

The Law and Practice of
BANKING

J Milnes Holden

Third Edition

Volume 1:
Banker and Customer

The Law and Practice of Banking: Vol 1

Banker and Customer

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Third Edition

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Preface

to Third Edition

Many developments in the law and practice of banking have taken place during the seven years which have elapsed since I wrote the preface to the second edition of the book. In this new edition I have tried to draw attention to these developments without, however, giving so much detail that the length of the book would be considerably increased.

Parliament has passed a number of statutes affecting bankers, chief among them being the Insolvency Act 1976, the Banking Act 1979 and the Companies Act 1980.

There have been a number of relevant court decisions, the chief of which, from the practical standpoint, is that of the Court of Appeal in *Re Gray's Inn Construction Co. Ltd.* [1980] 1 W.L.R. 711.

For assistance in regard to specific parts of the book, I am indebted to Mr J. Byllam-Barnes, FIB, a Head Office Inspector, Barclays Bank Ltd; Mr J. R. Campbell, Lecturer in Business Law at the University of Stirling; Miss P. M. Johnston, Head of Legal Division, Trustee Savings Banks Central Board; Mr S. C. Veal, the Chief Inspector of the Bankers' Clearing House; and Mr S. Wells, Economic Analyst, The Stock Exchange.

Finally, I record my thanks to Miss Elissa Elings for her assistance in seeing this edition through the press.

This edition has, I hope, taken account of new law to the date of this preface.

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1st September, 1981

Preface

to First Edition

The theme of the Institute of Bankers' second Cambridge Seminar held at Christ's College in March, 1969, was 'Bank Management—Recruitment and Training'. In the course of his paper on 'Bank Management in the 1970's', Mr M. T. Wilson, M.B.E., Chief General Manager, Lloyds Bank Ltd., said: 'Seen in broad perspective, the fifties were a time of adaptation to post-war conditions . . . By comparison, the sixties have been years of exciting and progressive change . . . We are experiencing the computer revolution; many important innovations such as cheque and credit cards, dollar and sterling CDs; environmental changes such as the growth of the Euro-currency market and the launching of the National Giro; and last but not least, the recent mergers.'

The truth of Mr Wilson's remarks has been apparent to me during the preparation of this book. I started work on it ten years ago, and after some six or seven years, I was obliged to alter the structure of the book considerably. Certain aspects of banking law and practice which traditionally find a place in books on this subject had to be jettisoned in order to make room for some of the exciting changes to which Mr Wilson referred.

My day-to-day work has brought me into close contact with many of these changes. After some twelve years' experience in one of the Clearing banks and a short period engaged in research and University teaching, I was called to the Bar where I practised for sixteen years. Most of my work consisted of advisory work in regard to commercial and financial problems. In March, 1969, I retired from the Bar in order to take up a full-time appointment with the Inter-Bank Research Organisation, established recently by the Committee of London Clearing Bankers.

When a new edition of my book *Securities for Bankers' Advances* (now in its fourth edition) is required, it will become Volume 2 of this present work. Both volumes will be indexed by reference to paragraph numbers instead of to pages. It is hoped that this will assist readers when using the general index, and the tables of cases and statutes. Instead of having to look through a whole page in order to find a particular point, their attention will be directed to a specific paragraph. Thus, para. 2-17 refers to Chapter 2, paragraph 17.

One of the duties of an author is to thank those who have assisted him. I place on record, first, my gratitude to my friend, the late Mr T. J. Cogar, an Inspector of Barclays Bank Ltd. He and I had agreed to write

this work jointly, but ill-health obliged him to ask the publishers to release him from his commitment. This they did, but until his death in September, 1966, whilst still in the service of Barclays Bank, Mr Cogar read each section of each chapter as I completed it, and gave me the benefit of his wide knowledge and experience. The work had then proceeded as far as Chapter 8. I am very grateful to one of his colleagues, Mr F. W. Weir, then an Inspector of Barclays Bank Ltd., and now an Assistant General Manager of Barclays Bank (London and International) Ltd., who very kindly read the remaining sections of the book as I completed them.

I also record my thanks to Mr R. McC. M. Adams, Resident Solicitor, National Westminster Bank Ltd., and to Mr G. E. Belk, Manager, Midland Bank Ltd., Boston, each of whom read the proofs, and offered many useful suggestions.

For assistance in regard to specific parts of the book, I am indebted to Dr N. L. Armstrong, Assistant Manager, Services Section, General Administration Department, National Westminster Bank Ltd.; Mr R. J. Foster, Area Officer, Harrow, National Westminster Bank Ltd.; Mr R. B. Stevenson, Manager, Commercial Information Section, National Westminster Bank Ltd.; Mr P. I. Twelvetree, the General Manager, Surrey Trustee Savings Bank; and Mr E. A. Young, the Deputy Inspector of the Bankers' Clearing House.

Much of the material for the book has been obtained at the Library of the Institute of Bankers, and I record my appreciation of the assistance given to me by the Librarian, Mr P. Spiro.

I must also thank numerous members of the Institute of Bankers who, by posing questions at lectures which I have been privileged to deliver at local centres of the Institute, have caused me to deal with problems which I might otherwise have omitted to consider.

Finally, it would be ungallant of me to omit to mention my wife, without whose help and encouragement throughout the last ten years the book would not have been written; Miss Gwen Bingham, who typed the manuscript; and Miss Sally Keen who helped me with the proof reading, and with the preparation of the index, and the tables of cases and statutes.

J. Milnes Holden

10 Lombard Street
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1st November, 1969

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