

中華民國民法

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第一編 總則

(中華民國十八年五月二十三日公布)

THE CIVIL CODE

OF THE

REPUBLIC OF CHINA

Book I—General Principles

*(Promulgated by the National Government on the
23rd May, 1929.)*

Translated into English

BY

CHING-LIN HSIA, M.A., B.Sc., Ph.D. (Edin.)

Member of Shanghai Bar Association.

AND

JAMES L. E. CHOW, B.A. (Cantab)

Of Gray's Inn, Barrister-at-law,
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夏晉麟
周福慶
同譯

“Laws are the very bulwarks of liberty. They define every man’s rights, and stand between and defend the individual liberties of all.”

J. G. HOLLAND.

TRANSLATORS' PREFACE

Legal reform in China started in the closing years of the Manchu régime and formed part of the general reform movement in the opening of the present century. The immediate cause of the restlessness of this vast people and of the desire of its thinking classes to carry out radical changes lay in the repeated shocks received by China from the impact of foreign nations culminating in the humiliation following her unsuccessful war with Japan in 1895 and the Boxer outbreak in 1900. As soon as Western books began to be translated and young men began to go abroad to study, the dispersal of China's age-long mental paralysis was assured. The phenomenal success of the westernisation of Japan, started in 1868, also exercised a profound influence. By comparison it made China conscious of her own weakness; it caused her thinking people to look upon the methods adopted by Japan as necessary also to Chinese regeneration.

A further spur to reform was the inevitable difficulties of a country where foreigners, owing allegiance to other and varied jurisdictions, lived in treaty ports and in the interior. Each time an official was faced with extraterritorial perplexities, his zeal for a speedy reform was increased in proportion to the acuteness of his problem. And when extraterritoriality was abolished in Japan in 1899, largely on the strength of her judicial reform, China had no further delusions as to the necessity of revising her laws.

The first definite step towards the desired goal was China's formally expressed wish "to reform the judicial system and bring it into accord with that of the Western nations." In this she met with a ready response. On the 5th September, 1902, Great Britain engaged to surrender her extraterritorial rights "when the state of Chinese laws and the arrangements for their administration warrant us in so doing;" on the 8th October, 1903, the United States of America concluded a similar treaty, followed by Japan on the 29th January, 1904.

In pursuance of the reform policy Prince Tsai Chen, Yuan Shih-kai and Wu Ting-fang were appointed Imperial Commissioners to compile a code of commercial laws, and in 1904 they submitted a draft on general law regarding merchants and another on company law. Drafts were also drawn up regarding trade-marks and mining. In 1906 a "Code of Civil and Criminal Procedure for the Chinese Empire" was prepared. On 30th March, 1912, the first modern Chinese Criminal Code was enacted. The making of the Civil Code, however, proved to be a much more formidable task. There were no less than nine attempts to make the Civil Code; but none ever went beyond the drafting stage.

Soon after the inauguration of the Legislative Yuan in the Autumn of 1928, a Drafting Committee of the Civil Code was appointed. The Committee consisted of Mr. Foo Ping-sheung (傅秉常), Mr. Chao Yeh-tang (焦易堂), Mr. Sze Shang-quan (史尙寬), Mr. Lin Ping (林彬), and Dr. Soumi Cheng (鄭毓秀). Mr. Foo was the Chairman of the Committee. The Committee was also fortunate to have as its advisers, Dr. Wang Chung-hui (王寵惠), President of the Judicial Yuan, Mr. Tai Chi-tao (戴季陶), President of the Examination Yuan and M. Georges Padoux, Counsellor of the Legislative and the Judicial Yuans. The Committee tackled the work in a most businesslike manner and with extraordinary energy. It met almost daily in long and strenuous sessions. It held 50 meetings in all and was able to submit on the 15th April, 1929, the Draft Bill of the General Principles of the Civil Code to the Legislative Yuan. The Legislative Yuan took up articles one by one and discussed each in detail, making amendments as the discussion proceeded. After the third reading these General Principles were finally adopted by the Legislative Yuan on the 20th April, and were immediately submitted by President Hu Han-min of the Yuan to the State Council. They were approved by the State Council at the meeting held on the 10th May, and promulgated on the 23rd May, 1929. These General Principles will come into force beginning as from the 10th October, 1929.

The members of the Drafting Committee have been fully aware of the fact that in statute-law the literary expression is an essential part of the law itself, so that great care has been taken to make the language of this Code clear and simple. But the Committee has found it necessary to introduce a number of new terms and technical expressions, which will no doubt in time acquire general usage but which may at present sound strange even to the ears of Chinese legal practitioners. This fact makes the Translation peculiarly important for it has unwittingly assumed the character of a kind of commentary of the Code. Therefore, though the Translation is primarily for use of English-speaking persons, we venture to believe that it will also prove of some assistance to the Chinese lawyers who are not perfectly familiar with some of the terms and expressions found in the Chinese text.

Finally, we desire to acknowledge our great indebtedness to Dr. Wang Chung-hui, Mr. Foo Ping-sheung and M. Georges Padoux for their kind and valuable assistance given to us in the preparation of the Translation.

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MEDHURST COLLEGE,
SHANGHAI, CHINA.
11th JUNE, 1929.

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民法

第一編 總則

第一章 法例

第一條 民事,法律所未規定者,依習慣。無習慣者,依法理。

第二條 民事所適用之習慣,以不背於公共秩序或善良風俗者為限。

第三條 依法律之規定,有使用文字之必要者,得不由本人自寫。但必須親自簽名。

如有用印章代簽名者,其蓋章與簽名生同等之效力。

如以指印,十字或其他符號,代簽名者,在文件上,經二人簽名證明,亦與簽名生同等之效力。

第四條 關於一定之數量,同時以文字及號碼表示者,其文字與號碼有不符時,如法院不能決定何者,為當事人之原意,應以文字為準。

第五條 關於一定之數量,以文字或號碼為數次之表示者,其表示有不符時,如法院不能決定何者為當事人之原意,應以最低額為準。

CHAPTER FIRST

APPLICATION AND INTERPRETATION
OF LAWS

Article 1.—In civil matters if there is no provision of law applicable to a case, the case shall be decided according to custom. If there is no such custom, the case shall be decided in accordance with the general principles of law.

Article 2.—A custom is applicable to civil cases only when it is not contrary to public order or good morals.

Article 3.—Whenever a writing is required by law, it is not necessary that it be written by the person from whom it is required, but it must be signed by him.

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

If a fingerprint, cross or other mark is used in lieu of signature in a document, it is equivalent to a signature provided that it is certified by the signature of two witnesses.

Article 4.—Whenever a sum or quantity is expressed in characters and in figures, if the two expressions do not agree and the Court cannot ascertain which of them was the real intention of the parties, the expression in characters shall be held good.

Article 5.—Whenever a sum or quantity is expressed several times in characters or several times in figures, if the several expressions do not agree and the Court cannot ascertain which of them was the real intention of the parties, the lowest expression shall be held good.

第二章 人

第一節 自然人

第六條 人之權利能力,始於出生,終於死亡。

第七條 胎兒以將來非死產者爲限,關於其個人利益之保護,視爲既已出生。

第八條 失蹤人失蹤,滿十年後,法院得因利害關係人之聲請,爲死亡之宣告。

失蹤人爲七十歲以上者,得於失蹤滿五年後,爲死亡之宣告。

失蹤人爲遭遇特別災難者,得於失蹤滿三年後,爲死亡之宣告。

第九條 受死亡宣告者,以判決內所確定死亡之時,推定其爲死亡。

前項死亡之時,應爲前條各項所定期間最後日終止之時。但有反證者,不在此限。

第十條 失蹤人失蹤後,未受死亡宣告前,其財產之管理,依非訟事件法之規定。

CHAPTER SECOND

PERSONS

TITLE 1.—NATURAL PERSONS

Article 6.—The legal capacity of a human being begins from the moment of birth and terminates at the moment of death.

