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# A Study On The Evolution Of British Banking Law

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**Abstract:** Since its inception in the late 18th century, the Indian banking business has seen numerous transformations. Most of India's early banks were largely traders' banks, which only provided short-term loans to local merchants. the Imperial Bank of India as well as the State Bank of India were the two most important banking institutions in pre-independent India. Majority private ownership was prevalent in the early days of the sector, which had an extremely turbulent work climate. When India's banks were nationalised in 1969 and 1980, they ushered in a new era of public ownership and responsibility. There has been considerable movement in the sector toward greater liberalisation as it has come to understand the importance for private and international firms in a competitive setting.

**Keywords:** Banking, Investment, Industry, Demand, Supply, Business, Banking Regulation Act.

## Introduction:

Banking as we know it now has been around for a long time. The French term "bancus" or "banaue" as well as the Italian word "banca," both meaning bench, are the ancestors of the English word "bank." In Lombardy, a northern Italian region, Jewish money changers used to conduct business on market benches. It appears that this term has been in use since then. People smashed up the bank after the banker went bust [1]. When the Germans ruled a large part of Italy, the Italians renamed the German word "back" to "banco" to refer to a joint stock fund, according to some historical accounts. Banks were established by the Babylonians as far back as 2000 BC. Depositing their money and treasures with the gods was a sign of faith in the gods. Ephesus and Delphi, two of Greece's most revered temples, wielded considerable financial clout. To keep their treasures safe, the temple priests threatened the people with the loss of their cash and other valuables if they didn't deposit them with the temples. Despite the fact that the ancient world, including the Hebrews, supported the institution of money lenders and made no slur of interest, but they hated only usury, the Romans as well as Mohammedans considered charging interest on money to be sinful and immoral and thus

banking could not develop for some time. Following the Vedic period and the Epic Age, banking was established in India during the Smriti period. The Vaishya community, according to the Manu in his Manu Smriti, is in the business of earning interest. Manu devised a separate chapter in his Manu Smriti to deposit and pledge and set laws for loans and interest rates because the people didn't take debt repayment seriously. Regulating interest on loans is mentioned by various sages, such as Gautama and Katyanana, Brihaspati and Kautilya, in their works. The resurgence of culture, trade, and business during the Middle Ages led to the development of banking as an institution [2]. Jews and Lombard financiers, on the other hand, controlled the money lending industry and provided credit to everyone who needed it at a high interest rate. According to Canon Law, lending money is a wicked behaviour, and Christians were prohibited from engaging in it. 12th-century Venice and Geneva were the birthplaces of banking as we know it today. Deposits and loans were being accepted and disbursed by these institutions. In 1157, Venice's first bank, the Bank of Venice, was created. Later, the Bank of Barcelona and also the Bank of Venice were created in 1401 and 1407, respectively, and they remained in operation until the end of the 18th century, respectively.

People in England used to deposit their money and bullion at the Royal Mint because they had faith in the King as well as the Royal family as an institution. Travellers may exchange currencies at the Royal Mint during Edward III's reign, as foreign trade had increased. However, Charles I seized 130,000 pounds of silver from the Royal Mint in 1640 and stored it there as a safe deposit box for future use. The public lost faith in merchants as a result of this, and they began to entrust their money to the cashiers at their stores, who then plundered the funds. As a result, merchants entrusted the safekeeping of their goods to goldsmiths, who then stored them in vaults. Known as Goldsmith's Note, these receipts were issued by goldsmiths and were receivable to the bearer upon demand, earning them widespread acclaim. When the goldsmiths realised they could earn interest on the money they had in safekeeping by lending it out, they did so. Instead of charging people for safekeeping money and jewels, the goldsmiths began lending money at interest for an extended period of time, and they kept enough cash on hand to meet the claims of note holders and depositors as a consequence. 1 During the reign of Charles II, the goldsmiths' banking activities suffered a major setback when he borrowed significantly from the goldsmiths and cancelled all of their obligations. As a result of this, the goldsmiths were devastated and lost their faith for a period of time. Goldsmiths later introduced a current account system in which depositors could withdraw their funds at any moment. Later, the present banking system was born out of this arrangement.

