

TITLE XV. BROKERAGE.

898. — A broker is a person who acts as intermediary between other persons for the negotiation of contracts.

The remuneration which may be due to a broker for his services is called brokerage.

899. — A broker who has been instructed by a party not to disclose his name shall not communicate it to the other party.

900. — A broker is not personally liable for the execution of the contracts entered into through his mediation.

However when a broker has not disclosed to one party the name of the other party, he is liable for performance to the former party.

901. — A broker who has been instructed by a party to sell or buy property at a fixed price may be himself the buyer or the seller, provided he gives notice thereof to that person.

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In such case the broker incurs the same liability as an ordinary party to a contract of sale, but he is still entitled to charge brokerage.

902. — A broker is presumed to have no authority to receive on behalf of the parties the payments or other prestations due in execution of the contract.

903. — The promise to pay brokerage is implied unless the services, under the circumstances of the case, shall have been expected to be rendered gratuitously.

904. — No brokerage is due to the broker unless the contract is the result of his services.

905. — A broker loses his right to brokerage if he agrees to accept brokerage from both parties to the contract without their consent.

906. — The brokerage shall be fixed by agreement. In the absence of any agreement, it shall be governed by custom.

If the brokerage agreed upon is excessive, the Court can reduce it.

TITLE XVI. COMPROMISE.

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907. — A contract of compromise is a contract whereby the parties agree to settle a dispute between them by mutual concessions.

908. — A compromise referring to property the sale of which is subject to the execution of an official document is void unless made in writing before the proper official.

909. — The effect of the compromise is to extinguish the claims abandoned by each party and to secure to each party the rights which are declared to belong to him.

910. — The parties to a compromise are liable for defects or for eviction as provided in the Title concerning sale.

ILLUSTRATION. — *D having died, A inherits a house. B claims the house on the ground that he has acquired the ownership of it by virtue of a contract of exchange passed a few days before D's death. A and B make a compromise and the house is delivered to B.*

a) — (Defects): After delivery B discovers that the house which has been described as having stone walls has wooden walls. This defect impairs the value of the house (S. 408), B has against A the remedies described in the Code concerning non-performance.

b) — (Eviction) : After delivery, C, a third person, claims the house and proves that it had been lawfully sold to him by D before the exchange. B suffers total eviction (S. 417). He has against A the remedies described in the Code concerning non-performance.

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911. — Cancellation of a compromise on the ground of mistake is limited to the following cases :

- 1) Mistake as to the identity of one of the parties to the compromise.
- 2) Compromise based on forged or invalid documents.

912. — A compromise based on forged or invalid documents cannot be cancelled by the Court if, at the time of the compromise, all the parties knew that such documents were forged or invalid.

**TITLE XVII.
GAMBLING AND BETTING.**

913. — Gambling or betting contracts are void unless expressly authorized by law.

914. — If a person, in order to pay a void gambling or betting debt, agrees to incur another obligation, such obligation is void.

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But a bill subscribed or indorsed according to Title XXI on bills in order to pay a gambling or betting debt is valid in the hands of a holder in good faith.

915. — A person who has knowingly performed a gambling or betting contract is not entitled to restitution.

TITLE XVIII. CURRENT ACCOUNT.

916. — A contract of current account is a contract whereby two persons agree that transactions between them shall be entered in a separate account and that from time to time the respective obligations shall be set off and only the difference paid.

ILLUSTRATION. — On the 1st. January 2455, A, a banker, and B agree that all the sums received or paid by A shall be entered in a separate account, the balance struck each year on the 1st. July and the difference then paid. This agreement is a contract of current account and works as follows:

On	the	15th. January A pays for a cheque drawn by B	500
		Baht	
„	„	20th. January A pays for a promissory note signed by B	200
„	„	1st. February A receives from a lessee for the rent of a house belonging to B	200
„	„	15th. February A pays for call upon shares belonging to B	400
„	„	31st. March A receives for payment of a debt incurred by a third person towards B	2000
„	„	15th. April A lends to B	500
„	„	31st. May A sends to a third person designated by B	300
„	„	15th. June A receives for dividend on shares belonging to B	100

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On the 1st. July the balance is struck and shows a difference of 100 baht in favour of B. The respective obligations of A and B entered in the current account have been extinguished by set off: There remains only one obligation, viz. the obligation of A to pay 400 baht to B.

917. — The parties can agree to have several current accounts at the same time.

918. — The entry of a bill in a current account is presumed to be made on condition that the bill will be paid. If the bill is not paid, the entry may be cancelled.

919. — A surety for a party to a current account guarantees the payment of the difference due by him when the balance is struck.

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920. — The balance must be struck at the time agreed by the parties. If no time has been agreed, the balance must be struck at the time fixed

by the custom.

921. — Either party can at any time determine the contract of current account and have the balance struck.

922. — The contract of current account is extinguished and the balance must be struck when one party dies or becomes incapacitated.

923. — The difference, if not paid, bears interest from the day when the balance was struck.

924. — The obligations, resulting from a current account are extinguished by prescription five years after the balance was struck.

TITLE XIX. INSURANCE AGAINST LOSS.

925. — A contract of insurance 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.

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926. — The party who agrees to make compensation is called the underwriter.

