

BUSINESS LAW

(FOR UNDERGRADUATE CLASSES)

B.S. RAMAN, M.COM.,

Head of the Department of Commerce (Retd.),

St. Aloysius College,

MANGALURU - 575 003.

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PREFACE

This Text-Book of **Business Law** is specially prepared for Undergraduate Classes. It is prepared in accordance with the latest syllabus given in this book

I do not claim any originality in the subject-matter of this book. I have drawn immense material from many standard books on this subject. Yet, this book is original in the exposition and presentation of the subject-matter. The subject-matter has been dealt with exhaustively and in very simple language.

I express my profound gratitude to the **United Publishers** for bringing out this book.

I shall consider my efforts amply rewarded if this book is found useful by the teachers and the students.

Suggestions for improvement of this book will be gratefully accepted.

Mangaluru,

B.S. Raman

SYLABUS

BUSINESS LAW

UNIT I : Introduction

08 HOURS

Meaning of Law, Meaning of Mercantile Law, Sources of Mercantile Law, Indian Contract Act 1872 - Meaning of contract, Essentials of a valid contract, Classification of Contract based on Validity, Creation and Performance.

Unit II : Offer, Acceptance, Consideration, Contractual Capacity 12 hours

Offer - Meaning, Legal Rules and Termination, Acceptance - Meaning, and Legal Rules Lawful Consideration - Meaning Legal Rules, Privity of Contract (stranger to contract) with Exceptions. Exceptions to the rule no consideration no contract'

Capacity to Contract - Persons Disqualified from Contracting, Effects of Minor's Agreements

Unit III : Free Consent, Lawful Object and Contingent Contract 12 hours

Free Consent - Meaning and Essentials of coercion, Undue influence, Fraud and misrepresentation, Mistake - Mistake of Law, Mistake of fact, Bilateral and Unilateral Mistake (Meaning), Lawful Object - Meaning, Agreements Opposed to Public Policy, Wagering Agreements Contingent Contract - Meaning and Rules, Distinction Between Wager and Contingent Contract.

Unit IV : Quasi contract, Discharge of Contract and Remedies for the Breach of Contract 10 hours

Quasi Contract - Meaning and Circumstances, Discharge of contract - Meaning and Various Modes of Discharge, Remedies for the Breach of Contract - Various Remedies Available for the Aggrieved party.

Unit V : Special Contracts

08 hours

Contract of Indemnity - Meaning and Essentials Only, Contract of guarantee - Meaning, Essentials, Rights of Surety and Discharge of Surety Distinction between Indemnity and Guarantee, Contract of

Bailment - Meaning and Essentials, Duties of Bailor and Bailee, Contract of Pledge - Meaning and essentials, Distinction between Bailment and Pledge, Contract of Agency - Meaning, rights and Duties of Agent only.

Unit VI : Contemporary issues in Business Law **10 hours**

Right to information Act, 2005 - Meaning of information, Right to Information

Need for Right to Information, Public Information - Request for obtaining Information, Grounds for Rejection of Information, Central Information Commission - Constitution and Powers, Information Technology Act - Purpose and Significance.

Cyber Crimes - Types of Crimes, Nature and Punishment, Intellectual Property Law - Patent, Trademark, Copyright and Industrial Design.

CASE LAWS :

The relevant legal point, facts and the judicial decision relating to the following 10 case laws are to be dealt with :

- i. Balfour Vs Balfour
- ii. Carlill Vs Carbolic Smoke Ball Company
- iii. Durgaprasad Vs Baldeo
- iv. Nash Vs Inman
- v. Ranganayakamma Vs Alwar Chetty
- vi. Derry Vs Peak
- vii. Planche Vs colburn
- viii. Hadley Vs Baxandale
- ix. Harvey Vs. Facie
- x. Felthouse Vs Bindley

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Definition of Law :

The term `Law' has been defined in different ways by different authorities.

According to Salmond, "Law is the body of principles recognised and applied by the State in the administration of justice".

Holland defines law as "a general rule of external human action enforced by a sovereign political authority, i.e., the State".

According to the Oxford English Dictionary, the term `Law' means "rule made by authority for the proper regulation of a community or society or for correct conduct in life".

Woodrow Wilson defines law as "that portion of the established habit and thought of mankind which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of the Government".

Meaning of Law :

From these definitions, it is clear that law means to a code of conduct established and enforced by the Government for the proper regulation of society and for the orderly conduct in life. In other words, law is the body of rules and principles recognised and enforced by the Government to regulate the external human action and conduct of individuals in their dealings with other individuals and with the State (i.e., the Government). In short, law means the rules recognised and enforced by the State for regulating the rights and obligations of the people for securing justice, peaceful living and social security.

