subject to a condition must not, while the condition is pending, do anything by which the benefits which the other party might derive from the fulfilment of the condition will be impaired.

(J. 128).

CHAPTER IV. CONDITIONS AND TIME OF COMMENCEMENT OR ENDING .

144. – A clause which subordinates the effect of a juristic act to a future and uncertain event, is considered a condition.

(Br. 114; c/p Plan. Vol. I No. 325).

145. – A juristic act subject to a condition precedent takes effect when the condition is fulfilled.

A juristic act subject to a condition subsequent ceases to have effect when the condition is fulfilled.

If the parties to the act have declared an intention that the effect of the fulfilment of a condition shall relate back to a time before its fulfilment, such intention is to govern.

(J. 127).

146. – Any party to a juristic act subject to a condition must not, while the condition is pending, do anything by which the benefits which the other party might derive from the fulfilment of the condition will be impaired.

(J. 128).

147. - The rights and duties which the parties have, while the condition is pending, may be disposed of, inherited, protected or secured according to law.

(J. 129).

148. - If the fulfilment of a condition is prevented in bad faith by the party to whose disadvantage it would operate, the condition is deemed to have been fulfilled.

If the fulfilment of a condition is brought about in bad faith by the party to whose advantage it would operate, the condition is deemed not to have been fulfilled.

(G. 162; J. 130; Br. 120).

149. - When the condition is already fulfilled at the time of the juristic act, the latter is unconditionally valid, if the condition is precedent, and is void, if the condition is subsequent.

When it is already certain at the time of the juristic act that the condition cannot be fulfilled, the act is void, if the condition is precedent, and unconditionally valid, if the condition is subsequent.

In the cases mentioned in the foregoing two paragraphs the provisions of sections 146 and 147 apply correspondingly so long as the parties do not know whether the condition is fulfilled or cannot be fulfilled.

(J. 131).

147. - The rights and duties which the parties have, while the condition is pending, may be disposed of, inherited, protected or secured according to Law.

(J. 129).

148. - If the fulfilment of a condition is prevented in bad faith by the party to whose disadvantage it would operate, the condition is deemed to have been fulfilled.

If the fulfilment of a condition is brought about in bad faith by the party to whose advantage it would operate, the condition is deemed not to have been fulfilled.

(G. 162; J. 130; Br. 120).

149. - When the condition is already fulfilled at the time of the juristic act, the latter is unconditionally valid, if the condition is precedent, and is void, if the condition is subsequent.

When it is already certain at the time of the juristic act that the condition cannot be fulfilled, the act is void, if the condition is precedent, and unconditionally valid, if the condition is subsequent.

In the cases mentioned in the foregoing two paragraphs the provisions of sections 146 and 147 apply correspondingly so long as the parties do not know whether the condition is fulfilled or cannot be fulfilled.

(J. 131).

150. – A juristic act is void if it is subject to an unlawful condition, or a condition contrary to public order or good morals.

(c/p J. 132; Fr. 1172; S.O. 157).

151. – A juristic act upon a condition precedent which is impossible is void.

A juristic act upon a condition subsequent which is impossible is unconditionally valid.

(J. 133).

152. – A juristic act upon a condition precedent which depends merely upon the will of the debtor is void.

(J. 134).

153. – If a time of commencement is annexed to a juristic act, its performance cannot be demanded until [before] such time has arrived[s].

H.C.
ad. d. 106
u

If a time of ending is annexed to a juristic act, its effect ceases when such time arrives[d].

(c/p old text 209; J. 135).

154. – It is presumed that a time of commencement or ending is fixed for the benefit of the debtor, unless it appears from the

150. – A juristic act is void if it is subject to an unlawful condition or a condition contrary to public order or good morals.

(c/p J. 132; Fr. 1172; S.O. 157)

151. – A juristic act upon a condition precedent which is impossible is void.

A juristic act upon a condition subsequent which is impossible is unconditionally valid.

(J. 133)

152. – A juristic act upon a condition precedent which depends merely upon the will of the debtor is void.

(J. 134)

153. – If a time of commencement is annexed to a juristic act, its performance cannot be demanded ^{before} until such time has arrived.

H.C.
ad. d. 106
u

If a time of ending is annexed to a juristic act, its effect ceases when such time arrived.

(c/p old text 209; J. 135)

154. – It is presumed that a time of commencement or ending is fixed for the benefit of the debtor, unless it appears from the

tenor of the instrument or from the circumstances of the case that it was intended for the benefit of the creditor, or of both parties.

