WEEK 1: INTRODUCTION TO COMMERCIAL LAW (PART 1)

Commercial law or Consumer Law

- In Aus we don't have a uniform commercial code
- Commercial law can be to some extent separate out from other areas of law
- Commercial parties may have diff aims to other areas of law
- "It is important to get some idea of the relationship between consumer law and commercial law. …the difference between the two seem …fundamental….Whereas… **commercial law** is based on the premise that businessmen are of roughly **equal bargaining power**, **consumer law** assumes that the consumer and business enterprises are **roughly unequal**. While commercial law is happy for businessmen to regulate their own affairs through mercantile usage, usage plays only a peripheral role in consumer transactions… These fundamental differences mean that whereas commercial law is non-interventionist and essentially pragmatic in nature, consumer law intrudes into contracts made between consumer and business supplier and is essentially an instrument of social policy."
    - (Sealy and Hooley, *Commercial Law, Text, Cases and Materials,* 4th ed, 2009, Oxford University Press, p16)

What is commercial law?

- "The object of commerce is to deal in merchandise and, if we adopt this criterion, commercial law can be defined as the special rules which apply to contracts for the sale of goods and to such contracts as are ancillary thereto, namely, contracts for the carriage and insurance of goods and contracts the main purpose of which is to finance the carrying out of contracts of sale" (HC Gutteridge, Contract and Commercial Law, (1935) 51 LQR 117
- "The totality of the law's response to mercantile disputes, encompassing all those principles, rules and statutory provisions, of whatever kind, from whatever source, which bear on the private law rights, and obligations, of parties to commercial transactions, whether between themselves, or in their relationship with others"
- (Royston Goode, *Commercial Law in the Next Millennium*, Sweet & Maxwell London, 1998)

The Nature of Commercial Law Royston Goode

- Commercial law possesses four characteristics:
    - It is based on transactions, not on institutions;
    - it is concerned primarily with dealings between merchants, in the broad sense of professionals as opposed to consumers;
    - it is centred on contract and on the usages of the market, and
    - it is concerned with a large mass of transaction in which each participant is a regular player, so that the transactions are typical and in large measure repetitive and lend themselves to a substantial measure of standardised treatment.
- (R Goode, *The Codification of Commercial Law,* (1988) 14 Mon LR 135, pp141)

Commercial law

- The US Uniform Commercial Code (UCC)
- A negative definition – a commercial transaction is one of a mercantile character that does not involve a 'consumer' as defined in the legislation

Important legislation

- *Competition and Consumer Act* 2010; The Australian Consumer Law
- *The Sale of Goods* Acts of the various States
- The *Personal Property Securities Act*, 2009 (Cth)
- The various IP statutes eg copyright, patents, trade marks
- The *Insurance Contracts Act*, 1984 (Cth)
- The *Bankruptcy Act (*1966) Cth

Not covered

- Intellectual property
- Competition and consumer law including restrictive trade practices
- Business Organisations and company law

Built on

- Contracts
- Property
- Equity

New?

- Sale of Goods,
- Insurance,
- Negotiable Instruments
- Bankruptcy
- Security interests over personal property

A Unified Body of Principle?

- Is commercial law different from other areas of law?
- Is party autonomy the ultimate goal or should the State intervene
- Private or public ordering?
- The basis of the *lex mercatoria*
- Trade is borderless

PART 2: THE HISTORY OF COMMERCIAL LAW

The History of Commercial Law

- Berman H,– Law and Revolution: *The Formation of the Western Legal Tradition,* Harvard University Press, Cambridge Mass, 1983
- From 11th to 12th centuries:
    - An agricultural revolution which created surpluses to be traded and which also allowed the redistribution of a largely agrarian population into large cities;
    - The doubling of the population size of western Europe.
    - The introduction of a discrete merchant class;
    - Religious factors such as the Crusades and the programmes of Papal Revolution
- Religion and the Rise of Capitalism
- "Money is the root of all evil"(1 Tim. 6:10)
- Berman:
    - "the Western Church of the late eleventh and twelfth centuries not only did not denounce money or riches as such, but indeed encouraged the pursuit of money or riches provided that such pursuit was carried on for certain ends and according to certain principles. The secular activities of those engaged in commercial enterprise were to be organised in ways that would redeem them from the sin of avarice. The merchants were to form guilds that would have religious functions and would maintain standards of morality in commercial transactions...Legitimate trade based on good faith was distinguished from illegitimate trade based on avarice"
- Roman law: the texts of Justinian; the Sea Law of Rhodes (300BC)
- The merchants
    - The Amalfitan Table (1095)
    - Court of Oléron (1100's)
    - "piepowder courts" (pied poudre?)

