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Comité
Legislative Drafting
==

CIVIL AND COMMERCIAL CODE

TITLE XIX

I N S U R A N C E

(redrafted under directions of the
Revising Committee)

Draft
Submitted
to
the Legislative Committee

11th January

1 9 2 4

A contract of insurance is a contract whereby a person agrees to make compensation in case of loss of the event specified in the contract, and another person ~~is~~ agrees to pay them ~~the~~ a sum of money called premium. ~~It is not only a contract which may be entered into by~~

THAMMASAT UNIVERSITY

สำนักหอสมุด

CHAPTER I

GENERAL PROVISIONS

1

(old section 326)

In the present Title:

"insurer" means the party who agrees to make compensation ~~(in case of loss or other event specified in the contract)~~ or to pay a sum of money ~~(in case of insurance on life)~~

"assured" means the party who agrees to pay the premium;

"beneficiary" means the person who is to receive compensation or to be paid a sum of money, ~~in case of insurance on life.~~

The assured and the beneficiary may be one and the same person, ~~or not.~~

2

(insurable interest)

There is no insurable interest

If ~~the assured or the beneficiary, or~~ ~~in case of insurance on life the person upon whose life or death the payment of the sum depends,~~ ~~have no insurable interest in the event insured against,~~ the contract is void.

(cf. Jenk's English Digest No. 633)

ILLUSTRATIONS. - I. - A is the owner of a house and insures it against damages or

destruction caused by fire or floods. A has an insurable interest.

II. - A is the creditor of D, his debtor for 10,000 baht. D has no other properties than a house the rent of which is 1,000 baht per month. A and D agree that A will be paid by receiving 500 baht each month out of the monthly rent paid to D for twenty months. A is interested in the value of D's house not being diminished and insures it against damages or destruction caused by fire or floods. Both the owner D (beneficiary) and the creditor A (assured) have an insurable interest.

III. - Andeng A, who has a personal income of 200 baht per month, marries H who has no personal income but receives in his firm 1,000 baht salary per month. Andeng A may make a contract of insurance on H's life so that she will be the beneficiary of a sum of money if H comes to die within such specified time. Andeng A has an insurable interest.

IV. - A is the creditor of D, his debtor for 10,000 baht. D has no personal properties and receives only a small salary per month with which he could hardly pay his debt unless for many years. A may make a contract of insurance on D's life, so that D will receive a sum of 10,000 baht from the insurer if he reaches the age of fifty. D will be the beneficiary, but as A has an

evident interest in B receiving this sum of money so that A be paid, A has an insurable interest.

2

(old section 317)

No change, except to delete the word "on life" in order to make the section apply both to insurance against loss and on life.

(Cf. Japan. Com. 400)

*active & life
"for the future."*

4

(new section)

If during the period of insurance, the ~~insurance~~^{the} interest is substantially reduced, the assured is entitled to a reduction of the sum insured and of the premium.

The reduction of the premium shall take effect only for the future.

(Jap. Com. 392)

5

(new section)

The insurer cannot claim a reduction of the amount of the compensation to be paid by him unless he proves that the insurable interest as agreed by the parties was substantially too high.

(Jap. Com. 394)

3

(old section 344)

If, at the time of making the contract, the assured, or, in case of insurance on life, the person upon whose life or death the payment of the sum payable depends, knowingly omits to disclose facts which would have induced the insurer to raise the premium or to refuse to enter into the contract, or knowingly makes false statements in regard to such facts, the contract is voidable.

(Cf. Jap. Com. 392 - 2 in insurance against loss)

7

(new section)

If, during the period of insurance, the risk taken by the insurer is substantially increased or modified by ~~the fact, either~~ ^{an act or omission of} the assured or beneficiary, the contract is voidable.

^{under the} If such risk is substantially increased or modified by another cause, the insurer may determine the contract.

(Cf. Jap. Com. 410, 411)

7 bis

(old section 336)

~~The insurer is liable even if the loss or other event specified in the contract is~~

The insurer is not liable if the loss or other event specified in the contract is caused by the bad faith or the gross negligence of the assured or the beneficiary.

caused by the fault of the beneficiary, unless such ~~beneficiary~~ acted in bad faith ~~or~~ failed to comply with a particular clause of the contract.

396 C.C. 77.

8

(old section 927)

A contract of insurance is void unless made in writing.

9

Any policy of insurance shall be made in two copies at least, one of them having to be delivered to the assured.

