

Hon. Mr. Seddon.

USURY PREVENTION.

ANALYSIS.

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A BILL INTITULED

AN ACT to prevent the Charging of excessive Rates of Interest on Money, and also to amend the Law relating to Pawnbrokers. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- 1. The Short Title of this Act is "The Usury Prevention Act, 1896." Short Title.
- 2. This Act shall apply to every contract or agreement made after the passing of this Act for the loan of money, or the forbearance to require payment of money owing on any account whatsoever. Act to apply to contracts or agreements.
- 3. In this Act "interest" means money or money's worth to be paid or allowed directly or indirectly, and whether under the name of interest, discount, premium, commission, or otherwise howsoever, to the lender or creditor pursuant to any contract or agreement. Interpretation.
- 4. The maximum rate of interest payable or recoverable under any contract or agreement shall not exceed *eight* pounds per centum per annum. Maximum interest not more than 8 per cent.
- 5. When no rate of interest is agreed upon in writing by the party to be charged therewith, the party entitled to interest under any contract or agreement shall not be allowed to recover or receive interest at a higher rate than *six* pounds per centum per annum. When no rate of interest specified 6 per cent may be recovered.
- 6. All contracts and agreements for the payment of a higher rate of interest than *eight* pounds per centum per annum shall, to the extent of the excess, be utterly void. Contracts for higher rate than 8 per cent. void.

Interest paid in excess may be recovered.

7. All interest paid or allowed by any person in excess of the respective rates limited by this Act may, notwithstanding that he consented thereto, be recovered back by him with full costs of suit from the person to whom he paid or allowed it, in like manner as if it were money had and received to his use by such last-mentioned person. 5

All loans to be made in money, without any deduction.

8. (1.) All advances of money by way of loan shall be made in current money, bank-notes, or cheques on bankers, without any deduction for interest or otherwise; and no goods or other articles of any kind whatever shall be supplied in barter for or as part of a loan. 10

(2.) Every contract or agreement made in breach of this section shall be utterly void.

(3.) This section shall not apply to deductions for the proper discount on bills discounted, and having when discounted an unexpired currency of not more than four months. 15

Act not to affect Pawnbrokers Act.

9. Nothing hereinbefore contained shall be construed to affect the provisions of "The Pawnbrokers Act, 1868."

When loan may be paid off after maturity.

10. (1.) In every case where a loan of money (whether secured on mortgage or not) is not paid off at maturity, the borrower may pay off at any time thereafter by giving one clear month's previous notice of his intention so to do, or by paying one month's interest in lieu of such notice. 20

(2.) The provisions of this section shall extend to every loan which is overdue at the time of the passing of this Act. 25

Other enactments modified.

(4.) Section fifty of "The Property Law Consolidation Act, 1883," and every other enactment or rule that are in any way in conflict with the provisions of this section are hereby modified in so far as such conflict exists.

Repeal.

11. Sections forty-three, forty-four, and forty-five of "The Mercantile Law Act, 1880," are hereby repealed. 30

#### SPECIAL AS TO PAWNBROKERS.

Rate of interest that pawnbrokers may demand.

12. Section seventeen of "The Pawnbrokers Act, 1868," is hereby repealed, and the following is substituted in lieu thereof:—

"(1.) It shall not be lawful for a pawnbroker to demand or receive from any person applying to redeem any goods pledged any higher or other profit than according to the following scale, that is to say,— 35

"(a.) Where the total sum lent on a pledge does not exceed ten pounds, a profit by way of interest at the rate of one penny per calendar month for every two shillings and sixpence of loan; 40

"(b.) Where the total sum lent on a pledge exceeds ten pounds, profit by way of interest at the rate of twenty-five per centum per annum on the total loan: 45

"Provided that—

"(c.) Where the pledge is redeemed during the first month of the loan, the profit for the whole of the month shall be payable;

"(d.) Where the pledge is redeemed during any month after the first, no profit shall be payable for such month if the application to redeem is made before the expiration of the first fifteen days thereof, and the profit for the 50

whole month shall be payable if such application is made after the expiration of first fifteen days thereof.

“(2.) Such profit shall be in full satisfaction of all claims for interest, storage, and all other charges on any account whatsoever.”

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13. Section twenty-eight of “The Pawnbrokers Act, 1868,” is hereby repealed, and the following is substituted in lieu thereof:—

Disposal of surplus after payment of amount due.

“(1.) In case any such article is sold for more than the full amount of the sum lent thereon, together with the interest thereon that was due at the time of the sale, then the overplus (deducting the necessary charges of such sale) shall be forthwith paid over to the Public Trustee, together with a statement setting forth under the hand of the pawnbroker, and verified by his statutory declaration, the following particulars:—

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“(a.) The name of the article and of the person by or for whom it was pawned;

“(b.) The date on which it was pawned, and the number of the pawn-ticket;

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“(c.) The amount of the loan, and of the interest thereon due at the time of the sale;

“(d.) The name of the auctioneer by whom the article was sold, and the date of sale;

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“(e.) The gross amount realised by the sale, the amount of the necessary charges of sale, and the net overplus payable to the Public Trustee.

“(2.) Such statement and declaration may be in the form set forth in the Schedule hereto.

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“(3.) Such overplus shall be held by the Public Trustee in trust for the person by or for whom the article was pawned or his legal representative.”

## SCHEDULE.

STATEMENT AS TO PAWNED ARTICLES SOLD BY PUBLIC AUCTION AT *Wellington*, ON THE 1st DAY OF *December*, 1897, BY *E.F.*, AUCTIONEER, BY ORDER OF *G.H.*, LICENSED PAWNBROKER.

Full Name of Person by or on behalf of whom the Article is pawned.	Article.	Date of Pledge and Number of Ticket.	Loan.		Interest to Date of Sale.		Total due at Date of Sale.		Gross amount realised at Sale.		Charges of Sale.		Net proceeds of Sale.		Overplus.	
			£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.
A.B. ...	Gold watch No. 402	1 Jan., '97 4239	5	0 01	1	0 06	6	0 08	0	0 00	10	0 07	10	0 01	10	0 0
C.D. ...	Gold chain	2 Feb., '97 5143	2	0 00	5	0 02	5	0 04	0	0 00	4	0 03	16	0 01	11	0 0
&c.	&c.															
		Totals														

I, G.H., of Wellington, licensed pawnbroker, hereby solemnly and sincerely declare—

1. That, pursuant to the provisions of "The Pawnbrokers Act, 1868," and "The Usury Prevention Act, 1896," the articles specified in the foregoing statement were sold by E.F., auctioneer, acting under my instructions.

2. That the particulars set forth in the said foregoing statement are true in every particular, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of "The Justices of the Peace Act, 1882."

G.H.

Declared at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, }  
18\_\_\_\_, by the said G.H., before me,— }  
I.J.,

A Justice of the Peace in and for the Colony of New Zealand.  
[or, as the case may be.]