Article 7.—A child *en ventre sa mere* is considered as if he were already born in respect to the protection of his personal interest, provided that he was subsequently born alive.

Article 8.—A missing person may be declared dead by the Court upon the application of any interested party if for ten years no news has been received that he is alive.

A missing person who is over seventy years of age may be declared dead if for five years no news has been received that he is alive.

A missing person who has been in special peril of his life may be declared dead if for three years no news has been received that he is alive.

Article 9.—A person who has been declared dead is presumed to have been dead from the date fixed in the judicial decree.

In the absence of proof to the contrary, the date of death specified in the preceding paragraph shall be the date of the expiration of the period fixed in the preceding article.

Article 10.—The property of the missing person, after his disappearance and up to the declaration of death, shall be administered in accordance with the regulations governing non-contentious matters.

第十一條 二人以上同時遇難,不能證明其死亡之先後時,推定其為同時死亡。

第十二條 滿二十歲為成年。

第十三條 未滿七歲之未成年人,無行為能力。

滿七歲以上之未成年人,有限制行為能力。

未成年人,已結婚者,有行為能力。

第十四條 對於心神喪失,或精神耗弱,致不能處理自己事務者,法院得因本人,配偶或最近親屬二人之聲請,宣告禁治產。

禁治產之原因消滅時,應撤銷其宣告。

第十五條 禁治產人,無行為能力。

第十六條 權利能力及行為能力,不得拋棄。

第十七條 自由不得拋棄。

自由之限制,以不背於公共秩序或善良風俗者為限。

第十八條 人格權受侵害時,得請求法院除去其侵害。

前項情形,以法律有特別規定者為限,得請求損害賠償,或慰撫金。

第十九條 姓名權受侵害者,得請求法院除去其侵害,並得請求損害賠償。

第二十條 以久住之意思,住於一定之地域者,即為設定其住所於該地。

Article 11.—If several persons have perished in a common peril and it is not possible to ascertain which of them perished first, they are presumed to have died simultaneously.

Article 12.—Majority begins with the completion of the twentieth year of age.

Article 13.—A minor who has not completed his seventh year of age has no disposing capacity.

A minor who is over seven years of age has a limited disposing capacity.

A minor who marries acquires thereby full disposing capacity.

Article 14.—Insane persons and persons who are in such a state of mental infirmity that they are unable to manage their own affairs, may be interdicted by the Court on the application of the person himself, or his spouse, or two of his nearest relatives.

The interdiction shall be revoked if the cause thereof disappears.

Article 15.—Interdicted persons have no disposing capacity.

Article 16.—No person shall be allowed to waive his legal capacity or his disposing capacity.

Article 17.—No person shall be allowed to waive his liberty.

Liberty may not be restricted in a manner contrary to public order or good morals.

Article 18.—If any right appertaining to one's personality is infringed application may be made to the Court for the removal of the injury.

Under the above circumstances an action for damages or for solatium may be brought only in those cases which are specifically provided by law.

Article 19.—A person who sustains an injury to the right to the use of his name may apply to the Court for the removal of the injury and for the payment of damages.

Article 20.—A person who resides in a place with the intention of remaining there permanently, establishes his domicile at that place.

一人同時不得有兩住所。

第二十一條 無行為能力人,及限制行為能力人,以其法定代理人之住所為住所。

第二十二條 遇有左列情形之一者,其居所視為住所。

(一) 住所無可考者。

(二) 在中國無住所者。但依法須依住所地法者,不在此限。

第二十三條 因特定行為選定居所者,關於其行為,視為住所。

第二十四條 以廢止之意思,離去其住所者,即為廢止其住所。

第二節 法人

第一款 通則

第二十五條 法人非依本法或其他法律之規定,不得成立。

第二十六條 法人於法令限制內,有享受權利負擔義務之能力。但專屬於自然人之權利義務,不在此限。

第二十七條 法人須設董事。

董事就法人一切事務,對外代表法人。

對於董事代表權所加之限制,不得對抗善意第三人。

A person may not have more than one domicile at one and the same time.

Article 21.—The domicile of a person incapable of disposing or limited in disposing capacity is determined by the domicile of his statutory agent.

Article 22.—In either of the following cases a person's residence is deemed to be his domicile:

1. Where his domicile is unknown;
2. Where he has no domicile in China, except when otherwise provided by law regarding the *lex domicilii*.

Article 23.—If a person has chosen a residence for a special purpose, the residence is deemed to be his domicile for that purpose.

Article 24.—Domicile is lost if residence is discontinued with the intention of abandoning it.

TITLE 2.—JURISTIC PERSONS

Part 1.—General Provisions

Article 25.—A juristic person can come into existence only in accordance with the provisions of this Code or of any other law.

Article 26.—Within the limits prescribed by law, a juristic person has the capacity of enjoying rights and assuming obligations with the exception of those rights and obligations which appertain exclusively to natural persons.

Article 27.—A juristic person must have at least one director.

For the management of its affairs, a juristic person is represented by its directors.

Any limitation placed upon the right of representation of a director cannot be set up against *bona fide* third parties.

第二十八條 法人對於其董事或職員因執行職務所加於他人之損害，與該行為人連帶負賠償之責任。

第二十九條 法人以其主事務所之所在地為住所。

第三十條 法人非經向主管官署登記，不得成立。

第三十一條 法人登記後，有應登記之事項，而不登記，或已登記之事項有變更，而不為變更之登記者，不得以其事項，對抗第三人。

第三十二條 受設立許可之法人，其業務屬於主管官署監督。主管官署得檢查其財產狀況，及其有無違反許可條件，與其他法律之規定。

第三十三條 受設立許可法人之董事，不遵主管官署監督之命令，或妨礙其檢查者，得處以五百元以下之罰鍰。

第三十四條 法人違反設立許可之條件者，主管官署得撤銷其許可。

第三十五條 法人之財產，不能清償債務時，董事應即向法院聲請破產。

不為前項聲請，致法人之債權人受損害時，其有過失之董事，應負賠償之責任。

第三十六條 法人之目的或其行為，有違反法律，公共秩序或善良風俗者，法院得因主管官署，檢察官或利害關係人之請求，宣告解散。

Article 28.—A juristic person is jointly liable with the wrongdoer for the consequences of the wrongful acts done by its directors or employees in the performance of their duties.

Article 29.—The domicile of a juristic person is at the place where it has its principal office.

Article 30.—A juristic person cannot come into existence unless registered with the competent authorities.

Article 31.—A registered juristic person cannot, as against third parties, avail itself of unregistered matters which should have been registered, or of unregistered changes in registered matters.

Article 32.—If a juristic person has been authorized by grant, the competent authorities of its domicile have the right to supervise its activities. The competent authorities may examine its financial situation, and ascertain whether the conditions of the grant and other legal requirements have been complied with.

Article 33.—If a director of a juristic person authorized by grant disobeys any supervising order of, or obstructs an inspection by the competent authorities, he may be punished with a fine not exceeding five hundred *yuan*.

Article 34.—If a juristic person violates any of the conditions under which the authorization has been granted, the grant may be revoked by the competent authorities.

Article 35.—When the assets of a juristic person are insufficient to meet its liabilities, the directors shall forthwith apply to the Court for a declaration of bankruptcy.

If a director has caused injury to the creditors of the juristic person through failure to apply to the Court for a declaration of bankruptcy, as provided in the preceding paragraph, he shall be responsible for damages.