The party who agrees to pay the premium is called the insurer.

The person who is to receive compensation is called the insured.

927. — A contract of insurance is void unless made in writing.

928. — If two or more contracts of insurance are made simultaneously for the same loss and the total amount of the sums insured exceeds the actual amount of the loss, the insured is entitled to receive compensation up to such amount only.

Each underwriter must pay a part of the actual loss in proportion to the sum insured by him.

Contracts of insurance are deemed to have been made simultaneously if their dates are the same.

929. — If two or more contracts of insurance are made successively, the first underwriter is first liable for the loss. If the amount paid by him is not sufficient to cover the loss, the next underwriter is liable for the difference and so on, till the loss is covered.

930. — If a person who has insured his own property transfers the ownership of such property to another person, the contract of insurance is extinguished.

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The foregoing provision does not apply and the contract of insurance is transferred with the property in the following cases :

- 1) When the property is transferred by way of inheritance.
- 2) When the underwriter, having received notice of the transfer, agrees to it.

931. — The underwriter is bound to pay compensation for the actual amount of the loss.

The actual amount of the loss shall be valued at the place where, and at the time when, the loss occurred. The sum insured is presumed to be a

correct basis for such valuation.

The compensation cannot exceed the sum insured.

932. — The actual amount of the loss includes:

1) The damage caused to the insured property by reasonable measures used for preventing the loss.

2) All reasonable expenses incurred for preserving the insured property from the loss.

933. — A contract of insurance on carriage covers every loss which the goods carried may sustain from the time when they are received by the carrier until they are delivered to the consignee, and the amount of compensation must be fixed according to the value which the goods carried would have had on arrival at the place of destination. [295]

934. — The expenses of valuation of the loss must be borne by the underwriter.

935. — If the loss is caused by the fault of a third person, the underwriter who pays compensation is subrogated, up to the amount paid by him, to the rights of the insurer and of the insured against such third person.

If the underwriter has paid part only of the amount of the loss, he cannot exercise the rights mentioned in the foregoing paragraph to the prejudice of the rights which the insurer or the insured retain against the third person for the remainder of the loss.

ILLUSTRATION. — *A, underwriter, has paid to B whose house was destroyed by fire the total amount of the loss baht 30,000. It is proved that C caused the fire and an action for compensation may be brought against him. A is entitled to sue C for baht 30,000. Had A paid no more than baht 25,000, he would have had no action against C until B recovered from C the remainder of the loss viz. 5,000 baht.*

936. — The underwriter is liable even if the loss is caused by the fault of the insured, unless the insured failed to comply with a particular clause of the contract.

937. — If the contract of insurance provides that, on the happening of the loss, the insurer or the insured are bound to inform the underwriter within a certain period of time, no such notice is necessary if the underwriter knew otherwise within that period of the happening of the loss. [296]

938. — The liability for payment of compensation is extinguished by

prescription two years after date of loss.

The liability for payment of a premium is extinguished by prescription two years after the date when the premium became due.

TITLE XX. INSURANCE ON LIFE.

939. — A contract of insurance on life is a contract whereby the underwriter agrees to pay to the beneficiary a sum of money, dependent upon the life or death of a person, and the insurer agrees to pay him a premium therefor.

940. — The beneficiary may be the insurer or any third person.

941. — The sum payable may be a lump sum or an annuity.

942. — The person upon whose life or death the payment of the sum depends may be the insurer, beneficiary or any third person. [297]

943. — If the insurer is not the beneficiary, he has the right to transfer the benefit of the contract to another person so long as the beneficiary has not notified the underwriter in writing of his intention to take such benefit.

After the beneficiary has notified in writing the underwriter of his intention to take the benefit of the contract, no transfer is possible unless the beneficiary agrees to it.

944. — If at the time of making the contract 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 underwriter 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.

But the underwriter must return to the insurer or to his heirs the redemption value of the policy.

945. — If the underwriter knew of the facts mentioned in Section 944 or knew the statements to be false, or would have known of them or of their falsity if he had exercised such care as may be expected from a person of ordinary prudence, the contract shall be valid.

946. — If the age of the person upon whose life or death the payment of the sum depends has been incorrectly stated, the contract of insurance shall not be voidable, but the sum payable shall be the sum to which the beneficiary would have been entitled if the age of the person had been correctly stated. [298]

947. — When the parties to a contract of insurance on life, in fixing the amount of the premium, took into consideration a particular risk, and such risk ceases to exist, the insurer is entitled to have the premium reduced proportionately.

948. — The insurer is entitled at any time to determine the contract of insurance by discontinuing to pay the premium. If the premium had been paid for at least three years he is entitled to receive from the underwriter the surrender value of the policy or a paid up policy.

949. — Whenever the sum is to be paid on the death of a person, the underwriter is bound to pay it on such death unless :

- 1) Such person voluntarily committed suicide within one year after the date of the contract, or
- 2) Such person was intentionally killed by the beneficiary.

In case number 2, the underwriter is bound to pay the insurer or to his heirs the redemption value of the policy.

950. — If the death is caused by the fault of a third person, the underwriter cannot claim compensation from that person, but the heirs of the deceased do not lose their right to compensation from the third person, even if the sum payable under the contract of insurance on life reverts to them.