Characteristics of early *lex mercatoria*

- "Speed in adjudication (a particular requirement for the foreign trader), a realistic attitude towards the proof of facts, a relative freedom from technical rules of evidence and procedure that plagued the common law courts and an acceptance of the fact that the customs of merchants generated rights which required international recognition and which, for the stability of the European markets, needed to be interpreted in a broadly uniform fashion, with an overriding requirement of good faith" (Roy Goode)
- The "staples" towns and courts

Characteristics of early *lex mercatoria* (Berman)

- A clear distinction between the laws of real and personal property;
  - Real prop was to do w status and suffrage
  - Personal prop related to commerce
- A balancing of the rights of two innocent parties, in particular, the innocent owner of goods and a good faith purchaser;
- "Recognition of the validity of informal oral agreements for the purchase and sale of movables"
- The creation of a right of possession of moveables which was a source of rights independent of ownership.
  - Right of possession created right of ownership
  - In personal prop, two distinctive features: documentary ownership & possessory title
- The crucial development of the bill of exchange;
- Bankruptcy law aimed at prioritising creditors but also allowing the debtor to start again with a clean slate;
- Patents and trademarks
- The development of the joint venture and other forms of business organisations
- The development in the 14th and 15th centuries of marine insurance.

The Absorption of the Law Merchant into the common law

- The lex mercatoria is originally a "language of interaction"
  - "Thus, through a gradual process of absorption by creating governmentally backed institutional arrangements and laws which would be acceptable to the merchants, and by weakening the authority of the merchant courts, commercial law began to become part of common law. (Bruce Benson, *The Spontaneous Evolution of Commercial Law*, (1989) 55 Southern Economic Journal, 644)
  - It was not an intl lex mercatoria that governed the merchant's transactions but some agreed rule as to how the transactions would be formalised
- The lex mercatoria becomes:
  - Less flexible,
  - More domesticated and concerned with domestic affairs to the benefit of the king.

Trakman

- The Law Merchant fared less well in England than in continental Europe, for pragmatic reasons. England had adopted neither the Romanist system of law nor the great commercial codes of continental Europe.[(77)] Post-medieval English judges also were reluctant to enshrine commercial practice in English Law.[(78)] Adopting a formulatory system of writs and precedents, English courts endorsed merchant customs only if they were 'certain' in nature, 'consistent with law,' and 'in existence since time immemorial.' [(79)] English judges also required that merchant custom be proven 'to the satisfaction of twelve reasonable and ignorant jurors
- Trakman, L, From The Medieval Law Merchant to E-Merchant Law, University of Toronto Law Journal - Volume LIII, Number 3, Summer 2003

Benson

- "Many of the desirable characteristics of the Law Merchant in England had been lost by the nineteenth century, including its character, its flexibility and dynamic ability to grow, its informality and speed, and its reliance on commercial custom and practice"

The Re-emergence of the Law Merchant

- Lord Mansfield:
  - Responsible for initial drafting of many commercial Acts in England
  - *R v Knowles, ex parte Somersett* (1772) 20 State Tr 1 – slavery is unlawful in England
- Goode (7) on Mansfield:
  - "Proceeded to reduce the vast mass of case law on commercial disputes to an ordered structure, combining a mastery of the common law with a profound knowledge of foreign legal systems and a deep insight into the methods and usages of the mercantile world"
- The rise of commercial arbitration as a dispute resolution process
- Sir Mackenzie Chalmers responsible for drafting the *Bills of Exchange Act* 1882, the *Sale of Goods Act* 1893 and the *Marine Insurance Act* 1906

Organic development of the *lex mercatoria*

- Benson:
  - "..the invisible hand guiding the development of the market's spontaneous order had to be supported by another invisible hand which guided the evolution of the commercial law. Neither of these evolutionary processes could have been achieved by intentional design".