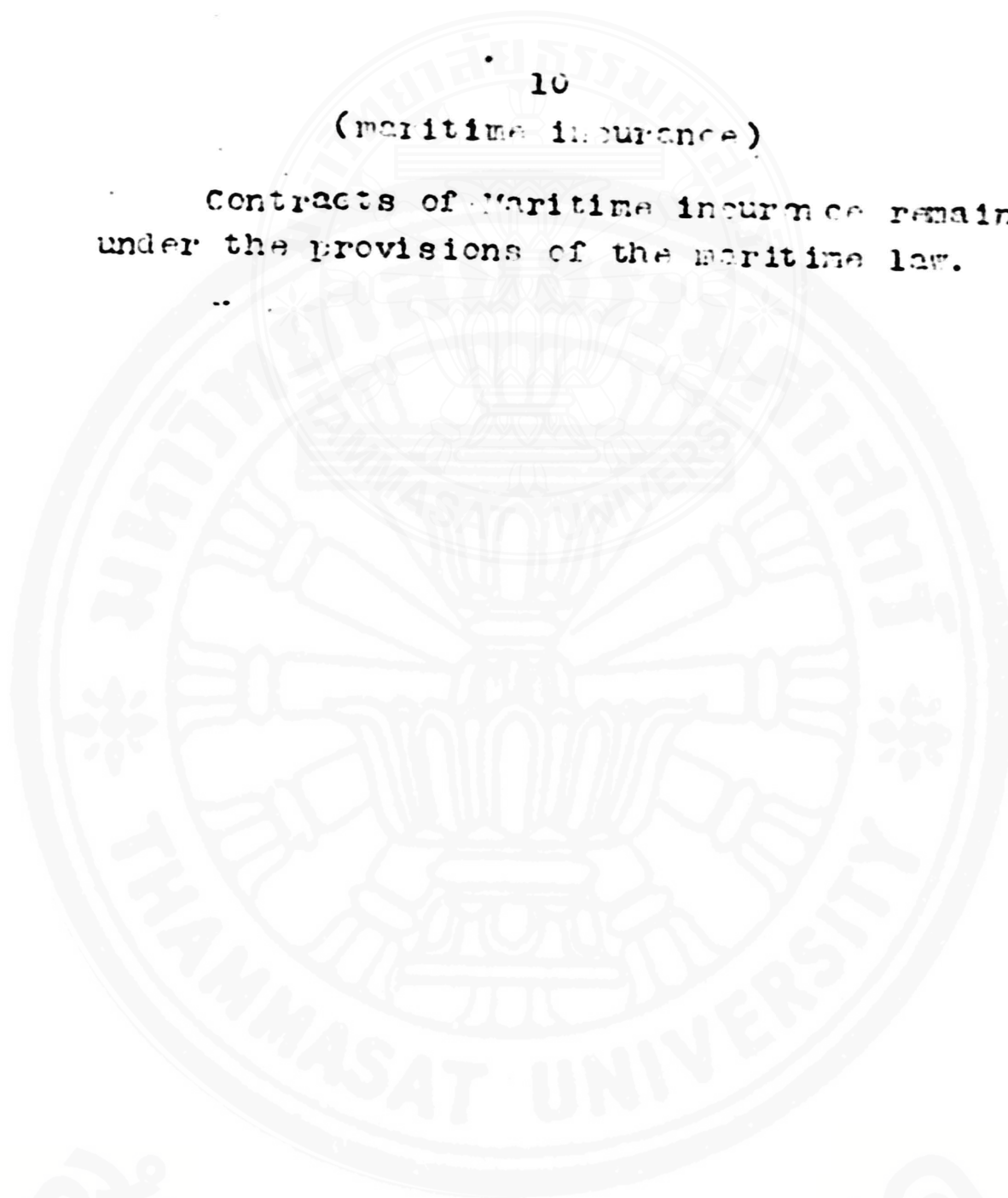
The policy must be signed by the insurer and contain:

- 1) the subject of the insurance;
- 2) the risk taken by the insurer;
- 3) the value of the insurable interest, if it has been fixed;
- 4) the sum insured;
- 5) the amount of the premium and manner of its payment;
- 6) the time of the commencement and of the end of the insurance;
- 7) the name or trade name of the insurer;
- 8) the name or trade name of the assured;
- 9) the name of the beneficiary if any;
- 10) the date of the contract of insurance;
- 11) the place where and the date when the policy was made.

10

(maritime insurance)

Contracts of Maritime insurance remain
under the provisions of the maritime law.



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CHAPTER II
INSURANCE AGAINST LOSS

1 General provisions

11

(old section 225)

A contract of insurance against loss is a contract whereby a person agrees to make compensation for a contingent loss and another person agrees to pay therefor a sum of money called premium. *[Handwritten signature]*

Loss includes damages caused by any kind of injury ^{where} such damages may be estimated in money.

(Cf. section 5 Civil Code, definition of injury; Jap. Com. 325)

the meaning of this ~~clause~~ includes any injury which may be estimated in money.

12

(old section 928)

No change.

13

(old section 929)

No change.

14

(old section 930)

(amended upon request of
Prince Nagara Svarga)

and the ownership of such property is transferred to another person, the contract of insurance is extinguished except in the following cases:

1) when the property is transferred by way of inheritance, or, in case of bankruptcy, is transferred to the official receiver;

2) when the insurer, having received notice of the transfer, agrees to it.

NOTE. - à la séance du 28 janvier 1924, M. Chénier a proposé que, conformément au Code japonais, sections 404 et 405, le système ci-dessus soit remplacé par un système permettant de transférer (présomption légale) le bénéfice de l'assurance quand on transfère la propriété de la chose. Le cas de la feuille a fait alors l'objet d'une disposition spéciale; mais, comme l'on veut, en somme, dans le droit commun, on a été de se préoccuper comme l'acte a été donné sur la position de l'officiel japonais par rapport aux biens du défunt. Réviser la question de savoir s'il est nécessaire de spécifier la volonté à la loi, en principe, il semble que les règles sur le "transfer of rights" (volonté obligatoire) pourraient jouer.

15

(old section 931)

No change.

in one part

The insurer is bound to pay compensation for the actual amount of the loss - 2) the same, even if the highest project of the insured is not realized - 3) the same, even if the insured is not the owner of the property.

16

(old section 932)

[*the compensation shall include:*]No change. *part of note.*

2) pay. d. 931

3) pay. d. 931

17

(old section 931)

No change.

18

(old section 325)

1st. paragraph: no change.

2nd. paragraph amended upon request of Prince Nagara Svarga as follows:

If the insurer has paid part only of the ^{compensation} amount of the loss, he cannot exercise his right to the prejudice of the right of the assured or of the beneficiary to claim from the third person ^{for} the remainder of the ^a loss. ~~compensation~~.

19

(old section 927)

No change.

20

(new section)

Unless otherwise agreed between the parties, an insurer is not liable when the loss has been caused by the nature or the defects of the subject of the insurance, or by its natural wastage, or by the assured or beneficiary omitting such care as may be expected from a person of ordinary prudence.

The insurer is not liable when the loss has been caused by the fact of the assured or beneficiary acting in bad faith.

(Jap. Com. 386)

21

(old section 928)

No change.

SPECIAL RULES IN CASE OF INSURANCE AGAINST FIRE

The Revising Committee have requested to consider if special rules for Insurance against Fire are not necessary.

It seems that "insurance against fire" is entirely covered by the General Provisions and by the Chapter on Insurance Against Loss. the meaning of the word "loss" having been explained in order to remove any misunderstanding as to its extent.

