

<http://montesquieu.ens-lyon.fr/spip.php?article2923>



XX.16 Judges for commerce

- The Spirit of Law - Book XX. On laws in their relationship with commerce, considered in its nature and its distinctions -

Date de mise en ligne : jeudi 6 septembre 2018

Copyright © Montesquieu - Tous droits réservés

Xenophon, in the book *On Revenues*, would have rewards given to those prefects of commerce who dispatch trials the most quickly. He felt the need for our consular jurisdiction. The Romans in the late empire had this type of jurisdiction for navigators. [1]

Affairs of commerce are largely free from formalities. They are everyday acts, which others of the same nature must follow each day. It must therefore be possible to decide them every day. Such is not the case with acts of life that greatly affect the future but occur rarely. One hardly marries more than once ; one does not make donations and wills every day ; one attains majority only once.

Plato says that in a city where there is no maritime trade, only half as many civil laws are needed, [2] and that is very true. Commerce introduces into a single country different sorts of people, and a large number of conventions, types of assets, and means of acquisition.

Thus, in a commercial city, there are fewer judges and more laws.

[1] Law 7, Theodesianus code, *De naviculariis*.

[2] *Laws*, book VIII.