The myth of the universal *lex mercatoria*

- Emily Kadens, *"The Myth of the Customary Law Merchant"*: the primary driving force behind early commercial trade were agreed rules of the law of contract …. customary law, or mercantile law, was employed only to augment contract law or to fill gaps in specific areas.
- Edwards and Ogilvie,
  - "The evidence shows that contract-enforcement at the fairs did not take the form of private-order or corporative mechanisms, but was provided by public institutions. More generally, the success and decline of the Champagne fairs depended, for good or ill, on the policies adopted by the public authorities"
  - *What lessons for economic development can we draw from the Champagne fairs*?, Explorations in Economic History, Volume 49, issue 2, April 2012

<u>PART 3: THE MAJOR SOURCES OF COMMERCIAL LAW; THE NATURE OF COMMERCIAL LAW</u>

The major sources of commercial law

- **Contract (and exceptions to the doctrine of privity of contract)**
- **Equity**
  - Two pri equitable tools that had an impact in this area is the fiduciary obligations and constructive trusts
  - Construct trust = remedy and institution that arises
- **Trade Usage or Mercantile Custom**
- **International Bodies**
  - The International Chamber of Commerce (ICC),
  - The United Nations Commission on International Trade Law (UNCITRAL)
  - The International Institute for the Unification of Private Law**,** (UNIDROIT)

  The European Commission (EU)**,**
  - CISG advisory committee
- **Domestic legislation**
- **"Soft Law"**

The American Uniform Commercial Code (UCC)

- A model statute completely adopted by all of the American States with the exception of Louisiana which maintains parts of its civil law origins
- Its purpose of the code was to 'simplify, clarify and modernize the law governing commercial transactions" and also to make laws across the States uniform.
- One of it principle drafters was Karl Llewellyn (nicknamed *Karl's code* and *lex Llewellyn*)

Principles of the UCC

- Favored open-ended standards over firm rules;
- Avoided formalities;
- Required and facilitated the "purposive interpretation" of its provisions;
- Did not attempt to provide an exclusive statement of the law, but instead directed courts to supplement its rules with general legal and equitable principles; and
- Provided a range of remedies that principally served to make injured parties whole.
    - (Karl Llewellyn's Fading Imprint on the Jurisprudence of the Uniform Commercial Code, Gregory Maggs, George University Law School)

The Basic Requirement of Commercial Law

- Sealy and Hooley: the needs of commercial parties:
    - They demand that their agreements be upheld.
    - They require the decisions of the courts on commercial issues to be predictable so that they know where they stand.
    - They need to the law to be flexible enough to take account of their latest business practices.
    - They want their disputes resolved quickly, inexpensively and effectively.
    - (Sealy and Hooley, *Commercial Law, Text, Cases and Materials,* 4th ed, 2009, Oxford University Press, p10 – 14)

Berman

- "Time limits were narrow: in the fair courts justice was to be done while the merchants' feet were still dusty, in the maritime courts it was to be done "from tide to tide", in guild and town courts "from day to day"
- Emphasis was placed on speed and informality

Principles in a Code

- Part autonomy
- Predictability
    - Essential in the commercial world becos of the large number of standardized or high value transactions
- Flexibility
    - This allows the continued development of the law in accordance with changing needs of commercial people
- Good faith
    - USUCC apply requirement of good faith
- The encouragement of self help
    - E.g. rights to repossession of goods for non-payment
- The facilitation of security interests
    - Would allow security to be taken over almost any kind of asset
- The protection of vested rights
- The protection of innocent third parties
    - Nemo dat principle suggests that the true owner of the property should be able to keep it

Principles

- Reciprocity of rights – Berman
- "This is turn has two aspects, one procedural, the other substantive. Procedurally, the exchange must be entered into fairly, that is, without duress or fraud or other abuse of the will or knowledge of either party. Substantively, even an exchange which is entered into willingly and knowingly must not impose on either side costs that are excessively disadvantageous to third parties or to society generally".

PART 4: THE AUSTRALIAN PERSPECTIVE

The Australian Perspective

- Land not nearly as important as in England
- Early legal issues caused by lack of currency and reliance on the promissory note.
- An amateur judiciary:
    - Richard Atkins was an insolvent drunk who allegedly never let any bottle be taken from his table until it was emptied. Neither his alcoholism nor his chronic financial problems were uncommon in early New South Wales, although they did leave him vulnerable to his political enemies. They claimed that he was a person "Who lies, cheats, drinks, forbears no Lewd Delights, A hateful Fiend by Day – a monster thro' the Night. Governor Bligh thought Atkins was a "disgrace to human jurisprudence".

