

SMALL LOAN SERIES

THE REGULATION OF PAWNBROKING

BY

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OF THE LEGAL DEPARTMENT OF
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PREFACE

THIS study of pawnbroking regulation in the United States is a part of a survey of the entire field of small loans which has been made under the auspices of the Russell Sage Foundation. The circumstances which have prompted its separate publication are first, the scarcity of authoritative literature on the subject of pawnbroking in the United States and second, the demand for a convenient and up-to-date work of reference showing the salient features of pawnbroking laws in the different states and their interpretation as found in the reported decisions of the courts.

This particular study was made available by courtesy of The Provident Loan Society of New York, which occupies first rank in this country, not only as a pawnbroking institution, but as a remedial loan agency conducted on the highest principles of social service. The author of this treatise, R. Cornelius Raby, has been for a number of years in charge of the Society's legal department.

The survey when completed will include a study of the laws regulating other phases of the small loan business, such as chattel loans and salary loans.

LOUIS N. ROBINSON,
Director, Study of Small Loans.

I. THE NEED FOR REGULATION

WITH a full understanding of the nature of the pawnbroking business one need not seek further explanation for the need of its regulation by governmental agencies. Pawnbroking has been characterized as a necessary evil, and while its evils are small compared with the necessities which it supplies, they are conspicuous enough to demand legislative attention and public control.

In the course of his business the average pawnbroker will lend money on the security of any article of value not of a perishable nature that can be delivered into his possession, and without making any inquiry as to the character or responsibility of the applicant or regarding the ownership of the property offered. It may be an article of jewelry worth thousands of dollars, or it may be a household utensil or piece of wearing apparel worth a dollar; it is acceptable collateral to the pawnbroker if, in his judgment, he should be able to sell it for an amount at least equal to his loan, accrued interest and expenses of sale should it not be redeemed. This is not to be regarded as a reflection on the pawnbroker. It is simply an aspect of his business. It is just what he is expected to do and what he is in business for. It is a service which may be just as indispensable in one emergency as the services of a doctor or a lawyer in another.

It is the very facility of this service, however, that from another angle makes it a menace. The ease with which almost any article of personal property can be converted into cash by its owner or by anyone else without authority of the owner, encourages not only professional thievery, but also pilfering by irresponsible persons who rely on their relations with the owner of the purloined property for immunity against prosecution. It is this element of the business which accounts for the bond and license requirements, one or the other of which is found in most of the statutes, as well as for the police report and inspection provisions which are a usual feature of local regulations.

The purpose of the license requirement is to afford some assurance that those who are permitted to conduct the business are persons of good character and responsibility and not likely to act in wilful collusion with thieves. The purpose of the bond is more or less to fortify this assurance and to protect the public against the misconduct of

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the pawnbroker. The object of the regulations requiring pawnbrokers to report to the police the pledges which they receive and giving the police the right to inspect such pledges and the pawnbroker's records, is to discourage the patronage of thieves and to enable the owner of a stolen pledge, through the police, to recover his property.

It is for the same reason that some pawnbroking laws or ordinances regulate the hours of business, so that burglars or highwaymen who operate in the dead of night shall not have the opportunity to dispose of their loot as quickly as it is obtained. Provisions are also found prohibiting pawnbrokers from making loans to minors, drunkards, or mentally incompetent persons, which tend to prevent the pledging of household necessities by irresponsible or profligate members of a family.

In view of the manifest risk of unwittingly receiving stolen goods, with the loss of his loan and interest that frequently results, it is imperative that the pawnbroker be permitted to charge a rate of interest which shall be high enough to offset such losses. The rates of interest commonly fixed by the usury laws which apply to loans on personal credit, with ample security besides, are not adequate for this purpose. Another factor to be considered in fixing pawnbroking rates of interest is the overhead expense. The majority of the pawnbroker's loans are of small amounts, and many of them do not pay the cost of handling them. The smallest loans, as well as the larger ones, involve an examination and appraisal of the collateral, making the required entries, issuing a pawn ticket, wrapping and storing the pledge, with due precautions against loss or damage. These facts will explain why some legislatures have fixed a special rate of interest for pawnbrokers considerably higher than is permitted by the ordinary usury laws. Where no such provision exists, the pawnbroker usually finds a way to make his loans profitable by means of fees and charges on which the law may place no restriction. For this reason it is to the interest of the pledger as well as of the pawnbroker that rates of interest be fixed high enough to yield a proper return to the pawnbroker. If this be done extra charges will be superfluous, and may with justice be prohibited or at least subjected to strict regulation.

When a person deposits a pledge with a pawnbroker it is not his intention to part with his title thereto, nor is that the legal effect of the transaction. When a person mortgages his real property to secure a

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loan he still retains his equity therein, of which he may not be deprived even by foreclosure proceedings. The principle is identical where the security is a pledge of personal property. The pledger is entitled to his equity in the property pledged. Its value may depreciate or it may be enhanced between the time of pledging and the time of sale, but whatever remains after deducting the loan and interest and expenses of sale should go to the pledger or his successor in interest. Some legislatures have been enlightened enough to enact this principle into law; while some have granted the pledger, if not an indefeasible equity in his pledge, at least the right to claim within a certain time a surplus resulting from its sale.

Another matter which it has been found desirable to place under statutory prescription is the loss of the pawn ticket. If the pledger loses his pawn ticket how can he recover his pledge without it, and what can the pawnbroker lawfully require for his own protection against the outstanding ticket? These are questions which should not be left in doubt or open to controversy between the parties. It is only just that the pledger, as a penalty for his carelessness, should be put to the trouble of certain formalities to establish his right; but the requirements should not be too onerous. Where the pledge is of considerable value it would not be unjust to require an indemnity bond for the pawnbroker's protection, but this could be avoided by having the statute itself relieve the pawnbroker from further liability upon delivering the pledge in conformity with its provisions.

Vitally connected with the lost ticket problem is the matter of the original record of the loan. Where the ticket cannot be produced, the pawnbroker must satisfy himself, in the absence of any conflicting claim, that he is delivering the collateral to the same person who pledged it. The simplest and most trustworthy means of establishing the identity of such person is to provide for it in advance, by recording the pledger's signature or other distinguishing marks, at the time of making the loan. Where the pledger does not write, his identity can usually be established by recording such facts as his age, occupation, first name of husband or wife or other near relation, and so forth. Some pawnbrokers have adopted the finger-print method for the identification of illiterate patrons, but it would not be wise to make such a method mandatory, as it would entail too great an expense on the small pawnbroker.

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It follows, from the foregoing observations, that judicious regulation of the pawnbroking business is perhaps of equal moment, though from different angles, to three distinct parties: the public, the pawnbroker, and the pledger.

II. STATE REGULATION OF PAWNBROKING

Legislation on the subject of pawnbroking in this country is of comparatively recent origin. A search for early statutes would be unproductive. It is natural to suppose that New York would have been among the first states in which the need for such legislation would have been felt. Yet the earliest law of this kind in the statute books of New York is Chapter 339, Laws of 1883; and this law, as amended and enlarged, is still the pawnbroking law of New York. Probably the earliest statute designed to regulate the business was the Pennsylvania enactment of March 8, 1823 (Sec. 1, P. L. 62), which empowered "the Select and Common Council of the City of Philadelphia, the Commissioners of the Northern Liberties, the Commissioners of the District of Spring Garden, the Commissioners of Kensington District, the Commissioners of the District of Southwark and the Commissioners of the Township of Moyamensing, to pass such laws and ordinances as they may from time to time deem necessary for the good government and control of pawnbrokers." This law is still on the statute books and incorporated in the codification of Pennsylvania laws as the authority for regulating the pawnbroking business in Philadelphia. In New Jersey the first act to license and regulate the business was passed in 1876.

Even at this late day there is probably no other business so ancient in its origin and so extensively conducted, on which existing legislation is so meager and unsatisfactory as pawnbroking. Three principal reasons may be assigned for this. The first is that pawnbroking is a business which thrives only in the populous cities. In some states of the Union there are no cities large enough to supply the required patronage to support a pawnbroking enterprise. In other states there may be only a few such cities, and in these the regulation of the business is suitably effected by local ordinance. Another reason is that the business has not been affected nearly as much as other commercial lines

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by changing conditions, which are largely responsible for the modification, in the form of statutes, of common law principles. A third reason is that litigation, which is a fertile source of inspiration to law-making bodies, has been comparatively light in the field of pawnbroking. People as a rule are secretive and sensitive about their dealings with a pawnbroker, and even where they have a real grievance against him they are in no haste to take it into court.

Nearly all the states and territories have a general law requiring the payment of an annual license fee or occupation tax, or authorizing municipalities to license and tax the business. In Alaska, Idaho, Iowa, Kansas, Oklahoma, West Virginia, and Wyoming there is no further legislation on the subject than this. In 22 states pawnbrokers are subject to the additional requirement of giving bond for the proper conduct of their business. In Arkansas the only statutory provision directly relating to pawnbrokers is one prescribing their liability for a personal property tax.

In such an important matter even as the rate of interest to be charged 15 states have omitted to make any special provision for pawnbrokers. In such states, unless the municipality in which a pawnbroker does business is empowered by its charter to regulate pawnbroking interest, he is subject to the usury law and limited the same as banks to the legal rate, which is generally from 6 per cent to 10 per cent per annum. It is a well-established fact that the business cannot be honestly and profitably conducted at such low rates of interest. The result is that the law in such states is usually evaded through the device of extra charges or fees, which in some cases amount to many times the lawful interest.

