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BOOK REVIEW

EUROPEAN BANKING LAW. By S. Crossick and M. Lindsay. Financial Times Business Information, 1983. $176.

*Reviewed by Robert C. Effros**

> It is the fate of those who toil at the lower employments of life, to be rather driven by the fear of evil, than attracted by the prospect of good; to be exposed to censure, without hope of praise; to be disgraced by miscarriage, or punished for neglect, where success would have been without applause, and diligence without reward.
>
> Among these unhappy mortals is the writer of dictionaries; whom mankind have considered, not as the pupil, but the slave of science, the pioneer of literature, doomed only to remove rubbish and clear obstructions from the paths of Learning and Genius, who press forward to conquest and glory, without bestowing a smile on the humble drudge that facilitates their progress. Every other author may aspire to praise; the lexicographer can only hope to escape reproach, and even this negative recompense has been yet granted to very few.
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> —Samuel Johnson, *Preface to A Dictionary of the English Language*[1]

> Whereas, in order to make it easier to take up and pursue the business of credit institutions, it is necessary to eliminate the most obstructive differences between the laws of the member states as regards the rules to which these institutions are subject . . . .

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1. A JOHNSON READER 118 (McAdam & Milne eds. 1966).

—Preamble to the First Council Directive of December 12, 1977[2]

Samuel Johnson's wistful lament for the lot of lexicographers need not be limited to those who dare to compile and analyze words. It is at least as applicable to those lexicographers whose audacity extends to collecting and analyzing laws. As one who has but recently joined this ancient but pilloried fraternity, the reviewer can attest to the validity of Johnson's sentiments and the power of his solace.[3]

Mr. Crossick and Ms. Lindsay have collaborated to produce an analytical work entitled *European Banking Law*.[4] The analysis is composed of four main sections: banking, credit, capital movement, and securities. Each section contains a description of the applicable major laws and regulations in the countries of the European Economic Community (EEC) as well as Portugal and Spain, and includes a summary of the relevant EEC directives and their supporting studies. On the whole, the authors' product is successful and useful,[5] particularly in describing the EEC's attempts to accomplish the difficult task of harmonizing and coordinating banking and financial laws within the Community. The volume would have been even more useful, albeit expensive, had it included the major legislation and directives that form the basis of the authors' analysis. Perhaps Mr. Crossick and Ms. Lindsay can be persuaded to issue a second volume to enable their readers to benefit not only from their analyses and interpretations, but also from the sources to which they apply. Although the discussion is reasonably complete and accurate, the reference to deposit insurance and protection in the section on French banking is omitted in the section on German banking. In both countries the banking associations, not the Government, established the system of deposit protection.[6]

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2. 20 O.J. EUR. COMM. (No. L 322) 30, 30 (1977) [hereinafter cited as 1977 Directive].

3. Mr. Effros is the editor of EMERGING FINANCIAL CENTERS (1982), a volume covering the legal and institutional framework of seven developing economies.

4. S. CROSSICK & M. LINDSAY, EUROPEAN BANKING LAW (1983) [hereinafter cited as S. CROSSICK & M. LINDSAY].

5. A more detailed work covering the regulation of banking in the several countries is INTER-BANK RESEARCH ORGANISATION, THE REGULATION OF BANKS IN THE MEMBER STATES OF THE EEC (1978). *See also* S. MASTROPASQUA, THE BANKING SYSTEM IN THE COUNTRIES OF THE EEC (1978).

6. *See* R. DALE, BANK SUPERVISION AROUND THE WORLD 28, 33 (1982).

The purpose of *European Banking Law* is to provide readers with a single source for analyzing and interpreting the diverse and relatively uncoordinated regulations governing banking and financial services in the individual member states of the EEC. Crossick and Lindsay illustrate the dangers inherent in a community that seeks to establish a common market for banking and financial services without providing a coordinated system of regulation. These dangers were vividly exposed in the case of Banco Ambrosiano.[7]

The President of Banco Ambrosiano was prosecuted for various currency offenses after a report by the Bank of Italy revealed irregularities in the operation of Banco Ambrosiano's foreign subsidiaries and in the dealings of the bank's president. In 1982 Banco Ambrosiano's president fled the country and was found hanging from a bridge in London under mysterious circumstances. Although Banco Ambrosiano collapsed and was closed by the authorities, it was subsequently reorganized with full protection for the depositors. One of the controversies centered around Banco Ambrosiano's Luxembourg subsidiary, Banco Ambrosiano Holdings.