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951. — If the insurer has made an insurance payable on his death in favour of his heirs, the sum payable shall be part of the assets of his estate available for his creditors.

If the insurance has been made in favour of a particular person, only the amount of the premiums paid by the insurer shall be part of the assets of his estate available for his creditors.

ILLUSTRATION. — I. — A has made an insurance for 10,000 baht payable on his death “ to his heirs”, without specifying any particular persons. The liabilities of his estate amount to 13,000 baht while the assets are :

<i>Cash</i>	<i>500 baht</i>
<i>Furniture of house</i>	<i>600 „</i>
<i>Credit balance in Bank</i>	<i>5,000 „</i>
<i>Total</i>	<i>6,100 baht</i>

This total would not be sufficient to satisfy the creditors. But the amount of the insurance shall be added to the assets making a gross total of 16,000 baht out of which all the debts shall be paid leaving a balance of 3000 baht to be distributed among A's heirs.

II. — A has made an insurance for 10,000 baht payable on his death to his wife B (a particular person).

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DIVISION VII.

TITLE XX. — INSURANCE ON LIFE.

The liabilities of his estate amount to 7,000 baht while the assets are :

Cash	300	baht
Furniture of house	500	„
Pony and carriage	400	„
Credit balance in Bank	1,000	„
Total	2,200	baht

But A has paid to the underwriter five premium of 500 baht each. B will receive the total sum insured, 10,000 baht, but B must refund the premiums, 2,500 baht, to the estate, the total assets of which will thus be 4,700 baht to be distributed among the creditors according to their rank.

**TITLE XXI.
BILLS.**

**CHAPTER I.
GENERAL PROVISIONS.**

952. — Bills within the meaning of this Code are of three kinds, namely: bills of exchange, promissory notes and cheques.

953. — References to matters provided in this Title are void unless written on the bill.

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954. — If matters not provided in this Title are written on the bill, they have no effect under the bill.

955. — A person who puts his signature upon a bill is liable thereon according to the tenor of such bill.

956. — A person who affixes on a bill a mere mark, such as a cross or a finger print, even if certified by witnesses, cannot exercise the rights and does not incur the liabilities resulting from the specific rules concerning bills. He is only bound by the general rules concerning obligations.

957. — If an agent puts his signature upon a bill without stating that he is acting on behalf of a principal, the agent is liable under the bill but the principal is not.

958. — Although one or more of the parties to a bill may be incapacitated, the bill is valid as regards capable parties.

959. — No extension of time can be granted by the Court for the payment of a bill.

960. — Holder means a person who is in possession of a bill as a payee or indorsee, or the bearer if the bill is pay able to bearer.

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961. — The indorsee of a bill is not a holder unless the first indorsement be signed by the payee and each subsequent indorsment be signed by the person described in the preceding indorsement, so that there be an unbroken series of indorsements.

962. — The expression *prior parties* includes the drawer or maker of the bill and the prior indorsers.

963. — When there is no room on a bill for further indorsements, a slip of paper, called an allonge, may be attached thereto. It becomes part of the bill.

The first indorsement on the allonge must be written partly on the bill itself and partly on the allonge.

CHAPTER II. BILLS OF EXCHANGE.

PART I. — DRAWING OF A BILL OF EXCHANGE.

964. — A bill of exchange is a written instrument by which a person, called the drawer, orders another person, called the drawee, to pay a sum of money to, or to the order of, a person called the payee. [303]

965. — A bill of exchange must be dated, signed by the drawer, and must contain the following particulars :

- 1) A sum certain in money.
- 2) The name or trade name of the drawee.
- 3) The name or trade name of the payee.
- 4) An unconditional order to pay.
- 5) A day of maturity.
- 6) The place of payment.

966. — The sum must be expressed at least once in letters.

967. — If the sum is expressed in letters and figures and the two expressions do not agree, the bill of exchange is good for the sum expressed in letters.

968. — If the sum is expressed several times in letters and the several expressions do not agree, the bill of exchange is good for the lowest sum only.

969. — A stipulation as to interest in a bill of exchange is valid.

970. — A person can draw a bill of exchange payable to himself or to his order. [304]

971. — A person can draw a bill of exchange upon himself.

972. — A bill of exchange can be drawn payable to bearer.

973. — The drawer can insert in the bill of exchange a referee in case of need at the place of payment.

974. — The maturity of the bill of exchange must be:

- 1) On a fixed day, or
- 2) At the end of a fixed period after the date of the bill, or
- 3) On demand, or at sight, or
- 4) At the end of a fixed period after sight.

975. — If the drawer has not specified the maturity in the bill of exchange, the bill is payable on demand.

976. — A document which complies with the requirements of the present part is a bill of exchange within the meaning of this Code.

977. — A document which does not comply with the requirements of the present part is not a bill of exchange within the meaning of this Code.

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[Part] II. — EFFECTS OF A BILL OF EXCHANGE.

978. — The drawer of a bill of exchange engages that it shall be accepted and paid according to its tenor and that, if it be dishonoured by non-acceptance or non-payment, he will pay it to the holder or to any indorser who has been compelled to pay it, provided that the requisite proceedings on non-acceptance or non-payment be duly taken.

