

INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW

UNDER THE AUSPICES OF THE
INTERNATIONAL ASSOCIATION OF LEGAL SCIENCE

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VOLUME I

NATIONAL REPORTS

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Laos

Bouavan Norasing*

The Kingdom of Laos (*Phraraj Anachak Lao*) is a constitutional monarchy and a unitary state.

Up to 9 March 1945, when Laos was invaded by the Japanese Army, which at that time occupied French Indo-China, Laos had been a French Protectorate for more than 70 years. Following the Japanese surrender on 15 Aug. 1945, a Laotian independence movement formed a provisional

government to prevent the Protectorate from being re-established. The King promulgated the Constitution (Const.) of the Kingdom of Laos on 11 May 1947; complete independence was formally recognised on 19 July 1949 under the Franco-Laotian General Convention (JO Rép. Franç. 14 March 1953 p. 2407).

I. CONSTITUTIONAL SYSTEM

1. Nationality

Laotian nationality is regulated by several laws and royal ordonnances.¹

It can be acquired by birth within Laotian territory, by descent, by marriage and by naturalisation.

Nationality is lost by the voluntary acquisition of a foreign nationality or by forfeiture. Naturalised subjects may forfeit their nationality under the conditions laid down by law. Such forfeiture is effected by royal ordinance on the proposal of the Minister of Justice after the person concerned has been heard. Cases involving nationality are regarded as judicial and are within the jurisdiction of the civil courts.

Law no. 138 of 6 April 1953 on nationality (*supra* n. 1) does not apply to French nationals or their descendants (art. 6). These continue to enjoy the status which they possessed when Laos gained independence, *i.e.*, the status established by the French legislation applicable to Laos at that time. Only by an agreement between France and Laos can this status be altered.

2. Territorial Division

Laos is made up of 16 administrative provinces or *khoueng*, which are themselves divided into large local regions called *muong*. The *muong* are sub-

divided into districts called *tasseng* and these are further divided into *bane* or villages. In some provinces there are other types of areas known as *kong* or *dane* which are districts or villages with a special status.

Certain towns and chief provincial towns have a particular structure and are designated as *kampheng nakhone* (municipalities) or *kampheng muong* (urban centres). The administrative chief of the *kampheng nakhone* is a Prefect or municipal administrator and of the *kampheng muong* a *chaomuong*.

3. State Organs

a. *The King and the government.* – The King reigns but does not govern; he symbolises the unity of the Kingdom and the continuity and permanence of the Laotian nation. The King exercises his powers through the intermediary of his ministers led by a Prime Minister, who is the President of the Council of Ministers. All are designated by the King and together constitute the Royal Government of Laos. The government may not be nominated by the King until it has received a vote of confidence in the National Assembly.

In the event of a threat to the existence of the Kingdom, a joint session of the two Assemblies may, on a government proposal, ask the King to assume the task of government in person. Alter-

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¹ Laws no. 138 of 6 April 1953 (JO 1953, 758 and JO 1960, 426) on the acquisition and loss of Laotian nationality amended by Law no. 175 of 1 April 1954 (JO 1960, 426) and by Law no. 57/12 of 8 March 1957 (JO 1957, 1075) on naturalisation and forfeiture of Laotian

nationality together with Royal Ordinances no. 284 of 25 Nov. 1957 (JO 1958, 3) on naturalisation and the forfeiture of Laotian nationality, no. 199 of 20 June 1954 (JO 1959, 186) on the naturalisation procedure and no. 365 of 29 Oct. 1959 (JO 1959, 413) on naturalisation procedure.

natively he may be asked to designate a government which would not then need to seek investiture through Parliament (Const. art. 19 par. 5, 6, 7).

b. *Parliament.* – Parliament, the legislative body, consists of two assemblies: the National Assembly and the King's Council.

(1) There are 60 elected deputies in the National Assembly. In addition deputies may be appointed by the King, but their number must not exceed one third of the number fixed by the Electoral Law.

Laws are passed by the National Assembly before being submitted to the King's Council and the royal assent. The King is required to promulgate laws within two months of the date of their final adoption. During this period the King's Council may ask the National Assembly to reconsider the text. If the original proposal is approved again by an absolute majority of members present, then it must be promulgated. If there is no absolute majority, the opinion of the King's Council prevails and the law is promulgated in accordance with the text proposed by the Council.

(2) The King's Council has twelve members, six appointed directly by the King and six appointed by him on the proposal of the National Assembly. Apart from its legislative role, the King's Council gives opinions on all questions put to it by the King or by the government.

(3) The Constitution may be revised by the National Assembly and the King's Council sitting together as the National Congress. This is summoned by the King on a proposal, either of the Council of Ministers, or of the National Assembly supported by an absolute majority of members present.

c. *Local government.* – In the provinces, central government is represented by a *chaokhoueng* or governor. The chief administrator of the *muong* is a *chaomuong*. The *kong* and the *dane* are administered by *naikong* and *naidane* respectively. All these officials are appointed by the government. The *tasseng* are administered by an administrative agent also called *tasseng* whilst the *bane* are administered by a *phobane*. These officials are elected by the local population under the control of the provincial governor who confirms their appointments.

4. Judiciary

The organisation of the courts, formerly regulated by the Code on Judicial Organisation of 1927, is

now dealt with by Law no. 67 of 31 March 1950 (Recueil des Lois 1948-1965, 125), as amended from time to time.

a. *The ordinary courts.* – (1) Justices of the Peace, a single judge, are competent to hear civil cases involving questions of non-contentious jurisdiction and guardianship. In civil and commercial cases the court has jurisdiction at first and last resort where the sums involved do not exceed 10000 kip (about US \$ 17).

In criminal cases, the Justices of the Peace are competent over simple police matters. Their jurisdiction is final where the sentence is only a fine. A sentence of imprisonment may be appealed.

(2) There is one Court of First Instance (*tribunal de première instance*) in each province (16 altogether). They are composed of a President and two judges. They hear appeals from the decisions of Justices of the Peace. They are competent in civil and commercial litigation and where the sums involved do not exceed 30000 kip (about US \$ 50), their decision is final. Where larger sums are involved, or where the value is not a monetary one, their decisions are subject to appeal. In criminal matters these courts hear appeals from the Police Courts and have jurisdiction at first instance over offences punished by imprisonment.

(3) There are Courts of Appeal at Louang Prabang, Vientiane and Pakse, each composed of three judges. They have general appellate jurisdiction over decisions of the Courts of First Instance; and also deal with cases remitted to them by the Court of Annulment – after the original judgement has been set aside.