Take for instance, the Japanese Commercial Code where there are 4 sections concerning Insurance against fire. We read in section 419 that the insurer is bound to indemnify for any loss caused by fire, irrespective of its origin: but the section seems quite particular to Japan and is probably necessary to cover these cases where fire is a consequence of earthquakes, otherwise, why would not the parties be at liberty to specify exceptions in their contract as they agree? — Section 420, expenses for preservation, is covered by our section 382 (2); — Section 421 says that an owner has a direct claim against the insurer when the thing has been insured by a hirer, depositor, etc. who detains it; this could be as well be admitted in other cases than fire (floods for instance) and the compensation to the owner seems sufficiently covered in our Code by the general principles; — Section 422 is an addition to the contents of policies, but which are a mere matter of course and are included in all policies of insurance against fire.

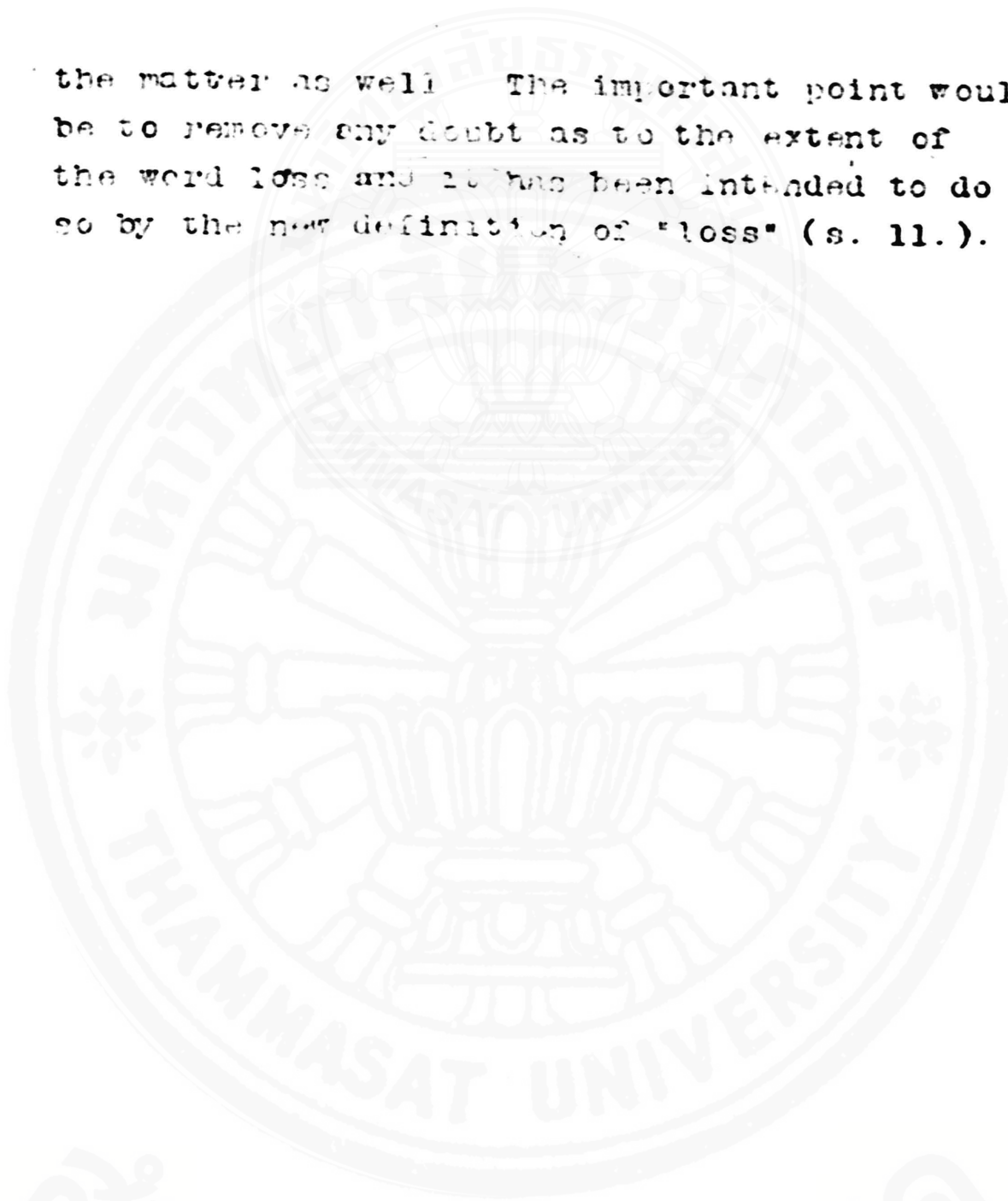
In the Jenks' English Digest, section 688 is a general rule for insurable interest and section 691 is a quite special clause (direct rebuilding by the insurer of the building destroyed) which in fact has better to be let at the discretion of the parties.

SPECIAL RULES IN CASE
OF INSURANCE AGAINST BODILY INJURIES
OR DISEASES

This question has much less interest when the special liability of employers in case of injuries to their workmen, employees, servants, etc. is not taken into consideration; and this is not ripe for Siam nowadays.

As to personal bodily injuries or diseases of the assured himself, it is a curious part to see that the continental laws have a general tendency to admit, instead of compensation for the actual damage, the allowance of a sum of money to be fixed at the discretion of the parties. The consequence is that such contracts are generally nearer to the insurance on life than to the insurance against loss. - But in Siam, we have admitted the "insurable interest" as a remedy against insurances being likely to become a kind of game. Then we shall admit, in case of the insurance for personal injuries, that it must be nearer to the insurance against loss, and that the insurable interest or the compensation paid ought to be really the eventual loss or the actual loss, respectively, as incurred by the assured or beneficiary. With that policy, to insure one's body comes really to the same as to insure one's house or motor-car. In these conditions, provisions for "insurance against loss" ought to cover

the matter as well. The important point would be to remove any doubt as to the extent of the word loss and it has been intended to do so by the new definition of "loss" (s. 11.).