979. — The drawer may specify in the bill of exchange that he assumes no liability or only a limited liability under the bill.

980. — The drawer may specify in the bill of exchange that he waives some or all of the duties of the holder.

981. — A debtor under a bill of exchange can set up against a person who makes a claim under such bill the following defences only:

- 1) Defences resulting from the provisions of this Title XXI.
- 2) Defences which the debtor has personally against the claimant.

[Part] III. — TRANSFER AND INDORSEMENT.

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982. — A bill of exchange issued to a named payee may be transferred by indorsement unless the drawer of the bill has inserted in it a clause

forbidding indorsement.

983. — A bill of exchange payable to bearer is transferred by mere delivery. It may be also transferred by indorsement.

984. — Any person, even if drawer, acceptor or prior indorser, who acquires a bill of exchange by indorsement, may again transfer it by indorsement.

985. — An indorsement is made by writing the name or trade name of the indorsee on the bill of exchange, with the signature of the indorser.

986. — An indorsement may also be made by the mere signature of the indorser on the back of the bill of exchange. Such indorsement is called blank indorsement.

987. — A bill of exchange bearing a blank indorsement may be transferred by mere delivery.

Any holder of a bill bearing a blank indorsement can fill up the indorsement.

988. — When a bill of exchange payable to bearer has been transferred by indorsement, the bill ceases to be payable to bearer until it is indorsed to bearer or indorsed in blank. [307]

989. — An indorser may, in indorsing the bill of exchange, insert a referee in case of need at the place of payment.

990. — Indorsement must be for the whole amount of the bill of exchange. A partial indorsement is void.

991. — The indorser of a bill of exchange engages that it shall be accepted and paid according to its tenor and that, if it be dishonoured by non-acceptance or non-payment, he will pay it to the holder or to a subsequent indorser who has been compelled to pay it, provided that the requisite proceeding on non-acceptance or non-payment be duly taken.

992. — An indorser may, in indorsing the bill of exchange, specify that he assumes no liability or only a limited liability under the bill.

993. — If an indorser specifies that he forbids further indorsements, he incurs no liability under the bill of exchange to subsequent indorsers.

994. — If the holder of a bill of exchange indorses it after the time for [308]

protest for non-acceptance or non-payment has elapsed, the indorsee acquires only the rights of his indorser.

995. — A holder can by indorsement pledge the bill of exchange or give an authority to another person to collect it. The purpose of such indorsement must be stated on the bill.

996. — Whenever a bill of exchange has been indorsed for pledge or collection, the indorsee cannot indorse it, except for the same purpose.

[Part] IV. — ACCEPTANCE.

1. — ACCEPTANCE BY DRAWEE.

997. — The holder of a bill of exchange is entitled to present it at any time for acceptance to the drawee, unless there be a clause in the bill forbidding presentation for acceptance.

998. — The holder of a bill of exchange payable at the end of a period after sight must present it for acceptance within one year from its date, or, if the drawer has specified a shorter time, within such time.

If the holder fails to present the bill for acceptance within the above mentioned period, he loses his rights under the bill against the prior indorsers.

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999. — If the drawee does not refuse to accept the bill of exchange on presentation, he is allowed till midday on the following day, to seek out the holder and accept it.

1000. — Acceptance is made by a declaration of acceptance written on the bill of exchange with the signature of the drawee.

1001. — If the drawee merely puts his signature on the bill of exchange, he is deemed to have accepted it.

1002. — If the bill of exchange is payable at the end of a period after sight, the acceptance must be dated.

1003. — If the drawee omits to date his acceptance, any person can date it.

1004. — If the acceptance is not dated, the last day of the period fixed for acceptance is deemed to be the day of acceptance.

1005. — The drawee cannot cancel his acceptance.

1006. — The drawee may limit his acceptance to a part of the sum payable.

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1007. — If the drawee subjects his acceptance to any other limitation than to part of the sum payable, acceptance is deemed to be refused.

1008. — By acceptance the drawee becomes bound to pay the amount accepted on the day of maturity of the bill of exchange.

2. — RIGHT OF RECOURSE IN CASE OF NON-ACCEPTANCE.

1009. — If the bill of exchange is presented for acceptance as provided by Sections 997 to 999 and the drawee fails to accept it, the holder has a right of recourse against all or any of the prior parties, jointly or separately, provided that he complies with the rules prescribed in Sections 1011 to 1018.

1010. — If the acceptance is limited to part of the sum payable, the holder has the right of recourse for the difference only.

1011. — The holder must, on the day following the day of presentation, send to the drawee through the Post Office a notice called protest.

1012. — The protest shall be entered by the Post Office in three copies in the form provided by Schedule A attached to this Code.

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1013. — Each copy shall be signed by the clerk of the Post Office where the protest is made and shall bear the date stamp of such Office. It must contain the following particulars :

- 1) The date of the protest.
- 2) The date of the bill of exchange.
- 3) The name or trade name of the drawer.
- 4) The name or trade name of the drawee.
- 5) The amount of the bill of exchange.
- 6) The day of maturity of the bill of exchange.
- 7) The day of presentation.
- 8) The name or trade name and address of the holder.