Sitting as a committal chamber (*chambre des mises en accusation*), they decide whether persons accused of crimes should be sent for trial before the Criminal Courts. Equally they have appellate jurisdiction over all decisions of the instructing judge in criminal matters.

(4) Persons accused of crimes appear before a Criminal Court. There is a Criminal Court in each of the provinces where there is a Court of Appeal.

(5) A Court of Annulment at Vientiane composed of three judges (President and two councillors) hears appeals against the judgements and orders of inferior courts, which may not otherwise be opposed or appealed against, on the following grounds: lack of competence, transgression of authority, or infringement of the law.

b. *High Court of Justice.* – The King's Council may be constituted as a High Court of Justice with

exclusive jurisdiction in cases where members of the government are accused of crimes and offences at the instance of the National Assembly.

c. The *system of administrative jurisdiction* of the former French Indo-China, instituted by the Decree of 26 March 1932 reforming the Conseil du Contentieux of Indo-China (Jur. FOM) and by the Federal Order of 6 Feb. 1946 of the High Commission of the French Republic in Indo-China (Jur. FOM), has not been abolished; however it is no longer operative. By Law no. 67/28 of 7 Sept. 1967 (JO 1967, 495) it was intended that a new two-tiered system of administrative courts be set up: an administrative court of first instance and a Council of State. In addition to an appellate jurisdiction over the courts of first instance the Council of State was to have jurisdiction at first and last instance in certain other types of appeals.

However, this legislation has remained, in effect, dormant, and a new text is under preparation.

d. The *Public Prosecutor's Office (Ministère Public)* is not represented before the Justices of the Peace in civil cases. In criminal cases it may be represented by the Commissaire of the provincial police. A King's Procurator (*Procureur du Roi*) represents the Office before the Courts of First Instance whilst before the Courts of Appeal and the Court of Annulment the Office is represented by a King's Procurator General and Deputies.

The Public Prosecutor's Office is represented before the Criminal Courts either by the Attorney General of the Court of Appeal (or a Deputy), or by the King's Procurator (or a Deputy) attached to the Court of First Instance in the province where the Criminal Court is sitting.

II/III. SOURCES AND HISTORICAL EVOLUTION OF THE LAW

1. The principal source of Laotian law is the legislation passed by the National Assembly. In certain cases, when the Assembly is prevented from sitting, the King may issue royal Ordinances having the same force as a law. In addition the old codes compiled prior to Laotian independence are still applied, the Civil and Penal Codes, the Codes of Criminal and Civil Procedures and the Code on the Organisation of the Courts (all promulgated in 1927 under the French Protectorate).

2. The main sources of Laotian law as it is at present, other than the old codes, differ according to the period under consideration.

During the Protectorate, legislation applicable to Laos could be divided into two categories: (1) acts of the metropolitan authorities – laws, decrees of the President of the French Republic, administrative orders of the Colonial Minister or the Minister for Overseas France, promulgated by the Governor General of Indo-China as the French High Commissioner for Indo-China and published in the *Journal Officiel de l'Indochine* (J.O.I.C.) or the *Bulletin Administratif du Laos* (B.A.L.); (2) acts of the local authorities: administrative orders of the Governors General and High Commissioners, administrative orders of the Senior Residents in Laos, Royal Ordinances of the Sovereign of Louang Prabang published in the B.A.L.

French texts, promulgated before Laos became fully independent, were, for the most part, kept in force until such time as new legislation could be

introduced to deal with the various subjects (Law no. 83 of 19 Jan. 1951, BO 1951 I 173). These codes were partially altered and adapted to meet the new needs of the country either by altering the text itself or by the enacting of laws or Royal Ordinances establishing new judicial institutions.

3. Considerable work is being done to create a body of modern law. Already this has resulted in publication of a draft penal code, a draft code of family law and a draft code of civil and commercial obligations. Codes of penal procedure and civil and commercial procedure were expected to be established in 1970. There is also a recent Code of Military Justice, and a labour code will very shortly be submitted for legislative approval.

Finally, it is worth mentioning certain customs in use in the mountain regions bordering Laos. The people of these areas are recent immigrants into Laos and until such time as they are more fully assimilated their customs are respected by the administrative and judicial authorities. CC art. 14 and 19 allow judges to refer to local customs when deciding on the composition of a marriage dowry. A similar latitude is permitted under CC art. 342 in respect of the modes of occupation of free rural land. In civil and commercial matters, it is also possible, under the Code on the Organisation of the Courts art. 5, for disputes to be referred to conciliation or arbitration before being taken to the courts. The parties appear before the leaders and elders of the village who, in cases of arbitra-

tion, decide according to local customs and usages.

An 11 volume general collection of legislations and regulations of Indo-China (*Recueil Général de la Législation et de la Réglementation de l'Indochine* – R.G.L.R.I.C.) was published in 1925 by the legislative services of the Government General at Hanoi. It includes all the acts of the colonial legislative authority and all the local laws and regulations of Laos.

The French Minister for Overseas France (F.O. M.) published a 15-volume *Jurisclasser de la France d'Outre-Mer* (Jur.FOM) in 1948. The collection contains all the acts of metropolitan France applicable to the different overseas Territories, Colonies and Protectorates of France. If one disregards the supplements that have appeared since 1948, this *Jurisclasser* contains all the French metropolitan texts which are still applicable to Laos.

The official texts for the years 1946 and 1947 were published in the *Bulletin Administratif du Laos* (B.A.L.) which has two parts – the first entitled Commissariat of the French Republic and the second, Royal Laotian Government.

From 1948 onwards there are two official publications of legislation and regulations: a *Bulletin Administratif de la République Française au Laos* and the *Bulletin Officiel du Royaume du Laos* (BO). These cover the period during which Laos

was an integral part of the French Union – a confederation which in a tenuous and flexible way linked the states of the former French Indo-China to the French Republic and from which Laos was the last state to break away on gaining full independence.

As from 1 Jan. 1953, the date on which Laos became independent, the Laotian *Bulletin Officiel* was renamed *Le Journal Officiel du Royaume du Laos* (JO). This was the sole official publication until 31 Dec. 1959, when Presidential Order no. 455 PC of 30 Dec. 1959 (JO 1959, 928) initiated a new method of publishing official texts. Texts of a general nature are published in the (monthly) *Journal Officiel du Royaume du Laos*, whilst acts of an individual nature are published in the *Bulletin Officiel du Royaume du Laos*.