Two views of contract – Kercher

- A laissez faire attitude aimed at protecting freedom of contract. This was based on "laissez-faire ideological assumptions of the amoral neutrality of contract law and equality of bargaining power"
- A model based on conscience, and morality. Based on a fair price for goods and services already provided rather than on enforcing agreed prices regardless of subsequent changes of circumstances.

Justice Heydon

- *Some Developments in Commercial law in the lifetime of the Australian Law Journal*
    - 'In a federation like Australia, commercial law has been shaped by considerations of national power versus imperial power and central power versus State power'
- Wide Federal powers; involvement by the State as participants
- The growth of regulatory bodies such as ACCC, ASIC, APRA,
- Gradual drift from reliance on English law
- Increase in consumer law
- Search for "individualised justice" through statute and development of equitable doctrines such as unconscionability

Individualised Justice

- "[F]or a number of reasons, some to do with the work of legislatures, some to do with judicial law making, and some to do with the temper and spirit of the times, we can no longer say that, in all but exceptional cases, the rights and liabilities of parties to a written contract can be discovered by reading the contract."
- - the Hon. Mr. Justice AM Gleeson AC, *'Individualised Justice – The Holy Grail'* (1995) 69 Australian Law Journal 421, 428.
- Statutes which tend to weaken security of transactions and to increase the breadth, complexity and detail of factual inquiries in litigation. Examples include Trade Practices Act, which introduced a wide range of remedies which would nullify contracts for conduct, including silence, which was misleading or deceptive. State legislation such as the *Contracts Review Act* 1980 (NSW) had a similar effect.
- Judge made law e.g. Amadio (unconscionable conduct) and the development of the constructive trust, various forms of estoppel including *Commonwealth v Verwayen* which, in an attempt to consolidate the rules relating to estoppel extended its boundaries to a large number of factual situations.

Justice Heydon

- "These statutory changes, together with the fashionable growth of related equitable doctrines, and new techniques of contractual analysis must have undesirable effects on some legitimate forms of commerce. They lend themselves to gross abuses of process. It must be tempting for defendants to litigate at length about their bargains rather than to perform them, in the hope that out of a mixture of allegations relating to s 52, estoppel, implied terms, unconscionable behaviour, and contractual construction against an extensive oral background, something useful will turn up which can be used to obtain one of a wide range of discretionary remedies available under the Trade Practices Act and related State legislation."

The Federal Court

- Low numbers everywhere except Sydney and Melbourne;
- Judges to hear a particular case are chosen not by expertise but by their own workload
- There is no specialised court of appeal – appeals are to a full bench of judges chosen from the same pool. Decreases reliance on doctrine of *stare decisis*.
- Encourages forum shopping

From the Medieval Law Merchant to E-merchant law

- The Law Merchant/lex mercatoira was a system of law developed by medieval merchants to regulate commerce
- Pri aim of law merchant was to construct law out of merchant practice and to render it both comprehensible and acceptable to those who were most impacted by it
- It was said that merchant law had ought to evolve from commercial practice, that merchant law were the best source of commercial practice as the law merchant spoke to the needs of merchants as a class
- Currently, international commercial arbitration is administered by selected principles of law
- Arbitration can be tempered by choices of jurisdiction and law that govern the arbitrator and parties alike
- International commercial arbitration seeks to produce cost and time effective results but arbitration procedure is usually expensive and dilatory
- International commercial arbitrators represent an uncertain mixture of locally directed rules that arbitrators must apply and free-standing
- The 21st C law merchant is global and technologically driven but displays a number of imperfectly law merchant features
- Law of merchant is often associated with a lex informatica (law of information) and global trade is identified with computer-based access to global markets for the purpose of trading in goods and services

The medieval law merchant

- The law merchant was envisaged as uniform in nature and universal in application
- There was an expectation by the law merchant that merchants would accord each other with equal treatment and be accorded equal treatment in law
- Merchant justice was devised, administered and delivered often informally by merchant tribunals, in keeping with merchant demands for expeditious justice
- Medieval merchants needed speedy justice → increase royal rev since business would expand (e.g. provided local rulers with the tax revenue derived from trade in goods and services)
- Less procedural formality meant speedier dispensation of justice
- Merchant justice is contingent upon merchant need and isn't simply the dictating of that need superimposed by local forces