Article 36.—Whenever the object or the activities of a juristic person are found to be contrary to law, public order or good morals, the Court may order the dissolution of the juristic person on the application of the competent authorities, the public procurator or any interested person.

第三十七條 法人解散後，其財產之清算，由董事爲之。但其章程有特別規定，或總會另有決議者，不在此限。

第三十八條 不能依前條規定，定其清算人時，法院得因利害關係人之聲請，選任清算人。

第三十九條 清算人，法院認爲有必要時，得解除其任務。

第四十條 清算人之職務如左。

- (一) 了結現務。
- (二) 收取債權，清償債務。
- (三) 移交賸餘財產於應得者。

法人至清算終結止，在清算之必要範圍內，視爲存續。

第四十一條 清算之程序，除本通則有規定外，準用股份有限公司清算之規定。

第四十二條 法人之清算，屬於法院監督，法院得隨時爲監督上必要之檢查。

第四十三條 清算人不遵法院監督命令，或妨礙檢查者，得處以五百元以下之罰鍰。

第四十四條 法人解散後，除清償債務外，其賸餘財產之歸屬，應依其章程之規定，或總會之決議。

如無前項章程之規定或總會之決議時，其賸餘財產，屬於法人住所所在地之地方自治團體。

Article 37.—On the dissolution of a juristic person the liquidation is effected by its directors, unless otherwise provided by the constitution or by a resolution of the general meeting of members.

Article 38.—When there are no persons to act as liquidators under the preceding article, the Court may appoint liquidators on the application of any interested party.

Article 39.—All liquidators may be removed by the Court whenever the Court deems it necessary.

Article 40.—It shall be the duty of the liquidators:

1. to wind up pending business;
2. to collect the assets and discharge the liabilities;
3. to deliver the surplus of assets, if any, to the persons entitled thereto.

Before the completion of the liquidation, the dissolved juristic person is deemed to continue to exist in so far as is necessary for the purpose of the liquidation.

Article 41.—Unless otherwise provided by the General Provisions of this Code, the liquidation shall be carried out, as far as possible, in conformity with the law concerning the liquidation of limited companies.

Article 42.—The liquidation of a juristic person shall be subject to the supervision of the Court.

The Court may from time to time make such inspection as is necessary for the supervision.

Article 43.—A liquidator who disobeys a supervising order of the Court or who obstructs an inspection by the Court may be punished with a fine not exceeding five hundred *guan*.

Article 44.—After the liquidation the remaining assets of the juristic person shall be delivered to the persons or institutions specified in the constitution or in a resolution of the general meeting of members.

In the absence of any such provision in the constitution or in a resolution of the general meeting of members, the remaining assets devolve upon the local public institutions of the place in which the juristic person is domiciled.

第二款 社團

第四十五條 以營利爲目的之社團,其取得法人資格,依特別法之規定。

第四十六條 以公益爲目的之社團,於登記前,應得主管官署之許可。

第四十七條 設立社團者,應訂定章程。其應記載之事項如左。

- (一) 目的。
- (二) 名稱。
- (三) 董事之任免。
- (四) 總會召集之條件,程序及其決議證明之方法。
- (五) 社員之出資。
- (六) 社員資格之取得與喪失。

第四十八條 社團設立時,應登記之事項如左。

- (一) 目的。
- (二) 名稱。
- (三) 主事務所及分事務所。
- (四) 董事之姓名及住所。
- (五) 財產之總額。
- (六) 應受設立許可者,其許可之年月日。
- (七) 定有出資方法者,其方法。
- (八) 限制董事代表權者,其限制。
- (九) 定有存立時期者,其時期。

Part 2.—Associations

Article 45.—An association whose object is to make profits acquires juristic personality in accordance with the provisions of special laws.

Article 46.—An association whose object is for the promotion of public welfare must, prior to registering itself, be authorized by a grant from the competent authorities.

Article 47.—An association must have a constitution which must contain the following particulars:

1. Object;
2. Name;
3. Provisions relating to the appointment and dismissal of directors;
4. The conditions under which the general meeting of members shall be called, the procedure for the calling of meetings, and the authentication of its resolutions;
5. Provisions concerning the contributions of the members;
6. Provisions concerning the acquisition and loss of membership.

Article 48.—Upon the formation of an association the following particulars shall be registered:

1. Object;
2. Name;
3. The principal and branch offices;
4. The names and domiciles of its directors;
5. The total amount of its assets;
6. If the association has been authorized by grant, the date and particulars of the grant;
7. The method of contributing property, if such method has been fixed;
8. The limitation of the power of the directors to represent the association, if such limitation has been made;
9. The period of its existence, if such period has been fixed.

社團之登記,由董事向其主事務所及分事務所所在地之主管官署行之,並應附具章程備案。

第四十九條 社團之組織及社團與社員之關係,以不違反第五十條至第五十八條之規定為限,得以章程定之。

第五十條 社團以總會為最高機關。

左列事項應經總會之決議。

(一) 變更章程。

(二) 任免董事。

(三) 監督董事職務之執行。

(四) 開除社員。但以有正當理由時為限。

第五十一條 總會由董事召集之。

如有全體社員十分一以上之請求,表明會議目的及召集理由,請求召集時,董事須召集之。

董事受前項之請求後,一個月內,不為召集者,得由請求之社員,經法院之許可,召集之。

第五十二條 總會決議,除本法有特別規定外,以出席社員過半數決之。

社員有平等之表決權。

第五十三條 社團變更章程之決議,應有全體社員過半數之出席,出席社員四分三以上之同意,或有全體社員三分二以上書面之同意。

The association shall be registered by the directors with the competent authorities of the place where its principal and branch offices are situated. A copy of the constitution shall be filed.

Article 49.—The constitution may provide for the organisation of the association and the relations of the association with its members, provided that nothing therein shall contravene the provisions of Articles 50 to 58.

Article 50.—The general meeting of members of an association is the organ in which the supreme power of the association is vested.

The following matters shall be decided by a resolution of the general meeting of members:

1. Alterations in the constitution;
2. Appointment and dismissal of directors;
3. Supervision of the directors in the performance of their duties;
4. Expulsion of members for a proper cause.

Article 51.—The general meeting of members shall be called by the directors.

If over one-tenth of the members of an association request the directors to call a general meeting, specifying the objects of the meeting and the reasons for its convocation, the directors must call the meeting accordingly.

If no general meeting is called by the directors within one month after the receipt of the above request, the members who have made the request may call the meeting, subject to the authorization of the Court.

Article 52.—Unless otherwise provided in this Code, a resolution of the general meeting of members is valid if passed by a majority vote of the members present.

Members shall have equal votes.

Article 53.—A resolution involving an alteration in the constitution of an association can be passed only at a meeting at which the majority of the members of the association are present, and by a majority of three-fourths of the members present; or when two-thirds of the members of the association declare in writing their consent thereto.

受設立許可之社團，變更章程時，並應得主管官署之許可。

第五十四條 社員得隨時退社。但章程限定於事務年度終，或經過預告期間後，始准退社者，不在此限。

前項預告期間，不得超過六個月。

第五十五條 已退社或開除之社員，對於社團之財產，無請求權。但非公益法人，其章程另有規定者，不在此限。

前項社員，對於其退社或開除以前，應分擔之出資，仍負清償之義務。

第五十六條 總會之決議，有違反法令或章程者，對該決議原不同意之社員，得請求法院宣告其決議為無效。

前項之請求，應於決議後三個月內為之。

第五十七條 社團得隨時以全體社員三分之二以上之可決，解散之。

第五十八條 社團之事務，無從依章程所定進行時，法院得因利害關係人之聲請解散之。

第三款 財團

第五十九條 財團於登記前，應得主管官署之許可。

If an association has been authorized by grant, no resolution involving an alteration in the constitution is valid unless it has been approved by the competent authorities.