9) A statement that the drawee can, during the three days next following the date of protest, seek out the holder and accept the bill of exchange on paying the expenses of protest.

1014. — Copy No. 1 being the protest shall be sent to the drawee under registered cover.

Copy No. 2 being the receipt for the protest shall be delivered to the holder.

Copy No. 3 being the original shall be kept by the Post Office.

1015. — If the bill of exchange is not accepted within the three days period, the bill is said to be dishonoured by non-acceptance and the holder must, within the four days next following, send notice of dishonour to the person or persons, against whom he intends to take recourse.

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1016. — If the drawee notes on the bill of exchange the fact and date of refusal of acceptance and signs such note, no protest is necessary and the holder must, within eight days from the date of refusal, send notice of dishonour to the person or persons against whom he intends to take recourse.

1017. — The notice of dishonour must contain the date of the bill of exchange, the names or trade names of the drawer and drawee, the amount of the bill, the name or trade name and address of the holder, the date of the protest or of the refusal of acceptance, the fact that the bill was not accepted and the reason why the bill was not accepted or the fact that no reason was given for its non-acceptance.

1018. — The right of recourse of the holder against the person or persons to whom notice of dishonour was sent is extinguished by prescription one year after date of non-acceptance.

1019. — An indorser to whom notice of dishonour has been given by a subsequent party can take recourse against all or any of the parties prior to him, jointly or separately.

In such case the indorser must send notice of dishonour to the person or persons against whom he intends to take recourse, within four days from the date when he himself has received notice of dishonour.

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1020. — The right of recourse of the indorser is extinguished by prescription one year after date of notice sent by him.

1021. — The return of the non accepted bill of exchange with the Post Office receipt for protest annexed to it is a sufficient notice of dishonour.

1022. — When a notice of dishonour has been duly addressed and posted, the sender is deemed to have given due notice of dishonour,

notwithstanding any miscarriage by the Post Office.

1023. — If the holder or indorser fails to take the proceedings prescribed by Sections 1011 to 1021 he loses his rights under the bill of exchange against all prior parties, except those who have waived protest or notice of dishonour.

1024. — The holder is entitled to take recourse for the following amounts:

1) The non accepted amount of the bill of exchange less interest thereon up to the date of maturity.

In order to fix the date of maturity, the day of presentation is to be considered as the day of acceptance. [314]

2) The expenses of presentation for acceptance and of protest and of notice of dishonour.

1025. — An indorser against whom recourse has been taken is himself entitled to take recourse for the following amounts:

1) The sum paid by him together with interest thereon from the date of his payment.

2) All expenses paid by him.

1026. — Reimbursement of a dishonoured bill of exchange can be obtained only on surrender of the bill and of a recourse account.

The payer can require the payee to make a receipt on the recourse account and sign it.

1027. — A drawer or prior indorser to whom a bill of exchange has been re-indorsed or re-transferred has no right of recourse against a party to whom he was previously liable under the bill.

3. — ACCEPTANCE FOR HONOUR.

1028. — If the drawee has failed to accept the bill of exchange, any person may, with the consent of the holder, accept the bill for the honour of any party liable thereon. [315]

1029. — The holder cannot refuse acceptance offered by a referee in case of need.

If he refuses it he loses his right of recourse against the prior parties.

1030. — Acceptance by a referee in case of need or by a third person is

called acceptance for honour.

1031. — An acceptance for honour is made by a declaration of acceptance on the bill of exchange with the signature of the acceptor.

1032. — If the acceptor for honour does not designate in the bill of exchange the person for whom he accepts, the acceptance is deemed to have been made for the honour of the drawer.

1033. — When a bill of exchange payable at the end of a period after sight is accepted for honour, its maturity is calculated from the date of such acceptance.

1034. — If the drawee fails to pay the bill of exchange, the acceptor for honour is liable to the holder and to the parties subsequent to the person for whose honour he has accepted, for any amount unpaid on the bill up to the amount of his acceptance together with the expenses.

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But he is exempted from such liability if the holder fails :

- 1) To present the bill for payment on maturity to the drawee, and
- 2) To present the bill for payment to the acceptor for honour not later than the day following the day of maturity, and
- 3) To send a protest to the drawee within the proper time.

1035. — Sections 1002 to 1007 apply to acceptance for honour.

[Part] V. — SURETYSHIP.

1036. — Every party to a bill of exchange may be guaranteed by a surety.

1037. — Suretyship is created by a signed statement to that effect on the bill of exchange.

1038. — A person who not being the drawee merely puts his signature on the face of a bill of exchange is deemed to be a surety.

1039. — Suretyship may be for part only of the amount of the bill of exchange.

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1040. — If the surety does not state on the bill of exchange for whom he is surety, he is deemed to be surety for the drawer.

1041. — A surety who has performed his obligation is subrogated to the rights which the holder had against the guaranteed debtor and to the rights of such debtor against the prior parties.

[Part] VI. — PAYMENT.

1. — GENERAL PROVISIONS,

1042. — A bill of exchange is payable on the day of its maturity. The holder must present it for payment on that day.

1043. — In order to fix the day of maturity of a bill of exchange payable at the end of a period after sight which has not been accepted, the day of presentation shall be considered as the day of acceptance.

