

THE NEDERLANDSCHE HYPOTHEEK BANK *vs.* LEYDS, N.O.

Law 6. 1882, art. 1, No. 5.—Bank Licence.

Where, in a suit for a refund by Government of £100 the difference between a bank licence and the licence for a loan agency, it appeared that plaintiffs did not accept deposits, discount bills, deal in bullion or specie, issue cheque-books, notes or bills, or keep any accounts current, but only advanced money on security at fixed rates of interest, the Court held that they could not be considered as an ordinary banking institution, and were only liable to take out a licence as a loan agency.

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In this case the Nederlandsche Hypotheek Bank sued the Government for the refund of £100. The Government claimed £150 as bank licence, which had been paid, and the Hypotheek Bank now sought to recover back £100 on the ground that it was only a loan agency, and liable to pay £50 and no more.

M. E. Calff deposed: I am director in South Africa of the Nederlandsche Hypotheek Institution. The bank operates upon capital obtained by the issue of bonds in Europe. It does not accept deposits. It does not discount bills, and has no current bank accounts. We only advance money at fixed rates of interest. We do not deal in bullion or specie. We do not issue cheque-books or notes or bills. In fact, the name "bank" is not applicable, although in Holland companies such as ours are called banks. They are not real banks.

Tobias, for plaintiffs.

Jacobsz, for the defendant.

KOTZÉ, C.J.: I am of opinion that the Nederlandsche Zuid Afrikaansche Hypotheek Bank cannot be considered as an ordinary banking institution. Consequently it does not fall under Law No. 6, 1882, art. 1, No. 5, and the £100 applied for must be refunded to plaintiffs. There will be no order as to costs.

! DE KORTE and AMESHOFF, JJ., concurred.