Two useful publications are: a collection of laws for the period 1948 to 1965 recently published by the Laotian National Assembly – *Recueil des Lois 1948–1965* – and a *Recueil Méthodique de Législation et Réglementation Lao* (second and more complete ed. 1968), compiled by Guerrini, a United Nations expert in Laos, published in Vientiane.

Interesting judicial decisions have been published since 1963 by the Ministry of Justice in the review *Journal Judiciaire* which appears irregularly.

IV./V. PRIVATE AND COMMERCIAL LAW

1. In the Laotian system, directly influenced by continental European systems, private law governs the relationships of individuals *inter se*, the status of property, personal status, succession and obligations.

As far as the written law is concerned, these matters are governed by the Civil Code of 1927 together with specific laws on each important subject passed since independence. The code incorporates the customs of the Laotian people, emphasizing the economic conditions of an agricultural country, but presents them in the form of French civil law. Since independence the Civil Code has been amended in some respects by Ordinance Law no. 237 of 12 Aug. 1965 (unpublished). The treatment of immovable property has been completely recast by Ordinance Law no. 135 of 23 May 1958 (JO 1958, 1135).

2. There is no separate codification of commercial law, but a number of laws and regulations (the most important of these are cited below) define

commercial activity, the trader, banking and commercial paper, the formation of commercial companies, the commercial register, bankruptcy and the judicial liquidation of traders:

The French Law of 24 July 1867 and subsequent texts, on the rules applicable to commercial companies, were applied to Laos by the French Law of 23 Nov. 1913 (Jur. FOM). A Presidential Decree of the French Republic dated 3 July 1942 applies to Laos the French Decree of 30 Oct. 1933 on Companies with Limited Liability (J.O.I.C. 1942, 2.169).

Law no. 105 of 16 March 1959 gives legislative force to (1) provisions laid down by the Geneva Conference of 7 June 1930 on the unification of the law relating to bills of exchange and promissory notes such as had already previously been applied to Laos by the French Decree Law of 30 Oct. 1935 and by Law no. 83 of 19 Jan. 1951 (BO 1951, 173); (2) the provisions laid down by the Geneva Convention of 19 March 1931 on the unification of the law relating to cheques, such as

had already previously been applied to Laos by the Decree-Law of 30 Oct. 1935 and Law no. 83 of 19 Jan. 1951 (*supra*).

The Royal Ordinance no. 279 of 22 Oct. 1952 (BO 1952, 25) obliges traders to keep business accounts.

VI. STATE DIRECTION OF TRADE

Numerous measures have been taken with the aim of allowing the state to control the economy and to steer it in the direction most favourable to the economic and social development of the country. To prevent price rises, official prices are fixed for the sale of imported goods and basic necessities. Prices must also be displayed and stocks declared – Law no. 154 of 8 May 1953 (JO 1953, 559), Ordinance-Law no. 10 of 10 Jan. 1959 (JO 1959, 2) and other regulations applying these laws.

Road transport rates are fixed by the Administration (e.g., Ministerial Order no. 132 Eco of 23 June 1967, JO 1967, 267).

In the industrial sphere, authorization is required for setting up any industrial establishment. Both location and operation are controlled under Royal Ordinance no. 53 of 28 Feb. 1966 (JO 1966, 45).

The so-called free exchange market is regulated by Presidential Order no. 1 PC of 3 Jan. 1964 (JO 1964, 11). The regulation is carried out under the control of a body called the Exchange Fund which corrects exchanges in such a way as to stabilize the rate. Foreign money may only be exchanged at the official rate under the control of the National Bank in accordance with Royal Ordinance Law no. 4 of 3 Jan 1964 (JO 1964, 7), which also regulates the importation of goods purchased with the help of foreign aid to Laos. Finally the state also controls exports and requires exporters to lodge a proportion of their foreign currency receipts with the Laotian National Bank at the official rate of exchange in accordance with the provisions of Presidential Order no. 385 PC of 30 June 1966 (JO 1966, 271).

VII. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT

There have been no alterations to the relevant French legislation and regulations such as were applied to Laos by Law no. 83 of 19 Jan. 1951 and by the Decree of the President of the French Republic dated 19 May 1909 which applied the metropolitan legislation on industrial property

and artistic and literary copyright to Indochina (Jur. FOM). However, on 19 Nov. 1963, Laos adhered to the Convention of Paris (as revised Lisbon 31 Oct. 1958), on the protection of industrial property. Laos is also a party to the Universal Copyright Convention of 1952.

VIII. PROCEDURE IN CIVIL AND COMMERCIAL MATTERS

In Laos, civil and commercial matters are governed by the same rules of procedure. The principal source is the Code of Civil Procedure of 1927 (J.O.I.C. 1927, 2593, several times amended, in particular by Royal Ordinance Law no. 237 of

12 Aug. 1965, unpublished). Exceptionally, bankruptcies and judicial liquidations are subjected to a particular procedure (of the French Commercial Code and French Company Law as these stood in 1946).

IX. PRIVATE INTERNATIONAL LAW AND PROCEDURE

The Laotian rules of private international law are few and fragmentary. The only detailed legislation concerns the position of foreigners. This is governed by the provisions of Royal Ordinance

no. 151 of 5 Aug. 1957 (JO 1957, 1077) as amended by Royal Ordinance no. 93 of 27 March 1967 (JO 1967, 79). For the remainder, reference is made to the French rules of private international law.

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(Completed in March 1973)

Lebanon

Pierre Gannagé*

The Lebanon (official name *Lubnān*) has been a completely independent state since 1943. This independence put an end to the mandate which France exercised over the country since the end of the First World War, pursuant to art. 22 of the League of Nations Covenant.

Previously, the Lebanon was an integral part of the Ottoman Empire, within which it enjoyed a special administrative status, and a certain autonomy corresponding to the variety of communities which made up its population.

I. CONSTITUTIONAL SYSTEM

1. Nationality

Lebanese nationality originated with the Treaty of Lausanne of 24 July 1923 (28 LNTS 28) which laid down the legal status of the population of territories split off from the Ottoman Empire.

Its legal regulation has been the object of considerable legislation, the basic text today being Order (*arrêté*) 15/S of 19 Jan. 1925.¹ This legislation throws into relief the importance of demographic and political factors in the provisions relating to nationality. The Lebanon is, at one and the same time, a country which has a considerable emigration rate and accepts refugees from all parts who come to settle there. The state is thus caught between its desire to facilitate the acquisition of its nationality to persons of Lebanese origin established outside its territory, and its intention of satisfying itself that foreigners within the Lebanon have been assimilated before it includes them among its nationals.