At the time of the parent bank's failure, the Luxembourg subsidiary owed various third parties, largely international banks, more than $400 million. While some of these creditors expected the Bank of Italy to assume responsibility for these debts, it refused to do so. At the same time, the Luxembourg banking authorities noted that the subsidiary holding company was technically not a "bank" and, therefore, not within their supervisory responsibility. Precise responsibility for the matter had thus "fallen between two stools."

The solution to a practical problem like the one that faced the creditors of Banco Ambrosiano requires a return to the basics of language. In a situation such as this, the lexicographer of laws must consult the lexicographer of words since the effect of laws ultimately depends upon the definitions of their terms. The interpretation of what constitutes a "bank" or the "banking business" varies from nation to nation.

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7. *See* Buxton, *Swift Remedial Action by Central Bank*, Fin. Times, Nov. 17, 1982, § III, Fin. Times Survey, Italian Banking II, at II; *Bank Imbalances*, ECON., July 24, 1982, at 16; *Will Banco Ambrosiano Rescue Its Reputation?*, BUS. WEEK, July 19, 1982, at 69; Willey & Sciolino, *A Scandal at the Bank?*, NEWSWEEK, July 19, 1982, at 33 (these articles are also available on NEXUS).

There are two basic approaches used to interpret the banking business.[8] The older approach is to set out a *list of activities* that the term encompasses. The list may include activities such as receiving deposits, discounting bills and notes, lending money, conducting safe deposit functions, buying and selling currencies, effecting transfers between accounts, and clearing negotiable instruments. This is the approach taken in the United States National Bank Act[9] and the German Banking Act.[10] While a list of activities is serviceable, it is often cumbersome and inelegant, amounting to a survey of practices performed by banks at the

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8. *See* Schweitzer, *Banks and Banking—A Review of a Definition,* 94 BANKING L.J. 6, 7 (1977). "Should banking, a most important economic activity, be defined on the basis of some rational economic criteria or on a historical/institutional basis as in the past?" *Id.* Variations on these basic approaches and attempts at others also exist. *See, e.g.,* U.K. Banking Act, 1979, § 1, 49 HALISBURY'S STATUTES OF ENG. 106 (1979).

9. According to the Act:

> [A] national banking association . . . shall have power . . . [t]o exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this chapter.

12 U.S.C.A. § 24(7) (West Supp. 1984).

10. Banking business shall mean:

> 1. the receipt of monies from others as deposits irrespective of whether interest is paid thereon (deposit business);
> 2. the granting of loans and acceptance credits (credit business);
> 3. the purchase of bills of exchange, promissory notes and cheques (discount business);
> 4. the purchase and sale of securities for the account of others (securities business);
> 5. the custody and administration of securities for the account of others (custody business);
> 6. the transactions designated in § 1 of the Investment Companies Act in the version published on January 14, 1974 (Legal Gazette I, p. 127), last amended by the Second Act to Amend the Banking Act of March 24, 1976 (Legal Gazette I, p. 725) (investment business);
> 7. the incurring of the obligation to acquire claims in respect of loans prior to their maturity;
> 8. the assumption of guarantees and other sureties for others (guarantee business);
> 9. the effecting of cashless transfers and clearings (giro business).

German Banking Act, 1961, art. 1.

time the law was enacted.[11] Conceptual problems have arisen as the purposes and focus of banking have changed over the years and banks now conduct a number of activities traditionally performed by nonbank financial institutions and other nonbank organizations.[12] These problems have, with varying degrees of suc-

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11. There are recent enactments that incorporated the list of activities approach. For example, section 10 of the Israeli Banking Law (Licensing), 1981, contains a definition of banking business that limits a bank to thirteen different types of transactions:

> (1) The acceptance of monetary deposits in current accounts from which sums are withdrawn by check upon demand.
> (2) The acceptance of other monetary deposits.
> (3) The issuance of securities.
> (4) The conduct of a system of payments, including the collection, transfer and conversion thereof.
> (5) A grant of credit.
> (6) Investment in securities or in gold intended for monetary purposes.
> (7) The safekeeping and management of negotiable instruments, securities, rights, and other assets for another, as an agent, baillee [sic], factor or trustee; provided that a business enterprise shall not be managed in this way.
> (8) The renting of safety deposit boxes.
> (9) The purchase and sale of securities as dealer, agent or subscriber.
> (10) Financial and economic counselling.
> (11) Brokerage in financial and economic transactions, except in the purchase or sale of goods or land.
> (12) An activity expressly permitted to a bank by law.
> (13) Any other operation concomitant to an activity permitted to a bank.