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Part 2
~~CHAPTER III~~

SPECIAL RULES FOR
INSURANCE ON CARRIAGE

22

(old section 323)

No change.

23

(new section)

If the goods carried are insured in course of their transportation the insurable interest of such goods includes their value, at the place and time where they have been received by the carrier, increased by the freight to the place of delivery to the consignee and other expenses connected with transportation.

Profits to be made at the time when the goods were to be delivered, are included in the insurable interest only if there is an express agreement to that effect.

(Jap. Com. 424)

24

(new section)

Unless otherwise specified by the contract, a contract of insurance on carriage remains valid if, under the necessities of transportation, the carriage is interrupted

for a time, or there are modifications in the route or manner of carriage.

(Jap. Com. 426)

25

The policy of insurance on carriage must contain in addition to the particulars specified in section 2:

- 1) the specification of the route and manner of the carriage;
- 2) the name or trade-name of the carrier;
- 3) the place where the goods are to be received and delivered;
- 4) the period fixed for the carriage, if any.

(Japan)
(Japan Com Code. S. 425)

CHAPTER IV
INSURANCE OF LIFE

26

(old section 939)

~~No change~~

~~In a contract of insurance on life, the payment of the sum of money, the death benefit, is dependent upon the life or death of a person.~~

(old section 940)

(final paragraph)

To be controlled on account of section 18, in the Chapter I General Provisions and of the system of insurable interest.

28

(old section 941)

(amended upon request of Prince Nagara Svarga)

The sum payable may be a lump sum or an annuity, as may be agreed between the parties.

29

(old section 942)

qualified. Subject to the provisions of section 13 the person upon whose life or death the payment of the sum depends may be the assured, the beneficiary or a third person.

30

(old section 943)

No change.

31

(old section 944)

1st. paragraph has been transferred in General Provisions.

2nd. paragraph as follows:

In case of cancellation of the contract under section 6, the insurer has to return to the assured or to his heirs the redemption value of the policy.

32

(old section 945)

*transfer
9th part
after 944*

No change.

33

(old section 946)

No change.

34

(old section 948)

*quint of 948
omitted*

No change.

35

(old section 950)

No change.

36

(old section 951)

No change.

The policy of insurance on life must contain, in addition to the particulars specified in section 4, the specific nature of the insurance.

(Japan.Com. Code. 430)

Book 3. General

CHAPTER V

GUARANTEED INSURANCE

2. Insurance
of property
in the
house

(France Code Civil art. 1728; 1. 10th.
February 1880 art. 3 and 28th. May 1912;
Switzerland 1. 2nd. April 1908 art. 60;
Germany 1. 30th. May 1908, art. 157)

Guarantee-insurance ~~means~~ ^{is} a contract
of insurance where the insurer agrees to
make compensation, on behalf of the assured,
for ~~an injury~~ ^{loss}, caused to another person ~~by~~,
~~such assured~~ ^{for which the assured is responsible}.

The injured person is entitled to re-
ceive the compensation actually due to him
from the insurer directly, but such compen-
sation cannot exceed the sum due by the in-
surer under the contract. In ~~those cases where~~
an action ~~arises~~ between the injured person
and the insurer, the injured person shall
summon the assured to appear ~~with him~~ in
the action.

The insurer is not discharged from his
liability to the injured person by delivering
the compensation to the assured, unless he
proves that the ~~sum paid has been transferred~~ ^{compensation has been paid}
by the assured to the injured person.

If the compensation paid ~~under the contract~~ ^{by the insurer}

under ~~the~~ judgment

~~contract~~ does not cover the whole ^{amount} of the loss, compensation due by the assured ~~remains~~ ^{remains} liable to the injured person for the ~~amount~~ ^{difference}, unless ~~such~~ ^{the} injured person has failed to sum-

mon the assured to appear in ~~an~~ ^{the} action ~~between~~ ^{as provided by} the injured person and the insurer if any.

~~the foregoing section.~~

~~If the injured person has not summoned the assured to appear in the action under the foregoing section, and~~

d'après les lois of England (1913)
Vol 2 . p. 4 et 11.

Bankruptcy is a proceeding by which, when a debtor cannot pay his debts or discharge his liabilities, or the persons to whom he owes money or has incurred liabilities cannot obtain satisfaction of their claims, the State, in certain circumstances, takes possession of his property by an officer appointed for the purpose, and such property is realised and distributed in equal proportions amongst the persons to whom the debtor owes money or has incurred pecuniary liabilities.

2. Bankruptcy administration is conducted not only by the judges and registrars of the courts, but by certain officers established for the purpose of administering bankrupts' estates.

These are firstly, official receiver in bankruptcy. The duties of the official receiver relate both to the administration of a debtor's estate and to the investigation of the conduct of the debtor ... - As regards the debtor's estate, he acts as receiver and manager of it in the initial stages of the proceedings, and performs other duties in the conduct of a bankruptcy which will be ~~brief~~ hereafter noticed in detail.

The other principal officers concerned in the administration of bankrupts' estates are trustees of the property of bankrupt debtors. A trustee is a person chosen by creditors

The official receiver, as interim receiver, might not to realise, deal with or encumber the estate, except for the preservation and protection of the property. - if the debtor is not divested of his property by the receiving order, it works no change or transmission of interest or liability, so that the official receiver need not be added as a party to an action under R.S.C. ord. 17.16.

Whilst (in tant que) in possession of the estate he may make such subsistence allowance to the debtor for the support of himself and family as may be just, and in fixing it he takes into account the assistance given to him by the debtor.

At any time the official receiver may summon a meeting (at the expense of the estate) to enable the creditors to consider any act of the trustee...

139.

Upon the making of an adjudication order [declaration of insolvency] the property of the debtor becomes divisible amongst his creditors and vests in a trustee, who is the official receiver unless and until a trustee is chosen by the creditors or by the Board of Trade and certified by the Board of Trade.