The benefit of such a time may be waived, but this will not affect any benefit which would accrue therefrom to the other party.

(c/p old text 211; J. 136; Br. 126).

155. – In the following cases the debtor cannot take advantage of a time of commencement or ending:

- (1) If he has been adjudged bankrupt;
- (2) If he has destroyed or diminished any security given;
- (3) If he has not given security when he was bound to give it.

(J. 137; Fr. 1188).

79/82

tenor of the instrument or from the circumstances of the case that it was intended for the benefit of the creditor, or of both parties.

The benefit of such a time may be waived, but this will not affect any benefit which would accrue therefrom to the other party.

(c/p old text 211; J. 136; Br. 126).

155. – In the following cases the debtor cannot take advantage of a time of commencement or ending:

- (1) If he has been adjudged bankrupt;
- (2) If he has destroyed or diminished any security given;
- (3) If he has not given security when he was bound to give it.

(J. 137; Fr. 1188).

TITLE V. PERIODS OF TIME.

156. – The manner of computing all periods of time is governed by the provisions of this Title, unless it is otherwise provided by law or regulations, by a judicial order or by a juristic act.

(J. 138; G. 186).

157. – A period of time is calculated by day.

If it is measured in hours, it begins to run at once.

(J. 138, 139).

158. – When a period of time is measured in days, weeks, months or years, the first day of the period is not included in the calculation unless the period begins to run on that day from the time which is customary to commence business.

(J. 140; G. 187).

TITLE V. PERIODS OF TIME.

156. – The manner of computing all periods of time is governed by the provisions of this Title, unless it is otherwise provided by law or regulations, by a judicial order or by a juristic act.

(J. 138; G. 186).

157. – A period of time is calculated by day.

If it is measured in hours, it begins to run at once.

(J. 138, 139).

158. – When a period of time is measured in days, weeks, months or years, the first day of the period is not included in the calculation unless the period begins to run on that day from the time which is customary to commence business.

(J. 140; G. 187).

159. – The period measured in weeks, months or years are calculated according to the official calendar.

If the period is not computed from the beginning of a week, month or year, it ends on the day preceding that day of the last week, month or year which corresponds to that on which it began. If in a period measured in months or years there is no corresponding day in the last month, the last day of such month is the day of ending.

(J. 143).

160. – If a period of time is extended, the first day of the extension is the day following the last day of the original period.

(old text 36; G. 190; S.O. 80).

161. – If the last day of a period is a holiday on which it is customary not to do business, the period includes the next working day.

(old text 37; G. 193).

162. – In matters of justice, administration and commerce day means the usual hours of office or business.

(old text 38; J.Com. 283).

79/86

159. – The period measured in weeks, months or years are calculated according to the official calendar.

If the period is not computed from the beginning of a week, month or year, it ends on the day preceding that day of the last week, month or year which corresponds to that on which it began. If in a period measured in months or years there is no corresponding day in the last month, the last day of such month is the day of ending.

(J. 143)

160. – If a period of time is extended, the first day of the extension is the day following the last day of the original period.

(old text 36; G. 190; S.O. 80).

161. – If the last day of a period is a holiday on which it is customary not to do business, the period includes the next working day.

(old text 37; G. 193).

162. – In matters of justice, administration and commerce day means the usual hours of office or business.

(old text 38; J.Com. 283).

TITLE VI. PRESCRIPTION.

163. – A claim is barred by prescription if it has not been enforced within the period of time fixed by law.

(c/p G. 194. c/p Jenk's 158. c/p Kohler p.54).

164. – The period of prescription for which no other period is provided by law is ten years.

(c/p J. 167; S.O. 127; c/p Old text 452).

165. – The period of prescription is two years for the following claims:

(1) Claims of merchants, manufactures, artisans and those who practice industrial arts, for delivery of goods, performance of work and care of others' affairs, including disbursements, unless the service was rendered for the carrying on of an industry conducted by the debtor;

(2) Claims of those whose industry is agriculture or forestry, for delivery of agricultural or forest products, so far as the delivery is for the domestic use of the debtor;

(3) Claims of carriers by railroad, freighters, bootmen, cab-drivers and messengers, for fare, freight, hire, and fees, including disbursements;

TITLE VI. PRESCRIPTION.

163. – A claim is barred by prescription if it has not been enforced within the period of time fixed by law.

(c/p G. 194. c/p Jenk's 158. c/p Kohler p.54).