**"Bank" and "banking's" definitions :**

In India, a banking firm is defined as a corporation that engages in the banking industry and provides financial services. Banks are defined by the 1949 Banking Regulation Act, which

outlines the duties of a banker. Other businesses that banks are allowed to engage in and those that they are not allowed to engage in are also detailed in this document. Depositing money with a bank for the purpose of lending or investing is referred to as banking. An important part of this definition is that a bank must be able to accept and lend or invest the funds it receives from customers. The business will not be referred to as a banking business if the purpose of accepting deposits is not to lend or invest. A manufacturer or trader that accepts deposits from the general public only for the purpose of financing its operations is not considered to be conducting banking business, according to the explanation provided in Section 5(c).

The phrase "public deposit of money" is important. Only money can be deposited with the banker. It is implied by the term "public" that a bank accepts deposits from anybody who wishes to contribute. However, a banker has the option to reject to open an account in the name of someone they deem undesirable, such as a thief, robber, or other criminal. As a banker, you should be familiar with the practise of taking in new money. Because they are self-sufficient, the moneylenders and indigenous bankers don't take deposits from the general population. If they seek for money from family or friends in an emergency, it is not considered a public deposit.

Besides the timing and method of deposit withdrawal, banking also stipulates the definition of banking. The depositor should be able to get their money back if they ask for it or if the two parties agree to it. Even if the time period for which the money was deposited has expired, the banker is not allowed to repay the money of his own volition in the banking industry [4]. There must be a demand from the depositor for the same. In addition, the Act provides that the withdrawal must be made in the form of an order, cheque, or draught. You can't just order something verbally or over the phone; you have to use some sort of written instrument to make a formal demand. Hence, it is obvious that the fundamental concept of the bank business is that the funds raised from deposits must be used as the primary source of funds for lending or investment. As a result, the banker serves as an intermediary and deals with the public's money. Other institutions that handle money but don't meet the above-mentioned pre-requisites aren't considered banking institutions. Because they do not accept deposits in the regulated manner, specialised financial institutions such as Industrial Finance Corporation of India & State Finance Corporation are not considered banks. The two fundamental functions of banking are the essence of the business. Sir John Paget, a well-known banking expert, defined it this way as well [5].

As stated by Sir John Paget, a banker cannot exist if he or she does not: I accept deposit, accounts (ii) accept current accounts, or (iii) issue and pay cheques (iv) collect cheques, crossed & uncrossed, for his customers. This description outlines the four primary functions of the banking industry. Sir John Paget further emphasises the importance of consistently and formally carrying out the aforementioned duties. According to him, a person who wants

to call themselves a banker has to make a public claim to that title and the public must recognise him as such; his primary business must be banking, from which he should be able to profit. However, this definition does not cover the other activities that are now being performed by modern bankers. These functions are regarded to be the core functions of a banker. Bank, banker, or banking must be in the name. As a result of Section 7, all Indian banks must include at least one of the words bank, banker, banker, banking, or banking company in their names. It also prevents any other corporation or organisation from utilising any of these words as part of its/his name. Until 1983, no company could use any of these words in connection including its business under Section 7 of the Banking Regulation Act [6].