1044. — A bill of exchange payable on demand is payable on the day of its presentation.

1045. — The holder of a bill of exchange payable on demand must present it for payment within one year from its date or, if the drawer has specified any shorter time, within such time.

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1946. — Payment can be obtained only on surrender of the bill of exchange. The payer can require the holder to give a receipt on the bill and to sign it.

1047. — The holder of a bill of exchange cannot refuse part payment, although the bill has been accepted for its full amount.

1048. — In case of part payment, the holder must note it on the bill of exchange and deliver a receipt to the payer.

1049. — If a bill of exchange is not presented for payment on the day of maturity, the acceptor can free himself from his liability by depositing the amount due on the bill.

1050. — The holder of a bill of exchange cannot be compelled to receive payment of it before maturity, except in case of a documentary bill.

[“Documentary bill” means a bill of exchange which is transferred with, and cannot be transferred without, documents constituting evidence that goods which are in transit are pledged to secure either the payment of the bill on the date of its maturity or the acceptance by the drawee.]

1051. — If the holder grants an extension of time to the drawee, he

loses his right of recourse against the prior parties who do not agree to the extension.

1052. — Payment of a bill of exchange before the day of maturity is at the risk of the payer. [319]

1053. — The drawee is bound to refuse payment:

1) If it appears sufficiently that the person presenting the bill of exchange is not a holder or has no capacity to receive payment, or

2) If the bill of exchange has been lost or obtained through an offence and due notice thereof has been given to the drawee.

1054. — A payment made by a party to a bill of exchange avails for all parties subsequent to him.

2. — RIGHT OF RECOURSE IN CASE OF NON-PAYMENT.

1055. — If a bill of exchange is presented for payment on the day of maturity and the drawee fails to pay it, the holder has a right of recourse against all or any of the prior parties, jointly or separately, provided that he complies with the rules prescribed in sections 1057 to 1064.

1056. — If part only of a bill of exchange is paid, the holder has the right of recourse for the difference.

1057. — The holder must, on the day following the day of maturity, send to the drawee through the Post Office a notice called protest.

1058. — The protest shall be entered by the Post Office in three copies in the form provided by Schedule B attached to this Code. [320]

1059. — Each copy shall be signed by the clerk of the Post Office where the protest is made and shall bear the date stamp of such office. It must contain the following particulars :

- 1) The date of protest.
- 2) The date of the bill of exchange.
- 3) The name or trade name of the drawer.
- 4) The name or trade name of the drawee.
- 5) The amount of the bill of exchange.
- 6) The day of maturity of the bill of exchange.
- 7) The name or trade name and address of the holder.

8) The amount payable to the holder, including expenses of protest.

9) A statement that the drawee can, within the three days next following the day of protest, seek out the holder and pay that amount.

1060. — Copy No. 1 being the protest shall be sent to the drawee under registered cover.

Copy No. 2 being the receipt for the protest shall be delivered to the holder.

Copy No. 3 being the original shall be kept by the Post Office.

1061. — If the bill of exchange is not paid within the three days period, the bill is said to be dishonoured by non-payment and the holder must, within the four days next following, send notice of dishonour to the person or persons against whom he intends to take recourse. [321]

1062. — If the drawee notes on the bill of exchange the fact and date of refusal of payment and signs such note, no protest is necessary and the holder must, within eight days from date of refusal, send notice of dishonour to the person or persons against whom he intends to take recourse.

1063. — The notice of dishonour must contain the day of maturity of the bill of exchange, the names or trade names of the drawer and drawee, the amount of the bill, the name or trade name and address of the holder, the date of protest or of the refusal of payment, the fact that the bill was not paid and the reason why it was not paid or the fact that no reason was given for its non-payment.

1064. — The right of recourse of the holder against the person or persons to whom notice of dishonour was sent is extinguished by prescription one year after the day of maturity.

1065. — An indorser to whom notice of dishonour has been given by a subsequent party can take recourse against all or any of the parties prior to him, jointly or separately.

In such case the indorser must send notice of dishonour to the person or persons against whom he intends to take recourse within four days from the date when he himself has received notice of dishonour. [322]

1066. — The right of recourse of the indorser is extinguished by prescription one year after date of the notice sent by him.

1067. — The return of the unpaid bill of exchange with the Post Office receipt for protest annexed to it is a sufficient notice of dishonour.

1068. — When a notice of dishonour has been duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the Post Office.

1069. — If the holder or indorse fails to take the proceedings prescribed by Sections ~~1000~~[1057] to ~~1010~~[1067], he loses his rights under the bill of exchange against all prior parties, except those who have waived protest or notice of dishonour.

1070. — The holder is entitled to take recourse for the following amount:

1) The unpaid amount of the bill together with interest thereon from the day of maturity.

2) The expenses of presentation for payment and of protest and of notice of dishonour.

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1071. — An indorser against whom recourse has been taken is himself entitled to take recourse for the following amounts:

1) The sum paid by him, together with interest thereon from the date of his payment

2) All expenses paid by him.

1072. — Reimbursement of a dishonoured bill of exchange can be obtained only on surrender of the bill and of a recourse account.

