

2 — **Commercial law.** Rules of commercial law regulate legal relationships between merchants and all commercial business activities. It is, thus, like civil law in dealing with financial relationships. But the difference between them is that the financial relationships which are governed by commercial law are determined either in accordance with the characteristics of a certain class of individuals, or on the basis of the nature of transactions. Thus, it may be the case that the provisions of commercial law apply to transactions commercial by nature, although the individuals concerned in it are not merchants.

The separation of commercial law from the rest of the civil law is convenient, and does not rest on any scientific basis. It is convenient to group together the rules which have particular reference to matters of trade, but there is no other reason for making the distinction. The nature of commercial activity requires speed in transacting it, and special principles to be developed in consonance therewith. Great hardships will ensue if we insist

tion, in the application of the more strict and highly formal rules of civil law in this respect.

ies. Commercial law includes the rules applicable to the determination of the characteristics of commercial activity. It specifies the criteria which establishes the status of a merchant, such as capacity, professional character, legal personality in the case of corporate entities. Commercial law also deals with the duties imposed on merchants, such as the duty to keep certain commercial registers, and to assume a commercial address. Moreover, it is in commercial law that students come across the study of the various kinds of commercial association like corporations, companies with limited liability, partnerships, and the like, in addition to the rules governing bankruptcy and commercial paper like cheques, bills of exchange, bonds, notes, shares.

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Finally, side by side with commercial law, there is the special branch of 'maritime law'. This branch deals with the carriage of goods by sea, marine insurance, and all that relate to the sale of vessels, their gear, and provisions.

— **The law of civil and commercial procedure.** This branch of law may be defined as "the body of rules that regulates the means to be followed in the application of the rules of the civil law." The law of civil and commercial procedure is not a law of substantive rules, but an adjective law merely indicating formal means to be followed.

In any civilized system of law, it is, undoubtedly, established that individuals possess no inherent power to get their rights for themselves, but should follow a formal approach in getting them. An individual who alleges that a certain right belongs to him should claim it by the institution of a case in a court having jurisdiction to decide it. As a plaintiff, he should undertake the course of process, that is, acquaint the defendant with the case instituted against him. In court, the judge directs the case along procedural lines indicated by the law. Thus, the parties present claims, counter claims, and defenses. Finally the court pronounces its judgment in the light of the evidence presented before

it. Appeal from this judgment may be taken to a higher court, and so, formal appellate steps must be followed in the establishment of the disputed right. All these matters are the subject of, and regulated by, the law of civil and commercial procedure. The applicable law in Iraq is that of the Law of Civil and Commercial Procedure No. 88, 1956.