So far as interest rates are fixed by statute, there is a wide divergence between the rates allowed in different states. Leaving out of consideration those states in which pawnbrokers are subject to the usury laws, the lowest statutory rate is 1 per cent a month, in Minnesota and the District of Columbia. The highest rate is 10 per cent a month (on loans under \$25), in Virginia. Between these two extremes the most usual charge seems to be 3 per cent a month, which is the rate in Colorado, Delaware, Illinois, Michigan, Montana, Nevada, Oregon, and Washington. A sliding rate of interest, based upon the amount of the loan, is provided in Connecticut, Hawaii, Maryland, Ohio, New York, Philippine Islands, Rhode Island, Utah, Vermont, and Virginia.

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In about one-half the number of states the statutes are silent on the subject of extra charges, such as for storage, preservation, or insurance of the pledge. In 18 states they are expressly prohibited, while in Georgia, Mississippi, Nebraska, Ohio, Pennsylvania (Philadelphia), Virginia, and Wisconsin extra charges in one form or another are legalized. In Wisconsin, where the interest is apparently limited to the legal rate, 6 per cent, or contract rate, 10 per cent per annum, the law permits extra charges of 7 per cent per annum on loans up to \$100 and 4 per cent per annum on loans over \$100. Similarly, in Philadelphia, where interest is limited to 6 per cent per annum, pawnbrokers may charge as high as 5 per cent per month for "storage and other necessary expenses."

In nearly all states some restriction is placed upon the pawnbroker's right to sell the collateral, either as to the manner of sale or as to the length of time for which the pledge must be held, and in some states as to both these matters. In 13 states the period of time for which the pledge must be held is definitely fixed. In most states, however, the period is either expressly or impliedly left open to agreement between the parties, and in such states the restriction as to the time of sale usually relates to a period of grace beyond the maturity of the loan as agreed upon.

Where the method of sale is prescribed, it is usually required to be at public auction, after notice to the pledger. In Connecticut and Ohio the pledge may be disposed of at public or private sale. The form of notice required is generally by publication in a newspaper for a specified number of times before the sale; but in some states the notice must be publicly posted. Nebraska and New Hampshire require actual notice to the pledger, in addition to posted notice. In New Hampshire, however, the requirement of auction sale and notice may be waived by agreement where the amount of the loan does not exceed \$25.

The states which have provided by legislation for the surplus, if any, resulting from the sale of the pledge, are in the minority. In 18 states and in Porto Rico the surplus belongs to the person who would have been entitled to redeem the loan if the sale had not taken place. In some states a limitation is fixed upon the time within which such person may claim the surplus. In Ohio and Rhode Island the time is one year; in Porto Rico, six months. In Oregon, if the surplus is not

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claimed within thirty days it must be paid to the County Treasurer, who holds it for the owner; but in Texas it belongs and must be paid to the county if not claimed within thirty days. In Vermont the surplus cannot be demanded until three months after the sale. Missouri is the only state in which it is expressly provided that the surplus belongs to the pawnbroker. Louisiana also has a unique provision, giving the pawnbroker the right to recover from the pledger any loss resulting from the sale.

Apart from the regulation of interest and other charges, and the sale of the pledge, the rights and liabilities of the pawnbroker and the pledger respectively have received scant treatment in the statutes. In only three states is any provision made for the loss of a pawn ticket. Missouri is the only state in which the pledger's affidavit is required and recognized by statute as taking the place of a lost ticket. In New York the pawnbroker is required to issue a "second or stop ticket," the nature and effect of which is left in doubt, but nothing is said as to the pledger's affidavit. Oregon has a similar provision, apparently borrowed from the New York statute.

In three states pawnbrokers are required to carry insurance on pledges for the benefit of the owners. In Colorado the amount of insurance required is one-half the value of the pledge; in Delaware the amount is fixed at \$1,000, but must be increased on demand of the Clerk of the Peace up to a maximum of \$5,000. In Philadelphia the amount of insurance required is fixed by ordinance at \$5,000.

The comparatively few statutory definitions of a pawnbroker are fairly uniform in describing him as one who lends money on the pledge or deposit of personal property. In some states the definition is extended so as to cover one who purchases such property upon condition of selling it back again at a stipulated price, this being a subterfuge by which persons doing a pawnbroking business have sometimes evaded the requirement of taking out a license or of furnishing a bond. In New York the definition is further amplified so as to embrace furniture storage warehousemen who lend money on goods pledged or deposited as collateral security. This does not seem to add anything to the first part of the definition, and inquiry at the office of the licensing official in New York City elicited the information that there were no storage warehousemen in the city who operated under a pawnbroker's license.

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The official supervision of the pawnbroking business is a matter of which legislatures have been somewhat neglectful in the past, but there is a noticeable tendency in recent legislation to remedy this defect. In most states the supervision of the business is a purely local matter, and ordinarily does not extend beyond the enforcement of the license requirement and the police regulations. State-wide powers of supervision are vested in the licensing official in Arizona, Hawaii, Indiana, Maine, Nebraska, Ohio, and Oregon. In Massachusetts the local regulations are subject to the approval of the state banking department, and in Maine and Oregon the licensing official is the head of the state banking department.

In nine states (Arizona, Colorado, Indiana, Maine, Maryland, New Hampshire, New York, Ohio, and Oregon) the Uniform Small Loan Law, which in its standard form does not apply to pawnbrokers, has been enacted in modified form and without excluding pawnbrokers from its operation. In some of these states this has resulted in double legislation affecting pawnbrokers, and in a few instances has created a somewhat anomalous situation. The amount of the loan is usually limited under the uniform small loan law to \$300, but this is not the case in Ohio, where pawnbrokers may operate either under the small loan law or under the pawnbroking law, both of which are administered by the State Commissioner of Securities. A similar situation exists in New York City, where a pawnbroking business may be licensed either by the Mayor under the general business law, or by the state Superintendent of Banks under the banking law. Some discrepancy in interest rates also results from this double legislation. In Colorado, for example, pawnbrokers operating under a local license may charge a higher rate of interest (3 per cent a month) for loans over \$300 than is permitted to pawnbrokers licensed by the state under the small loan law (1 per cent per month) on loans of \$300 or under. In New York City a pawnbroker licensed under the banking law may charge 3 per cent a month on all loans (up to \$300); but under the general business law the rate on loans over \$100 is 2 per cent a month for the first six months and 1 per cent a month thereafter.

In Illinois provision is made by statute for a special class of pawnbroking enterprises known as pawners' societies, incorporated with a capital stock of at least \$50,000 in cities of 250,000 population or over, and whose loans are limited in amount to \$1,000.

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In Pennsylvania there is one set of laws authorizing municipalities of the second and third classes to license pawnbrokers and another law applicable to Philadelphia only. The greater part of the last mentioned law is in reality a set of ordinances, although it is incorporated in the current digest of Pennsylvania state laws.

The State of Ohio, by a law passed in 1911, was the first and still is the only state to provide for the establishment of municipal pawn offices, somewhat after the plan of the government pawn banks of continental Europe. This law authorizes municipalities to establish by ordinance a municipal pawn department as a branch of the department of public service and under the supervision of the mayor. The funds are to be raised by an annual tax not to exceed one-fifth of a mill on each dollar of taxable property in the city until the institution becomes self-supporting. The ordinance may require employes of the department to furnish bond. Loans are limited in amount to \$150. The interest is fixed at 6 per cent per annum, with an extra charge not to exceed 4 per cent per annum for storage and insurance. According to information obtained from trustworthy sources the law is practically a dead letter, as the plan has never been put into actual operation. There is a strong probability that if an attempt should be made to raise the necessary funds by taxation, as provided by the statute, it would be resisted, and the courts would be called upon to pass upon the constitutionality of the law.

The schedule in Appendix II is a condensed summary of all the state laws of the United States, territories, and insular possessions pertaining to pawnbrokers. This schedule embraces only the matters of regulation, including license and bond requirements, interest and other charges, period of the loan, and disposition of unredeemed pledges. For other matters the reader is referred to the statutes themselves, which are cited in the column immediately adjoining the names of the states.

III. MUNICIPAL REGULATION OF PAWNBROKING

The only regulations which a municipality may make in respect to pawnbroking under its inherent police power are such as relate to the public welfare and safety. Beyond this point a municipality may

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regulate only under the authority of a general law or of its charter. In some cases the regulations are contained in the municipal charter itself.

The provisions most usually found in municipal ordinances relating to pawnbrokers are those requiring a license upon the payment of a fee and sometimes the filing of a bond, and subjecting the business to the visitation of the police or other local authorities.

Other matters which are the subject of local regulation in some cities are (1) the hours of business; (2) prohibited transactions, as with minors, drunkards, persons of unsound mind, etc., or the taking of certain pledges, as firearms, military uniforms or decorations, piece goods, etc.; (3) rates of interest and other charges; (4) sale of pledges and disposition of proceeds.

The salient features of the municipal ordinances or police regulations in 17 leading cities of the United States, relating to pawnbrokers, have been condensed for the purpose of this survey as follows:

New York (Charter provisions [1897 to 1910], Sections 51, 121, 316, 317, 334). Board of Aldermen may by ordinance provide for licensing and regulating pawnbrokers. Police Commissioner is vested with power of general police supervision and inspection of pawnbrokers.