The payer can require the payee to make a receipt on the recourse account and sign it.

1073. — A drawer, acceptor or prior indorser to whom a bill of exchange has been re-indorsed or re-transferred has no right of recourse against a party to whom he was previously liable under the bill.

3. — PAYMENT FOR HONOUR.

1074. — A bill of exchange accepted for honour must, on the day of maturity, be presented for payment first to the drawee.

If the drawee fails to pay it, the holder must, on the day of maturity or on the following day, present it for payment to the acceptor for honour.

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If there is no acceptor for honour or if the acceptor for honour does not pay the holder must, within same period of time, present the bill for payment to the referee in case of need, if any.

1075. — If the acceptor for honour or the referee in case of need fails to pay the fact must be stated in the notice of dishonour.

1076. — If the holder fails to proceed as prescribed in sections 1017 and 1018 he loses his right of recourse against the person who has named the referee in case of need, or against the person in whose favour acceptance for honour has been made, and against the parties subsequent to them.

1077. — If the bill of exchange is not paid on presentation, any person, even not a party to it, can pay it.

The holder cannot refuse such payment. If he refuses, he loses his right of recourse against the party for whom payment was offered and against the subsequent parties.

1078. — Payment by an acceptor for honour or by a referee in case of need or by a third person is called payment for honour.

1079. — If several persons offer to pay a bill of exchange for honour, the holder must accept that payment which will discharge the greatest number of persons from their obligations.

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1080. — If a payer for honour who is not a referee in case of need or an acceptor for honour does not name the person for whose honour he pays, such payment is deemed to be made for the honour of the drawee.

1081. — The holder must enter the fact of the payment for honour on the Post Office receipt for the protest for non-payment if such protest has been made. The holder must on payment of the sum due and of the expenses for protest deliver to the payer for honour the Post Office receipt and the bill of exchange.

1082. — The payer for honour must, within two days after date of payment, notify the payment to the person for whose honour he has paid and send the Post Office receipt for the protest, if any, to him.

1083. — The payer for honour is subrogated to the rights which the holder had against the acceptor, the person for whose honour he has paid and the parties prior to such person.

1084. — Sections 1046, 1047, 1048, 1050, 1052, 1053 and 1054 apply to payment for honour.

[Part] VII. — BILL OF EXCHANGE IN A SET.

[326]

1085. — The payee is entitled to require the drawer to deliver to him the bill of exchange in a set consisting of several parts.

1086. — The several parts must be designated as such by the words First of Exchange, Second of Exchange, Third of Exchange, etc.

If they are not designated as such, each of them is good as an independent bill of exchange.

1087. — The acceptance must be made on one part only.

1088. — If one part of the set is paid, there is no liability under the other parts except those on which an acceptance is made.

1089. — A person who has indorsed different parts of a bill of exchange to different persons or who has made his acceptance on several parts is liable according to the provisions of the present Title for any such part not surrendered to him at the time of payment.

CHAPTER III. PROMISSORY NOTES.

[327]

1090. — A promissory note is a written instrument by which a person, called the maker, promises to pay a sum of money to, or to the order of [,] a person [,] called ~~to~~[the] payee.

1091. — A promissory note must be dated, signed by the maker, and must contain the following particulars :

- 1) A sum certain in money.
- 2) The name or trade name of the payee.
- 3) An unconditional promise to pay.
- 4) The place where the promissory note is made.
- 5) A day of maturity.

1092. — If the maker does not state in the promissory note a place of payment, the place where it is made is the place of payment.

1093. — The following provisions of Chapter II concerning bills of exchange apply *mutatis mutandis* to promissory notes :

Sections 966 to 969, 972, 974 to 977 concerning the drawing of a bill of exchange.

Sections 978, 980, 981 concerning the effects of a bill of exchange.

Sections 982 to 988, 990 to 996 concerning transfer and indorsement.

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Sections 1036 to 1041 concerning suretyship.

Sections 1042 to 1054 concerning payment.

Sections 1055 to 1073 concerning the right of recourse. in case of non-payment.

Sections 1077 to 1084 concerning payment for honour.

1094. — The holder of a promissory note payable at the end of a period after sight must present it to the maker within one year from its date, or, if the maker has specified a shorter time in the promissory note, within such time.

If the holder fails to present the promissory note within the above mentioned time, he loses his right of recourse against the prior indorsers.

1095. — The maker must note on the promissory note the date of presentation and sign it.

1096. — If the maker merely puts his signature on the promissory note, the promissory note is deemed to have been duly presented to him and any person can fill up the date.

If there is no date, the last day of the time fixed by section 1094 is deemed to be the day of presentation.

1097. — If the maker does not on presentation sign the promissory note as provided by section 1095, the holder and the indorsers have a right of recourse against the prior parties, provided that they comply with the provision of sections 1011 to 1027 concerning bills of exchange, *mutatis mutandis*. [329]

1098. — If the holder fails to have a protest made, he loses his right of recourse against all prior parties except the maker.

CHAPTER IV. CHEQUES.

[Part] I. — GENERAL PROVISIONS.

1099. — A cheque is a written instrument by which a person, called the drawer, orders a banker to pay a sum of money to or to the order of another person called the payee.