140

An adjudication order is not a conveyance [transfer] of property to the trustee within the ~~Middlesex~~ Registry Act 1708, or the Land Registry [Middlesex Deeds] Act 1891, as the property passes not by virtue of the order but by force of the Bankruptcy Act 1863.

No ~~the~~ registration at the Land Registry is therefore necessary where the official receiver is the trustee of the bankrupt's property. But if another trustee is appointed by the creditors the certificate issued to him by the Board of Trade must be registered as a conveyance.

Official receiver 169
as trustee of
Bankrupt's property

Immediately upon the adjudication of bankruptcy the official receiver becomes trustee of the bankrupt's property, whereupon vests in him and remains vested until a creditor's trustee (if appointed), in which case the property forthwith passes to and vests in such trustee.

The official receiver is trustee during any vacancy in the office of trustee and also becomes trustee when the creditor's trustee is released.

The representation of the estate is known, so that leave ~~will~~ be given (it sera coitilla etc) to serve a notice when appointed with a notice of meeting already served on the official receiver as trustee.

Trustees
Two classes

51. It has been pointed out that the result of an adjudication of bankruptcy against a debtor is that all his property with certain statutory exceptions becomes law vested in a trustee for distribution amongst his creditors.

The official receiver cannot be chosen trustee of the property of the bankrupt by the creditors; but if the creditors or Board of Trade do not choose a trustee the official receiver becomes and remains trustee [automatically 22169]

186 The person who is appointed trustee must ~~give~~ give security to the Board of Trade ...

The Board of Trade may object to the appointment ^{of a trustee} that his connection with or relation with or relation to the bankrupt or his estate or to any particular creditor, makes it difficult for him to act impartially in the interests of the creditors generally

199 It is the duty of the trustee in bankruptcy to take control of all the property for the purpose of realisation and distribution amongst the creditors.

202 For the purpose of acquiring and retaining possession of the bankrupt's ~~possession~~ property the trustee is in the same position as a receiver in the High Court, and for the purpose of realising it he has power of transfer, conveyance and sale subject to the nature of the property in question.

At the same time he may not purchase all or any of the property himself, either directly or indirectly, unless the court gives him leave, though he may sell to the bankrupt.

233. The rights or claims which the trustee may enforce by action or to which he may

be liable as representing the estate for
into two classes, namely, actions which
at the commencement of the bankruptcy
pending by or against the bankrupt,
rights of action which are vested in the
bankrupt at the commencement of the
bankruptcy, or which devolve on the bankrupt
during the bankruptcy (i.e. before the
bankrupt obtains a discharge from his
debts)

236

The principles which determine when
a cause of action which has accrued to
the bankrupt before the bankruptcy
accrues to him during the continuance
of the bankruptcy does or does not pass
to the trustee are the following. Actions
of action which relate directly to the
bankrupt's property and can be turned
assets for the payment of debts pass to
the trustee, but where a cause of action
arises from the bodily or mental injury
or personal inconvenience of the bankrupt
or from injury to his person or reputation,
the right of action remains with the
bankrupt.

262

Rights arising out of contracts made
by the bankrupt pass to the trustee, if
disclaimed, subject to the rights of
the persons with whom the bankrupt
contracted, and to the rights of third parties
which have been created in respect of

After adjudication the bankrupt
is a complete stranger to his property
belonged to him between the commen-

of the bankruptcy and adjudication.

266. Bankruptcy does not determine ~~the~~ contract and among the property which passes to the trustee on adjudication is the right of enforcing certain unexecuted contracts which the bankrupt has entered into, and by which benefit may accrue to the estate.

Thus all rights under contracts which would pass as part of the bankrupt's personal estate to his personal representatives if he ~~has~~ has died, pass to the trustee, but rights under contracts where the personal skill or conduct of the bankrupt forms a material part of the consideration which ~~the~~ the trustee cannot perform on behalf of the bankrupt, such as a contract to marry, or to render personal service, or to paint a picture or to write a book, do not pass.

As regards those contracts which the trustee can perform, the trustee has an election and may disclaim them, in which case the persons who have contracted with the bankrupt may prove in the bankruptcy for damages for the ^(produce a la) breach (a lease vests in the trustee unless he disclaims, ^{denounce}); other contracts which pass to the trustee may be formally disclaimed; if the trustee does not perform his part of the contract in a reasonable time, the other contracting party may treat the contract as abandoned, or the trustee may insist on the contract being performed, and in that case must perform the bankrupt's part of the contract as and when the bankrupt should have

Lundi.

bon de l'après -
 Vous fait le
 travail sur son dessin -
 Je me suis attaché à faire
 une traduction littérale
 de poésies intéressantes,
 rendant autant qu'il possible
 l'idée de chaque mot
 & faisant ce mot à sa
 place dans le texte - J'ai
 des corrections nécessaires.

Surtoutement : son
 bien faire.

Trustee.

Dans le sens du système Anglo-Saxon, un Trustee (1) est une personne à laquelle on confie l'administration des biens d'un mineur, association, etc. (2) donnés en legs par une autre personne (3). Cette dernière fait généralement la désignation, et le Trustee est rémunéré.

Quant au Trustee de la bankruptcy, c'est un legs dater, qui n'a rien à voir avec le premier Trustee.

Siamois : on ôç ðs əɔɪə ʃnəɔɔɔ. Tokk
you năi Kouam Pokk Khong, tomber
dans la possession - en anglais tested
into (?).

Page 75.

Différence entre la nomination d'un gérant
provisoire (raksa sap chana kiao : 代理人,
et la déclaration de faillite.