(Ordinances, Chapter 14, Article 9-a, December 31, 1915.) Pawnbroker must keep certain records (a repetition of statutory requirement) and must report to police department as prescribed by police commissioner. (The police commissioner requires daily reports of articles enumerated in notice to pawnbrokers.) Penalty for violation, \$100 fine or ten days' imprisonment, or both.

Chicago (Revised Code of Ordinances, 1911, Sections 1740-1754). Pawnbroker defined; must keep certain records, subject to inspection of mayor and police. Must report to police by noon of each day, pledges of preceding day, which may not be redeemed for twenty-four hours after delivery of such report. Interest fixed at 3 per cent a month; extra charges forbidden. Pledge cannot be sold within a year from default in payment of interest.

Philadelphia (Ordinances of January 19 and February 16, 1856, and February 24, 1859). License fee fixed at \$100, \$200, or \$300 a year, according to volume of business; \$1,000 bond required. Pawnbrokers must keep certain records, subject to police inspection. Interest fixed at 6 per cent per annum; extra charges permitted not to

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exceed 5 per cent per month. Unredeemed pledges to be sold at public auction after ten days' published notice. Surplus belongs to pledger. Hours of business regulated. Penalties for violation, various, according to offense.

Detroit (Ordinance No. 524-A, September 4, 1917). License issued by the city upon payment of \$200 fee annually. Penalty for violation, \$200 fine or three months' imprisonment, or both.

St. Louis (Ordinances, Sections 2190-2199 [1912]). License issued by the city upon payment of \$400 fee per annum and filing bond of \$1,000. Pawnbroker defined; must keep certain records, subject to inspection by police and other stated authorities. Hours of business regulated. Penalty for violation, \$50 to \$500 fine and, in the discretion of the Mayor, forfeiture of license.

Boston (Police Regulations, March 1, 1919). License fee fixed at \$50 a year. Interest rates fixed on a graduated scale ranging from 5 cents for the first week and 2 cents a week thereafter on loans of \$1.00 or less, to 2 per cent a month on loans of over \$100. Extra charges forbidden. Hours of business regulated. Licensees must report to police by 10 a.m. each day all pledges of preceding day. Loans to minors forbidden.

Pittsburgh (Act of Assembly, March 7, 1901). License issued by Department of Public Safety upon payment of annual fee of \$200. Pawnbrokers must report daily to Superintendent of Police on official form, giving description of articles pledged. Pledges may not be sold until at least three months beyond the end of redemption period. Hours of business regulated. Penalty for violation, \$100 and forfeiture of license.

Los Angeles (Ordinance No. 31623, New Series, January 15, 1915). License issued by City Clerk upon permit granted by Board of Police Commissioners. Pawnbrokers defined; must report to Chief of Police daily on official form, giving description of articles pledged and of persons pledging. Pledges must be held twenty-one days and must be shown upon request of police officer. Penalty for violation, \$20 to \$500 fine or imprisonment for from ten days to six months, or both fine and imprisonment.

Buffalo (Ordinances, 1920, Chapter XX). License issued by Mayor, upon payment of annual fee of \$250 and filing \$10,000 bond. Pawnbroker defined; must keep certain records and report daily to

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Superintendent of Police on official forms, giving description of pledges received and of persons pledging. Rates of interest fixed, ranging from 10 per cent a month on loans of \$10 or under, to 1½ per cent a month on loans of more than \$75. Pledges may not be sold until at least three months after end of redemption period. Sales must be at public auction, unless otherwise agreed, and surplus must be paid to borrower upon demand if made within two years. Hours of business regulated. Penalties for violation, various according to provision violated.

San Francisco (Ordinance No. 2365, New Series, July 17, 1913). License issued by tax collector upon approval of Board of Police Commissioners and "payment of the license fee required." Pawnbrokers must report daily to Chief of Police on prescribed form, giving description of articles pledged and of persons pledging. Penalty for violation, fine not to exceed \$500 or six days' imprisonment, or both.

Milwaukee (Charter provisions of 1887, subdivisions 40-a-1 to 40-a-6). Licenses issued by mayor upon payment of fee fixed by common council (now \$150 annually) and \$500 bond. Pawnbroker defined; must keep certain records, including description of person pledging, subject to inspection by police, who may order any pledge held for identification. Penalty for not obtaining license, \$50 for each day.

Minneapolis (Ordinance). License issued by the city upon filing bond of \$5,000. No fee. Pawnbroker defined; must keep certain records, subject to inspection by police. Must report to police by noon each day pledges of preceding day, which cannot be redeemed until forty-eight hours after filing such report. Hours of business regulated. Penalty for violation, \$10 to \$100 fine, or in default of payment, not to exceed ninety days' imprisonment.

Seattle (Ordinances Nos. 14404 and 36584). License granted by special ordinance; fee \$175 a year. Pawnbroker defined; must keep certain records, subject to police inspection, and report to police by noon each day pledges of preceding day, with description of pledger. Pledges must be held subject to inspection for ten days. Loans to minors and drunkards prohibited. Hours of business regulated. Penalties for violation, various, according to offense.

Rochester, New York (Licensed Occupations Ordinance). License issued upon payment of annual fee of \$100 and filing \$1,000 bond.

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Pawnbroker defined; must keep certain records, which are subject to police inspection. Rates of interest fixed, ranging from 5 per cent a month on loans up to \$15, to 1 per cent a month on loans in excess of \$300, subject to minimum charge of 25 cents. Period of redemption one year, and pawnbroker must send borrower notice at least ten days prior to expiration of year.

Portland, Oregon (Ordinance No. 43025, of June 6, 1923). License issued by Bureau of Licenses upon approval of Chief of Police. Pawnbroker defined; must report daily to Bureau of Police on official form, giving description of articles pledged. Period allowed for redemption, sixty days for loans of less than \$20, and three months for others.

Louisville, Kentucky (Ordinances). Annual license fee \$350; hours of business regulated.

Richmond, Virginia (Ordinance of March 5, 1913). License issued by Hustings Court of the City of Richmond, after favorable certification by Board of Police Commissioners, upon payment of annual fee and filing \$500 bond. Pawnbrokers must make daily reports to Chief of Police. Number of licenses limited to twelve for the city, and hours of business regulated. Penalty for violation, \$100 to \$500 fine and forfeiture of license and bond in addition.

IV. CONFLICT BETWEEN STATE AND MUNICIPAL REGULATION

Just as there is sometimes a conflict between federal and state legislation on a particular subject, so the dual regulation of pawnbroking by state and local authorities results at times in confusion and even in the partial nullification of either state or municipal law.

The New York pawnbroking law proper, which in its original form was enacted in 1883, applies only to cities of 200,000 population or over. Rochester is excepted from the operation of this law. At the time of its original enactment there were three cities to which the law was applicable as having a population of 200,000 or over: New York, Brooklyn, and Buffalo. Brooklyn was subsequently annexed as part of Greater New York. When the law of 1883, with later amendments, was incorporated in the Consolidated Laws of New York as Article 5 of the general business law, it was amended by excepting Rochester

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from its provisions. The reasons for this were that the population of Rochester had reached 200,000 since the original enactment, and that the city council was empowered, under the Rochester charter of 1880, to enact ordinances for the regulation of pawnbroking.

At present writing, therefore, the only cities to which the law above cited actually applies are Greater New York and Buffalo. The licensing official is the Mayor, who has power to revoke the license and to impose fines and penalties for a violation of the law. In New York City this power was delegated by Chapter 475, Laws of 1914, to the Commissioner of Licenses, an appointee of the Mayor. A further regulatory power is vested by Section 51 of the Greater New York charter in the Board of Aldermen, subject, however, to the provisions of the state law. The Board of Aldermen in an ordinance passed in 1915, which is their only enactment on the subject, required reports to be made to the Police Commissioner, and left it to that official to prescribe the form of such reports and the time when they must be made. Thus, there are in New York City four distinct sources of pawnbroking regulation: (1) the State Legislature, which has fixed the rates of interest and prescribed to some extent the duties and obligations of the pawnbroker; (2) the Board of Aldermen, which has power to regulate the business further, subject to the state law; (3) the Commissioner of Licenses, who issues and revokes licenses and imposes fines and penalties; (4) the Police Commissioner, who is authorized to require reports from pawnbrokers. Thus far this arrangement seems to have worked out harmoniously enough in New York City, but in such a scheme there is always the danger of multiplicity of regulations or a clash of authority.

The charter of the city of Buffalo (Chapter 105, Laws of 1891) confers upon the common council of that city power to enact ordinances "to license and regulate pawnbrokers and the business of pawnbrokerage and to fix the rates to be charged by pawnbrokers in their business." Pursuant to this authority, the common council enacted such an ordinance, permitting pawnbrokers to charge rates of interest greatly in excess of those authorized under the state law. The legality of this ordinance was brought into question and referred to Attorney General John Cuneen for an opinion. Under date of October 9, 1903, the Attorney General replied in part as follows:¹ "The provisions of

¹ Report of Attorney General (1903), p. 455.