Ben-Oliel, *Elements for a Legal Definition of Commercial Banking: A Comparative View*, 16 ISRAEL L. REV. 499 n.2 (1981) (unofficial translation).

The principal banking "products" and "services" as determined by the United States Supreme Court were set forth in United States v. Philadelphia Nat'l Bank, 374 U.S. 321 (1963):

> The principal banking "products" are of course various types of credit, for example: unsecured personal and business loans, mortgage loans, loans secured by securities or accounts receivable, automobile installment and consumer goods installment loans, tuition financing, bank credit cards, revolving credit funds. Banking "services" include: acceptance of demand deposits from individuals, corporations, governmental agencies, and other banks; acceptance of time and savings deposits; estate and trust planning and trusteeship services; lock boxes and safety-deposit boxes; account reconciliation services; foreign department services (acceptances and letters of credit); correspondent services; investment advice.

Id. at 326-27, n.5.

12. *See, e.g.*, N.Y. BANKING LAW, § 96(12)-(13) (McKinney 1971 & Supp. 1984-1985) (authorizing banks to "reserve or order other travel services" and "to

cess, been addressed through (1) periodical amendments to the law by legislatures, (2) interpretations of incidental powers clauses,[13] or (3) procedures which delegate to the proper administrative authority the power to make any necessary changes in banking activities.[14]

The newer approach is to seek a *formula*. The basic formula that a number of modern laws have incorporated is the irreducible concept of *accepting deposits and making loans*. This formula concept is often preferred to embodying a list of unrelated activities that may have historically accreted to banks in legislation. This basic formula has at one time or another, been found in the core definitions of banks and banking operations in France,[15] the Netherlands,[16] and the United States.[17] The formula

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acquire and lease personal property").

13. *See, e.g.*, 12 U.S.C.A. § 24(7) (West Supp. 1984). Whether the incidental powers clause that opens the paragraph constitutes the independent power to conduct any activity necessary to conduct the business of banking or whether its scope is limited to the activities specifically listed in the statute has been the subject of much controversy. For discussions of the controversy surrounding the incidental powers clause, see Huck, *What is the Banking Business*, 21 Bus. Law. 537 (1966); Symons, *The "Business of Banking" in Historical Perspective*, 51 Geo. Wash. L. Rev. 676 (1982-83).

14. *See, e.g.*, German Banking Act, 1961, art. 1. "The Federal Minister of Finance may, after consultation with the Federal Bank, by regulation designate further transactions as banking business if, in the accepted view of the business community concerned, this is justified having due regard for the aim of supervision pursued by this Act." *Id.*; *see also*, Law concerning the Activity and Control of Credit Institutions, French Law No. 84-46 of Jan. 24, 1984 [hereinafter cited as, French Law No. 84-46].

> Credit institutions may not routinely engage in activities other than those referred to in Articles 1 to 6 except under conditions stipulated by the Bank Regulation Committee.
>
> These activities shall, in all cases, be of limited importance as compared to the overall routine activities of the institution and shall not prevent, restrict, or distort competition of the market in question.

Id. art. 7.

15. *See* French Banking Law of June 13, 1941. "For the purposes of this law, banks shall be defined as enterprises or institutions whose customary business is to accept from the public, in the form of deposits or otherwise, funds which they use for their own account in discount, credit or financial transactions." *Id.* art. 1. This definition was modified by French Law No. 84-86, *supra* note 13, which states: "Credit institutions are legal entities whose customary professional activity is to carry out banking operations. . . . Banking operations include the receipt of funds from the public, credit transactions, and the provision or management of means of payment for customers." *Id.* art. 1.

approach has also been adopted by the EEC in an attempt to harmonize the regulation of banking within the Community.[18] In addition, the formula approach has been adopted by a number of developing countries as the basis for defining banking business for purposes of modern banking laws.