La nomination d'un gérant provisoire faite
avec la déclaration de faillite se différencie
de l'autre : cette nomination a d'abord pour
le tribunal la fait avant le jugement
définitif, par suite elle n'entraîne pas
encore la mise en faillite du débiteur &
celui-ci ne doit pas encore enlever
entièrement la propriété de ses biens
(kat chak Kouam ni kam ma dik năi
sap san ti dio) ; la seule conséquence
est que le débiteur ne doit enlever la
possession (kat chak Kouam pokk Khong)
& n'a plus le droit de répondre et vendre
ses biens ni faire acte d'administra-
tion (chat kar, - to. ménage) & enen-
nant, pendant le débat, - car tout ce
droit revient au (on ôç 115. tek
you hie - tombent avec) au gérant
provisoire jusqu'au jugement défini-
tif ultérieur.

Quant à la mise en faillite elle
est ordonnée par le Tribunal, le débat
étant terminé : elle fait du débiteur
un failli (en note pour la condition de
failli, voir livr I, pag 22 & livr 2, page
2). toute ~~bonne~~ propriété des biens
(kam ma dik sin sap) droits & pouvoirs
(kam nat) du failli reviennent au

dyndie (tok na you ke : tombant au)
d'une façon définitive & absolue (per
def. Käk) Le dyndie a entièrement
le droit de saisir & vendre les biens
pour procéder à des répartitions entre
créanciers.

{ Par ailleurs qu'il y a une différence d'interprétation de la
signification de deux phrases différentes & même
mot. Kamsi : "tok na you". }

Effets Consequences de la nomination du Page
dyndie provisoire ou de la mise en faillite :
Cette nomination ou cette déclaration
peuvent être considérées comme une in-
terprétation du Tribunal ordonnant de
saisir & de vendre au dyndie les biens,
liens etc. etc. ... de faillite. Les con-
sequences en sont : { un argument qu'il y a une différence
d'interprétation } -

§ 14. / Tous les biens du défendeur
tombent dans la possession (tok na
you kai Kouam juk khron) du dyndie.

Le dyndie seul a le droit d'ad-
ministrer (chat kar, te menage)
les biens de faillite.

Enfin page 128, reprenant & précisant
ce qui a été dit à la page 22 (in fine) :

Condition de faillite.

Le débiteur mis en faillite perd son
bon renom & subit une "capi tū de rei
murtio" (?). Il n'a pas le droit d'ad-
ministrer (chat kar) son patrimoine, de
passer des contrats, ni de faire à son
gré quoique ce soit relatif à des affaires

Exemple de contrat instantané

A, commerçant à Bangkok tombe en faillite pendant que les marchandises assurées qui lui sont destinées sont en cours de transport.

1- Ou bien les marchandises arrivent saines et sauves et alors il n'y a pas lieu de se préoccuper de l'assurance.

2- Ou bien les marchandises sont l'objet d'un sinistre : en ce cas s'ouvre un droit à indemnité contre l'assureur; cette action personnelle est une chose en action qui passe des commerçants de l'assuré en faillite au syndic en vertu des principes généraux sur la transmission des actions du failli. (Bankruptcy Act 16-(3))

He is entitled to bring or defend any action relating to the property of the bankrupt and to do any such act as may be necessary for a bankrupt settlement of the affairs of the bankrupt)

Exemple de contrat successif

A, commerçant à Bangkok a assuré ~~son~~ pour une ^{année} période de 10 ans et un immeuble lui appartenant.

Si dans le courant de l'année l'immeuble reste sans et sauf il n'y a pas à se préoccuper de l'assurance.

Si dans le courant de l'année l'immeuble brûle, le syndic ^{ou} peut à le droit d'exercer, au lieu et place du failli, l'action en indemnité contre l'assureur.

Si l'immeuble a été assuré pour une période de 10 ans moyennant une prime annuelle (^{ou payée} ~~est~~ ^{payable} ~~à~~ ^{longue} ~~annuelle~~) il appartient au syndic de continuer le contrat ou de le dénoncer (Bourgeois et art 41). Il faut, dans l'intérêt même du patrimoine qu'il doit administrer et réaliser, que ce syndic aille ce choix (élection du droit anglais). Il serait donc faux et dangereux de dire que dans tous les cas, l'assurance passe de plein droit au syndic.

*to be proposed
par le Comité
à révision*

SUPPLEMENTARY DRAFT

for I N S U R A N C E

Section 14 of the present Draft to be substituted by the two following sections:

Section 14

The transfer by the assured of his property includes the transfer of his rights under the contract of insurance, provided that the transferor and the transferee comply with the rules of this Code for the transfer of rights and liabilities.

ILLUSTRATION. - A has insured his own house for ten years from 1st. January 2467 in return for a premium to be paid every year.

In the year 2470 A sells this house to B.

In order to comply the provisions of the Civil and Commercial Code, the contract of insurance is transferred provided that:

1) A (the transferor) give notice to N (the insurer) because N is a debtor liable for the payment of ^{contingent} indemnity (section 271).

2) B (the transferee) give notice to N (the same insurer) because N is a creditor for the payment of the premiums (section 281).

In other words A and B, under separate sections, are bound to give notice to N; of course, this notice may be served by one and the same document.

Section 14 bis

If the insurer has been adjudged bankrupt, the assured may require proper security to be given to him or may determine the contract.

If the assured is adjudged bankrupt, the same rules shall apply correspondingly; however when a premium has been already paid, under which insurance is running for a certain period of time, the insurer cannot determine the contract before such period has come to its end.

ILLUSTRATIONS. - I. - On the 1st. January 2467, A insures his own house against fire in return for a premium which he pays on the time of the agreement.

During the same year, for instance the 1st. July 2467 A is adjudged bankrupt.

N, the insurer cannot determine the contract of insurance because the premium was already paid.

II. - Suppose that on the 1st. January 2467, A has insured his own house not for one year only but for ten years and has paid the

premium concerning the first year of insurance viz. for the year 2467.

A is adjudged bankrupt the 1st. July 2467.

N the insurer cannot determine the contract for the year 2467 but he is entitled to determine the contract (for the following years, unless A (or in better words the official receiver of A) give a sufficient surety for maintaining and continuing the contract.

1st. February 1924.