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the charter of the city of Buffalo, conferring power upon its common council to enact ordinances to fix rates to be charged by pawnbrokers in their business, must be read in connection with the provisions of the general statutes limiting the rate of interest to be charged by pawnbrokers as set out in Section 7, Chapter 339 of the Laws of 1883.¹ So read, the ordinance actually adopted is unauthorized by law and the charges made under the assumed authority of said ordinance are illegal." The ordinance in question has never been repealed, however, and is still incorporated in the code of city ordinances. The ruling of the Attorney General, while authoritative enough as an opinion, has not the force of law; consequently the Buffalo ordinance will stand, notwithstanding its conflict with the state law, until it is either repealed or declared void by a court of competent jurisdiction.

In the city of Syracuse, which had a population of 171,000 according to the federal census of 1920, pawnbrokers are permitted to charge interest at the rate of 6 per cent a month and upwards. When the city's population reaches the 200,000 mark, as it probably will before many years, the legality of such interest charges will be open to question just as they now are in Buffalo.

In Massachusetts the local licensing boards in the various municipalities have power to promulgate rules and regulations and to fix the rates of interest, but they must be satisfactory to the state bank commissioner, who has delegated this branch of his authority to a deputy known as the supervisor of loan agencies. This plan probably functions all right as long as the supervisor is in agreement with the local boards on matters within their concurrent jurisdiction, but a situation might arise where the supervisor would refuse to approve the recommendations of a local board and the latter would retaliate by declining to issue a regulation which the supervisor would approve. It appears, in fact, from early reports of the supervisor of loan agencies, that when this law was first put into operation the rates of interest permitted to pawnbrokers under local regulations ranged from 50 per cent to 200 per cent per annum, and that the supervisor's task of establishing rates on a more uniform and equitable basis was attended with considerable difficulty.

The pawnbroking law of Ohio (General Code, Secs. 6337-6346) con-

¹ But see, *contra*, "Municipal Corporations," 28 Cyc. 366; *St. Johnsbury v. Thompson*, 59 Vt. 300, 9 Atl. 571.

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fers upon the state licensing official, the commissioner of securities, broad general powers of supervision over pawnbrokers throughout the state. Books and forms used by pawnbrokers are subject to his approval, and he is charged with the strict enforcement of the law. Licensees are required to report daily to the local police department on forms furnished by the latter. This law, however, did not repeal Section 3670, General Code, which empowers municipalities to license and regulate pawnbroking. The way is thus left open to double license fees and double regulation. Cleveland and Cincinnati both have ordinances for the regulation of pawnbrokers which are now in conflict with the state law. There seems to be a disposition, however, on the part of municipal authorities in Ohio, to suspend the operation of local ordinances in deference to the state law.

In Virginia the state law (Code of 1919, p. 3133) empowers the hustings or corporation court of any city to grant a pawnbroking license to any citizen of good character. The Roanoke City Charter, as amended by the Act of March 10, 1920, confers upon the city power "to regulate or prevent the exercise of any unwholesome business, and to define or abate all things detrimental to the health, morals, comfort and welfare of the inhabitants."

Acting upon this authority, the city adopted an ordinance limiting the number of licensed pawnbrokers to three. An application for a license, made to the court at a time when there were already three licensed pawnbrokers, was opposed by the city, but the court ruled that the ordinance limiting the number of licensees was invalid, and issued a license to the applicant. The city took an appeal, and by a recent decision (*City of Roanoke v. Land*, 119 S. E. 59; September 20, 1923) the ruling of the lower court was sustained by the Supreme Court of Appeals of Virginia, which held that it was not the legislative intent, in granting the Roanoke Charter, to limit the jurisdiction of the corporation court to issue a pawnbroker's license.

V. COURT DECISIONS ON PAWNBROKING

Some of the decisions found in the case books on the subject of pawnbroking represent the application or interpretation of statutory provisions, while others are based on common law principles. Thus the relations between the pawnbroker and the pledger, which are not

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exhaustively treated in United States statutes, may be governed by the law of bailments, a pawn or pledge being one of the classes of bailments recognized and defined under the Roman law and, later, under the English common law.

Regulation and Control. The power of the state to regulate the business of pawnbroking, and to require a license as a condition precedent, has been firmly established.¹

A pawnbroker operating under a Virginia license and who, in connection with his Virginia business, maintained an office in the District of Columbia, was held to be subject to the law of the District requiring pawnbrokers to take out a license.²

A statute which fixes a license fee for pawnbrokers and provides that no other license fee shall be exacted by the state or any municipality, does not prevent the state or a municipality from levying an excise tax upon the business of such licensee as a revenue measure.³

Under its inherent police power, a municipality may impose such regulations as may be necessary in the interest of public welfare and safety, and under authority of general or special laws, it may promulgate additional regulations for the conduct of the business.⁴ Such regulations will be sustained by the courts if they are reasonable and not in conflict with constitutional rights.⁵ A city ordinance providing that a pawnbroking license will be issued only to one who is a citizen of the United States has been upheld as a reasonable restriction.⁶ In the District of Columbia a police regulation preventing a borrower from redeeming his property within twenty-four hours after pledging it, was held to be invalid as interfering with the owner's right in his property.⁷ But a similar ordinance in Chicago was held to be valid.⁸

¹ *Commonwealth v. Danziger*, 176 Mass. 290, 57 N. E. 461; *Grand Rapids v. Braudy*, 105 Mich. 670, 64 N. W. 29; *Lowry v. Collateral Loan Assn.*, 172 N. Y. 394, 65 N. E. 206.

² *District of Columbia v. Horning*, 47 App. D. C. 413, 41 (U. S.) S. Ct. 53.

³ *Globe Security and Loan Co. v. Carrel*, 138 N. E. 364, 106 Ohio St. 43.

⁴ *State v. Itzkovitch*, 49 La. Ann. 366, 21 So. 544.

⁵ *Solomon v. Denver*, 12 Colo. App. 179, 55 Pac. 199; *Launder v. Chicago*, 111 Ill. 291; *Butte v. Paltrovich*, 30 Mont. 18, 75 Pac. 521; *Kansas City v. Garnier*, 57 Kans. 412; *Hyman v. Boldrick*, 153 Ky. 77, 154 S. W. 369; *Elsner Bros. v. Hawkins*, 113 Va. 47, 73 S. E. 479; *City of Wichita v. Wolkow*, 202 Pac. 632.

⁶ *Asakura v. City of Seattle*, 210 Pac. 30. This decision was reversed by U. S. Supreme Court, May 26, 1924, on the ground that in this particular case the ordinance conflicted with an international treaty. 44 Supr. Ct. 515.

⁷ *Fulton v. District of Columbia*, 2 App. D. C. 431.

⁸ *Harrison v. People*, 121 Ill. App. 189.

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An act giving municipalities the right to define by ordinance the powers and privileges of pawnbrokers and to exercise over them general control does not confer the power to permit usurious rates of interest.¹

A charter provision empowering a city to regulate or prevent the exercise of any unwholesome business, and to define or abate all things detrimental to the health, morals, comfort, and welfare of the inhabitants, does not authorize the city to adopt an ordinance limiting the number of pawnbrokers to be licensed in the city, where the state law has previously authorized certain local courts to grant a pawnbroking license to any citizen of good character.²

Pawnbroker Defined. A person who buys personal property and resells it at an advanced price to the person from whom it was purchased, has been held to be a pawnbroker, even where the statutory definition of the term does not cover such a transaction.³

An isolated act of receiving property in pawn does not make one a pawnbroker; on the other hand, there may be the occupation of pawnbroking without the completion of an actual pawn transaction.⁴

One is no less a pawnbroker because of the fact that he requires pledgers to execute notes or chattel mortgages in addition to the pledged security.⁵

Pawnbroker's Lien on Pledge. A pawnbroker has a lien on the pledge for the amount of his loan and interest and other lawful charges provided the pledger was the owner of the pledge or acted with the knowledge and consent of the owner.⁶ In the absence of statute, however, his lien may be defeated where the pledger was not the owner and had no authority, express or implied, to pledge.⁷ In such a case, where the pawnbroker has already parted with the property, he is liable to the owner for conversion thereof.⁸

¹ Lockwood v. Muhlberg, 124 Ga. 660, 53 S. E. 92.

² City of Roanoke v. Land, 119 S. E. 59.

³ City of Philipsburg v. Weinstein, 21 Mont. 146; Loftus v. Agrant, 18 S. D. 55, 99 N. W. 90; City of Marshalltown v. Armstrong, 126 N. W. 195.

⁴ Commonwealth v. Schwartz, 197 Mass. 107, 83 N. E. 326.

⁵ Levison v. Boas, 150 Cal. 185, 88 Pac. 825.

⁶ Dyer v. Weinstein, 196 Ill. App. 398.

⁷ Skora v. Miller, 24 Ind. App. 567, 57 N. E. 264; Collateral Loan Co. v. Salinger, 80 N. E. 811; Goldstein v. Hort, 30 Cal. 372; Mairs v. Taylor, 40 Pa. St. 446; Schwartz v. Clark, 136 Ill. App. 150; Abel v. Poe, 199 Ill. App. 391; Schmeltz v. Morino, 183 S. W. 666; Silberfeld v. Solomon, 202 Pac. 113.

⁸ Clay v. Sullivan, 47 So. 153, 156 Ala. 392; Harris v. Lipman, 212 Ill. App. 499.