**The development of banking legislation:**

Laws relating to banking are part of the law merchant, or Lex Mercatoria as it is commonly referred to. Mercantile law took formed in the 13th century under the influence of trade practises. As time went on, these customs were validated by courts of law and formed a part of the overall law, whom courts were obliged by law to accept. It's safe to say that over the years, various additions have been made. It was as early as the 17th century when bills of exchange receivable to order were marked and transferred by endorsement. The Bank of England was established in 1964 when the first banking legislation was passed. Though it was an unique statute that dealt only with Bank of England matters, some question whether the Act could be considered the first piece of banking legislation because it didn't outline the laws that would govern banking in general. As a result of the adoption of the statutes in 1704 and 1708, negotiability was expanded to include promissory notes, which had previously been limited to bills of exchange. Acts enacted in 1826 and 1833 followed this. These pieces of legislation didn't deal with banking law as a whole; rather, they focused on specific sectors of the banking industry. When "the huge and developing system of joint-stock banking" was brought up in Parliament in 1836, it was argued that statutory supervision of banking was necessary since it was an unregulated factor in the nation's monetary system [7]. a) new-banks were allowed to open; b) new banks could be opened; c) new banks could be opened; d) new banks could be opened; e) new banks could be opened; f) new banks could be opened; g) new banks could be opened; h) new banks could be opened; and i) new banks could be opened.

**Banking in the United Kingdom:**

Bankers in England during the reign of Edward III were responsible for money changing, which was done by a royal exchanger on behalf of the king. " On the other hand, he provided foreign currency for anyone who wanted to leave the country. He exchanged foreign coinage brought in by travellers and merchants for British money.

In the Elizabethan Age, the flood of gold from America and the expansion of international trade laid the groundwork for modern banking in England. Farmers and city merchants

began to hold some of their "capital" in cash rather than solely in land. Charles I's 1640 seizure of pound 130,000 bullion kept for safekeeping by local merchants at the Royal Mint sparked public banking. This royal rejection caused merchants to start trusting their cashiers with vast sums of money; nevertheless, the cashiers used this faith to steal from their employers. A group of city merchants chose to hide their money in goldsmiths' safe rooms because their employees had not served them better than the monarch.

As early as the 16th century, large sums of money were entrusted to goldsmiths for safekeeping in exchange for their signed "goldsmiths notes," which contained a promise of return to the depositor or the carrier of the money on demand. This was followed swiftly by two developments that laid the groundwork for modern banking models known as "issue" and "deposit". Firstly, the goldsmiths' note became a bank note since it became payable to the bearer. It had a wide circulation and was reimbursable on demand. For a long length of time, the goldsmith had no idea how much money his clients were leaving in his care. Following the lead of Dutch bankers, they concluded that lending out a portion of their customers' funds was both safe and profitable as long as the money was returned on time. Realizing that lending out others' money at interest was a lucrative business, increasingly ambitious goldsmiths began offering interest on money placed with them instead of charging a service fee for guarding their clients' gold. This is a significant step forward for the financial services industry in England. Goldsmiths soon realised that they could always put aside a percentage of their wealth for loans, regardless of when their debts were due. As long as he maintained a solid credit rating, he was able to determine the quantity of gold he needed to meet the daily claims of his noteholders and depositors on the basis of the law of averages.

English banking suffered a major blow in 1672. Charles II owed the goldsmiths a large sum of money, which he swiftly paid back, following in the footsteps of his father. Payments were halted as a result of a financial crisis. Despite the shock and widespread impression that goldsmiths were engaging in reckless behaviour and charging high prices, public trust was quickly restored. After this date, the goldsmiths discovered that they could accept money on what is now known as a "Current Account," i.e. money that can be withdrawn at any time.

**Bank of England:**

In 1694, when William III was embroiled in a war with France and thus facing financial difficulties, the Bank of England was established. In such a situation, a man named Petterson came up with the idea of lending William III 1,20,000 pounds if certain privileges, such as the authority to issue notes, were granted to the organisation he was recommending. It was for this reason that the Tonnage Act was created, granting Mr. Petterson specific privileges and benefits. Under the Tonnage Act, "The Governor & Company of the Bank of England" might raise $120,000 in subscriptions. Before the 1st of July, no individual can contribute more than 10,000 pounds, and even after that date, no individual can contribute more than 20,000 pounds. The corporation lent the entire capital to the government and was entitled to an

interest rate of 8% per year and 4,000 pounds for management expenses. It was granted twelve years of privileges at the bank, but the Government had the power to terminate the charter after a year's notice. Forbidden: The Bank of England was only authorised to deal in bills of exchange, gold or silver bullion, and any goods or merchandise it had loaned money to sell; it was not allowed to trade in any other goods.