This twofold consideration accounts, firstly, for the conditions of acquisition of Lebanese nationality. Although based on the *jus sanguinis* (through descent from the father) and marriage, they leave wide scope for the *jus soli* in order to avoid statelessness (Order 15/S art. 2).

The same consideration is reflected in the provisions for naturalisation which can only take place after sufficient integration of the foreigner into Lebanese life. In principle, uninterrupted residence for five years is required (Order 15/S art. 3).

Finally, the same consideration influences the grounds for a loss or forfeiture of nationality. These grounds sanction the behaviour of those who have practically cut themselves off from the Lebanese community, either by putting themselves in the service of a foreign state, or by committing an offence against the security of the Lebanese State (Order 15/S art. 8).

It will also be noted that the legislature authorises Lebanese women, who marry foreigners and acquire the nationality of their husbands, to request the withdrawal of their Lebanese nationality. The latter can, however, be reclaimed in case of nullity or dissolution of the marriage (Law of 11 Jan. 1960, *supra* n. 1).

2. Administrative Division of the Country

Lebanese territory is divided for administrative purposes into *muḥāfaẓāt* of which there are five. The *muḥāfaẓāt* are in turn subdivided into 24 *qazā'* within which the municipalities operate.

The *muḥāfaẓāt* and *qazā'* are administrative units through which is directly exercised the authority of the central government. Constituting as they do, the regional bases of central governmental power, they have no legal personality and are without financial autonomy.

This is not so in the case of the municipalities, which are decentralised local entities, the organs of which are elected and which are subjected to control by the central authority, the nature and forms of which we shall see later. The municipal-

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¹ The letters H.C. refer to the collection of acts of the High Commissioner during the period of the French Mandate, and the letters JO to the Lebanese Official Gazette (*Journal Officiel*). Order 15/S was mo-

dified and added to by, in particular, Order 160 of 16 July 1934 (H.C. 1934, 235), the Statutes of 7 June 1937 (JO 1937 no. 3450), 31 Jan. 1946 (JO 1946 no. 6), 11 Jan. 1960 (JO 1960 no. 3) and the Decree (*décret*) of 17 Oct. 1962 (JO 1962 no. 42).

ities in the Lebanon constitute the only local authorities properly so called (see *infra* 3d).

3. State Organs

The Lebanese Constitution (Const.) of 23 May 1926 (JO 1926 no. 1976) lays down the structure and attributions of the different organs of the Lebanese State (executive, legislature, judiciary). By its provisions, the Lebanese State is based on the balance of power between the President of the Republic (Head of State), the Government, and the Parliament, composed, today, of a single assembly, the House of Deputies (*Chambre des Députés*).

The judicial power, on the other hand, remains completely independent of, and distinct from, the executive and the legislature.

a. *The Head of State.* – Const. art. 17 declares that “the executive power is entrusted to the President of the Republic who exercises it with the aid of his Ministers”. This statement brings out well the privileged position occupied by the Head of State in the government of the country. It does not transform, however, the political structure of the Lebanon into a presidential regime. For one thing, the President is not elected by universal suffrage, but by Parliament, acting in this case as an electoral college. Moreover, the Council of Ministers, though responsible to the Head of State, is also responsible before Parliament which can deprive it of its majority support and thus force it to resign.

The Head of State exercises, however, a determining role in the formation of the Council of Ministers. Of course, in practice the President of the Council plays a part in this also, but his appointment is only legally effective once the Council has been formed, and he does not differ in this from the other ministers. The authority of the Head of State is greater yet: the Constitution confers on him the power to dismiss Ministers without the consent of the President of the Council and without having first consulted him (art. 53).

The political regime of the Lebanon thus presents itself as a regime intermediate in nature between the classic English type of parliamentary regime, and the presidential types of regime based on the preponderant authority of the Head of State.

² In accordance with Const. art. 16 “legislative power is exercised by a single assembly: the House of Deputies”. No second chamber has existed since the

Among the other powers of the Head of State we may note in particular that of negotiating and concluding treaties, which need not be ratified by the House if they do not commit state finances (art. 52), and that of dissolving the House with the approval of the Council of Ministers (art. 58).

b. *The House of Deputies.* – The legislative organ² is the Chamber of Deputies composed of 99 members elected in each constituency by a relative majority of votes.

Seats are distributed not only on a geographical basis, according to the number of people living in the different areas. Account is also taken of the necessity of ensuring equitable representation for the different communities. A carefully conceived key thus allows to determine the number of seats reserved for each community.

The House is invested with both legislative and financial functions, since it exercises a control over the policies and action of the Government. However, in many cases, the House tends to be deprived of its legislative function in favour of the executive power. The extension of the regime of delegated legislation (*décrets-lois*) illustrates this, as does also the adoption of the emergency procedure which authorises the President of the Republic to promulgate the text of a law submitted by the Government to the House if the latter does not pronounce on it within 40 days following its presentation. This procedure was employed particularly by the *Chéhab* Government to hasten economic and social reforms.

c. *The Government* is composed of the President of the Council and Ministers, all of whom are appointed by decree of the Head of State. This decree brings the Government into existence, and allows it to exercise its constitutional powers.

Once formed, the Government must present itself to the House. On the occasion of this presentation, the President of the Council makes a declaration as to the policies and line of action which he intends to adopt. This declaration is then followed by a debate and vote of confidence (art. 66). The Government, however, does not depend for its legality on this vote, but on the decree of the Head of State appointing its members, and it can exercise its prerogatives before presenting itself to the House.

The debate on the vote of confidence is only designed to make effective the control of Parlia-

Law of 17 Oct. 1927 (JO 1927 no. 2116) which abolished the Senate.

ment over governmental policy. Constitutionally, such a debate must take place on the formation of a government, but it can be invoked by the members of Parliament during the life of the Cabinet. Members can, in effect, question the Government on different aspects of its administration, and oblige it to seek the approval of the House if it is to remain in existence. Once the Cabinet finds itself in a minority upon a vote of no confidence, it is bound to resign. The Government is thus responsible not only to the Head of State, who appoints the Ministers and can dismiss them, but also to the House, which exercises a highly effective control over its policies.

The Government exercises the prerogatives of the executive authority since, over and above its political attributes, it has the duty of ensuring compliance with the law. To this end, it has the power of promulgating subordinate legislation.

d. *The regional authorities.* – Regional authority is exercised within the framework of the *muḥāfazāt*, the *kaḏā'* and the municipalities.

The *muḥafizūn*, appointed by a decree of the Council of Ministers, are placed at the Head of the *muḥāfazāt*. They represent the central authority of the state and see to it that laws and subordinate legislation are respected. The *muḥafizūn* are assisted by the Council of the *muḥāfaḏa*, which has a purely consultative function.

