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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1919.

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## A BILL

To fix the rates of interest or profit which pawnbrokers may lawfully demand and receive; to constitute a court to fix such rates; to provide that pawnbrokers give notice to the police of certain articles coming into their possession; to amend and declare the law with respect to agreements with and securities taken by money-lenders; to amend the Pawnbrokers Act, 1902, and the Money-lenders and Infants Loans Act, 1905; and for purposes incidental thereto and consequent thereon.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Usury Short title. (Pawnbrokers and Money-lenders) Act, 1919."

(2) This Act is divided into Parts, as follows:—

**PART I.—PAWNBROKERS.**

**PART II.—MONEY-LENDERS.**

**PART I.**

**PAWNBROKERS.**

**2.** This Part of this Act shall commence on the day of , one thousand nine hundred and , and shall be construed with the Pawnbrokers Act, 1902, hereinafter called the Principal Act.

**3.** The following sections and short headings are inserted next after section thirteen of the Principal Act:—

**13A.** It shall be lawful for any pawnbroker to demand and receive of and from any person pawning or pledging any article with such pawnbroker, interest or profit at and not exceeding the rates fixed as hereinafter provided on the principal sum or sums which have been lent or advanced on such article.

*Constitution of court to fix rates of interest or profit.*

**13B.** (1) The Governor shall as soon as practicable after the passing of this Act appoint a court to fix the maximum rates of interest or profit which may be lawfully demanded and received by any person exercising the business of a pawnbroker.

(2)

(2) The court shall consist of not less than stipendiary magistrates, who shall be appointed by the Governor, upon the recommendation of the Public Service Board, and shall sit at such times and places as the Governor may appoint.

(3) The Governor shall, upon the recommendation of the Public Service Board, appoint such officers of the court as may be necessary.

(4) Any vacancies in the membership of the court, however caused, shall be filled by appointment by the Governor.

(5) Any members of the court shall form a quorum thereof.

(6) The senior of the stipendiary magistrates so appointed shall preside in the court as chairman thereof; but in the absence of such chairman the members of the court present at any meeting thereof shall elect one of their number to act as chairman at and for such meeting. The chairman shall have a casting, as well as an original, vote.

(7) Whenever the court is not unanimous as to any matter, such matter shall be decided by the votes of a majority of the members present, and the decision so arrived at shall be the decision of the court.

*Jurisdiction and powers of the court.*

13c. (1) The court when so appointed shall, after inquiry, proceed to fix the maximum rates of interest or profit which may be lawfully demanded or received by any pawnbroker during the period next hereinafter prescribed.

(2) Such rates when so fixed shall be published forthwith in the Gazette, and shall come into force on the first day of , one thousand nine hundred and twenty, and shall remain in force for a period of twelve months thereafter.

(3) At least two months before the expiration of such period, and thereafter at least two months before the expiration of any period of twelve months for which the rates of interest or profit

profit have been fixed under this Act, a court shall, as hereinbefore provided, be appointed to fix such rates for the period of twelve months then following, and such rates when so fixed shall come into force immediately on the expiration of the period of twelve months then current.

(4) Any pledge or pawn given or taken in any such period of twelve months shall, while such pledge or pawn is in force, be governed by the rates fixed for such period.

(5) Such rates shall be deemed to cover all charges for warehouse room or on any other account whatsoever.

(6) The court shall have the powers conferred by the Royal Commissioners' Evidence Act, 1901, on a commissioner appointed thereunder; and the said Act, section nine excepted, shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the court.

(7) Any pawnbroker or person interested may appear before the court and shall be heard, but no costs shall be allowed.

(8) (a) The Governor may make regulations for carrying out the provisions of this Act, and in particular as to the procedure of the court.

(b) Such regulations shall be published in the Gazette and be laid before Parliament within a reasonable time. If either House of Parliament within fifteen days after such regulations have been laid before it passes a resolution disallowing any regulation, such regulation shall thereupon cease to have any effect.

*Enforcement and penalties.*

13D. (1) Every pawnbroker shall cause to be printed in large legible characters the rates of interest or profit so fixed as aforesaid, and place the same in a conspicuous part or parts of the shop or other place wherein he carries on the business of pawnbroking, so as to be easily visible to and legible by any persons at or resorting to such place of business

business. Any pawnbroker who fails to carry out the provisions of this section shall be liable to a penalty not exceeding        pounds.

(2) Any pawnbroker who shall demand or receive any interest or profit upon any article pawned or pledged with him in excess of the rates so fixed as aforesaid shall be liable for a first offence to a penalty not exceeding        pounds, and for a second offence to a penalty not exceeding        pounds and to the cancellation of his license.

(3) Any agreement between a pawnbroker and the owner of an article pawned or pledged providing for the payment of any such interest or profit in excess of such rates shall be and is hereby declared to be illegal and void in so far as it relates to such excess; and the owner shall be entitled to recover from the pawnbroker in any court of competent jurisdiction the amount of such excess where the same shall have been actually paid to the pawnbroker.

**4.** The following section is inserted, and shall be read next after section twenty-eight of the Principal Act:—

28A. (1) Every pawnbroker shall, without delay, give notice to the officer on duty at the police station nearest to any place where he carries on business of any article which may come into his possession answering to the description of any article described as having been stolen, embezzled, or fraudulently obtained, in any written, printed, or verbal information given to him by any member of the police force.

New section.  
Notice of  
articles  
supposedly  
stolen.

(2) Any pawnbroker who offends against the provisions of this section shall for every such offence be liable to a penalty not exceeding *ten* pounds.

PART II.

MONEY-LENDERS.

**5.** This Part of this Act shall be construed with the Money-lenders and Infants Loans Act, 1905, hereinafter called the Principal Act.

Amendment  
of Principal  
Act.  
Sec. 2 (2).

**6.** Subsection five of section one of the Principal Act is amended by adding at the end thereof the following proviso:—

Provided that such assignee or holder for value shall not be deemed to have had notice of a defect in an agreement or security by reason only that a search in the register established under this Act would have disclosed the defect, or shown that the agreement or security was effected with a money-lender.

**7.** Section two of the Principal Act is amended as follows:—

- (i) In subsection two, by omitting all the words after “fine” where first occurring, and inserting in lieu thereof the words “not exceeding five hundred pounds, and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding six months.”
- (ii) In subsection three by omitting the words “subsection (1) (a) of ”
- (iii) By adding the following new subsection at the end of the section:—

(4) Nothing in this section shall render invalid any agreement with, or security taken by, a money-lender.

**8.** (1) The amendment effected by paragraph (iii) of section seven of this Act shall take effect as if passed at the same time as the Principal Act.

Retrospective  
effect.

(2) Notwithstanding the decision in the suit of Bull and others versus Simpson in the Equity jurisdiction of the Supreme Court (No. 5,919 of 1915), such amendment shall apply and be deemed to have applied to the mortgage and the further charges the subject of the said suit.