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This rule has been modified by statute in some states in the form of the Factors Act, which protects the pawnbroker's lien in a case where the property was entrusted by the owner to the pledger for the purpose of sale or as security.¹ This act has been applied by the courts not only where the pledger was vested with a general power of sale, but even where he had only a limited power of sale, for instance, as to a particular person.²

A criminal court is without jurisdiction to compel a pawnbroker to give up property to a third person claiming ownership, as the former has a constitutional right to a trial of title to the property in a civil action.³ Where the claimant brings such action for the recovery of the property, the record of the pledger's conviction of the larceny thereof is inadmissible.⁴

Where by reason of defective title in the pledger the pledge is taken from the pawnbroker without payment of his charges, the latter has a cause of action against the pledger on his implied warranty of title.⁵

Loss of the Pledge. In the absence of statute the pawnbroker is not liable to the pledger for the loss of the pledge, or damage thereto, whether by theft, fire, or other happening, which could not have been avoided by the exercise of reasonable care or diligence.⁶

Where the loan is redeemed by mail, and the pledge is lost in transit, the pawnbroker is not liable if shipment was made in accordance with the remitter's instructions, or, in the absence of such instructions, if the pawnbroker exercised due care in making the shipment.⁷

The Pawn Ticket. Conditions printed on a pawn ticket, limiting the pawnbroker's liability, will be sustained if they are reason-

¹ *Ludwin v. Baruch*, 69 N. Y. S. 933, 34 Misc. 544; *Marsellus, Pitt & Co. v. Simpson*, 128 N. Y. S. 587, 143 A. D. 383; *H. W. Sluyter Co., Inc. v. Koplik*, 168 N. Y. S. 1016; *Schmidt v. Simpson*, 204 N. Y. 434; *E. Bastheim Co. v. Schultz*, 188 Pac. 841; *Kupchick v. Levy*, 187 N. Y. S. 192.

² *Thompson v. Goldstone*, 157 N. Y. S. 621.

³ *People ex rel Simpson v. Kempner*, 208 N. Y. 16; *Modern Loan Co. v. Police Court*, 12 Cal. App. 582.

⁴ *Berrent v. Simpson*, 109 N. Y. S. 753.

⁵ *Goldstein v. Hort*, 30 Cal. 372; *Mairs v. Taylor*, 40 Pa. St. 446.

⁶ *Abbett v. Frederick*, (N. Y.) 56 How. Pr. 68; *Laing v. Blumaier*, (N. Y.) 1. City Ct. Rep. 238; *Oberman v. Reece*, 95 Ill. 645; *Seiden v. Stern*, 159 N. Y. S. 88.

⁷ *Stearns v. Farrand*, 59 N. Y. S. 384; *Polack v. O'Brien*, 100 N. Y. S. 385; *Waldman v. Klein*, 140 N. Y. S. 90.

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able, but not so as to relieve the pawnbroker from liability for wilful conversion.¹

The purchaser of a pawn ticket which describes a pledge as a diamond ring when the stone it contains is in fact spurious, cannot recover against the pawnbroker in the absence of evidence that the pawnbroker had actual knowledge of the cheat.²

A pawnbroker has a cause of action for damages against a person who induces him to deliver a pledge without the surrender of the ticket upon a false representation that the ticket has been lost.³

Where the pledger gave his ticket to his landlord as security for rent and later made a tender of the rent, which the landlord refused to accept, such tender extinguished the holder's lien on the ticket, so that he had no cause of action against the pawnbroker for refusing to honor it.⁴

Extra Charges. Where the statutes are silent on the subject of extra charges they are usually sustained by the courts if they purport to be in payment for specified service. Thus, in New York an additional charge for extra care of clothing, for protection against moths, was upheld.⁵ In Delaware it was held that a statute limiting interest to 3 per cent a month did not preclude an additional charge of 3 per cent a month for storage.⁶

Sale of the Pledge. If a pawnbroker buys a pledge at his own sale, the burden is upon him to show that the sale was made according to law and in the utmost good faith. Where a pledge was bought in by the pledgee's general manager for the amount of the loan, which was about one-half its value, and where there were no other bidders, the sale was set aside, even though the statutory requirements of notice, etc., had been met.⁷

The period of grace between the pledger's default and the sale of the pledge is not to be extended pending the appointment of an administrator, where the pledger died after the period had begun to run.⁸

¹ *Oberman v. Reece*, 95 Ill. 645; *Seiden v. Stern*, 159 N. Y. S. 88; *Schwartz v. Chicago State Pawnors Society*, 195 Ill. App. 93.

² *Feingold v. Wiesenberger Co.*, 142 N. Y. S. 319.

³ *Simpson v. Pilpoul*, 136 N. Y. S. 46.

⁴ *Lehmeyer v. The Provident Loan Society of N. Y.*, 65 N. Y. S. 313.

⁵ *Stich v. Samek*, 19 Misc. 534.

⁶ *State v. Goldenberg*, 108 Atl. 137.

⁷ *Uncle Sam's Loan Office v. Emery*, 49 Tex. Civ. App. 236, 107, S. W. 1155.

⁸ *McPike v. Friedman Loan & Mercantile Co.*, 227 S. W. 856.

PAWNBROKER'S LEGAL PROBLEMS IN PRACTICE

Where the pledge was wrongfully sold by the pledgee and the sale resulted in a surplus, the acceptance by the pledger of the surplus, even though such acceptance was under protest, amounted to a ratification of the sale.¹

A city ordinance requiring a description of pledges to be published prior to sale means a description which will enable the pledger, if he should see it, to learn that his goods are to be sold, as well as to give general notice to the public.²

Where the pawnbroker is required by statute to pay the surplus from the sale to the person who would have been entitled to redeem the pledge, he cannot offset a deficiency resulting from the sale of one pledge against a surplus arising from the sale of another, pledged by the same person, as each loan must stand by itself, and is made on the security of the pledge and not on the credit of the borrower.³

VI. THE PAWNBROKER'S LEGAL PROBLEMS IN PRACTICE

The two principal sources of trouble peculiar to the pawnbroking business are (1) adverse claims of title to pledged collateral and (2) the loss, assignment or hypothecation of the pawn ticket.

There are two aspects of an adverse claim of ownership which concern the pawnbroker. First, there is the possible loss of his lien, and second, the responsibility of restoring the collateral to the rightful owner. Where the collateral proves to have been stolen or pledged without authority, the pawnbroker as a rule loses his principal and interest, unless it is voluntarily paid by the pledger or the claimant. Where the facts are in doubt or in dispute, however, he is threatened not only with the loss of his lien, but with an action for damages should he take it upon himself to be the judge of the title and deliver the collateral to one of the parties in disregard of the other's claim, actual or potential.

In practice the pawnbroker ordinarily does not invite suit by the owner of collateral where the latter's right to possession without payment is fairly established. In such a case, where the ticket cannot be

¹ Kennedy v. Dexter Banking Co., 113 S. E. 819.

² Freeman v. Simpson, N. Y. Daily Reg. July 9, 1884.

³ Stephens v. Simpson (N. Y.) 94 A. D. 298.

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produced, it is customary to restore the property to the claimant upon his affidavit of ownership, supported in some cases by his agreement to indemnify the pawnbroker against the consequences of delivery. Where the title is in dispute, on the other hand, the usual policy of the pawnbroker is to await suit by either party and if suit is commenced, to implead the other as co-defendant. The form of such action is either in replevin, where the plaintiff sues for possession of the property, or in conversion, where he sues to recover damages for the pawnbroker's detention of the property.

Where the pledger alleges the loss of his pawn ticket he is generally permitted to redeem or to receive a new ticket upon executing an affidavit reciting his ownership of the collateral and the loss of the ticket. It is no uncommon occurrence for the pledger, after having assigned his ticket or given it up as security for a further loan or obligation, to redeem his pledge, or receive a new ticket, on a false affidavit. Such an affidavit affords no protection to the pawnbroker against the outstanding ticket, except in so far as it gives him a right of action against the pledger if the latter's misrepresentation shall work to the pawnbroker's injury. For this reason the pawnbroker sometimes requires, in addition to the pledger's affidavit, an indemnity bond with satisfactory surety to indemnify him against the outstanding ticket.

The reports which pawnbrokers are required to make to the police are usually rendered on blank forms which are supplied by the police for that purpose. These reports are filed and indexed at police headquarters for reference in connection with complaints received there of lost or stolen property. When an article is reported by a pawnbroker which seems to answer the description given by a complainant, the latter is directed to the place in which the article was pawned and given an opportunity to identify it as his property. If the claimant cannot appear immediately a representative of the police department places a stop against the delivery of the collateral for his protection in the interim. While such a stop has not the force of a court order, it is generally respected by the pawnbroker as any other notice of an adverse claim would be.

If the collateral proves to be the article sought, its restoration to the owner is a matter that must be governed by the facts in the case and to some extent by the regulations of the police or the licensing

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official. As a rule the pawnbroker will not make delivery without first endeavoring to ascertain what rights, if any, the pledger may have to assert. It frequently happens that the pledger is merely an innocent purchaser of a defective title and in such a case he may be unprepared to relinquish his claim without proof of the claimant's title, and he may even insist upon an adjudication of the issue in a civil court.