In the different *kaḏā'*, it is the *ka'imakām* who exercise the administrative powers of the central authority. They are subordinate to the *muḥafizūn* to whom they must regularly submit reports on the political and economic situation of their *kaḏā'*.

Finally, local interests are taken care of by the municipalities. These are administered by a deliberative organ, the Municipal Council, and an executive organ, the President of this Council. The municipal organs are subject to strict control by the central authority, exercised, depending on the case through the intermediary of the Minister of the Interior, the *muḥafizūn*, or even the *ka'imakām*. This control considerably limits their independence and prevents them from trespassing in areas reserved to the central administration.

4. Judiciary

Lebanese law adopts the rule of separate administrative and judicial courts. Moreover, it makes provision for community courts competent in matters of personal status and the institutions of family law. In Lebanese law, finally, there is no court control of the constitutionality of laws; in the Lebanon, laws cannot be attacked before the courts.

a. *State courts.* – The structure of these courts is uniform throughout the range of civil, commercial, or even criminal matters. The courts sit in a number of uniformly constituted divisions and deal with all the different categories of cases apart from those concerning personal status. Their organisation, laid down by Decree no. 7855 of 16 Oct. 1961 (JO 1961 no. 45), is based on the division into Courts of first instance, Courts of Appeal, and a Court of Cassation.

The *Courts of first instance* sit in benches or with a single judge. The collegiate chambers are composed of a President and two councillors. They are normally competent, whereas the competence of judges sitting alone is exceptional and is limited to claims concerning movable and immovable property with a monetary limit of Lebanese pounds 15 000 (approx. US \$ 4 800) (Decree-Law of 16 Oct. 1961, JO 1961 no. 45). The competence of judges sitting alone extends, however, to the ordering of provisional measures and to the enforcement of judgements.

On the other hand, the *Courts of Appeal* are all of the same composition. There are five altogether (one for each *muḥāfaḏa*), and each is divided into several chambers, having each at its head a President and two councillors. They have competence in cases in which a decision has been given at first instance, and where the amount claimed is unliquidated or exceeds Lebanese pounds 1 000 (approx. US \$ 325) (art. 55).

Finally, the *Court of Cassation* judges petitions against final decisions of the Courts of Appeal, especially in the case of violation of the law, lack of jurisdiction or inconsistency in the measures ordered by the court appealed from (art. 61). It comprises a First President and five chambers each composed of its own President and two councillors.

When it considers the petition well founded, the Court of Cassation does not limit itself, as in France, to annulling the decision of the Court of Appeal, but acts as a third instance and itself disposes of the case. When it does so, it observes the rules governing appellate procedure, and is entitled, as the Appeal Court itself would have been, to entertain new grounds of claim (art. 81).

b. *Community courts.* – These courts exist as a result of the diversity of rules governing the law of persons and the family. Each community is provided with its own courts which deliver judgement having force of law throughout Lebanese territory in matters in which their competence is recognised. (For non-Muslim communities see the Law of 2 April 1951 (JO 1951 no. 15), for Muslim communities the Law of 16 July 1962 (JO

1962 no. 29), for the Druze community the Law of 24 Feb. 1948 (JO 1948 no. 9), and the Decree no. 3473 of 5 March 1960 (JO 1960 no. 11)).

The organisation of these courts differs from community to community. Thus the Muslim *Shari'a* and Druze Courts are state courts, the organisation of which is provided for by state law. The judges of these tribunals have the status of civil servants and are appointed by the state, and the tribunals necessarily sit within Lebanese territory.

On the other hand, a greater degree of independence is accorded to the non-Muslim, mainly Christian and Jewish, Courts. The controlling community authority has an unfettered power to determine their structure, to designate and control the judges who compose them, and to determine where they will sit, which may, indeed, be outside the Lebanon. In this connection it may be noted that the Catholic courts are attached to the Court of the *Rota* sitting at Rome, which entertains appeals against their decisions in questions of nullity and dissolution of marriage.

c. *Administrative courts.* – The administration in the Lebanon is privileged in that it can only be sued in certain courts. These courts are the Council of State (*Conseil d'Etat*) and the special administrative tribunal. There are, however, certain limited exceptions to this rule, such as expropriation, or acts of the administration which are so flagrant as not to count as administrative acts (the doctrine of *voie du fait*).

The Council of State follows the French model as regards its composition and the way it works (see Decree no. 1119 of 12 June 1959, JO 1959 no. 38). It is composed of four chambers. Three of these deal with contentious business, while the fourth, known as the “administrative” chamber acts in an advisory capacity and reports on bills referred to it by the government.

The Council of State is the court which normally has jurisdiction in matters concerning the administration. In the absence of special provisions to the contrary, it has exclusive competence in petitions to annul administrative acts alleged to be illegal (*recours en annulation pour excès de pouvoir*). On the other hand, it has usually competence in claims not seeking annulment of an administrative act (*recours en pleine juridiction*, particularly for damage caused by the functioning of the public services other than public works, and disputes concerning the salaries of civil servants). It hears also appeals from decisions of the special administrative tribunal.

Finally, the Council of State is judge in last appeal in respect of certain special courts, notably the Court of Accounts (*Cour des Comptes*) and the commissions of expropriation for large scale works. The procedure before the Council of State is written and inquisitorial and there are two forms: ordinary and summary. It may be noted that petitions before the Council of State do not normally suspend the effect of the decisions attacked.

Alongside the Council of State there has been established (by Decree no. 3 of 30 Nov. 1954, JO 1954 no. 49) a special administrative tribunal, the jurisdiction of which is limited to certain precise cases: damage caused by public works, disputes arising out of contracts, the occupation of public property. The procedure followed is identical with that before the Council of State.

d. *Public Prosecution (Ministère public).* – The system of criminal prosecution in the Lebanon is very similar to that in France. The cornerstone of the system is the Public Prosecution which is composed of officials whose duty it is to ensure the prosecution and punishment of offenders. Its lack of originality is the reason why we do not propose here to develop the topic any further.

II. SOURCES OF LAW

The sources of Lebanese law are many and varied. The complexity of Lebanese legislation, stemming from different sources, has been seen already in our examination of the Constitution (*supra* I 3). It is convenient to distinguish the legal rules on personal status from those on other matters. The former still depend to a large extent on the communities and reflect the survival of their traditions, whereas the latter, enacted by the state, are largely inspired by Western legal systems and particularly

by French law (Code of Obligations and Contracts, Commercial Code, *etc.*).