Article 54.—Members may withdraw from the association at any time unless according to the constitution they have to remain until the expiration of the business year, or unless previous notice of withdrawal is required by the constitution.

The period of notice as mentioned above cannot exceed six months.

Article 55.—A retired or dismissed member has no right to demand his share in the property of the association unless it is otherwise provided in the constitution of an association whose object is not for the promotion of public welfare.

The above mentioned member continues to be liable for his share of the contribution which has become due before his retirement or dismissal.

Article 56.—When a resolution passed by a general meeting of members is contrary to law or to the constitution of the association, any member who has not assented thereto may apply to the Court for having the resolution declared null and void.

The application as mentioned above must be made within three months from the date of the resolution.

Article 57.—An association may be dissolved at any time by a resolution of the general meeting of members passed by a majority vote of two-thirds of all the members of the association.

Article 58.—An association may be dissolved by an order of the Court on the application of any interested person when circumstances are such that it cannot be managed any more in accordance with its constitution.

Part 3.—Foundations

Article 59.—A foundation must, before registration, receive an authorization by grant from the competent authorities.

第六十條 設立財團者，應訂立捐助章程。但以遺囑捐助者，不在此限。

捐助章程，應訂明法人目的，及所捐財產。

第六十一條 財團設立時，應登記之事項如左。

- (一) 目的。
- (二) 名稱。
- (三) 主事務所及分事務所。
- (四) 財產之總額。
- (五) 受許可之年月日。
- (六) 董事之姓名及住所。
- (七) 限制董事代表權者，其限制。
- (八) 定有存立時期者，其時期。

財團之登記，由董事向其主事務所及分事務所所在地之主管官署行之。並應附具捐助章程備案。

第六十二條 財團之組織及其管理方法，由捐助人以捐助章程定之。

捐助章程所定之組織不完全，或重要之管理方法不具備者，法院得因利害關係人之聲請，為必要之處分。

第六十三條 為維持財團之目的，或保存其財產，法院得因捐助人，董事或利害關係人之聲請，變更其組織。

第六十四條 財團董事，有違反捐助章程之行為時，法院得因利害關係人之聲請，宣告其行為為無效。

Article 60.—The founder of a foundation must draw up an act of endowment, except in the case of donation by will.

The act of endowment must specify the object of the foundation and the property donated.

Article 61.—Upon the formation of a foundation, the following particulars shall be registered:

1. Object;
2. Name;
3. The principal and branch offices;
4. The total amount of its assets;
5. The date of the grant;
6. The names and domiciles of the directors;
7. The limitation of the power of the directors to represent the foundation, if such limitation has been made.
8. The period of its existence, if such period has been fixed.

The foundation shall be registered by the directors with the competent authorities of the principal office and branch offices. The act of endowment must be filed at the time of registration.

Article 62.—The organization and method of administration of the foundation shall be determined by the founder in the act of endowment.

If the organization as provided in the act of endowment is insufficient or if the important provisions are lacking concerning the method of administration, the Court may on the application of any interested party take such measures as may be necessary.

Article 63.—For the purpose of maintaining the object of the foundation or of preserving its property, the Court may modify the organization of the foundation on the application of the founder, or the directors, or any interested party.

Article 64.—If the directors act contrary to the act of endowment, their decisions may on the application of any interested party be declared null and void by the Court.

第六十五條 因情事變更，致財團之目的不能達到時，主管官署得斟酌捐助人之意思，變更其目的及其必要之組織，或解散之。

Article 65.—If circumstances are such that the object of the foundation cannot be carried out, the competent authorities may, after taking into consideration the intention of the founder, alter the object of the foundation or effect the necessary reorganization, or dissolve the foundation.

第三章 物

第六十六條 稱不動產者，謂土地及其定着物。

不動產之出產物，尙未分離者，爲該不動產之部分。

第六十七條 稱動產者，爲前條所稱不動產以外之物。

第六十八條 非主物之成分，常助主物之效用，而同屬於一人者，爲從物。但交易上有特別習慣者，依其習慣。

主物之處分，及於從物。

第六十九條 稱天然孳息者，謂果實，動物之產物及其他依物之用法所收穫之出產物。

稱法定孳息者，謂利息，租金，及其他因法律關係所得之收益。

第七十條 有收取天然孳息權利之人，其權利存續期間內，取得與原物分離之孳息。

有收取法定孳息權利之人，按其權利存續期間內之日數，取得其孳息。

CHAPTER THIRD

THINGS

Article 66.—Immovables are land and things permanently affixed thereto.

The products of an immovable constitute a part of the immovable so long as they are not separated therefrom.

Article 67.—All things other than immovables mentioned in the preceding article are movables.

Article 68.—Accessories are things which, without being component parts of the principal thing, are intended to serve the purpose of the principal thing and belong to the same owner. But, if there is a special custom prevailing in trade, such custom shall be applied.

The disposal of the principal thing extends to its accessories.

Article 69.—Natural fruits are produce such as fruits, offspring of animals, and such other yield as is obtained from the thing consistently with the use for which the thing is intended.

Legal fruits are interest, rent and other profits obtained by virtue of a legal relation.

Article 70.—A person who is entitled to the natural fruits of a thing acquires during the existence of his right such fruits upon their separation from the thing.

A person who is entitled to the legal fruits of a thing acquires them in proportion to the number of days during which his right exists.

第四章 法律行爲

第一節 通則

第七十一條 法律行爲，違反強制或禁止之規定者，無效。但其規定並不以之爲無效者，不在此限。

第七十二條 法律行爲，有背於公共秩序或善良風俗者，無效。

第七十三條 法律行爲，不依法定方式者，無效。但法律另有規定者，不在此限。

第七十四條 法律行爲，係乘他人之急迫，輕率或無經驗，使其爲財產上之給付，或爲給付之約定，依當時情形顯失公平者，法院得因利害關係人之聲請，撤銷其法律行爲，或減輕其給付。

前項聲請，應於法律行爲後一年內爲之。

第二節 行爲能力

第七十五條 無行爲能力人之意思表示，無效。雖非無行爲能力人，而其意思表示，係在無意識或精神錯亂中所爲者，亦同。

第七十六條 無行爲能力人，由法定代理人代爲意思表示，並代受意思表示。

CHAPTER FOURTH

JURISTIC ACTS

TITLE 1.—GENERAL PROVISIONS

Article 71.—A juristic act which is contrary to a legal prohibition or other imperative provision of law is void, unless the nature of the provision be such that it may not be voided or a contrary intention appears from the prohibition.

Article 72.—A juristic act which is contrary to public order or good morals is void.

Article 73.—A juristic act which is not in the form prescribed by law is void, unless otherwise provided by law.

Article 74.—In the case of a juristic act whereby a person profiting by the difficulties, indiscretion or inexperience of another causes to be delivered or promised to himself pecuniary advantages which exceed the consideration for it to such an extent that having regard to the circumstances, the unfairness of the transaction is obvious, the Court may, on the application of the injured party, cancel the juristic act or reduce the obligation.

The application as mentioned above must be made within one year from the date of the juristic act.

TITLE 2.—DISPOSING CAPACITY

Article 75.—The declaration of intention of a person incapable of disposing is void. A declaration is also void which is made by a person who, though not incapable of disposing, is in a condition of unconsciousness or morbid disturbance of the mental activity.

Article 76.—For the making or receiving of a declaration of intention a person incapable of disposing is represented by his statutory agents.

