

LAW OF BANKING

Introduction

- “The evolution of modern banking system coincides with the evolution of money ” – Mike Thorton
- Difference between money and currency
 - Money – an umbrella term – measure, medium, standard and store
 - Fiat currency

Relevance of “Evolution of Banking”

- “If we are seeking to understand the functioning of contemporary institutions, it is necessary to look at their origins and the often accidental and contingent forces that brought them into being” – Francis Fukuyama

- Herbert Spencer – Darwin’s Theory of Evolution
 - Society was like a living organism in that will evolve and change over time

Government



Industry



Roads/
Transportations,
internet etc.

Regulative System



Sustaining System



Distribution System

- Evolution of Banking Institutions

- World
- England
- India

- Evolution of Banking Law

- England
- India

Evolution of Banking Institutions

- World/ England

- Written records of Banking – ancient mesopotamia, Egypt, Rome, India (18th century)
- Bank comes from latin word – Bancus/ Banque - Bench
 - Jews of Lombardy – broken bench on bankruptcy
 - Macleod – German word – joint stock fund
- 2000 BC Babylonians used temples as Banks
- Emergence of Merchant Banks and Knights Templar
- Disruption of Religion led to the destruction of public sense of security of depositing money in Temple which eventually led to financial makeshifts
- Prof Ramchandra Rao – “....would trace history of banking in Europe from Middle Ages”

Evolution of Banking Institutions

- World/ England

- Story of Goldsmith – Medieval Europe
 - Use of Gold becomes mainstream
 - Difficult to transact
 - People/ merchants want a place to keep their money secure, therefore they would approach private vaults of a goldsmith
 - Claim Cheques/ goldsmith notes – as signed receipts against the large sums of money left which embodied an undertaking to return the money to the depositor or to the bearer on demand – led to two developments
 1. Early beginning of **Issue & Deposit Banking**
 2. Eventually goldsmith began with **the Idea of lending with an interest**

Evolution of Banking Institutions

- World/ England

- Royal Abuse of Banking
 - Strength of banking institutions grew at the attention of Monarchs
 - Rulers would borrow heavily from the private goldsmith banks to fund wars and support their lavish lifestyle. India
- Earliest payment instruments were coins – punch marked/ silver or copper
- Ancient India India had loan deed forms – rnapatra or rnalekhya –
 - Name of the creditor
 - Name of the debtor
 - Amount of loan
 - Interest
 - Condition and time of repayment

Evolution of Banking Institutions

- **India**

- Mauryan Period – **Adesha** – an order of the banker desiring to pay money of a note to third person – definition of bills of exchange (in spirit)
- Mughal Period – **Dastawez**
 - Payable on demand
 - Payable on stipulated time
- Most important – **HUNDIS** (Sanskrit word – Hund = to collect)
 - Oldest surviving form of credit instruments
 - Instruments used for collection of Debts
 - Bills of exchange (for trade transactions); borrow money; remittance instruments
 - Kinds-
 1. **Darshani Hundi** – payable at sight
 2. **Miadi/ Muddati Hundi** – Payable at specified period of time
 3. **Shah Jog Hundi** – Payable by drawee

Evolution of Banking Law

- **England**

- Lex Mercatoria – Banking Law
- Post Industrial revolution banking law was largely judge made law - Rulings of Lord Mansfield are considered most authoritative
- **Tonnage Act** – raise money for William III – finance war – established Bank of England 1694 – gave monopoly for note issuance but circulation was limited.
- **Peel's Act 1844** – monopoly of issuing notes to Bank of England – gradual extinction of the right to other banks –this led to growth of deposit banking and Cheque currency.

Evolution of Banking Law

● India

- Britishers
 - English Law applied to Europeans
 - Respective Law applied to Hindus/ Mohammadens
 - Law/ Usage of defendant – when different parties
- Post Independence.
 - Imperial Bank – TO- SBI- TO- RBI
 - RBI in 1934
 - 1949 – Banking Companies Act 1949 – Comprehensive and formal structure of banking regulation in India
 - Bank Nationalisation (to be discussed in detail later)