1. Laws of the Communities

The strength of community traditions is apparent in the field of personal status, in which the different communities continue to exercise important legislative and judicial powers. The position of community legislation *vis-à-vis* state law differs

from community to community. One has to distinguish between the status of Muslim and Druze law and that of the Christian communities.

The former is part of the legislative and judicial structure of the state. This is so because the Muslim communities have never had independent courts or legislative bodies. For this reason it is the state which has had to take responsibility for the functioning of the Muslim law and for its adaptation and modification. In fact, the state has been sparing in its use of this power, and has limited itself to codifying traditional rules. By formulating these provisions more clearly the state has facilitated their application and their interpretation (for Mohammedan law see the Ottoman Law of 23 Oct. 1917 and the Law of 16 July 1962 (*supra* I 4b); for Druze law see the Law of 24 Feb. 1948 (*supra* I 4b). The net result is that Mohammedan and Druze family law have undergone little change in contemporary Lebanon.

The laws of the non-Muslim communities are, on the other hand, in a very different position. They are laid down by the community authorities themselves.

These latter, today as in the past, are alone competent to legislate and determine the structure and functioning of their courts, which are not integrated into the judicial apparatus of the state. The powers of the latter are limited to controlling the jurisdiction of these authorities. Through this legislative and judicial control the state ensures that the rules laid down by the communities in relation to personal and family law do not impinge on the areas reserved to the secular authority. It does not, however, purport to control the substance of the religious laws which can neither be formulated nor modified directly by the state.

A fortunate consequence of this control, however, has been that the non-Muslim communities have clarified their customs and have codified them. The texts are deposited at the Ministry of Justice. This makes it easier to ascertain their content and permits certainty in their application (Order (*arrêté*) 60/LR of 13 March 1936, H.C. 1936, 155, art. 1, Law of 2 April 1951, *supra* I 4b, art. 33).

2. State Legislation

Alongside the laws of the communities, a considerable body of state legislation has grown up in matters other than personal status. These are areas in which the religious authorities no longer exer-

cise any prerogatives and where, therefore, legal uniformity has been achieved. It has thus been possible in many areas to promulgate codes modelled on the European and particularly the French experience: Code of Real Property (*arrêté* 3339 of 12 Nov. 1930, H.C. 1930, 57), Code of Obligations and Contracts (9 March 1932, JO 1932 no. 2642), Code of Civil Procedure (1 Feb. 1933, JO 1933 no. 2988) (*infra* n. 7), Penal Code (1 March 1943, JO 1943 no. 4104), Commercial Code (1 Oct. 1943, JO 1943 no. 4075), Labour Code (23 Sept. 1946, JO 1946 no. 40), Code of Shipping Law (2 April 1947, JO 1947 no. 14).

Among relatively recent texts we may note the Law on Succession to non-Muslims (23 June 1959, JO 1959 no. 31), the Code of Social Security (26 Sept. 1963, JO 1963 no. 78), the Code Relating to Money and Credit (1 Aug. 1963, JO 1963 no. 62), the Decree-Law on the Ownership of Businesses (*fonds de commerce*) (11 July 1967, JO 1967 no. 57) and the Decrees of 1959 on Administrative Reform.

3. Case Law

The application and interpretation of legislation has given rise to a mass of case law. This, as in French law, does not constitute a source of law in the technical sense of the term. Decided cases give rise to no *ratio decidendi* having validity in other cases; nor do they have the force of precedent so as to oblige the court which gave the decision, or any other judge, to decide similarly in future analogous cases.³ Judicial decisions merely settle a conflict between parties; they have no more authority than that of *res judicata* between the parties as to the grounds of the claim and the relief sought.

Nonetheless, the courts are obliged to reach a decision even when the law is silent or obscure, so that in the Lebanon, as in France, case law has played a complementary role in the formation and elaboration of positive law. This role is particularly apparent in the fields of private international law and administrative law, where legislation is either insufficient or unclear.

4. Publications Relating to Legislation and Case Law

a. *Legislation.* – Attention may be drawn to the *Journal Officiel de la République Libanaise* (JO), published in French and Arabic from 1920 till

³ See Pichon and Durand-Auzias (ed.), *Le droit libanais I* (Paris 1963) 19.

1943, but in Arabic only since that date; also the Bulletin of Administrative Acts of the High Commissioner (*Bulletin des Actes Administratifs du Haut-Commissariat*) which covers the period of the French Mandate from 1923 to 1943, and the Treaty Collection of the Ministry of Foreign Affairs (*Ministère Libanais des Affaires Etrangères, Recueil des Traités*), published in French and Arabic (2 vol. 1951).

Alongside these official publications there exist, in Arabic, two analytical collections of legislative texts, arranged alphabetically according to subject matter, in the form of loose-leaf volumes. Firstly, *Baroud, Saleh, and Hatem, Al-madjmū'at al-ḥadītha li-l-ḳawānīn al-lubnāniya* (7 vol.) (1954), and secondly, *Abi-Nader, Madjmū'at at-tashrī' al-lubnāni* (6 vol.) (1961).

Finally we may note that most of the Lebanese codes exist in a French version: Code of Obligations and Contracts (1932), Code of Civil Procedure (1933), Penal Code (1943), Commercial Code (1943), Labour Code (1946) and the Code of Shipping Law (1947). The Commercial Code also exists in an edition annotated by *Fabia and Safa* (Code de commerce libanais annoté, 1961).

b. *Case law*. – Collection of judgements of the Court of Cassation published since 1950 by *Jamil Baz* (*Khulāṣat al-aḥkām al-ṣadira 'an maḥkamat al-tamyīz al-madaniya*); collection of judgements of the *Conseil d'Etat*, published since 1925 by the Ministry of Justice (*Madjmū'a ḳarārāt madjlis shūrā al dawla*).

For law reviews, see *infra* X.

III. HISTORICAL EVOLUTION

Situated between the Western world and the Orient, the Lebanon is the meeting place of civilisations, a melting pot of legal institutions and cultures, which, though disparate in their origins have come to have a certain affinity by virtue of their mutual influences. We shall pass briefly over the Roman period, except to emphasise the role played by the near East in the development of Roman law. Of the five great classical jurists (Gaius, Paul, Pomponius, Ulpian, and Papinian), the last two were from Roman Syria. Moreover, *Justinian's Digest*, completed in 529, owes much to the scholars of the Law School of Beryte which in prestige and influence rivalled the schools of Rome and Constantinople.