第七十七條 限制行爲能力人爲意思表示及受意思表示,應得法定代理人之允許。但純獲法律上利益,或依其年齡及身分,日常生活所必需者,不在此限。

第七十八條 限制行爲能力人,未得法定代理人之允許,所爲之單獨行爲,無效。

第七十九條 限制行爲能力人,未得法定代理人之允許,所訂立之契約,須經法定代理人之承認,始生效力。

第八十條 前條契約相對人,得定一個月以上之期限,催告法定代理人,確答是否承認。

於前項期限內,法定代理人不爲確答者,視爲拒絕承認。

第八十一條 限制行爲能力人,於限制原因消滅後,承認其所訂立之契約者,其承認,與法定代理人之承認,有同一效力。

前條規定,於前項情形準用之。

第八十二條 限制行爲能力人所訂立之契約,未經承認前,相對人得撤回之。但訂立契約時,知其未得有允許者,不在此限。

第八十三條 限制行爲能力人,用詐術使人信其爲有行爲能力人或已得法定代理人之允許者,其法律行爲爲有效。

Article 77.—Where a person limited in disposing capacity makes or receives a declaration of intention, the approval of the statutory agent is necessary, unless the declaration of intention relates to the mere acquisition of a legal advantage or to the necessities of life according to the age and social standing of the person limited in disposing capacity.

Article 78.—A unilateral juristic act which a person limited in disposing capacity enters into without the approval of his statutory agent is void.

Article 79.—If a person limited in disposing capacity enters into a contract without the approval of his statutory agent, the contract becomes valid upon ratification by the statutory agent.

Article 80.—The other party to the contract mentioned in the preceding Article may fix a period, not less than one month, and request the statutory agent to declare within such period whether or not he ratifies the contract.

If the statutory agent does not give a definite answer within the above-mentioned period, the ratification is deemed to have been refused.

Article 81.—When the cause for which a person's disposing capacity is limited has disappeared, the ratification of the contract which he has previously entered into has the same validity as that of his statutory agent.

The provision of the preceding Article apply *mutatis mutandis* to the case provided for in the preceding paragraph.

Article 82.—Before ratification of the contract made by a person limited in disposing capacity, the other party is entitled to rescind it, unless he knew, at the time when it was entered into, that the approval of the statutory agent had not been given.

Article 83.—A juristic act done by a person limited in disposing capacity is valid if such person by using deceitful means has induced the other party to believe

第八十四條 法定代理人,允許限制行爲能力人處分之財產,限制行爲能力人,就該財產有處分之力。

第八十五條 法定代理人,允許限制行爲能力人獨立營業者,限制行爲能力人,關於其營業,有行爲能力。

限制行爲能力人,就其營業有不勝任之情形時,法定代理人,得將其允許撤銷或限制之。

第三節 意思表示

第八十六條 表意人無欲爲其意思表示所拘束之意,而爲意思表示者,其意思表示,不因之無效。但其情形爲相對人所明知者,不在此限。

第八十七條 表意人與相對人通謀而爲虛僞意思表示者,其意思表示無效。但不得以其無效,對抗善意第三人。

虛僞意思表示,隱藏他項法律行爲者,適用關於該項法律行爲之規定。

第八十八條 意思表示之內容有錯誤,或表意人若知其事情卽不爲意思表示者,表意人得將其意思表示撤銷之。但以其錯誤或不知事情,非由表意人自己之過失者爲限。

當事人之資格,或物之性質,若交易上認爲重要者,其錯誤,視爲意思表示內容之錯誤。

that he had full capacity or that he had obtained the approval of his statutory agent.

Article 84.—If the statutory agent of a person limited in disposing capacity has authorized the latter to dispose of a certain property, the person has full disposing capacity in respect to the said property.

Article 85.—If the statutory agent of a person limited in disposing capacity has authorized the latter to carry on a business independently, such person has full disposing capacity in respect to the said business.

The authorization may be revoked, or restricted by the statutory agent if the person limited in disposing capacity proves himself to be incapable of carrying on the business thus authorized.

TITLE 3.—DECLARATION OF INTENTION

Article 86.—A declaration of intention is not void by reason of the fact that the declarant did not intend to be bound by it, unless such fact was known to the other party.

Article 87.—A fictitious declaration of intention made by the declarant in collusion with the other party is void, but the fact of its being void cannot be set up against a *bona fide* third party.

If the fictitious declaration of intention was intended to cover another juristic act, the provisions of law concerning the such other juristic act shall apply.

Article 88.—A declaration of intention may be avoided by the declarant if he was acting under a mistake as to the purport of the declaration of intention or had he known the real state of affairs, he would not have made the declaration; provided that the mistake or the ignorance of the real state of affairs was not due to the declarant's negligence.

A mistake concerning the qualifications of the other party or the nature of a thing which, according to ordinary dealings, are regarded as essential, shall be deemed a mistake as to the purport of the declaration of intention.

第八十九條 意思表示,因傳達人或傳達機關傳達不實者,得比照前條之規定,撤銷之。

第九十條 前二條之撤銷權,自意思表示後,經過一年而消滅。

第九十一條 依第八十八條及第八十九條之規定,撤銷意思表示時,表意人對於信其意思表示為有效而受損害之相對人或第三人,應負賠償責任。但其撤銷之原因,受害人明知或可得而知者,不在此限。

第九十二條 因被詐欺或被脅迫,而為意思表示者,表意人得撤銷其意思表示。但詐欺係由第三人所為者,以相對人明知其事實或可得而知者為限,始得撤銷之。

被詐欺而為之意思表示,其撤銷不得以之對抗善意第三人。

第九十三條 前條之撤銷,應於發見詐欺或脅迫終止後,一年內為之。但自意思表示後,經過十年,不得撤銷。

第九十四條 對話人為意思表示者,其意思表示,以相對人了解時,發生效力。

第九十五條 非對話而為意思表示者,其意思表示,以通知達到相對人時,發生效力。但撤回之通知,同時或先時達到者,不在此限。

Article 89.—A declaration of intention which has been incorrectly transmitted by the person or institution employed for its transmission may be avoided under the same conditions as provided for in the preceding Article.

Article 90.—The right of avoidance provided in the above two Articles is extinguished by prescription if not exercised within one year from the date of the declaration.

Article 91.—If a declaration of intention is avoided under Article 88 or Article 89, the declarant shall make compensation for any damage which the other party or any third party may have sustained by relying upon the validity of the declaration, unless the injured party knew, or had the means of knowing, of the ground on which the declaration was voidable.

Article 92.—If a declaration of intention is procured by fraud or by duress the declarant may avoid it. If a third party was guilty of the fraud the declaration may be avoided only if the other party knew the fraud or had the means of knowing it.

The avoidance of a declaration of intention on the ground of fraud cannot be set up against a *bona fide* third party.

Article 93.—The right of avoidance under the preceding Article shall be exercised within one year from the date when the fraud was discovered or when the duress ceased. The right of avoidance is barred if ten years have elapsed since the making of the declaration of intention.

Article 94.—A declaration of intention *inter presentes** becomes effective at the moment when the person to whom it is made understands it.

TRANSLATORS' NOTE.—For lack of a better expression, the Chinese characters “相對人” is here translated as *inter presentes*. It should be noted, however, that the Chinese characters includes persons who, though not strictly *inter presentes*, communicate with each other by telephone.

Article 95.—A declaration of intention *inter absentes* becomes effective at the moment when the notification of the declaration reaches the other party, unless a notification of revocation reaches such other party previously or simultaneously.