SUPPLEMENTARY DRAFT

for

I N S U R A N C E

Section 14 of the present Draft to be substituted by the two following sections:

Section 14

The transfer by the assured of his property includes the transfer of his rights under the contract of insurance, provided that the transferor and the transferee comply with the rules of this Code for the transfer of rights and liabilities.

ILLUSTRATION. - A has insured his own
House for ten years from 1st. January 2467 in
return for a premium to be paid every year.

In the year 2470 A sells this house to B.

In order to comply the provisions of the Civil and Commercial Code, the contract of insurance is transferred provided that:

1) A (the transferor) give notice to N (the insurer) because N is a debtor liable for the payment of ^{Contingent} indemnity (section 271).

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In other words A and B, under separate sections, are bound to give notice to N; of course, this notice may be served by one and the same document.

Section 14 bis

If the insurer has been adjudged bankrupt, the assured may ~~require~~ ^{be} proper security to be given to him, ~~or~~ ^{may} determine the contract.

If the assured is adjudged bankrupt, the same rules shall apply correspondingly; however when a premium has been already paid, under which insurance is running for a certain period of time, the insurer cannot determine the contract before such period ^{expired} ~~has come to its end~~.

ILLUSTRATIONS. - I. - On the 1st. January 2467, A insures his own house against fire in return for a premium which he pays on the time of the agreement.

During the same year, for instance the 1st. July 2467 A is adjudged bankrupt.

N, the insurer cannot determine the contract of insurance because the premium was already paid.

II. - Suppose that on the 1st. January 2467, A has insured his own house not for one year only but for ten years and has paid the

premium concerning the first year of insurance, viz. for the year 2467.

A is adjudged bankrupt the 1st. July 2467.

N the insurer cannot determine the contract for the year 2467 but he is entitled to determine the contract (for the following years, unless A (or in better words the official receiver of A) give a sufficient surety for maintaining and continuing the contract.

. 1st. February 1924.

Note pour refaire en cours de séance
les articles 7 bis et 20 qui sont à modifier 152

Toutes les amendes sont valables

même si elles concernent la faute de l'auteur

sauf si c'est une faute tellement grave qu'elle
entraîne au dol ou à la grossière négligence.

Pour 7 bis, le Code japonais ajoute "gross negligence"
qu'on peut ajouter dans notre texte;

— "or failed to comply...." c'est
le 2^e cas de culpabilité, et on peut en
parler en parlant;

— ajouter "assured".

Retirer 20 au début j'y a "waste" (la fin
et en 7 bis).

1^{er} Février 1924

14 (a ^{policy} arrangement).

If the assured transfers the subject of insurance and the premium has been paid, the rights ~~under the contract of insurance~~ of the assured ~~under the contract of insurance~~ shall be paid the indemnity during the period of time corresponding to the period for which the premium has been paid, ~~as provided in the contract~~ transferred with the contract; provided that of (2nd paragraph).

(in force
from 1924)

946

a referee:

N. 162 allowed.

946

paragraph

If the age of the person upon whose life or death the payment of the sum depends has been incorrectly stated and consequently the amount of the premium has been inferior to the ~~correct~~ ^{exact} amount due under the ~~same~~ ^{same} scale, the sum to be paid by the insurer shall be reduced ^{also} ~~in the same proportion as~~ ^{proportionally} ~~proportionally~~ to the reduction of the premium ~~proportionally~~ in the same proportion.

alternative: the sum to be paid ^{by the insurer} shall be reduced also and in ^{the same} ~~the same~~ proportion ~~as the~~ ^{as the} reduction of the premium has been reduced.

Illustration

A, the assured, would have ought to pay an amount of his age an annual premium of 300 baht; but his age having been incorrectly stated the premium has been wrongly fixed to 200 baht only (viz. a reduction of one third). - A ought to be paid under the contract a sum of 15,000 baht; that sum shall be reduced from one third also viz. shall be 10,000 baht only.

However, supposing that the Company uses to make insurance on life ^{exclusively} for persons from 20 to 60 years, ~~unless~~ if A, when making the contract was really ^{at the} 15 years old, the Company may claim the ~~said~~ ^{contract} contract. ~~the~~

2.5 paragraph - However ~~the insurer~~ ^{the} ~~contract~~ is voidable ~~if the insurer~~ if it is proved by the insurer that ~~the insured~~ ^{by the actual age} the real age ~~of the insured~~ ^{contrary to}, at the time where the contract was made, was out of ~~his~~ ^{his} (scale) (usual) ~~of the insurer~~.

*Texte proposé par le
Comité de rédaction
7 Février 1924*

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1st. paragraph. - If the age of the person upon whose life or death the payment of the sum depends has been incorrectly stated and consequently the amount of the premium has been inferior to the exact amount due under the scale, the sum to be paid by the insurer shall be reduced also in the same proportion.

2nd. paragraph. - However the contract is voidable it is proved by the insurer that the real age at the time where the contract was made, was out of his usual scales.

alternative:..... the sum to be paid by the insurer shall be reduced also and in the same proportion as the premium has been reduced.

ILLUSTRATION. - A, the assured, ought to pay on account of his age an annual premium of 300 baht; but his age having been incorrectly stated the premium has been wrongly fixed to 200 baht only (viz. a reduction of one third). - A ought to be paid under the contract a sum of 15,000 baht; that sum shall be reduced from one third also, viz. shall be 10,000 baht only.

However, supposing that the Company uses to make insurances on life exclusively for

persons from 20 to 60 years, if A, when making the contract was really 15 years old, the Company may claim the cancellation of the contract.



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Exche. 158
7 June 1926

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~~1st. paragraph.~~ If the age of the person upon whose life or death the payment of the sum depends has been incorrectly stated ⁱⁿ ~~and~~ consequently ~~the amount of the~~ ^{so of which a lower} premium has been ~~found~~ ^{inferior} to the exact amount due under the ~~contract~~, the sum to be paid by the insurer shall be reduced ~~also~~ in the same proportion.