A number of those modern banking laws drafted by the authorities of developing countries provide that:

> *banking business means* (i) *the business of accepting deposits* of money from the public or members thereof, withdrawable or payable upon demand or after a fixed period or after notice, or any similar operation through the frequent sales or placement of bonds, certificates, notes or other securities, *and the use of such funds* either in whole or in part *for loans* or investments for the account and at the risk of the person doing such business and (ii) any other activity recognized by the Authority as customary banking practice which a financial institution engaging in the activities described in (i) may additionally be authorized to do by the Authority.[19]

Two important points should be noted about this core definition of banking business. First, the definition applies only to those operations that include both activities. An operation that merely accepts deposits or makes loans will not be considered to be engaged in banking business. Second, the definition specifically includes certain activities that are the functional equivalent of accepting deposits in order to discourage attempts at evasion.

Banks no longer confine their operations to those stated in the core definition of banking business, however, and have universally endeavored to expand their operations by engaging in activities that have traditionally been within the legitimate sphere of others.[20] When banks engage in these additional activities, the

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16. *See* The Netherlands Act on the Supervision of the Credit System, 1956, which defines "commercial banks" as follows: "all bodies corporate, general partnerships, limited partnerships and physical persons that to a substantial extent make it their business to accept monies on deposit or in current account, and to grant credits for their own account, with the exception however of agricultural credit banks and security credit institutions." *Id.* art. 1.

17. *See* Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841-1850 (1982); *see also infra* note 19 and accompanying text.

18. *See* 1977 Directive, *supra* note 2.

19. *E.g.*, Royal Monetary Authority of Bhutan Act, 1982 (emphasis added). Similar language can be found in the National Bank of Liberia Act, 1974, and the Fiji Banking Act, 1983, No. 15 of 1983.

20. *See, e.g., supra* note 12 and accompanying text.

banking regulatory authorities must decide whether the consuming public will benefit from the increased competition provided by the banks or whether banks should be proscribed from activities that are too far removed from their traditional expertise because of the potential risks that these activities pose to the profitability and even the solvency of the banks.

Permitting banks to engage in new activities should not, however, exclude others from these activities since such activities do not constitute the core of the banking business. Obvious inequities would result if, for example, travel agents and leasing companies were deprived of their respective right to do business after banks were licensed to expand their activities into these areas. These considerations are reflected in the second clause of the modern definition of banking business.[21] The word "and" that joins the first and second clause of this definition is conjunctive; the activities permitted by the authorities under clause (ii) are ancillary to the core activities of clause (i).[22]

The consequence of engaging in activities that constitute banking business is to be classified as a "financial institution."[23] Modern banking laws reserve the term "bank" for a special type of financial institution, whose operations include the acceptance of deposits subject to check or other means of third party transfer.[24]

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21. *See supra* text accompanying note 19.

22. *See id.* Support for the authorization of new activities may be found in the final sentence of the German Banking Act, 1961, art. 1. *See also* French Law No. 84-46, *supra* note 14, art. 7.

23. *Compare* with the 1977 Directive, *supra* note 2, art. 1 ("'credit institution' means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account").

24. The United States Supreme Court adopted this approach in United States v. Philadelphia Nat'l Bank, 374 U.S. 321 (1963).

> Commercial banks are unique among financial institutions in that they alone are permitted by law to accept demand deposits. This distinctive power gives commercial banking a key role in the national economy. For banks do not merely deal in, but are actually a source of, money and credit; when a bank makes a loan by crediting the borrower's demand deposit account, it augments the Nation's credit supply. Furthermore, the power to accept demand deposits makes banks the intermediaries in most financial transactions (since transfers of substantial moneys are almost always by check rather than by cash). . . .

Id. at 326. The definition of a "bank" in the Bank Holding Company Act supports the same approach:

> *"Bank" means any institution* organized under the laws of the United States, any State of the United States, the District of Columbia, any terri-

The ability of a depositor to make third party transfers often differentiates a "bank" from other financial institutions in the modern banking laws of developing countries.[25]

Banking laws have long distinguished between (1) those financial institutions whose deposits are essentially transferable upon demand by means of an instrument that may be sent or delivered by the depositor to a third party and (2) those institutions from which the depositor must personally withdraw funds before transferring an amount to a third party. The distinctions between these two types of financial institutions were significant as far as liquidity, capital, and reserve requirements are concerned. As long as this theory of differentiated financial institutions was predominant, these distinctions, and the utility of making them, were self-evident. The theory of differentiated financial institutions has in large part, however, been replaced by the theory of