表意人,於發出通知後死亡或喪失行爲能力,或其行爲能力受限制者,其意思表示,不因之失其效力。

第九十六條 向無行爲能力人或限制行爲能力人爲意思表示者,以其通知達到其法定代理人時,發生效力。

第九十七條 表意人,非因自己之過失不知相對人之姓名,居所者,得依民事訴訟法公示送達之規定,以公示送達爲意思表示之通知。

第九十八條 解釋意思表示,應探求當事人之真意,不得拘泥於所用之辭句。

第四節 條件及期限

第九十九條 附停止條件之法律行爲,於條件成就時,發生效力。

附解除條件之法律行爲,於條件成就時,失其效力。

依當事人之特約,使條件成就之效果,不於條件成就之時發生者,依其特約。

第一百條 附條件之法律行爲當事人,於條件成否未定前,若有損害相對人因條件成就所應得利益之行爲者,負賠償損害之責任。

第一百零一條 因條件成就而受不利益之當事人,如以不正當行爲阻其條件之成就者,視爲條件已成就。

The fact that the declarant dies, or becomes incapable of disposing, or is limited in disposing capacity after the despatch of the notification of the declaration shall not impair the validity of the declaration of intention.

Article 96.—A declaration of intention made to a person incapable of disposing or limited in disposing capacity becomes effective when the notification of the declaration reaches the statutory agent.

Article 97.—If a declarant, due to no fault on his part, is ignorant of the name and residence of the other party the notification of the declaration may be effected by service by public notice in accordance with the provisions of the Code of Civil Procedure governing service by public notice.

Article 98.—In the interpretation of a declaration of intention the true intention must be sought rather than the literal meaning of the words or expressions.

TITLE 4.—CONDITIONS—TIME OF COMMENCEMENT AND ENDING

Article 99.—A juristic act subject to a condition precedent becomes effective on the fulfilment of the condition.

A juristic act subject to a condition subsequent ceases to be effective on the fulfilment of the condition.

If, according to the special agreement of the parties the consequences of the fulfilment of the condition shall take place at another time than the time of fulfilment, such special agreement shall govern.

Article 100.—In the case of a juristic act entered into subject to a condition precedent, the person who has, during the time pending the fulfilment, done any act diminishing the advantages which the other party would have derived from the fulfilment of the condition, is responsible for any damage resulting therefrom.

Article 101.—If the fulfilment of a condition is prevented by improper means by the party to whose disadvantage it would operate, the condition is deemed to have been fulfilled.

因條件成就而受利益之當事人,如以不正當行為促其條件之成就者,視為條件不成就。

第一百零二條 附始期之法律行為,於期限屆至時,發生效力。

附終期之法律行為,於期限屆滿時,失其效力。

第一百條之規定,於前二項情形準用之。

第五節 代理

第一百零三條 代理人於代理權限內,以本人名義所為之意思表示,直接對本人發生效力。

前項規定,於應向本人為意思表示,而向其代理人為之者,準用之。

第一百零四條 代理人所為或所受意思表示之效力,不因其為限制行為能力人,而受影響。

第一百零五條 代理人之意思表示,因其意思欠缺,被詐欺,被脅迫,或明知其事情,或可得而知其事情,致其效力受影響時,其事實之有無,應就代理人決之。但代理人之代理權係以法律行為授與者,其意思表示,如依照本人所指示之意思而為時,其事實之有無,應就本人決之。

第一百零六條 代理人,非經本人之許諾,不得為本人與自己之法律行為,亦不得既為第三人之代理人,而為本人與第三人之法律行為。但其法律行為,係專履行債務者,不在此限。

If the fulfilment of the condition is brought about by improper means by the party to whose advantage it would operate, the condition is deemed not to have been fulfilled.

Article 102.—A juristic act subject to a time for its commencement, becomes operative when the time arrives.

A juristic act subject to a time for its termination ceases to be operative when the time arrives.

In cases under the two preceding paragraphs, the provision of Article 100 applies *mutatis mutandis*.

TITLE 5.—AGENCY

Article 103.—A declaration of intention which an agent makes in the name of the principal within the scope of his delegated authority takes effect directly both in favour of or against the principal.

The provision of the preceding paragraph applies *mutatis mutandis* if a declaration of intention required to be made to the principal is made to his agent.

Article 104.—The validity of a declaration of intention made by or to an agent is not impaired by the fact that he is limited in disposing capacity.

Article 105.—In so far as the legal effectiveness of a declaration of intention of an agent is vitiated by defective intention, by fraud, or by duress or by knowledge or by culpable ignorance of certain circumstances the question of the fact shall be determined with regard to the agent. But if the agent derives his authority from a juristic act and the declaration of intention was made according to definite instructions of the principal, the question of fact shall be determined with regard to the principal.

Article 106.—Without the consent of the principal, an agent may not enter into a juristic act in the name of his principal with himself in his own name, nor may he, as agent of a third party, enter into a juristic act in the name of the principal with such third party unless the juristic act consists exclusively in the fulfilment of an obligation.

第一百零七條 代理權之限制及撤回,不得以之對抗善意第三人。但第三人,因過失而不知其事實者,不在此限。

第一百零八條 代理權之消滅,依其所由授與之法律關係定之。

代理權,得於其所由授與之法律關係存續中,撤回之。但依該法律之性質不得撤回者,不在此限。

第一百零九條 代理權消滅或撤回時,代理人須將授權書,交還於授權者,不得留置。

第一百一十條 無代理權人,以他人之代理人名義所爲之法律行爲,對於善意之相對人,負損害賠償之責。

第六節 無效及撤銷

第一百一十一條 法律行爲之一部分無效者,全部皆爲無效。但除去該部分亦可成立者,則其他部分,仍爲有效。

第一百一十二條 無效之法律行爲,若具備他法律行爲之要件,並因其情形,可認當事人若知其無效,即欲爲他法律行爲者,其他法律行爲,仍爲有效。

第一百一十三條 無效法律行爲之當事人,於行爲當時,知其無效,或可得而知者,應負回復原狀或損害賠償之責任。

第一百一十四條 法律行爲經撤銷者,視爲自始無效。

Article 107.—No limitation or revocation of the power conferred on an agent can be set up against a *bona fide* third party unless the third party through mistake of his own does not know the facts.

Article 108.—The power of agency is terminated according to the legal relation upon which its creation is based.

The power of agency is revocable during the existence of the legal relation upon which its creation is based, unless according to the nature of the legal relation it cannot be revoked.

Article 109.—At the termination of the power of agency the agent has to return the written power of agency to the party who gave it; he has no right of lien on it.

Article 110.—Whoever not having authority as agent, enters into a juristic act in the name of agent of another person is responsible for damages to the other party in good faith.

TITLE 6.—VOID AND VOIDABLE ACTS

Article 111.—If part of a juristic act is void, the whole juristic act is void, unless it may be assumed that it would equally have been entered into if the void part has been omitted.

Article 112.—If a void juristic act satisfies the requirement of a different juristic act, the latter is valid if according to the circumstances it may be assumed that its validity would have been intended by the parties on knowing of the invalidity of the former.

Article 113.—A party who at the moment when a void juristic act was entered into knew or had the means of knowing that it was void, is bound to restore the state of things to its former condition, or to make good any injury resulting therefrom.

Article 114.—If a voidable juristic act is avoided, it is deemed to have been void *ab initio*.