Act of 1844: Peel's Law A law known as Peels Act granted the Bank of England its ability to print banknotes in 1844. It was not possible to form new banks with the right to issue banknotes, and those that already existed could not expand their supply of notes. Thus, the Bank of England was allowed a monopoly on bank notes. Deposit banking & cheque currency, on the other hand, received more attention from the banks. There has been a growth in the use of cheque currencies over time. It was during this time period that a number of new banks were established for this purpose. The number of joint stock banks in England and Wales decreased from 104 in 1890 to 12 in 1956 as a result of bank mergers and acquisitions after 1890.

Regulation of bank note issuance in the United Kingdom: The Currency & Bank Note Act of 1920 governed the issuance of bank notes in the United Kingdom. To fulfil its mandate, the Bank of England was granted sole authority to print currency notes in the denominations of one pound and ten shillings through this Act. It was also granted the authority to issue notes of more than a pound in value. To handle its responsibilities in the industrial restructuring of 1929, the Bank of England created a subsidiary called Securities Management Trust Ltd. To help businesses grow and prosper in 1930s London, a new company, Bankers Industrial Development Company Ltd, was formed.

**Banking in India has a long and colourful history.**

Founded in the 18th century, the Indian banking industry's evolution has been diverse since then. In the early days of banking in India, most of the banks were focused on providing loans to traders. The Presidency Banks, which became the Imperial Bank of India and then the State Bank of India during the pre-independence period, were the foundation of the country's banking system. Early on, the sector was largely owned by private individuals, which resulted in a dangerous work environment. In 1969 and 1980, when India's banking sector was nationalised, major gains were achieved toward public ownership and accountability. Private and foreign businesses have become increasingly important in today's competitive environment, and the industry has progressed toward greater openness.

**Phase I:**

As far back as in 1786, a bank called the General Bank of India was established. Bengal Bank was the third to enter the market, after which came the Bank of Hindustan. Banks of Bengal, Bombay, and Madras were formed by the East India Company and renamed as Presidency Banks [3]. In 1920, these three banks were merged to become the Imperial Bank of India,

which was primarily owned by Europeans. Allahabad Bank was founded in 1865, while Punjab National Bank Ltd. was created in Lahore in 1894, making it the first Indian-owned bank. The Bank of India, the Central Bank of India, the Bank of Baroda, the Canara Bank, the Indian Bank, and the Bank of Mysore were all established in the years 1906 to 1913, respectively. The Reserve Bank of India was founded in 1935. Between 1913 and 1948, the economy grew at a fairly modest pace, and banks went bankrupt on a regular basis. There were about 1100 banks, the majority of which were small. The Banking Companies Act, 1949, enacted by the Indian government to improve the efficiency of commercial banks, was later renamed the Banking Regulation Act, 1949, by an amending act of 1965. (Act No. 23 of 1965). Reserve Bank of India (RBI) was given broad authority to oversee the country's banking system as the country's primary financial regulator. People have less faith in banks during these times. It was a long time before deposits could be remobilized following the disaster. Savings in the Postal Service's savings bank were far safer than those in the private sector at the time. The majority of the money was provided to traders, which was another problem.

**Phase II:**

After India's independence, the government took a number of significant efforts to reform the country's banking sector. In 1955, Imperial Bank of India was nationalised, resulting in widespread banking services, particularly in rural and semi-urban areas. SBI was set up as RBI's principal agent to manage all financial transactions involving the federal and state governments across the country. In 1960, seven of the State Bank of India's subsidiaries were nationalised, and on July 19, 1969, a significant nationalisation process was completed. The government took over 14 of the country's largest commercial banks. Seven further banks were nationalised as part of the second phase of the Indian Banking Sector Reform in 1980. As a result of this action, the Indian government now owns 80% of the banking sector. The Indian government has made the following efforts to regulate banking institutions: Banks with deposits above Rs. 200 crore were nationalised between 1949 and 1980, when the Banking Regulation Act was passed and State Bank of India was nationalised in 1955, when subsidiaries of SBI were nationalised in 1959, and when insurance coverage was extended to deposits in 1961. The number of public sector bank branches in India jumped 800 percent in deposits and 11,000 percent in advances following the nationalisation of banks.