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> tory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, except an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or an institution chartered by the Federal Home Loan Bank Board, *which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans.*

12 U.S.C. § 1841(c) (1982) (emphasis added).

The Federal Reserve Board recently emphasized that the significance of demand deposits in this definition refers to "transactional capability," i.e., the ability of a depositor to make third party transfers based upon the subject deposit. Under the Fed's Regulation Y, a "demand deposit" is defined as "any deposit with transactional capability that as a matter of practice, is payable on demand and that is withdrawable by check, draft, negotiable order of withdrawal, or other similar instrument." 12 C.F.R. § 225.2(a)(1)(A) (1984); *see Regulation Y Revision,* AM. BANK, Jan. 6, 1984, at 4. A practice has recently developed in which non-banking institutions such as securities firms acquire banks and then prevent them from making "commercial loans." The object is, by circumventing this statutory definition of "bank," to avoid regulation of the parent companies under the Bank Holding Company Act. Alternatively, efforts may be made to limit deposits to those that the depositor does not have a legal right to withdraw on demand. *See, e.g.,* Wilshire Oil Co. v. Board of Governors of Federal Reserve System, 668 F.2d 732 (3d Cir. 1981). *Compare* First Bancorporation v. Board of Governors of Federal Reserve System, 728 F.2d 434 (10th Cir. 1984).

25. " '[B]ank' means any financial institution whose business includes the acceptance of deposits of money transferable by cheque or other means of third party transfer." *E.g.,* Fiji Banking Act, 1983, No. 15 of 1983. Identical language can be found in the East Caribbean Central Bank Agreement, 1983, and the Royal Monetary Authority of Bhutan Act, 1982. *See supra* note 19 and accompanying text.

universal banking,[26] which blurs the distinctions between financial institutions so that all compete on what is commonly referred to as the same "level playing ground." Accordingly, financial institutions other than banks have acquired the power to offer instruments to effectuate third party transfers.[27]

It is against this background of definitions and practice that Crossick and Lindsay present their summary of the EEC's efforts to harmonize and coordinate banking law within the Community.

In 1977 an EEC Directive imposed an obligation on the member states to conform their banking laws to the EEC's conceptual framework.[28] While the EEC initially considered applying the Directive to all credit institutions, regardless of whether they operated with funds derived from the public, the scope of the Directive was ultimately narrowed.[29] The Directive applies to financial intermediary institutions that receive deposits from the public and grant credits for their own account.[30] The Directive did not attempt, however, to define a category of "credit institutions" as "banks" simply because of their capacity to facilitate third party payment transfers.

The Directive recognizes certain exceptions to the definition of

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26. *See* Kübler and Mundheim, *Current Problems in Transnational Banking: A Report on the Königstein Banking Symposium*, 5 J. COMP. BUS. & CAP. MARKET L. 233, 234 (1983).

27. Savings and loan associations in the United States now offer "negotiable orders of withdrawal" ("NOW accounts"), and credit unions offer "share drafts." These instruments are functionally similar to checks typically offered by banks. *See, e.g.*, U.C.C. § 3-104(2)(b) (1978) ("A writing which complies with the requirements of this section is . . . (b) a "check" if it is a draft drawn on a bank and payable on demand . . . ."). The Uniform Law on Checks, which forms the basis of the check laws for most of the countries of Continental Europe, states:

> A cheque must be drawn on a banker holding funds at the disposal of the drawer and in conformity with an agreement, express or implied, whereby the drawer is entitled to dispose of those funds by cheque. Nevertheless, if these provisions are not complied with, the instrument is still valid as a cheque.

Convention Providing a Uniform Law for Cheques, Mar. 19, 1931, ann. 1, art. 3, 143 L.N.T.S. 355, 373.

28. *See* 1977 Directive, *supra* note 2.

29. *See* Le Brun, *Une premiere etape vers l'harmonisation europêene des règlementations bancaires*, 1979 REV. BANQUE, No. 1, at 25.