164. – The period of prescription for which no other period is provided by law is ten years.

(c/p J. 167; S.O. 127; c/p Old text 452).

165. – The period of prescription is two years for the following claims:

(1) Claims of merchants, manufacturers, artisans and those who practise industrial arts, for delivery of goods, performance of work and care of others' affairs, including disbursements, unless the service is rendered for the carrying on of an industry conducted by the debtor;

(2) Claims of those whose industry is agriculture or forestry, for delivery of agricultural or forest products, so far as the delivery is for the domestic use of the debtor;

(3) Claims of carriers by railroad, freighters, bootmen, cab-drivers and messengers, for fare, freight, hire, and fees, including disbursements;

(4) Claims of innkeepers and those who make a business of providing food and drink, for supplying lodging and food or for other services rendered to the guests to satisfy their needs, including disbursements;

(5) Claims of those who sell lottery tickets, for the sale of the tickets, unless the tickets are delivered for further sale;

(6) Claims of those who make a business of letting movables, for the rent;

(7) Claims of those who, without belonging to the classes specified in (1), make business of the care of others' affairs or the rendering of service, for the **compensation [remuneration]** due to them from the business, including disbursements;

(8) Claims of those who are in private service, for the wages, or other remuneration for services, including disbursements; also claims of the employers for advances made upon such claims;

(9) Claims of workmen, journeymen, assistants, apprentices, factory hands, day labourers and artisans, for the wages and other allowances agreed upon in lieu of or as part of the wages, including disbursements; also claims of the employers for advances made upon such claims;

(10) Claims of masters of apprentices, for the premium and other services agreed upon in the contract of apprenticeship and for disbursements made on behalf of the apprentices;

(4) Claims of innkeepers and those who make a business of providing food and drink, for supplying lodging and food or for other services rendered to the guests to satisfy their needs, including disbursements;

(5) Claims of those who sell lottery tickets, for the sale of the tickets, unless the tickets are delivered for further sale;

(6) Claims of those who make a business of letting movables, for the rent;

(7) Claims of those who, without belonging to the classes specified in (1), make business of the care of others' affairs or the rendering of services, for the ^{remuneration} ~~compensation~~ due to them from the business, including disbursements;

(8) Claims of those who are in private service, for the wages, pay, or other remuneration for service, including disbursements; also claims of the employers for advances made upon such claims;

46. (9) Claims of workmen, journeymen, assistants, apprentices, factory hands, day labourers and artisans, for the wages and other allowances agreed upon in lieu of or as part of the wages, including disbursements; also claims of the employers for advances made upon such claims;

(10) Claims of masters of apprentices, for the premium and other services agreed upon in the contract of apprenticeship and for disbursements made on behalf of the apprentices;

(11) Claims of public institutions for instruction, education, maintenance or care of the sick, and of proprietors of private institution of such kind for providing instruction, maintenance or care of the sick, and for any outlay connected therewith;

(12) Claims of those who receive persons to be maintained or educated, for services and outlay of the kind specified in (11);

(13) Claims of teachers, for their fees;

(14) Claims of medical practitioners, including surgeons, accoucheurs, dentists and veterinary surgeons; and claims of midwives, for their services, including disbursements;

(15) Claims of lawyers, attorneys, as well as of all persons who are publicly appointed or admitted for the conduct of certain affairs, for their fees and disbursements, so far as those do not go into the public treasury;

(16) Claims of parties to an action, for advances made to their attorneys;

(17) Claims of witnesses and experts, for their fee and disbursements.

So far as the claims specified in **[paragraph] par. 1** (1), (2) and (5) are not subject to prescription in two years, the period is five years.

G. 196.

(11) Claims of public institutions for instruction, education, maintenance or care of the sick, and of proprietors of private institution of such kind for providing instruction, maintenance or care of the sick, and for any outlay connected therewith;

(12) Claims of those who receive persons to be maintained or educated, for services and outlay of the kind specified in (11);

(13) Claims of teachers, for their fees;

(14) Claims of medical practitioners, including surgeons, accoucheurs, dentists and veterinary surgeons; and claims of midwives, for their services, including disbursements;

(15) Claims of lawyers, attorneys, as well as of all persons who are publicly appointed or admitted for the conduct of certain affairs, for their fees and disbursements, so far as those do not go into the public treasury;

(16) Claims of parties to an action, for advances made to their attorney;

(17) Claims of witnesses and experts, for their fees and disbursements.