- The law merchant was the means by which local communities of merchants protected local markets from foreign practice

The evolution of the law merchant

- A 21st C law merchant is evolving that is cosmopolitan in nature and transcends the parochial interests of nation states with the driving ideology of pragmatism where commercial law is grounded in commercial practice directed at market efficiency and privacy
- Market efficiency ought to ensure that merchant practice is free from inefficient government intrusion
- Mercantile disputes ought to be resolved functionally and privately in light of commercial practice
- International commercial arbitration is a functional method of dispute resolution evolving law merchant
- A 'merchant' varies from a MNC to a domain-name holder engaged in virtual trade online
- Merchant usages are dynamic and evolving in nature
- Domain name proceedings are conducted in cyberspace as documents are filed and examined online
- Most common among virtual courts is the domain-name disputes resolution process
- The cyberspace panel's decision is published at the home sits of administering service providers, such as WIPO
- Consistent w law merchant principles, domain-name decisions are seldom challenged before traditional court of law but when they are, they are ordinarily upheld
- The domain-name panel has a comparatively functional responsibility, not unlikely the duty of the law merchant judge
- The cyberspace panel resembles its medieval precursor but it has its own distinctive features
- One diff b/w medieval and cyberspace contexts is that cyberspace is far more technologically complex than medieval space
- Cyberspace law is oriented to the specific practice of cybersquatting, as distinct from the diverse practices of medieval merchants
- Cyberspace law is a function of international regulation more than of the merchant self-regulation that typified the medieval law merchant
- Internet users aren't self-contained than other members of society and thus may not always be the right people to regulate their own activity
- Pragmatism is key to the decisions of online regulators over the extent to which they are willing to defer to Law merchant practices. It influences the manner in which they weight the cost of free trade against the benefit of a self-regulated trade in domain names. It impacts on their readiness to affirm merchant autonomy, such as on grounds of freedom of expression in cyberspace
- There are self-interested reasons for nation states to support the law merchant regime. There are also ideological reasons as well.
- But its unlikely that nation states will surrender all their autonomy to a system of dispute resolution that conflicts w states interests
- National states and international merchants share a commitment to growing trade relations in the interests of revenue and profit
- A one-dimensional law merchant is meaningless, a self-sustaining merchant may undermine not only state interests but also interests of mercantilism itself

Conclusion

- The economic efficiency of merchant self-regulation may also translate into max profits and min costs
- Its practical success may help to avoid or reduce conflict
- New law merchant has dual aspirations – max merchant autonomy and avoiding intrusion by nation states, incl state courts

Some developments in commercial law in the lifetime of Australian Law Journal – J D Heydon

- The third main development in commercial law is individual justice
- Statutory changes that were introduced, tended to weaken security of transactions and increase the breadth, complexity and detail of factual inquiries in litigation
- Trade Practices Act 1974 (Cth) s 52
- Contracts Review Act 1980 (NSW) – gave court wide discretionary powers to refuse to enforce, declare void in whole or in part, or vary a contract which was unjust in the circumstances relating to the contract at the time it was made if court considered it 'just' to do so for purpose of avoiding an unjust result → s 7(1)
- Merely to institute complex litigation can bring commercial advantages, for the commercial science will have changed before the case can be resolved
- There have been changes in evidence law which encouraged a greater use of hearsay and of doc, which depend on discretionary decisions about admissibility and which thus make it harder to predict what will happen during litigation and what its outcome will be
- The greater judicial numbers are, the less it is likely that there will be common modes of thought, the more unpredictable the outcome of litigation that turns on matters of discretion and judgement, and the les the change that like cases will be treated alike.

