PREFACE

The law relating to Negotiable instruments is not the law of one country or of one nation, it is the law of the commercial world in general, for it consists of "certain principles of equity and usages of trade which general convenience and commonsense of Justice had established to regulate the dealing of merchants and mariners in all the commercial countries of the civilised world." Of course on questions of detail different countries have solved the various problems in different ways, but the essentials are the same. With expanding commerce, the growing demands for money could not be met by mere supply of coins and these instruments of credit took the function of money which they represented and thus became, by degrees articles of traffic. Thus, the Negotiable instruments came to be largely employed by merchants as an effective substitute for money.

The law merchant treated negotiable instruments as instruments that oiled the wheels of commerce and facilitated quick and prompt deals and transactions. This continues to be the position as now recognised by legislation through possibly a change is taking place with the advent of credit cards, debit cards and so on it was said that negotiable instruments are merely instruments of credit readily convertible in to money and easily possible from one hand to another. By the fall in moral standards, even these negotiable instruments like cheques issued started losing their creditability by not being honoured on presentment. Dishonour of Cheques result in civil as well as criminals liabilities but the wrong doers by taking the undue advantages of a non-awareness in public at large about the provisions of the Negotiable Instruments Act, 1881. Some times banks also commit wrongs for which they may be held liable for damages. A detailed study has been carried out in the following seven chapters where in all the aspects relating to negotiable instruments have been explained.

Chapter One

It relates to 'Introduction' in which brief historical development of Negotiable instruments, origin of Promissory note Bill of Exchange and Cheque, historical background of
Hundi in the form of indigenous banking which was prevalent in India in ancient and medieval period and before the coming into force the Negotiable Instruments Act, 1881.

Chapter Two

In this Chapter Definitions of negotiable instruments statutory as well as dictionary as have been given by different thinkers/jurists. Further, it contains the essentials of negotiable instruments, difference between Cheque, Bill of Exchange, Promissory note, draft, holder and holder in due course and endorsements.

Chapter Three

It explains about the dishonour of negotiable instruments and various causes which lead to dishonour of negotiable instruments, consequences of dishonour, object and reasons for inserting the penal provisions under various sections in the negotiable instruments Act, 1881.

Chapter Four

This Chapter highlights the provisions relating to notice for negotiable instruments, service of notice, mode of communication, cause of action, procedure for filing of complaint - private complaint and reference to the police and bar of limitation etc.

Chapter Five

This chapter gives a study of jurisdiction of the courts, defence which are available and not available under various sections, stay proceedings and presumption in favour of holder under section 118 and 139.

Chapter Six

In this chapter law relating to various liabilities viz. civil liabilities, criminal liability, Bank’s liability has been given. Further, it has been explained whether the mens rea will play any role in dishonour of negotiable instruments or otherwise, sentences of dishonour of negotiable instruments, judicial trends and amendment in respect of negotiable instruments.

Chapter Seven
It highlights the concluding view of the entire study. Some useful suggestions ideas which are thought proving arose in my mind during the course of study also have been at the end of the chapter.