**Phase III:**

This phase has introduced a slew of new banking products and services as part of its reform efforts. For this purpose, M. Narasimham established a committee named after him in 1991. Foreign banks and ATMs have inundated the country. Customers are being served with the utmost care. Banking through phone and the internet was made available. The entire process was made easier and faster. Money isn't as important as time. India's financial system has shown remarkably resilient in the face of severe shocks. Other East Asian countries have been hit hard by external macroeconomic shocks, but not this one. The flexible exchange rate

regime is to blame for all of this. Despite the country's low capital account conversion rate and large foreign exchange reserves, the banks & their customers have limited exposure to the international currency market [8].

**Development of legislative rule of banking in India:**

For a long time, India's commercial banking regulations were administered by the East India Private sector and Government of India, but this changed as the country's economy matured and more regulations were put in place. Company legislation was established in India in 1850, but banking businesses were exempt. As a result of the banking crisis of 1913, however, the Indian banking system was found to have numerous flaws, including a low proportion of liquid assets and linked lending practises. Regulation of banks in India was made possible thanks to the results and suggestions of the Indian Fiat Currency Enquiry Committee (1929-31), which investigated bank failures. It wasn't until 1949, as part of the RBI's monetary management mandate, that a comprehensive statute, applicable to the banking sector solely, was passed that the RBI may regulate the volume & cost of bank money and credit through the tools of general credit control. A comprehensive re-enactment of Indian company law from 1850, the Indian Companies Act of 1913 governed banks and other corporations until 1949. There were, however, a few clauses in this law that applied only to banks. A few ad hoc laws, such as the Bank Companies (Inspection) Ordinance of 1946 and the Banks (Restriction of Branches) Act of 1946, dealt with certain elements of banking regulation. In this context, the Banking Companies Act, 1949 was approved in March 1949 and renamed the Banking Regulation Act in March 1966. It only applied to banks. The Act gave the Reserve Bank the authority to licence banks, expand their branches, and ensure the stability of their assets, management and working techniques, merger, reconstruction, and liquidation. From time-to-time, the RBI's responsibilities were expanded or made more flexible, in accordance with changing banking industry needs and the evolving nature of financial regulation itself [9]. However, the Reserve Bank's involvement in urban cooperative banks was virtually nonexistent until March 1966. In 1965, however, many aspects of the Banking Regulation Act relating to banking activities were extended to urban co-operative banks as well by the introduction of the Banking Laws (Extension to Cooperative Societies). As a result, the RBI began overseeing urban co-operative banks in 1966 for the first time.

**Conclusion:**

Since the country's independence in 1947, most of the banking advances in India have been state-induced. Nationalization of both the Reserve Bank of India and the Imperial Bank of India (now known as the State Bank of India) occurred in 1949 and 1955, respectively. 14 main commercial banks were nationalised in 1969, and the process was repeated six more times in 1980 with the nationalisation of six other commercial banks. In other words, the Indian government had a near-monopoly on the banking industry until economic reforms

began in the early 1990s. By making loans readily available at low or even no interest rates, this strategy was intended to spur economic development in locations where commercial reasons precluded the disbursement of funds.

The Indian economy's transition to a higher growth path has been aided by banking sector reforms, which have greatly improved financial stability. The Indian financial sector is more stable and efficient now than it was before the reforms. However, the gains of the past few years have to be consolidated, so that these might be translated to drive the organizations, markets and practises into a mature financial system that can handle the challenges of sustaining India on a higher development trajectory. Banks must therefore not only be stable, but also able to move financial resources efficiently from the deficit to surplus sectors in order to sustain larger levels of planned investments. They'd first have to rethink their core banking business to see how they could best implement maturity transformation in order to increase lending capacity and support for real economic growth.

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