VII. EUROPEAN METHODS OF REGULATING PAWN-BROKING

Great Britain. The closest analogy in Europe to the pawnbroking business as conducted in the United States is found in Great Britain. The controlling statute there is the Pawnbrokers Act, 1872, which is a more comprehensive law on the subject than any to be found in the United States, although it applies only to loans up to ten pounds. An excise license is required, which is obtainable from the Commissioners of Inland Revenue upon the payment of a fee of seven pounds ten shillings. The applicant must first procure a certificate of authority in statutory form from a police magistrate or justice of petty sessions after giving twenty-one days' notice of his intention to the superintendent of police and one of the overseers of the poor and posting notice thereof for two consecutive Sundays on the door of the parish church or other public place.

There is no provision in the British act for supervision of pawnbroking establishments, but the rights and obligations of both parties to the pledge transaction are set forth in considerable detail, and any one aggrieved by the conduct of a pawnbroker may pursue his remedy in the proper tribunal as prescribed in the act.

The rates of interest are fixed on the following scale: On loans of forty shillings or under, one halfpenny per month for every two shillings or fraction thereof; on loans above forty shillings, one halfpenny per month for every two shillings and six pence or fraction thereof. An extra charge for the ticket is permitted at the rate of one halfpenny for a loan up to ten shillings and one penny for a loan above ten shillings. The law was amended in 1922 to permit an additional charge upon the receipt of the pledge, in the case of loans up to forty shillings, at the rate of one halfpenny for each five shillings or fraction thereof.

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A person claiming to be the owner of a pledge, but not holding the pawn ticket, or claiming to be the owner of the ticket and alleging that it has been lost, destroyed or stolen, may apply to the pawnbroker for a statutory form of declaration to be sworn to before a magistrate by the applicant and by a person identifying him. Upon the return of this declaration, duly executed, within a specified time, the applicant has the same rights as if he produced the pawn ticket, and the pawnbroker is indemnified by the act for delivering the collateral to him upon such declaration.

The period of the loan is fixed at twelve months with seven days of grace added. A pledge pawned for ten shillings or under, if not redeemed within that time, becomes the property of the pawnbroker. Other pledges, if not redeemed, must be sold at public auction after published notice as prescribed. The surplus, if any, must be paid to the holder of the ticket upon demand made within three years after sale. If, within twelve months before or after a sale resulting in a surplus, another pledge of the same person has been sold at a loss, the pawnbroker may set off the deficit against the surplus and is liable only for the difference.

Government Pawn Banks. In Continental Europe the problem of regulation as it is known in Great Britain and in the United States does not seem to exist, for there the pawnshops are for the most part owned and operated by the central or municipal governments. The rates of interest are fixed as low as may be consistent with the successful conduct of the business, and vary from $4\frac{1}{2}$ per cent to 15 per cent per annum, depending upon the volume of business done and other local conditions.¹

France. The French government has provided for the establishment of *monts-de-piété* by consent of the municipal council and by presidential decree. The administration of the business is in the hands of a council comprising the mayor, three members of the municipal council, three administrators of the public charities, and an equal number of citizens of the commune. The capital for the operation of the *monts-de-piété* is derived through gifts or bequests and appropriations of the central or local government. Where these sources

¹ Levine, Samuel W.: *The Business of Pawnbroking*, p. 173. New York, D. Halpern Company, 1913:

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are inadequate to meet the demand of borrowers, provision is made for loans to the institution or the acceptance of deposits.

These pawn banks enjoy a monopoly of the pawnbroking business in France. In addition to the class of pledges commonly accepted as collateral, they have been permitted, since 1891, to make loans on such securities as bonds, mortgages, and the like. A recent innovation in the Mont-de-Piété of Paris is the lending of money on automobiles. A large garage has been constructed for this purpose, and the Mont-de-Piété, according to newspaper advices, lends an average of 20 per cent of the value of the car and charges only 2 per cent interest.

Pledges which are not redeemed or renewed at the expiration of a year are sold at public auction, the borrower being charged with 5 per cent of the purchase price to cover the expense of sale. The surplus from the sale must be paid to the borrower if claimed within three years (or ten years, where the collateral consisted of stocks or bonds). If not claimed within that time it becomes the property of the institution.

Belgium. The government pawnbroking institutions of Belgium, which go under the name of loan banks, date from the year 1618 but have been reorganized a number of times. The administration of the banks is in the hands of local boards elected biennially by community councils. The funds for their support are derived from various sources, including a government subsidy. Where an institution becomes self-supporting, the law provides that its surplus earnings, if any, shall be used for making gratuitous loans to indigent persons. Interest on loans is computed from day to day up to the time of redemption at the rate of 8 per cent per annum, subject to a minimum charge of five centimes (about one cent). Under the regulations of the Antwerp loan banks, if the sale of a pledge does not bring the amount loaned on it the loss is borne by the appraiser who made the loan. Appraisers are required to furnish a bond, secured either by cash or by real estate. The surplus from the sale may be claimed by the holder of the ticket within two years from the date of the sale.

Holland. The municipal pawn banks in Holland are conducted on a plan closely similar to that of the Belgian institutions. A special feature of the Holland banks is that some of them are leased by the municipalities to individuals or corporations for a limited number of

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years upon payment of a fixed rent. Another arrangement peculiar to the Holland banks is the employment of commissioners who receive pledges and make loans to persons in outlying districts of the city. Their services are likewise available for the redemption of pledges.

Pawnbroking as a private business is also permitted in Holland. The private pawnbroker, according to W. R. Patterson,¹ enjoys the greatest freedom in his business. He pays no license fee, is subject to no regulations as to interest or charges, and makes loans on articles which the communal banks are forbidden to accept as collateral. He also purchases the pawn tickets issued by the communal banks for the purpose of collecting the surplus from the sale of the collateral.

VIII. A UNIFORM PAWNBROKING LAW

The need for more comprehensive and uniform legislation on pawnbroking has long been recognized by students of the subject. In 1920 the National Federation of Remedial Loan Associations addressed itself to the problem of drafting a law which should be adaptable to conditions in different sections of the United States.

The most conspicuous defects in existing laws were found to be (1) local instead of state control, extending even to the rates of interest permitted and resulting in great disparity of interest rates in different cities of the same state; (2) inadequate protection of the borrower's equity in the pledge; and (3) uncertainty regarding the reciprocal rights and obligations of the pawnbroker and the pledger. It was felt that an ideal pawnbroking law should embody the following essentials: (1) state supervision and control, to which the police power of municipalities should be subordinated; (2) a fixed rate of interest which, without being oppressive to the borrower, would insure to the pawnbroker a reasonable return on his capital, having due regard to the risks and other characteristics of his business; (3) protection of the borrower's equity by requiring unredeemed pledges to be sold at public auction after due notice, and the surplus, if any, to be paid to the borrower; (4) adequate provisions establishing the respective rights and liabilities of the parties to the pledge transaction, and par-

¹ Pawnbroking in Europe and the United States. Department of Labor, Bulletin No. 21, 1899.

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ticularly, indemnification of the pawnbroker for delivery of the pledge to the pledger in good faith without the ticket.

Such a bill was drawn by the writer as counsel for the Federation in collaboration with its chairman, Arthur H. Ham, Clarence Hodson, Director of the Legal Reform Bureau to Eliminate the Loan Shark Evil, Inc., and Walter S. Hilborn, acting director of the Division of Remedial Loans of the Russell Sage Foundation. This bill reflects first-hand knowledge of the pawnbroking business and actual experience in it, as well as contact with various types of loan agencies doing a pawnbroking business.

The bill was first publicly read and discussed at the thirteenth annual convention of the Federation, held in Chicago in September, 1921. No action was taken on it at that time, but at the next convention, held in Washington in May, 1922, the bill having in the meantime been amended in several particulars, it was endorsed by the Federation and recommended for enactment in any state of the Union. It also has the endorsement of the Russell Sage Foundation's Division of Remedial Loans. The complete text of the bill in its amended form will be found on the following pages.

APPENDIX I
DRAFT OF PROPOSED UNIFORM PAWNBROKING BILL
A Bill Entitled

AN ACT TO LICENSE PAWNBROKERS AND REGULATE THEIR BUSINESS AS
SUCH

Be it enacted by the.....of the State
of.....as follows [or other en-
acting clause]:

ARTICLE I
SHORT TITLE AND DEFINITIONS

SECTION 1.—*Short Title.* This act shall be known as the “Pawnbroking Law.”

SECTION 2.—*Definitions.*¹ In this act, unless the context otherwise requires:

“Pawnbroker” means any person, partnership, association or corporation (1) lending money on the deposit or pledge of personal property, other than choses in action, securities, or printed evidences of indebtedness; or (2) purchasing personal property on condition of selling it back at a stipulated price; or (3) doing business as furniture storage warehouseman and lending money upon goods, wares or merchandise pledged or deposited as collateral security.

“Pledge” means an article or articles deposited with a pawnbroker in the course of his business as defined in the preceding paragraph.

“Pledger” means the person who delivers a pledge into the possession of a pawnbroker, unless such person discloses that he is or was acting for another; and in such event “pledger” means the disclosed principal.

ARTICLE II
LICENSING AND SUPERVISION OF PAWNBROKERS

SECTION 3.—*License.* No person, partnership, association or corporation shall engage or continue in business as a pawnbroker except as authorized by

¹ The definition of the term “pawnbroker” has been borrowed from the New York law. The reason for this definition of the term “pledger” is that so many pledges are made by agents who do not disclose their agency, and the pawnbroker should be protected in dealing with them as principals. Thus, where a pledge is made by John Smith acting for an undisclosed principal, James Brown, the pawnbroker is warranted in dealing with John Smith, in case the latter should represent to him that the ticket has been lost. The facts in such a case might be that Brown, the owner of the collateral, sent Smith to pledge; that Smith delivered the ticket to Brown, who continued to hold it until he was prepared to redeem, and then learned that Smith had already done so on his fraudulent affidavit.