So far as the claims specified in ^{paragraph} **par. 1** (1), (2) and (5) are not subject to prescription in two years, the period is five years.

G. 196.

Ph. S.

166. – The period of prescription is five years for claims to arrears of interest, including the sums payable in addition to interest for the purpose of paying off the principal by instalments; for claims for arrears of rent or hire of property, so far as they are not provided for by Section 165 paragraph 1 (6); and for claims for arrears of annuities, salaries, pensions, allowances for maintenance and all other periodical payments.

(G. 197).

167. – The period of prescription for claims of the Government for taxes **and rates** or revenues is ten years. As to other claims **relating to obligations** the three foregoing sections shall apply.

(c/p Fr. 2227)

168. – The period of prescription for a claim established by a final judgment, by an award in arbitration or by a compromise is ten years, even if the claim itself is subject to a shorter period of prescription.

(c/p G. 218).

166. – The period of prescription is five years for claims to arrears of interest, including the sums payable in addition to interest for the purpose of paying off the principal by instalments; for claims for arrears of rent or hire of property, so far as they are not provided for by Section 165 paragraph 1 (6); and for claims for arrears of annuities, salaries, pensions, allowances for maintenance and all other periodical payments.

(G. 197).

167. – The period of prescription for claims of the Government for taxes ^{and rates} or revenues is ten years. As to other claims ^{relating to obligations} the three foregoing sections shall apply.

(c/p Fr. 2227)

168. – The period of prescription for a claim established by a final judgment, by an award in arbitration or by a compromise is ten years, even if the claim itself is subject to a shorter period of prescription.

(c/p G. 218).

169. – Prescription begins to run from the moment when the claim can be enforced. If the claim is to a forbearance, prescription begins to run from the moment when the right is first infringed.

(G. 198; c/p old text 429).

170. – If the creditor may not demand performance until he has given notice to the debtor, prescription begins to run from the moment when notice can be first given.

If the debtor is not bound to perform until a given period has elapsed since the notice, prescription does not begin to run until the expiration of this period.

(G. 199).

169. – Prescription begins to run from the moment when the claim can be enforced. If the claim is to a forbearance, prescription begins to run from the moment when the right is first infringed.

(G. 198) c/p old text 429).

170. – If the creditor may not demand performance until he has given notice to the debtor, prescription begins to run from the moment when notice can first be given.

If the debtor is not bound to perform until a given period has elapsed since the notice, prescription does not begin to run until the expiration of this period.

(G. 199).

171. – If the arising of a claim depends upon the creditor's making use of a right of avoidance, prescription begins to run from the moment at which the avoidance is first permissible.

(G. 200).

172. – Prescription is interrupted if the debtor has acknowledged the claim towards the creditor by written acknowledgement, by part payment, payment of interest, giving security, or by any unequivocal act which implies the acknowledgment of the claim.

(G. 208; Br. 172. V).

173. – Prescription is interrupted if the creditor brings an action for the establishment of the claim or satisfaction of the claim, or does any other acts [which are] deemed to have the same effect, such as applying to prove in bankruptcy or submitting to arbitration.

(G. 209; Sch. p. 133).

174. – Bringing an action is deemed to be no interruption if the action is withdrawn, abandoned or dismissed.

(G. 212; J. 149).

171. – If the arising of a claim depends upon the creditor's making use of a right of avoidance, prescription begins to run from the moment at which the avoidance is first permissible.

(G. 200).

172. – Prescription is interrupted if the debtor acknowledges the claim towards the creditor by written acknowledgement, by part payment, payment of interest, giving of security, or by any unequivocal act which implies the acknowledgment of the claim.

(G. 208; Br. 172. V).

173. – Prescription is interrupted if the creditor brings an action for the establishment or satisfaction of the claim, or does any other acts ^{which are} deemed to have the same effect, such as applying to prove in bankruptcy or submitting to arbitration.

(G. 209; Sch. p. 133).

174. – Bringing an action is deemed to be no interruption if the action is withdrawn abandoned or dismissed.

(G. 212; J. 149).

175. – When an action is entered in Court, prescription remains interrupted until the case is finally decided or otherwise disposed of.

(c/p old text 439; G. 211).

176. – If the action is dismissed on the ground of want of jurisdiction and the period of prescription expired pending proceedings, or would have expired within six months after final judgement, it shall be extended to six months after such judgement.