當事人知其得撤銷,或可得而知者,其法律行為撤銷時,準用前條之規定。

第一百一十五條 經承認之法律行為,如無特別訂定,溯及為法律行為時,發生效力。

第一百一十六條 撤銷及承認,應以意思表示為之。

如相對人確定者,前項意思表示,應向相對人為之。

第一百一十七條 法律行為,須得第三人之同意,始生效力者,其同意或拒絕,得向當事人之一方為之。

第一百一十八條 無權利人,就權利標的物所為之處分,經有權利人之承認,始生效力。

無權利人,就權利標的物為處分後取得其權利者,其處分自始有效。

前項情形,若數處分相抵觸時,以其最初之處分為有效。

If its voidability was known or ought to have been known to the parties concerned the provision of the preceding Article applies *mutatis mutandis* to the avoidance of the juristic act.

Article 115.—If a voidable juristic act is ratified it is deemed to have been valid from the moment when the juristic act was entered into unless it is otherwise agreed upon.

Article 116.—An avoidance or ratification is made by a declaration of intention.

If the other party is known the declaration of intention is to be made to him.

Article 117.—If the validity of a juristic act depends upon the consent of a third party the giving or the refusal of the consent may be declared as well to the one as to the other party.

Article 118.—A disposition affecting any object which is made by a person without title is valid upon the ratification of the person entitled.

The disposition is valid *ab initio*, if the person without title acquires title to the object after having made the disposition.

In the case provided in the preceding paragraph, if several incompatible dispositions have been made, only the earliest disposition is effective.

第五章 期日及期間

第一百一十九條 法令,審判或法律行爲所定之期日及期間,除有特別訂定外,其計算,依本章之規定。

第一百二十條 以時定期間者,即時起算。

以日,星期,月或年定期間者,其始日不算入。

第一百二十一條 以日,星期,月或年定期間者,以期間末日之終止,爲期間之終止。

期間不以星期,月或年之始日起算者,以最後之星期,月或年與起算日相當日之前一日,爲期間之末日。但以月或年定期間,於最後之月,無相當日者,以其月之末日,爲期間之末日。

第一百二十二條 於一定期日或期間內,應爲意思表示或給付者,其期日或其期間之末日,爲星期日,紀念日或其他休息日時,以其休息日之次日代之。

第一百二十三條 稱月或年者,依曆計算。

月或年,非連續計算者,每月爲三十日。每年爲三百六十五日。

CHAPTER FIFTH

DATES AND PERIODS

Article 119.—Unless otherwise provided, the calculation of dates and periods specified in law, ordinances, judicial decisions and juristic acts shall be made in accordance with the provisions of the present chapter.

Article 120.—A period fixed by hours shall commence immediately.

When a period is fixed by days, weeks, months or years, the first day is not included in the calculation.

Article 121.—A period fixed by days, weeks, months or years ends with the expiration of the last day of the period.

If a period fixed by weeks, months or years does not run from the beginning of a week, month or year, it ends with the expiration of the day preceding the day of the last week, month or year which corresponds to that on which it began to run. But if there is no such corresponding day in the last month, the period ends with the expiration of the last day of the last month.

Article 122.—If on a given date, or within a given period a declaration of intention is required to be made or an act of performance is to be effected and if the given day or the last day of the given period, falls on a Sunday, Commemoration day or any other holiday, the day following the holiday shall take its place.

Article 123.—A period fixed by months or years is to be calculated according to the official calendar.

If a period of time is fixed by months or years in such a manner that they need not run consecutively, a month is reckoned as thirty days, a year as three hundred and sixty five days.

第一百二十四條 年齡自出生之日起算。

出生之月日，無從確定時，推定其為七月一日出生。知其出生之月，而不知出生之日者，推定其為該月十五日出生。

Article 124.—Age is reckoned from the day of birth.

If it is not possible to ascertain the month of birth of a person, he is presumed to have been born on the first day of July. If the month of birth is known and it is not possible to ascertain the day, he is presumed to have been born on the fifteenth day of the month.

第六章 消滅時效

第一百二十五條 請求權,因十五年間不行使而消滅。但法律所定期間較短者,依其規定。

第一百二十六條 利息,紅利,租金,贍養費,退職金,及其他一年或不及一年之定期給付債權,其各期給付請求權,因五年間不行使而消滅。

第一百二十七條 左列各款請求權,因二年間不行使而消滅。

- (一) 旅店,飲食店及娛樂場之住宿費,飲食費,座費,消費物之代價及其墊款。
- (二) 運送費及運送人所墊之款。
- (三) 以租賃動產為營業者之租價。
- (四) 醫生,藥師,看護生之診費,藥費,報酬及其墊款。
- (五) 律師,會計師,公證人之報酬及其墊款。
- (六) 律師,會計師,公證人所收當事人物件之交還。
- (七) 技師,承攬人之報酬及其墊款。
- (八) 商人,製造人,手工業人所供給之商品及產物之代價。

CHAPTER SIXTH

EXTINCTIVE PRESCRIPTION

Article 125.—A right of claim is extinguished by prescription if not exercised within fifteen years, unless shorter periods are prescribed by law.

Article 126.—For the payment of interest, dividends, rent, maintenance, pensions, and for the payment of money due at stated intervals of one year or less, the right of claim for each successive payment is extinguished by prescription if not exercised within five years.

Article 127.—Right of claim in respect of the following are extinguished by prescription if not exercised within two years:

1° Charges for lodging, food or drink, hire of rooms or seats, or for the price of articles for consumption, and for disbursements made by inns, restaurants and places of amusement.

2° Cost of transportation and the disbursements by carriers.

3° Rent due to a person who carries on a business of letting movables.

4° Fees and remuneration or charges for medicine of medical practitioners, druggists, and nurses, and their disbursements.

5° Fees and remuneration of attorneys, public accountants and notaries and their disbursements.

6° Restoration of things received from the parties to an action by attorneys, public accountants and parties.

7° Fees and remuneration of technical experts and contractors including their disbursements.

8° Claims of merchants, manufacturers and those who practise industrial arts for the price of goods or products supplied.

第一百二十八條 消滅時效,自請求權可行使時起算。以不行爲爲目的之請求權,自爲行爲時起算。

第一百二十九條 消滅時效,因左列事由而中斷。

- (一) 請求。
- (二) 承認。
- (三) 起訴。

左列事項,與起訴有同一效力。

- (一) 依督促程序,送達支付命令。
- (二) 因和解而傳喚。
- (三) 報明破產債權。
- (四) 告知訴訟。
- (五) 開始執行行爲或聲請強制執行。

第一百三十條 時效,因請求而中斷者,若於請求後六個月內不起訴,視爲不中斷。

第一百三十一條 時效,因起訴而中斷者,若撤回其訴,或因不合法而受駁回之判決其判決確定,視爲不中斷。

第一百三十二條 時效,因送達支付命令而中斷者,若訴訟拘束失其效力時,視爲不中斷。

第一百三十三條 時效,因和解傳喚而中斷者,若相對人不到庭或和解不成時,視爲不中斷。

Article 128.—Extinctive prescription begins to run from the time when the claim can be enforced. If the claim is for a forbearance, the prescription begins to run from the moment when the right is first infringed.

Article 129.—Extinctive prescription is interrupted by any of the following causes:

1. A demand (for the satisfaction of the claim);
2. An acknowledgment (of the claim);
3. An action brought for the satisfaction of the claim.

The following are equivalent to bringing an action:

1. The service of an order for payment in a hortatory process;
2. The service of a summons for the purpose of effecting a compromise;
3. The presentation of a claim in bankruptcy proceedings;
4. The notice of the pendency of an action;
5. The institution of proceedings in execution or the presentation of an application for compulsory execution.

Article 130.—In the case of interruption by the making of a demand, if within six months an action in Court has not been brought for the satisfaction of a claim, the prescription is deemed not to have been interrupted.

Article 131.—In the case of interruption by bringing action, if the action is withdrawn or dismissed as non-conformable to law by a judgment which has become final, the prescription is deemed not to have been interrupted.