30. Article 1 of the Directive defines a " 'credit institution'. . . [as] an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account." 1977 Directive, *supra* note 2, art. 1.

credit institutions in order to avoid application of the provisions to central banks, post office giro institutions, and various local financial entities. The Directive also addresses application of the provisions to national credit institutions, credit institutions having their head offices in another EEC member state, and credit institutions having their head offices in a country that is not a member state. Before commencing business, a credit institution must obtain authorization from the competent banking authority of the state in which it is to do business. This implies that the conditions of authorization must be general and that business authorization decisions must be made on the basis of conditions that have been announced to all credit institutions. In addition, credit institutions must meet certain minimum operating requirements such as maintaining a specified level of funds separately owned by the credit institution, and ensuring that there are at least two experienced persons of good repute to direct the business of the credit institution.[31]

A credit institution cannot be refused authorization to commence activities on the ground that there is no perceived economic need for the applicant to fill. Moreover, the appropriate supervisory authority must furnish an unsuccessful applicant a reason for the authorization refusal within six months of receiving the completed application. A member state may not refuse branching entry by a credit institution established in another member state solely because the parent credit institution is organized in a legal form different from that required in the host state. Various coefficients and ratios are to be used to monitor the solvency and liquidity of credit institutions. Revocation of an authorization that has previously been issued to a credit institution is limited and the reason for the revocation must be given. In addition, member states must not accord more favorable treatment to branches of credit institutions having their head offices outside the EEC than that accorded to those having their head offices within the EEC. The Directive also provides that reciprocal agreements between the Community and third countries are to receive identical treatment throughout the EEC.

The Directive was to have been implemented by all member states within two years of its ratification by the Council and its provisions have occasioned changes in the laws of a number of

31. This "four eyes" requirement derives from German banking law.

members of the Community.[32] Belgium and Italy, however, failed to adopt implementing measures and the Commission took legal action against them in the Court of Justice of the European Communities. In a judgment handed down in March 1983, the Court of Justice ruled that the two countries were in breach of their obligation to implement the Directive.[33]

When compared to developments in the banking laws of other countries, the spareness and inadequacies of the EEC Directive may seem disappointing. It was, however, a pioneering effort that has been strengthened by a supplementary Directive, adopted by the Council of Ministers of the EEC on June 13, 1983.[34] While the 1977 Directive attempted to facilitate the elimination of "the most obstructive differences between the laws of the Member States as regards the rules to which . . . [credit] institutions are subject,"[35] the 1983 Directive addressed a more limited subject: the supervision of credit institutions on a consolidated basis throughout the EEC.[36]

Crossick and Lindsay make the following observation concerning the effect that the 1983 Directive might have had on the Banco Ambrosiano case:

> Commissioner Tugendhat was quoted in December 1982 as saying that *this directive could have avoided 'this summer's (1982) major banking crisis' if it had been in operation—a reference to Banco Ambrosiano.* This may be an over-simplification of the issue, as no practical amount of supervision can replace good management.[37]

Acknowledging the limitations of the EEC's efforts to coordinate the regulation of banking and financial services within the Community and their objective of "removing rubbish and clearing

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32. The U.K. Banking Act of 1979 was enacted partly in response to the Directive. *See* S. CROSSICK & M. LINDSAY, *supra* note 4; Blanden, *A Sea of Change in UK Banking Supervision*, THE BANKER, June 1980, at 23.

33. Commission of the EC v. Italian Repub., 1983 E. Comm. Ct. J. Rep. 449, [1981-1983 Transfer Binder] COMMON MKT. REP. (CCH) ¶ 8944; Commission of the EC v. Kingdom of Belg., 1983 E. Comm. Ct. J. Rep. 467, [1981-1983 Transfer Binder] COMMON MKT. REP. (CCH) ¶ 8945; *see* S. CROSSICK & M. LINDSAY, *supra* note 4, at 191.

34. 26 O.J. EUR. COMM. (No. L 193) 18 (1983) [hereinafter cited as 1983 Directive].

35. 1977 Directive, *supra* note 2, preamble.

36. *See* 1983 Directive, *supra* note 34.

37. S. CROSSICK & M. LINDSAY, *supra* note 4, at 97 (emphasis added); *see also supra* text between notes 6-8.

obstructions," the efforts of Crossick and Lindsay to summarize and describe the applicable major laws and regulations deserve applause. Samuel Johnson very appropriately characterized all human effort that falls short of its aim when, reflecting on his own chosen field, he stated: "Dictionaries are like watches, the worst is better than none, and the best cannot be expected to go quite true."[38]

38. A JOHNSON READER, *supra* note 1, at 451.