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this act and without first obtaining a license from the.....
....., hereinafter called the licensing official.

SECTION 4.—*Application.* Application for such license shall be in writing and shall state the full name and place of residence of the applicant, or, if the applicant be a partnership, of each member thereof, or, if a corporation or association, of each officer thereof, together with the place or places where the business is to be conducted.

SECTION 5.—*License Fee.*¹ If such application be approved by the licensing official, he shall issue a license to the applicant upon payment of the license fee and the filing of a bond as hereinafter provided. Such license shall not be assignable. It shall run from the date of its issuance to the end of the calendar year, and shall be renewed each year thereafter. The fee for such license shall be one hundred dollars (\$100) per annum, or a proportionate amount for a period of less than one year, for each place of business conducted by the licensee as such; which fee shall be in full payment of all expenses of examination under, and administration of, this act. *Provided, however,* that any pawnbroker who, at the time this act becomes effective, is duly licensed as a pawnbroker under the provisions of Chapter, Laws of [any prior state law] or under authority of any local ordinance or regulation, shall not be required to procure a license or furnish a bond under this act until the expiration of such existing license, but shall nevertheless be subject to all the other provisions of this act.

SECTION 6.—*Disposition of License Fees.* All license fees received by the licensing official shall promptly be remitted to the State Treasurer, who shall apply the same to the payment of expenses incurred in the administration and enforcement of this act, upon vouchers approved by the licensing official.

SECTION 7.—*License Bond.*² The licensee shall file with the licensing official a bond in the sum of one thousand dollars (\$1,000), as principal, with one or more sureties to be approved by the licensing official. The aggregate liability of such sureties shall not exceed the amount stated in the bond. Such bond shall run to the State of for the use of the state and of any person or persons who may have a cause of action against the principal as licensee under the provisions of this act. The con-

¹ It will be noted that this section confers upon the licensing official a discretionary power in the matter of approving licenses, which is not the case with the Uniform Small Loan Law.

² The amount of the bond, as well as of the license fee, has been fixed at the same figure as in the Uniform Small Loan Law. Both of these amounts are lower than are required in most states at the present time. These moderate figures have been suggested so as to encourage competition by enabling men with small capital to enter the business, which would not be the case if the bond and license requirements were more drastic.

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dition of such bond shall be, that the principal will comply with and abide by all the provisions of this act, and will pay to the state or to any person or persons any and all moneys that may become due to the state or to any person or persons from the said principal under and by virtue of the provisions of this act. A separate bond shall be required for each place of business, if more than one, conducted by such licensee. If, in the opinion of the licensing official, the bond shall at any time appear to be insecure or insufficient, he may require either an additional bond in the sum of not more than one thousand dollars (\$1,000), or the cancellation of the existing bond and the execution of a new one, in the same amount. If any person shall be aggrieved by the misconduct of a pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action in the name of the state for his own use upon the bond of the pawnbroker in any court having jurisdiction of the amount claimed, provided the licensing official assents thereto.

SECTION 8.—*Revocation of License.* The licensing official may, upon notice to the licensee and reasonable opportunity to be heard, revoke such license for a violation by the licensee of any provision of this act, or of any regulation promulgated by the licensing official.

SECTION 9.—*Posting License.* Such license shall be kept conspicuously posted in the licensee's place of business.

SECTION 10.—*Removal.* Whenever the licensee shall change his place of business he shall at once give written notice thereof to the licensing official, who shall indicate on the license his approval in writing of the change of location.

SECTION 11.—*Examinations.* The licensing official may at any time, and shall at least once a year, investigate the business of all licensees, either personally or by any person designated by him. For the purpose of such investigation the licensing official or the person designated to act for him shall have free access, during usual business hours, to the licensee's place of business and to the books, papers, records, safes and vaults of such licensee, wherever located within the state, and shall also have authority to examine, under oath, any person whose testimony he may require relative to such business.

SECTION 12.—*Regulations.* Subject to the provisions of this act, the licensing official may prescribe the form of books and records to be kept by licensees, which shall be preserved for at least two years from the date of making the loan and be available to parties in interest. He may adopt and promulgate such other rules and regulations, not inconsistent with the provisions of this act, as he may deem necessary for the proper conduct of his

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office and the enforcement of this act. In the exercise of such power, he shall co-operate with the police or other officials of municipalities for the discovery or restoration of stolen property.

SECTION 13.¹—*Annual Report.* Every pawnbroker shall, on or before the first day of February each year, submit to the licensing official in such form as may be prescribed by the latter, a report under oath, giving the number and amount of loans made during the preceding calendar year, the balance of loans outstanding at the close of the year, the maximum and minimum amounts loaned, and rates of interest charged.

ARTICLE III

PLEDGE CONTRACT AND RECORD

SECTION 50.²—*Original Record.* Every pawnbroker shall keep a book in which shall be recorded, in ink, at the time of making each loan, the name and address of the pledger, or, where the pledge is made by a person acting as agent for a disclosed principal, the names and addresses of principal and agent; the date of the transaction; amount of the loan; the article or articles pledged; and the serial number of the loan. There shall also be recorded in such book the date on which each loan was cancelled, and whether it was redeemed or renewed or whether the collateral was sold at auction. In a separate book the licensee shall record in ink all sales of unredeemed pledges, showing the number, date, amount, and duration of each loan, the date of the sale, the amount realized from the sale of the collateral, the amount charged to the pledger as interest, commission and expenses of sale, the amount of the surplus or deficit, as the case may be, the date on which, and the person to whom, the surplus, if any, was paid. All entries herein provided for shall be made in the English language.

SECTION 51.—*Signature of Pledger.* The pawnbroker shall at the time of making a loan require the pledger or his agent to write his signature and address on a card bearing the serial number of the loan corresponding to that recorded in the pawnbroker's book as provided in the last preceding section. If such person is unable to write he shall sign by mark, and in such event the pawnbroker shall record on the signature card such information as will enable him to identify the person in case of the loss of the ticket.

¹ Sections 8 to 13, inclusive, relating to the visitation of pawnbrokers by the state licensing official and, to a limited extent, by the local police authorities, should insure a thorough supervision of the business without entailing any hardship on licensees or antagonizing them in any way. The provisions for periodical examination and annual reports should tend to vest the business with the dignity and standing of a bank and encourage the application, as far as practicable, of banking principles and methods.

² The interruption of numerical sequence of sections is intentional, so as to permit the insertion of additional sections to the preceding article.

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SECTION 52.—*Pawn Ticket.* The pawnbroker shall at such time deliver to the pledger or his agent a memorandum or ticket on which shall be legibly written or printed the name of the pledger; the name of the pawnbroker and the place where the pledge is made; the article or articles pledged; the amount of the loan; the date of the transaction; the serial number of the loan; the rate of interest; and a copy of Sections 59 and 61 of this Article. A pawnbroker may insert in such ticket any other terms and conditions not inconsistent with the provisions of this act; *provided*, however, that nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligation to exercise reasonable care in the safe-keeping of articles pledged with him.

SECTION 53.¹—*Negotiability of Ticket.* Except as otherwise herein provided, the holder of such ticket shall be presumed to be the person entitled to redeem the pledge; and the pawnbroker shall deliver the pledge to the person presenting the ticket, upon payment of principal and interest.

SECTION 54.²—*Redemption by Mail.* When a ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order or bank draft for the amount due, including the charges for shipment as desired, and twenty-five cents for packing, the pledge shall be securely packed and forwarded by the pawnbroker in accordance with the remitter's instructions, if any. If the remittance is insufficient to cover the amount due, the charges of shipment as desired, and packing, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge subject to the payment of shipping charges by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery thereof to the carrier or his agent.

SECTION 55.—*Payment of Installments.* Upon the presentation of the ticket and the tender of not less than \$5.00 as an installment on the principal, together with accrued interest, the pawnbroker shall accept the same and issue a new ticket for the reduced amount.

SECTION 56.³—*Loss of Ticket.* If such ticket be lost, destroyed, or stolen,

¹ This provision has been borrowed from the New York law, and is found also in the British pawnbroking act. It is in keeping with long established usage, and justly relieves the pawnbroker of the responsibility of identifying the holder of a ticket which is presented for redemption.

² This section permits the only extra charge authorized by the bill in addition to interest. While extra charges of any kind are objectionable, a packing charge may be justified on the ground that packing and shipping the pledge is an extra service which is not contemplated at the time of making the loan, and for which the pawnbroker is entitled to compensation.

³ This provision is borrowed from the British pawnbroking act. It fills a very embarrassing gap in the existing New York law, which is silent as to the pawnbroker's liability to a bona fide holder of the ticket where delivery of the pledge has been made on the pledger's affidavit.

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the pledger shall so notify the pawnbroker in writing. The receipt of such notice shall be treated by the pawnbroker as a stop against the loan, and thereafter the provisions of the three last preceding sections shall not apply to such loan. Before delivering the collateral or issuing a new ticket, in such event, the pawnbroker shall require the pledger to make affidavit of the alleged loss, destruction, or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest; and the pawnbroker shall incur no liability for so doing, unless he has previously received written notice of any adverse claim.