(old text 440; Siamese Jurisprudence G. 212; Fr. 2246; It. 2125)

177. – Application to prove in bankruptcy is deemed to be no interruption if the proof is withdrawn, [abandoned] or rejected.

(c/p old text 438 par. 2 J. 152)

175. – When an action is entered in Court, prescription remains interrupted until the case is finally decided or otherwise disposed of.

(c/p old text 439; G. 211).

176. – If the action is dismissed on the ground of want of jurisdiction and the period of prescription expired pending proceedings, or would have expired within six months after final judgement, it shall be extended to six months after such judgement.

(old text 440; Siamese Jurisprudence G. 212; Fr. 2246; It. 2125)

177. – Application to prove in bankruptcy is deemed to be no interruption if the proof is withdrawn, ^{abandoned} or rejected.

(c/p old text 438 par. 2. J. 152)

178. – In case of proof of bankruptcy, prescription remains interrupted until annulment of bankruptcy, or until final distribution of assets.

If a sum is held back for a disputed proof or claim the interruption continues until such proof or claim is finally disposed of.

(c/p G. 214; Bankruptcy 26).

179. – In case of submission to arbitration, the provisions of section 174, 175 and 176 shall apply mutatis mutandis.

(c/p old text 442; Baud. Vol. 28 No. ; G. 220)

180. – The creditor of an obligation for the payment of money periodically is entitled to require from the debtor at any time before the completion of the period of prescription a written acknowledgment of the obligation in order to obtain evidence of the interruption of prescription.

(c/p Old text 445; Fr. 2263; J. 168).

181. – When prescription is interrupted, the period of time which has elapsed before interruption does not count for prescription.

A fresh period of prescription begins to run from the time when the interruption ceases.

(Old text 446; 447; G. 217).

178. – In case of proof of bankruptcy, prescription remains interrupted until annulment of bankruptcy, or until final distribution of assets.

If a sum is held back for a disputed proof or claim the interruption continues until such proof or claim is finally disposed of.

(c/p G. 214, Bankruptcy 26).

179. – In case of submission to arbitration, the provisions of section 174, 175 and 176 shall apply mutatis mutandis.

(c/p old text 442; Baud. Vol. 28 No. ; G. 220).

180. – The creditor of an obligation for the payment of money periodically is entitled to require from the debtor at any time before the completion of the period of prescription a written acknowledgment of the obligation, in order to obtain evidence of the interruption of prescription.

(c/p Old text 445; Fr. 2263; J. 168).

181. – When prescription is interrupted, the period of time which has elapsed before interruption does not count for prescription.

A fresh period of prescription begins to run from the time when the interruption ceases.

(Old text 446; 447; G. 217).

182. – When prescription is completed its effect relates back to the day when it began to run.

(c/p old text 432; c/p J. 144).

183. – If at any time within six months previous to the maturity of the period for prescription, a minor or a person of unsound mind whether adjudged incompetent or not, is without a legal representative, the prescription running against him is not completed until the expiration of one year calculated from the time he acquires full capacity, or from the time when the want of a legal representative ceases.

(c/p J. 158; G. 206; Répert Carpentier Vo. Aliéné No. 256, 257.
Appeal Court of Aix 1832. Case aubert s. 32, 2, 264 p. lhr.
See also draft of Capacity of 1919 s. 82, 85)

184. – With regard to the rights of a minor, or a person of unsound mind whether adjudged incompetent or not against his legal representative, prescription is not completed until one year after he has acquired full capacity or has a new legal representative.

The same rule shall apply mutatis mutandis as to rights of a quasi-incompetent person against his curator.

(c/p J 159).

182. – When prescription is completed its effect relates back to the day when it began to run.

(c/p old text 432; c/p J. 144).

183. – If at any time within six months previous to the maturity of the period for prescription, a minor or a person of unsound mind whether adjudged incompetent or not, is without a legal representative, the prescription running against him is not completed until the expiration of one year calculated from the time he acquires full capacity, or from the time when the want of a legal representative ceases.

(c/p J. 158, G. 206, Répert Carpentier Vo. Aliéné No. 256, 257.
Appeal Court of Aix 1832. Case aubert s. 32, 2, 264 p. lhr.
See also draft of Capacity of 1919 s. 82, 85)

184. – With regard to the rights of a minor, or a person of unsound mind whether adjudged incompetent or not against his legal representative, prescription is not completed until one year after he has acquired full capacity or has a new legal representative.

The same rule shall apply mutatis mutandis as to rights of a quasi-incompetent person against his curator.