Mercantile Law

- The rise of the merchant class was a necessary precondition for the development of the new mercantile law
- The commercial revolution helped to produce commercial law but commercial law also helped produce commercial revolution

Religion and the rise of capitalism

- According to Henri Pirenne, the rapidity of commercial capitalism in the 12th C may be compared w the industrial revolution of the 19th C. But the attitude of the Church towards commerce was not merely passive but actively hostile
- It has been said that the church's insistence on an anti-commercial moral philosophy was a reflection of its own eco position as a great feudal landowner
- The church didn't seriously try to put into practice its doctrine of the sinfulness of the profit motive but intro a whole range of exceptions → enabling the church to benefit from its own commercial activity
- Commercial capitalism was based on Roman Catholic and Protestant thought
- The secular activities of those engaged in commercial enterprise were to be organised in ways that would redeem them from sin of avarice
- Church law set example for city law and commercial law
    - E.g. trade based on good faith
- Christian social theory said that the economic activities of merchants were no longer considered as necessarily a 'danger to salvation' but were considered a path to salvation if carried accordingly to the principles laid down by the church
- Thus the church saw the lex mercatoria to reflect the cannon law but merchants often didn't agree with it all

A new system of commercial law

- No distinction was made b/w commercial contracts and non-commercial contracts; all seen as civil contracts
- Law merchant governed a special class of people (merchants) in special places (fairs, markets and seaports) and governed mercantile relations in cities and towns

- Law merchant shared w the other major legal systems of the time of qualities of objectivity, universality, reciprocity, participatory adjudication, integration and growth → showed close links with Western legal tradition

Objectivity

- Rights and obligations became more objective and less arbitrary, more precise and less loose
- Movement away from custom to a more carefully defined customary law
- Objectivity of new system reflected in a greatly increased emphasis on impartial adjudication of commercial disputes and emergence of new forms of mercantile courts

Universality

- The law merchant is the law universal of the world
- Lex mercatoira is a customary law approved by the authority of all kingdoms and commonweals and not a law established by the sovereignty of any prince
- The affairs of commerce are regulated by the law merchant which all nations agree in and take notice of
- Each country had its own variety of law merchant
- Because foreigners were often w/o rights under local law and w/o protection by local rulers made universality of the merchant's own law a matter of urgent necessity
- Universal law merchant became safeguarded also by the increasingly powerful central political authorities

Reciprocity of rights

- This was at the heart of the new system of mercantile law during 11^{th} + 12^{th} C
- It involves the element of equality of burdens or benefits as b/w the parties of the transaction
- There are two aspects of this – procedural and substantive
- Procedural – exchange must be entered into fairly, w/o duress or fraud or other abuse
- Substantive – even an exchange which is entered into willingly and knowingly must not impose on either side costs that are excessively disproportionate to the benefits to be obtained or disadvantageous to third parties or society
- Both procedural and substantive aspects are implied in the term 'rights'
- Rights viewed as part of a whole legal system
- Procedural and substantive reciprocity of rights must be seen not as an abstract principle but as a principle enunciated and implemented within specific communities

Participatory adjudication: commercial courts

- Commercial courts included courts of markets and fairs, courts of merchant guilds and urban courts
- Market and fair courts were non-professional community tribunals – judges elected by merchants of market or fair from amount their numbers
- Guild courts – non-professional tribunals
- Local maritime court – jurisdiction over commercial and maritime causes involving carriage of goods by sea
- All types of commercial courts the procedure was marked by speed and informality
- Time limits narrow
- Courts was to be ruled by equity
- Principle of speedy, informal and equitable procedure in commercial courts was a response to mercantile needs.

Integration of mercantile law

- Western mercantile law acquired character of an integrated system of principles, conceptions, rules and procedures

- Principle of good faith – manifested in creation of new credit devices
- Principle of corporate personality – manifested in creation of new forms of business associations
- Credit devices – payment in kind became exception in 12th C → a proliferation of new types of commercial contracts involving the use of credit
- Credit means belief or faith or trust in someone or something
- Extension of credit by the seller to the buyer or by a third party to the buyer was much more common than the extension of credit by the buyer to the seller and as a result devices were sought to protect the lender against default
- Type of business associations – joint ventures
    - New type of business arrangement
    - Stans – supplied capital but stayed home; tractator – did the travelling
- Commenda and societas maris had great advantage that the liability of partners was limited to the amount of their initial investment → similar to modern joint-stock company
- Investors could reduce risks by dividing their money among several diff commendae rather than put all into one venture
- Compagnia – long term overland ventures arranged under a diff form of partnership
    - Involved in trade
    - Did not have limited liability – each partner fully liable to third parties for debts of the company
    - Carried on diverse trading activities over a period of many years
    - Relies on good faith; depends on each partner's confidence that the other partner's promises would be kept

<u>Growth of mercantile law</u>

- Integration of mercantile law was closely connected with its organic growth
- The characteristic features of commercial law became also tendencies of its organic growth in time