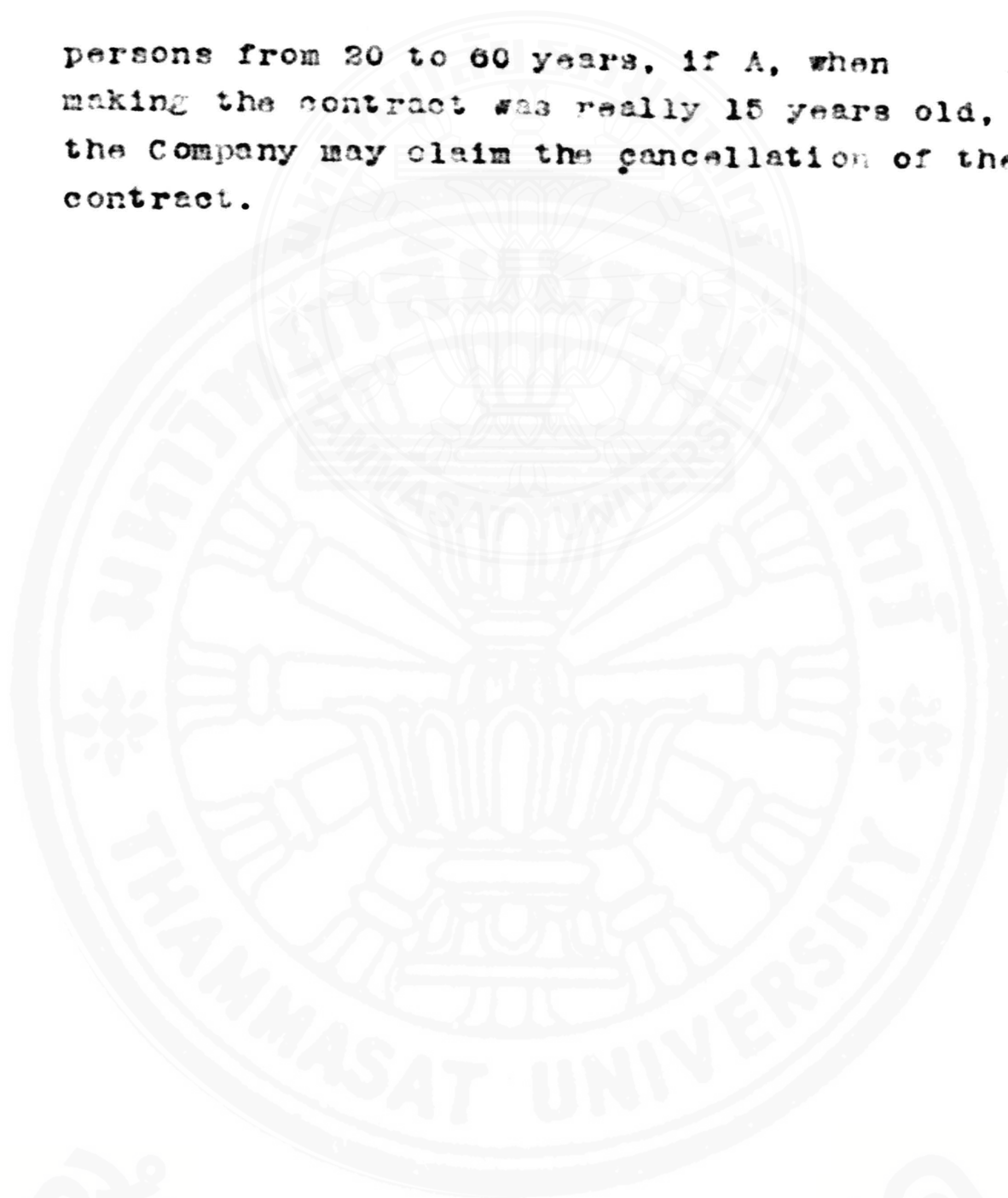
~~2nd. paragraph.~~ However the contract is voidable if it is proved by the insurer that the real age at the time when ^{the} the contract was made, was out ~~of his~~ ^{of the age of the insured} ~~business~~ ^{to}.

alternative:..... the sum to be paid by the insurer shall be reduced also and in the same proportion as the premium has been reduced.

ILLUSTRATION. - A, the assured, ought to pay on account of his age an annual premium of 300 baht; but his age having been incorrectly stated the premium has been wrongly fixed to 200 baht only (viz. a reduction of one third). - A ought to be paid under the contract a sum of 15,000 baht; that sum shall be reduced from one third also, viz. shall be 10,000 baht only.

However, supposing that the Company uses to make insurances on life exclusively for

persons from 20 to 60 years, if A, when making the contract was really 15 years old, the Company may claim the cancellation of the contract.



จ่านักหอสมุด

14

If the assured transfers the subject of insurance and a premium has been paid under which insurance is running for a certain period, he transfers at the same time his right to the indemnity.

If, in such case, the risk is substantially altered or increased by the transfer of the subject of insurance, the contract of insurance becomes void.

If the assured transfers the subject of insurance ^{for which} and a premium has been paid ~~under~~ which insurance is running for a certain period, ~~he transfers at the same time his right to the indemnity~~ ^{the right to receive the amount of the insurance} ~~in the event of loss~~ ^{is provided}

If ~~in such case~~ ^{by such transfer}, the risk is substantially altered or increased, ~~by the transfer of the subject of insurance~~ the contract of insurance becomes void.

*Now drafting
as proposed meeting
9th February 1922*

*Carried over in
course of discussion*

If the assured transfers the subject of insurance for which a premium has been paid the right to receive compensation is transferred with it.

If, by such transfer, the risk is substantially altered or increased, the contract of insurance becomes void.

*Texte définitif
adopté par la
Commission mixte
le 7 février 1924*

The Reviewing Committee has demanded that we should be empowered completely by some definition of "insurable interest".

It is to be remarked that this decision is not a mere matter of principle but is a result of the jurisdiction in England and America. It is not the objection of limiting the power of the court by this definition, and the responsibility must be left to the Reviewing Committee.

19 février 1924