(c/p J. 159)

185. – As to claims between spouses prescription is not completed until one year after dissolution or marriage.

(c/p old text 463; J. 159. par. 2; G. 204).

186. – When prescription of a claim existing in favour of a person or against him at the time of his death would have expired within one year after the date of the death, the period of prescription shall be extended to one year after death.

(c/p old text 437; J. 160; G. 207)

187. – If at the time when the prescription would end, the creditor is prevented by force majeure from effecting an interruption ~~[.] of the prescription.~~ ~~T[he]~~ prescription is not completed until thirty days after the time when such obstacle has ceased to exist.

(J. 161; G. 203).

188. – After the lapse of the period of prescription the debtor is entitled to refuse performance.

If any act of performance is done in satisfaction of a claim barred by prescription, the value of such performance may not be demanded back, even if the performance has been effected in ignorance of the prescription.

185. – As to claims between spouses prescription is not completed until one year after dissolution of marriage.

(c/p old text 463; J. 159. par. 2; G. 204)

186. – When prescription of a claim existing in favour of a person or against him at the time of his death would have expired within one year after the date of the death, the period of prescription shall be extended to one year after death.

(c/p old text 437; J. 160; G. 207)

187. – If at the time when the prescription would end, the creditor is prevented by force majeure from effecting an interruption, ~~of the prescription.~~ The prescription is not completed until thirty days after the time when such obstacle has ceased to exist.

(J. 161; G. 203)

188. – After the lapse of the period of prescription the debtor is entitled to refuse performance.

If any act of performance is done in satisfaction of a claim barred by prescription, the value of such performance may not be demanded back, even if the performance has been effected in ignorance of the prescription.

The same rule applies to a contractual acknowledgement of liability and to the giving of security by the debtor.

(G. 222).

189. – The barring of the claim by prescription does not prevent a mortgagee, a pledgee or a creditor who has preferential right on property detained by him, to enforce his right out of the mortgaged, pledged or detained property. But in exercising this right the creditor cannot obtain more than five years for arrears of interest.

(c/p old text 434; G. 223; See also G. 704, 559, 560

Sch. p. 133; พ.ร.บ. รักษ. & ปันไรจ จ. ๑๒๓๐)

190. – With the principal claim the claims for accessory acts of performance dependent upon it are also barred by prescription, even if the particular prescription applying to the accessory claim is not yet complete.

(G. 224).

191. – The periods of prescription fixed by law cannot be extended or reduced.

(S.O. 129; Plan. Vol. II No. 648; old text 427)

The same rule applies to a contractual acknowledgement of liability and to the giving of security by the debtor.

(G. 222).

189. – The barring of the claim by prescription does not prevent a mortgagee, a pledgee or a creditor who has preferential right on property detained by him, to enforce his right out of the mortgaged, pledged or detained property. But in exercising this right the creditor cannot obtain more than five years for arrears of interest.

(c/p old text 434; G. 223; See also G. 704, 559, 560
Sch. p. 133; พ.ร.บ. รักษ. & ปันไรจ จ. ๑๒๓๐)

190. – With the principal claim the claims for accessory acts of performance dependent upon it are also barred by prescription, even if the particular prescription applying to the accessory claim is not yet complete.

(G. 224).

191. – The periods of prescription fixed by law cannot be extended or reduced.

(S.O. 129; Plan. Vol. II No. 648; old text 427)

192. – The benefit of prescription can be waived only after it has been completed, but such waiver does not prejudice the right of third persons.

The waiver of prescription by the principal debtor does not prejudice the surety.

*(c/p J. 146; Fr. 2220; G. 225, 768; Br. 161;
Baud. Vol. 28 No. 105; S.O. 141 par. 3 ~~1~~ old text 426)*

193. – When prescription has not been set up as a defence, the Court cannot dismiss the claim on the ground of prescription.

(old text 428; c/p J. 145; Fr. 2223).

192. – The benefit of prescription can be waived only after it has been completed, but such waiver does not prejudice the right of third persons.

The waiver of prescription by the principal debtor does not prejudice the surety.

*(c/p J. 146; Fr. 2220; G. 225, 768; Br. 161;
Baud. Vol. 28 No. 105; S.O. 141 par. 3 ~~1~~ old text 426)*

193. – When prescription has not been set up as a defence, the Court cannot dismiss the claim on the ground of prescription.

(old text 428; c/p J. 145; Fr. 2223).