Justinian's law had a great influence on that of the Eastern Christian communities. They long remained faithful to it, and showed a marked preference for it over the subsequent Byzantine legislation. Thus Syro-roman customary law, which is normally said to date from the fifth century, draws freely on the *Novellae*. These latter were also, until the nineteenth century, the source of secular law for the Eastern Churches.

The legislative and judicial autonomy of the Christian communities, once affirmed in the Roman period, was maintained after the Muslim conquest and in the Ottoman Empire. The progressive extension of Mohammedan law, however, was gradually to limit this independence to matters of personal status and succession. Mohammedan law, the law of the authority in power, gradually took over prosecution of offences against public order, and the legal regime of property, contracts and commercial exchanges al-

so came under its sway. Mohammedan law became prominent from the end of the tenth century; its sources are well known: the *ḳur'ān*, the *sunna*, the *idjmā'*, and the *idjtihād*. It was to govern the populations of the Ottoman Empire until the end of the nineteenth century, complemented by sultan interventions, the most brilliant of which took place in the sixteenth century under *Soliman the Magnificent*.

The increase in exchanges with European countries in the nineteenth century, together with the setting up of companies and the exigencies of credit showed up the inadequacies of traditional Mohammedan law and the small evolution it had achieved. A vast movement of judicial and legislative reform followed.

On the judicial plane, a Decree of 1839 of the Sultan *'Abd-al-Madjid* created new secular courts called *Nizamié* which became the ordinary courts, while the jurisdiction of the *ḳāḍi* was thenceforth limited essentially to matters of personal status and succession.

On the legislative plane, new codes, inspired by the French example, were promulgated: the Commercial Code (1850), the Code of Shipping Law (1863), the Penal Code (1858), the laws about procedure and execution of judgements (1861–1880). Only the civil law properly so-called resisted this reception of Western law. It was nonetheless the object of an important codification, the *madjalla*, published between 1870 and 1877, the provisions of which derive entirely from *ḥanafi* Mohammedan law. The *madjalla* remained in force until the end of the Ottoman Empire and was applied for a long time thereafter in the

countries which had formed part of it (the Lebanon, Syria, Iraq).

The movement for reform which had begun in the Ottoman period was to quicken its pace during the French mandate (1920-1943). The tendency towards the reception of a system of law modelled on the French was strengthened by three factors: the fact that France was the mandatory power, the diffusion of French legal literature, and the foundation of the Law School at Beirut. The newly promulgated codes gave ample proof of this, as witness the Code of Property, the Code of Obligations and Contracts, the provisions of which clearly reject the solutions of the *madjalla*, the Code of Civil Procedure, the

Commercial Code and the Penal Code (see *supra* II 2).

Of course, the solutions embodied in these codes are not borrowed exclusively from French law, but also from other European systems of law (Swiss Code, German Code, the Franco-Italian project for a code of obligations). It is, however, the techniques and mode of reasoning adopted by French courts and writers which have been used to interpret the codes. The link between French and Lebanese law did not disappear when the Lebanon came to independence in 1943. Modern Lebanese law is still much influenced by Western models in its structure and presentation, but it attempts to respond to the peculiar requirements and conditions of the Lebanese people.

IV. CIVIL LAW

The originality of Lebanese law is to be seen in the law of the family and successions. The solutions arrived at in property law, however, are usually the same as those of Western legal systems and more particularly of France.

1. Family Law

The legal rules applicable to the family differ from community to community.⁴ We can divide them into three classes: those of the Christian communities, the Muslim communities and the Druze community.

a. The law applicable in the *Christian communities* has an essentially religious basis.

Their reliance on Christian dogma and on the canon law can be seen in the realm of marriage and in that of the relations between parents and children. Thus marriage is considered as a sacrament, and the religious ceremony in which the spouses express their consent is not merely a formal condition of validity but a matter of substance which goes to the root of the marriage relation.

But recourse is not had exclusively to Christian dogma, and the communities have often borrowed from the law of the civil authority, or from other secular sources of law in order to lay down rules which do not derive directly from religious precept. This can be seen in the realm of paternal authority and the powers of the head of the family

over the property of minors, where the solutions adopted today are similar in many respects to those of Mohammedan law (Code of the Catholic Communities art. 112 and 131; Code of the Armenian Orthodox Community art. 150). It can also be seen in connection with adoption, where certain provisions are direct borrowings from the French Civil Code (see Code of the Catholic Communities art. 100 ss.).

This readiness to make borrowings from other systems of law explains the present day acceptance by the Christian communities of the encroachment of legislation by the secular authority in certain areas of personal status which do not concern basic tenets of belief. By the Law of 23 June 1959 (*supra* II 2), for example, succession to non-Muslims is subjected to state law, the provisions of which, though influenced by Mohammedan law, are modelled on Western systems of law, and particularly on the French.

Judicial initiative has further emphasised this tendency, for, since in the Lebanon there exists no statutory regime of matrimonial property, the courts have left the settlement of the financial interests of spouses to be determined by the Code of Obligations and Contracts (*supra* II 2). Outside the area of marital property, legislation has been passed concerning the relationships flowing from illegitimacy. The law relating to recognition of parentage, whether voluntary or by way of court process is no longer governed by the obsolete provisions of the laws of the non-Muslim com-

⁴ See Annexe I of Order (*arrêté*) 60 of 13 March 1936 (*supra* II 1) and the Law of 2 April 1951 (*supra* I 4b).

munities, but is the object of provisions modelled on the French civil law (Law of 23 June 1959, *supra* II 2, art. 24-32).

b. *Law of the Muslim communities.* – The encroachment of state legislation has not been so far-reaching in the case of the Muslim communities which still follow Mohammedan law in all questions of family law, for personal as well as property relations. Trusteeship (*tutelle*) of property and succession are still governed by the traditional Islamic law, as are marriage, paternal authority and legitimate as well as illegitimate children. The formulation and interpretation of this law, however, differs from sect to sect. The Lebanese State, extremely careful to respect religious belief, allows each of these sects to apply its own legal system. Thus, the Sunnite Muslims are governed by *ḥanafī* Mohammedan law, whereas the Chiites follow *dja'farite* law. Of course, the principal rules of the two systems as to family law are the same; both allow polygamy, divorce by simple repudiation of the marriage, and provide for the priority of the male line in the distribution of assets on death. Differences nonetheless separate them, and the originality of Chiite law should be noted in certain areas and particularly in that of succession. The *dja'farite* system lays down a more rational classification of heirs, is more favourable to the rights of women under an inheritance and allows the making of a will in favour of heirs, which is strictly forbidden in *ḥanafī* law.

c. *Druze law.* – There are points of similarity between Mohammedan law and the law of the Druze community, which is expressly classed with the Muslim communities by Order (*arrêté*) 60/LR of 13 March 1936 (*supra* II 1). An assimilation of the two systems appears all the more justified because the Law of 24 Feb. 1948 (*supra* I 4b) which lays down the rules as to personal status applicable to the Druze community applies the provisions of *ḥanafī* law in all areas not expressly provided for in the Act. It is only on certain matters, however, that the Act of 1948 is silent, and its provisions often incorporate the traditions and customs of the Druze community, which differ from those of Mohammedan law on many issues, such as the law relating to marriage, descent and succession.