1100. — A cheque must be dated, signed by the drawer, and must contain the following particulars :

- 1) A sum certain in money ;
- 2) The name or trade name and address of the banker;
- 3) The name or trade name of the payee; 4) An unconditional order to [330]

pay.

1101. — The provisions of Chapter II concerning bills of exchange apply to cheques, *mutatis mutandis*, in so far as they are not contrary to the provisions of this Chapter IV.

1102. — A cheque can be drawn payable to bearer, or payable to the drawer.

If no payee is named in the cheque, it is payable to bearer.

1103. — A cheque is payable on demand.

1104. — No reference to a day of maturity can be inserted in a cheque.

1105. — A cheque which contains a reference to a day of maturity, such as “on demand” or “on such day,” etc., is a bill of exchange.

1106. — The holder of a cheque must present it for payment to the banker within two months after the date of drawing, otherwise he loses his right of recourse against the prior parties.

1107. — A banker is bound to pay a cheque drawn on him by his customer unless:

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1) There be not enough money to the credit of the account of the customer to meet the cheque, or

2) The cheque be presented for payment more than one year after its date of drawing.

1108. — A banker is bound to refuse payment of a cheque drawn on him if:

1) The drawer has countermanded payment, or

2) The banker has received notice of the death of the drawer, or

3) The cheque has been lost, or obtained through an offence and notice thereof has been given to the banker.

1109. — If the banker signs on the cheque a statement such as “good” or “good for payment,” or words to the same effect, he becomes bound to pay the cheque in the same way as the acceptor of a bill of exchange.

If the statement is “good for payment on such and such day” the banker is bound to pay only if the cheque is presented on that day.

The foregoing provisions do not apply if the banker has only signed a statement certifying the genuineness of the signature of the drawer.

1110. — Whoever draws a cheque except against a deposit or a credit granted to him shall be punished with fine not exceeding two thousand baht.

[Part] II. — CROSSED CHEQUES.

[332]

1111. — If the cheque bears across its face two parallel lines, with or without the words "Company" or "Bank" or any other words having the same meaning, between such lines, the cheque is said to be crossed and payment of it can only be made to a banker.

1112. — If the name of a particular banker is written between the parallel lines payment can only be made to that banker.

But the banker to whom the cheque is crossed can cross it to another banker for collection.

1113. — The banker who pays a crossed cheque contrary to the provisions of Sections 1111 or 1112 is liable for any injury resulting therefrom.

**CHAPTER V.
PRESCRIPTION.**

1114. — The obligations incurred under a bill of exchange by the acceptor or under a promissory note by the maker are extinguished by prescription after three years from day of maturity.

1115. — If a bill has been made, transferred or indorsed in respect of an obligation and the rights under such bill have been lost by prescription or by the omission of any necessary proceedings, the original obligation remains in force, unless it be extinguished by prescription or otherwise.

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**CHAPTER VI.
FORGED, STOLEN AND LOST BILLS.**

1116. — A forged bill means a bill which has been fabricated or altered or which bears false signatures as defined by Section 222 of the Penal Code.

1117. — A person who forges a bill has no rights under such bill.

1118. — A bill bearing false signatures is valid for the genuine signatures which may be on it.

1119. — If a statement in a bill has been altered without the consent of the parties, any person who affixes his signature on such bill after the alteration is liable according to the tenor of the altered bill.

If it is impossible to find out whether the signature was affixed before or after the alteration was made, the signature is presumed to have been affixed before alteration.

1120. — No rights can be exercised under a forged bill by a person who acquired it or became a party to it in bad faith or without such care as may be expected from a person of ordinary prudence. [334]

1121. — The holder of a bill which is lost or stolen must, as soon as he knows of the loss or theft, notify in writing the maker, the drawee, the referee in case of need, the acceptor for honour and the surety, if any, to refuse payment of the bill.

1122. — If the lost or stolen bill is presented for acceptance or payment to a person who has received the notice provided by Section 1121 he must inform the person presenting it that the bill is a lost or stolen bill.

He must also notify the holder of the bill without delay the name and description of the person presenting it.

1123. — The person presenting a bill which was lost or stolen must surrender it to its holder without compensation if it is proved that he acquired it in bad faith or without such care as may be expected from a person of ordinary prudence.

1124. — If the lost or stolen bill is not presented for payment on the day of maturity the holder is entitled to get a copy.

The copy must be demanded through the successive indorsers.

1125. — If the lost or stolen bill was payable after sight but not accepted or was payable on demand, the holder is entitled to get the copy as soon as the notice of loss or theft has reached the maker, the drawee, the referee in case of need, the acceptor for honour and the surety, if any. [335]

1126. — The holder has under the copy the same rights as under the original bill, except rights lost by prescription or by the omission of any necessary proceedings.

1127. — Whoever presents a bill which has been lost or stolen, and receives payment of it is bound to repay the sum received by him if it is proved that he acquired the bill in bad faith or without such care as may

be expected from a person of ordinary prudence.

1128. — If the loss, theft or forgery of a bill was caused or facilitated by the fault of one of the parties to the bill, he is liable to the person who has paid or repaid the bill for such part of the injury caused, as the Court may think fit.