Essential Features of Law :

There are certain essential features of law. They are :

1. **Law is a code of conduct (i.e., a set of rules) relating to human action.**
2. **Law attempts to regulate the external action of human beings** (i.e., man's contacts, associations, dealings or relationships with others and with the State).
3. **Law is recognised and enforced by the State** (i.e., the Government).
4. **It is enforced by the State on the people** so as to secure social justice, peaceful living and social security in the community.
5. **No doubt, the law is recognised and enforced by the State. But the State itself is conditioned (i.e., regulated) by the same law. That means, law applies to all without discrimination.** In fact, law attempts to achieve uniformity in its application.
6. **Law always remains supreme.** (The supremacy of law is technically called **the rule of law.**)

Need for Law :

Man is a social being. That is, he lives in society with fellow beings. While living in society, he comes into contact with others in different capacities. For instance, he comes into contact with a landlord as a tenant, with a tenant as a landlord, with an employer as an employee, with an employee as an employer, with a master as a servant, with a servant as a master, with a customer as a supplier, with a supplier as a customer, with a lender as a borrower, with a borrower as a lender, with the Government as a tax payer and so on. In all his contacts, associations, dealings or relationships with others, he is expected to observe a code of conduct (i.e., a set of rules) for peaceful living in the society. Otherwise, peaceful living in the society becomes impossible. This is because, as **Aristotle said, man, when perfected, is the best of animals, but when separated from law and justice, he is the worst of all.** So, to perfect man (i.e., to regulate the conduct of man), it becomes necessary

for the State to evolve and enforce certain common or uniform rules of conduct. With this end in view, though it is difficult to reduce human actions to uniformities, a set of common or uniform rules have been evolved and enforced by the State.

In this context, it may be noted that, not only there is the need for law for regulating the conduct of the people, but it is also necessary for every man to have knowledge of the general principles of the law of the country in which he lives. **This is because 'Ignorantia juris non excusat', i.e., ignorance of law is no excuse.** So, though it is not possible for a layman to learn every branch of law, it is necessary for him to know at least the general principles of law of his country. A knowledge of the general principles of the law of the country will certainly help a person in protecting himself against others, when he is brought into legal relationships with others, knowingly or unknowingly.

Objective of Law :

According to William Anson, "The object of law is order, and the result of order is that men are enabled to look ahead with some sort of security as to the future". From this statement, it is clear that the objective of law is to ensure peace and order in the society and to enable men to look ahead with some sort of security as to the future. This is the **traditional objective of law.**

But, today, the main objective of law is to establish socio-economic justice and to remove the existing imbalance in the socio-economic structure. In other words, today, the main objective of law is to bring about all-round improvement and welfare of the community or society.

BRANCHES OF LAW

With the growth of civilisation, the activities of the people have diversified. As such, it is neither desirable nor feasible to regulate the various kinds of activities of the people through a uniform set of rules and principles. In other words, different sets of rules and principles are necessary for regulating the different kinds of human activities. Accordingly, the civilised societies have evolved and enforced different sets of rules and principles, i.e., different branches of law, such as mercantile law, civil law, criminal law, constitutional law, international law, etc.

MERCANTILE LAW, COMMERCIAL LAW OR BUSINESS LAW

Introduction:

The terms "Mercantile Law", "Commercial Law" and "Business Law" are synonymous (i.e., one and the same). Mercantile law, commercial law or business law is a branch of general law (i.e., a branch of civil law).

Definition and Meaning of Mercantile Law, Commercial Law or Business Law :

According to Slater, "The phrase 'Mercantile Law' or 'Commercial Law' is generally used to denote those portions of the law which deal with the rights and obligations arising out of transactions between mercantile persons".

From this definition, it is clear that mercantile law, commercial law or business law is that branch of law which deals with the rights and obligations arising out of mercantile, commercial or business transactions between mercantile persons or businessmen. In short, it is that part of general law which regulates and governs trade, commerce and industry.

It is so called (i.e., called mercantile law, commercial law or business law), as it regulates mercantile, commercial or business transactions between mercantile persons, commercial men or businessmen.

Essential Features of Mercantile Law, Commercial Law or Business Law :

Mercantile law has certain characteristic features. They are :

1. There is no separate statute entitled mercantile law, commercial law or business law. Mercantile law is a branch of civil law. Mercantile law is just a convenient term for grouping together all those laws that are regarded important for men in business.

2. Mercantile law regulates trade, commerce and industry. In other words, it regulates mercantile, commercial or business transactions.