Firstly, Druze law adopts the principle of mono-

gamy and expressly rejects the possibility of polygamy as provided for in Mohammedan law (Law of 24 Feb. 1948 art. 10). Moreover, repudiatory dissolution of the marriage and divorce are only allowed after judicial process and an examination by the judge of the grounds of complaint (art. 37). Men and women are treated on an equal footing when it comes to dissolution of the marriage bond.

Equally important is the originality of Druze law in matters of succession: testamentary succession takes clear precedence over intestate, there is no family provision (*réserve héréditaire*) to protect next of kin, and descendants of deceased beneficiaries in the direct line are entitled to claim the latter's share in the estate, unlike in traditional Mohammedan law (art. 163).

2. Law of Property

While the originality of Lebanese law is apparent in the sphere of family law, it is in that of property law that it betrays its links with Western legal systems. This is particularly noticeable in the realm of real property where the system of land registration in force is modelled on the "Torrens Act" as well as the German and Swiss experiences.

Here we shall simply note certain elements of property law which exist as survivals of ancient tradition.

a. *Amiri immovables.* – This is land the root of title to which dates back to the Ottoman conquest and which the state granted out to private individuals, reserving to itself, however, a right of reverter. The grantee had well defined rights and obligations in relation to this land (the right of *taşarruf*)

He had the use and enjoyment of the property but was bound to develop it. The position of the grantee evolved, however, to become comparable to that of true owner. Certain characteristics continue, nonetheless, to distinguish the two, and the legal regime of *amiri* property still retains peculiarities which have been adopted by present day legislation. Such are the prohibition on making *amiri* property into a *wakf*, the possibility of reverter to the state if it remains unused for a period of five years (Code of Real Property, *supra* II 2, art. 17 and 19), and the fact that its devolution is governed by principles different from those of Mohammedan law.⁵

⁵ These rules are to be found in the Ottoman Law of 21 Feb. 1912 which was modelled on the system of "parenteles". The law allows descendants of beneficiaries under a succession to take the latter's share under certain circumstances (*représentation successorale*) and

lays down a rule of equality between sexes in relation to shares under a succession. Nowadays, the law only applies to Muslims; *amiri* property belonging to non-Muslims devolves on death according to the provisions of the Law of 23 June 1959, *supra* II 2, art. 129 par. 1.

b. *Ankāf*. – The persistence of tradition should also be noted in relation to the institution of the *wakf*, known in the countries of North Africa as the *hubs*. The institution, elaborated by Muslim jurists, was also adopted by the Christian communities. It serves to “immobilise” property devoted to religious or charitable purposes. The property becomes inalienable, non-transmissible on death, and the income it produces goes to the beneficiary in whose favour it has been set up. As is well known, the institution of the *wakf* has degenerated and been used for profane ends, alien

to its true spirit. The restrictions which it puts on the free circulation of goods have, moreover, a harmful effect on a country's economy. This explains why present day Lebanese legislation looks on the institution with disfavour; the conditions for setting up a *wakf* have been made more exacting, while the grounds for revocation and extinction have been extended. Finally, legislation has enshrined the principle of the *istibdāl* which leads to the removal of the restriction on alienability.

V. COMMERCIAL LAW

1. General Observations

At first sight, Lebanese commercial law does not seem to be particularly original. The Commercial Code of 7 Oct. 1943 (JO 1943 no. 4075), which repealed the old Ottoman Commercial Code, betrays its link with the corresponding French texts and, in a lesser degree, with Italian, Belgian, Portuguese and Polish law. The inspiration is obvious, whether in the realm of company law, commercial contracts, negotiable instruments⁶, compositions with creditors or bankruptcy.

Similar observations can be made on the Lebanese Shipping Code of 2 April 1947 (JO 1947 no. 14), the provisions of which were taken from international conventions and from French or Moroccan law, or were suggested by the works of writers of authority such as Dean *Ripert*. Yet these borrowings, however considerable they are, should not blind us to the specific characteristics of the Lebanese system. It is a system which is marked by its liberalism and has, on the whole, been unreceptive to the restrictive and socialist tendencies of foreign laws. This may be seen in connection with the regulation of commercial and banking activity and in the realm of company law.

2. Commercial and Banking Activity

Lebanese law is not rigid in its definition of acts of commerce (*actes de commerce*), nor in what it requires for the status of a trader (*commerçant*). It enumerates those acts which are to amount to acts of commerce, and gives a list of commercial

undertakings (*entreprises commerciales*) (Comm.C art. 6 and 7), but the enumeration is merely indicative and in no way exhaustive. Moreover, traders are only subject to two professional obligations, namely the keeping of accounts and registration in the commercial register.

In the desire to facilitate commercial activity and to protect those who undertake it, Lebanese legislation has recently introduced interesting reforms concerning the disposal of businesses (*fonds de commerce*) and commercial agency. On the one hand, Decree-Law no. 11 of 11 July 1967 (JO 1967 no. 57) has brought about the commercial mobility of businesses by allowing them to be transferred, mortgaged without loss of possession, and assigned to a company in exchange for shares. In this way, a business becomes a disposable asset which can circulate freely in the market. On the other hand, Decree-Law no. 34 of 5 Aug. 1967 (JO 1967 no. 64) seeks to protect the activity of commercial agents and representatives who play an important role in the markets of the Lebanon and the Near East. Its provisions guarantee them against unfair competition and unjust revocation.

The concern of the state to promote individual initiative may be seen also in connection with legislation on banking. Depositors are protected by banking secrecy (Law of 3 Sept. 1956, JO 1956 no. 36), by a system of compulsory insurance of deposits (Law of 9 May 1967, JO 1967 no. 37) and by a reinforcement of state control over the banks, which are now subject to the provisions of the Code on Money and Credit (Law of 1 Aug. 1963, JO 1963 no. 62).

⁶ In this area, Comm.C art. 315–450 reproduce the provisions of the Geneva Conventions of 1930 and

1931.