Article 132.—In the case of interruption by service of an order for payment if the pendency of the action loses its effect, the prescription is deemed not to have been interrupted.

Article 133.—In the case of interruption by service of a summons for the purpose of effecting a compromise, if the other party does not appear or if no compromise is arrived at, the prescription is deemed not to have been interrupted.

第一百三十四條 時效,因報明破產債權而中斷者,若債權人撤回其報明時,視為不中斷。

第一百三十五條 時效,因告知訴訟而中斷者,若於訴訟終結後,六個月內不起訴,視為不中斷。

第一百三十六條 時效,因開始執行行為而中斷者,若因權利人之聲請,或法律上要件之欠缺,而撤銷其執行處分時,視為不中斷。

時效,因強制執行而中斷者,若撤回其聲請,或其聲請被駁回時,視為不中斷。

第一百三十七條 時效中斷者,自中斷之事由終止時,重行起算。

因起訴而中斷之時效,自受確定判決,或因其他方法訴訟終結時,重行起算。

第一百三十八條 時效中斷,以當事人,繼承人,受讓人之間為限,始有效力。

第一百三十九條 時效之期間終止時,因天災或其他不可避之事變,致不能中斷其時效者,自其妨礙事由消滅時起,一個月內,其時效不完成。

第一百四十條 屬於繼承財產之權利,或對於繼承財產之權利,自繼承人確定或管理人選定,或破產之宣告時起,六個月內,其時效不完成。

Article 134.—In the case of interruption by presentation of a petition in bankruptcy proceedings if the creditor withdraws the petition, the prescription is deemed not to have been interrupted.

Article 135.—In the case of interruption by notice of the pendency of an action if no action is brought within six months after termination of the process, the prescription is deemed not to have been interrupted.

Article 136.—In the case of interruption by institution of proceedings in execution if the order for execution is cancelled upon the application of the person entitled, or on account of the non-fulfilment of legal requirements, the prescription is deemed not to have been interrupted.

In the case of interruption by presentation of an application for compulsory execution if the application is withdrawn or dismissed, the prescription is deemed not to have been interrupted.

Article 137.—A prescription which has been interrupted recommences to run from the moment when the cause of interruption ceases.

A prescription which has been interrupted by an action brought for the satisfaction of the claim recommences to run from the time when the case is decided or otherwise disposed of without any right of appeal.

Article 138.—An interruption of prescription takes effect only as between the parties and their successors and assignees.

Article 139.—If, at the time when the period for prescription would otherwise mature, the prescription cannot be interrupted owing to *vis major* or any other unavoidable cause, the prescription is not complete before the expiration of one month from the time when such obstruction ceases.

Article 140.—The prescription of a claim in favour of or against the property of a succession is not complete before the expiration of six months from the time when the heir is determined, an administrator is appointed or a declaration of bankruptcy is made.

第一百四十一條 無行為能力人，或限制行為能力人之權利，於時效期間終止前六個月內，若無法定代理人者，自其成為行為能力人，或其法定代理人就職時起，六個月內，其時效不完成。

第一百四十二條 無行為能力人，或限制行為能力人，對於其法定代理人之權利，於代理關係消滅後一年內，其時效不完成。

第一百四十三條 夫對於妻或妻對於夫之權利，於婚姻關係消滅後一年內，其時效不完成。

第一百四十四條 時效完成後，債務人得拒絕給付。

請求權已經時效消滅，債務人仍為履行之給付者，不得以不知時效為理由，請求返還。其以契約承認該債務，或提出擔保者，亦同。

第一百四十五條 以抵押權，質權或留置權擔保之請求權，雖經時效消滅，債權人仍得就其抵押物質物或留置物取償。

前項規定，於利息及其他定期給付之各期給付請求權，經時效消滅者，不適用之。

第一百四十六條 主權利因時效消滅者，其效力及於從權利。但法律有特別規定者，不在此限。

第一百四十七條 時效期間，不得以法律行為加長或減短之。並不得預先拋棄時效之利益。

Article 141.—If a person incapable of disposing or limited in disposing capacity is left without a statutory agent within six months before the expiration of the period of prescription, the prescription running against him is not complete before the expiration of six months from the time when such person becomes capable of disposing or when his statutory agent enters upon his duties.

Article 142.—The prescription of claims of a person incapable of disposing or limited in disposing capacity against his statutory agent is not complete before the expiration of one year after his legal relation to the statutory agent has ceased.

Article 143.—The prescription of claim of a husband against his wife or of a wife against her husband is not complete before the expiration of one year after the dissolution of marriage.

Article 144.—After the lapse of prescription the debtor is entitled to refuse performance.

If any act of performance is done in satisfaction of a claim extinguished by prescription, the value of such performance may not be demanded back on the ground that performance has been effected in ignorance of the prescription. The same rule applies to a contractual acknowledgment of liability and to the giving of security by the debtor.

Article 145.—The prescription of a claim for which there is a mortgage, or a right of pledge, or a right of retention does not prevent the creditor from satisfying himself out of the security.

The provision of the preceding paragraph does not apply when the claim for interest or other periodical acts of performance has been extinguished by prescription.

Article 146.—Unless otherwise provided in this Code, the extinctive prescription of the principal claim affects the accessory claims.

Article 147.—The period of prescription cannot be extended or reduced. The benefit of prescription cannot be renounced beforehand.

第七章 權利之行使

第一百四十八條 權利之行使,不得以損害他人爲主要目的。

第一百四十九條 對於現時不法之侵害,爲防衛自己或他人之權利所爲之行爲,不負損害賠償之責。但已逾越必要程度者,仍應負相當賠償之責。

第一百五十條 因避免自己或他人生命,身體,自由或財產上急迫之危險,所爲之行爲,不負損害賠償之責。但以避免危險所必要,並未逾越危險所能致之損害程度者爲限。

前項情形,其危險之發生,如行爲人有責任者,應負損害賠償之責。

第一百五十一條 爲保護自己權利,對於他人之自由或財產,施以拘束,押收或毀損者,不負損害賠償之責。但以不及受官署援助,並非於其時爲之,則請求權不得實行或其實行顯有困難者爲限。

第一百五十二條 依前條之規定,拘束他人自由,或押收他人財產者,須即時向官署聲請援助。

前項聲請被駁回,或其聲請遲延者,行爲人應負損害賠償之責。

CHAPTER SEVENTH

EXERCISE OF RIGHTS

Article 148.—A right cannot be exercised for the main purpose of causing injury to another person.

Article 149.—A person acting for the purpose of defending his own rights or the rights of another person against any imminent unlawful infringement, is not liable to make compensation, provided that if anything is done in excess of what is required for necessary defence, a reasonable compensation is due.

Article 150.—A person acting for the purpose of averting an imminent danger threatening the life, body, liberty or property of himself or of another person, is not liable to make compensation, provided that the act is necessary for averting the danger and that the damage done does not exceed the damage which would have been caused by the danger.

In the case provided in the preceding paragraph if the person so acting has contributed to cause the danger, he is liable to make compensation.

Article 151.—A person who, in order to protect his rights, exercises constraint over the liberty, or seizes or destroys the property of another person, is not liable to make compensation, provided that under the circumstances the assistance of the authorities is not obtainable in due time and there is a danger that if the person does not act immediately, the exercise of his right will be rendered impossible or obviously difficult.

Article 152.—A person who takes advantage of the provisions of the preceding Article in restraining the liberty of another person or seizing his property must apply for assistance from the authorities.

If he fails to make such application in due time or if the application is rejected, he is liable to make compensation for any injury resulting from his action.

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