SECTION 57.¹—*Altered Tickets.* The alteration of a ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve him of any other liability to the pledger or holder of the ticket.

SECTION 58.¹—*Counterfeit Tickets.* If a ticket is presented to a pawnbroker which purports to be one issued by him, but which is found to be spurious, the pawnbroker may seize and retain the same without any liability whatsoever to the holder thereof. Any such ticket so seized shall be delivered to the licensing official.

SECTION 59.²—*Rates of Interest.* A pawnbroker shall not charge or receive interest on loans in excess of 3 per cent a month, computed exactly on unpaid balances; *provided*, however, that on loans redeemed within the first month he may charge a month's interest, and *provided, further*, that he may charge a minimum of 15 cents where the interest herein allowed amounts to less. If a pawnbroker charges or receives interest in excess of that herein provided, or makes any charges not authorized by this act, he shall forfeit principal and interest and shall return the pledge upon demand of the pledger and surrender of the pawn ticket, without tender of principal or interest. If such excessive or unauthorized charges have been paid by the pledger, he may

¹ The provisions defining the pawnbroker's liability to the holder of an altered ticket have been adapted from the Uniform Warehouse Receipts Act. The authority to seize and retain a counterfeit ticket, that is, one which is spurious in its origin, as distinguished from an altered ticket, seems a desirable provision to make in the interest of public policy.

² After carefully weighing the arguments for and against a sliding rate of interest, regulated by the amount of the loan, as distinguished from a fixed rate which should be applicable to all loans, irrespective of the amount, it was decided to advocate the fixed rate, and to have that rate high enough, subject to the minimum charge of 15 cents, to make even the average small loan profitable. The sliding rate is well-founded and logical enough in principle, but it is open to the objection that some pawnbrokers will derive an unfair advantage from it by splitting a loan, where several articles are pledged, into two or more smaller loans to each of which the higher rate of interest will apply, although the borrower is lawfully entitled to the benefit of the lower rate.

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recover the same, including the principal, if paid, in a civil action against the pawnbroker.

SECTION 60.¹—*Care of the Pledge.* A pawnbroker shall be liable for the loss of a pledge or part thereof, or for injury thereto, whether caused by fire, theft, burglary, or otherwise, resulting from his failure to exercise reasonable care in regard to it; but he shall not be liable, in the absence of an express agreement to the contrary, for the loss of a pledge or part thereof, or for injury thereto, which could not have been avoided by the exercise of such care. The burden of proof to establish due care shall be upon the pawnbroker.

SECTION 61.²—*Sale of the Pledge.* All unredeemed pledges shall be sold at public auction, but not before the expiration of twelve months, nor later than the expiration of eighteen months, from the date of the loan, unless otherwise agreed in writing between the pawnbroker and the pledger, or authorized by the licensing official for due cause shown.

SECTION 62.³—*Notice of Sale.* No pledge shall be sold unless written or printed notice thereof has first been mailed to the last known address of the pledger at least twenty days prior to the date of sale. Notice of such sale shall also be published in three consecutive issues of a daily or weekly newspaper published in the city or county where the pawnbroker's business is conducted; such notice shall specify the time and place of the sale and the inclusive dates and numbers of the unredeemed loans, but shall not exceed 50 agate lines of space.

¹ This provision is adapted from a similar one found in the Uniform Warehouse Receipts Act. It embodies the common law principle that where a bailment is for the mutual benefit of the bailor and bailee, the bailee shall be held only to the exercise of due care and diligence in the safe-keeping of the goods placed in his custody.

² The requirement that pledges shall be kept for a stated period before they may be sold is found in many of the statutes, but it is not usually required that unredeemed pledges shall be sold within a certain time. The object of such a provision is to oblige the pawnbroker to foreclose his lien within a reasonable time after the expiration of the loan period, instead of continuing the loan on his books indefinitely until the equity is exhausted by the accrual of interest.

³ It is not likely that such notices as this would actually apprise many of the borrowers concerned that their property would shortly be sold; but they should serve to awaken public interest in the sale, thereby insuring to the pledger a more active and open market for his property than if the sale were not so advertised. Some of the statutes require that the notice contain a description of the articles to be sold. If this were enforced literally, the cost of printing such notices would be a heavy charge against the borrower's equity. Such descriptions are of no service to the borrowers affected thereby, and they are not necessary for the information of the public, as it is a matter of common knowledge what kinds of goods are taken in pledge by pawnbrokers.

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SECTION 63.¹—*Disposition of Proceeds.* The proceeds of such sale shall be applied to the purposes, and in the order, here specified: Auctioneer's charges; principal and interest of the loan; and a proportionate share of the expense of publishing the notice of sale, determined by dividing the total expense of such publication by the number of loans sold. The surplus, if any, shall be paid to the pledger or any one else who would have been entitled to redeem the pledge if it had not been sold. Notice of such surplus, if any, shall be mailed to the last known address of the pledger.

SECTION 64.¹—*Reversion of Surplus.* If a surplus be not paid or claimed within five years from the date on which it accrued, it shall revert to the pawnbroker for his own use and benefit. Interest on unpaid surplus at the rate of 6 per cent per annum shall accrue only after the pawnbroker's refusal to pay the same upon lawful demand therefor.

ARTICLE IV

MISCELLANEOUS PROVISIONS

SECTION 100.²—*Pawnbroker's Lien on Pledge.* A pawnbroker shall have a first lien on all pledges for the amount of his loan and interest in all cases except where the pledging or possession thereof by the pledger constituted larceny at the common law, or except where a prior lien exists by virtue of any other statute.

SECTION 101.—*Ticket Must Be Surrendered or Impounded.* Except as otherwise provided in this act, a pawnbroker shall not be required, by legal process or otherwise, to deliver a pledge except upon surrender of the ticket, unless the ticket be impounded or its negotiation enjoined by a court of competent jurisdiction.

¹ Some of these provisions have been borrowed from the New York law and some from the British act. The requirement of mailing notices of the surplus is new. The five-year limitation on the right to collect the surplus, after which it reverts to the pawnbroker, seems to be fair to all interests. The English law requires a pawnbroker to account for the surplus for only three years, but is silent as to the final disposition of a surplus which is not claimed within that time.

² It happens so frequently that a pledge is made by a person entrusted with the possession of an article of jewelry, but having no authority to pledge it, that a provision of this kind is desirable to protect the pawnbroker against fantastic claims of every description by people who are negligent in the selection of their agents or who repose too much confidence in chance acquaintances. The Factors Act in New York State affords such protection in cases where articles have been entrusted to an agent for the purpose of sale, but the principle is the same in any case where the property of another is obtained by the pledger under circumstances not amounting to common law larceny. Only a felonious taking, which implied a deliberate intent to steal, constituted larceny at the common law; but in many states the definition of larceny is now made comprehensive enough by statute to include almost any unauthorized appropriation of property belonging to another.

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SECTION 102.¹—*Adverse Claims.* If more than one person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have been adjudicated. In case of an action brought against the pawnbroker for recovery of the pledge, he may as a defense require all known claimants to interplead. If no action be brought against the pawnbroker by either party within the period for which he is required under Section 61 hereof to hold the pledge, or within thirty days after notice of an adverse claim, he may proceed to sell the pledge and hold the surplus, if any, subject to adjudication or other adjustment of the parties' rights.

SECTION 103.²—*Prohibited Transactions.* A pawnbroker shall not:

1. Accept a pledge from any person who is under the age of sixteen years.
2. Transact any business on Sunday; nor between the hours of six o'clock in the evening and seven o'clock in the morning; provided, however, that on Saturday he may transact business up to the hour of ten o'clock P. M.

SECTION 104.—*Penalties.* Any person, partnership, association or corporation who or which violates either Section 3, Section 59, Section 61, or Section 63 of this act, or commits any wilful fraud in the course of his business, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than six months, or by both fine and imprisonment, in the discretion of the court.

SECTION 105.—*Interpretation to Secure Uniformity.* This act shall be interpreted and construed so as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 106.—*Constitutionality.* If any section or provision of this act be decided by the courts to be unconstitutional or invalid, such adjudication shall not affect the validity of the act as a whole or of any other portion thereof which can be given reasonable effect without the provision held to be unconstitutional or invalid.

SECTION 107.—*Repealer.* Chapter of the Laws of, and all other acts or parts of acts inconsistent herewith, are hereby repealed.

SECTION 108.—*Date Effective.* This act shall take effect on and after the first day of next following its passage and approval.

¹ This section and the preceding one are similar in substance and effect to corresponding provisions contained in the uniform acts relating to warehouse receipts, bills of lading, and other negotiable documents of title. Their purpose is to prevent the possible recovery of more than one judgment against the pawnbroker by rival claimants in connection with the same loan.

² This section is borrowed, with slight modification, from the New York law.

APPENDIX II DIGEST OF STATE LAWS TO REGULATE PAWNBROKING

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
ALABAMA	Civil Code (1907) Secs. 5290-5295. Criminal Code, Sec. 7517. Act No. 328, Acts of 1919, Secs. 361, 363.		Issued by Probate Judge of County; fee \$250 a year.		No provision; legal rate is 8% per annum.		60 days.	Must be sold at public auction after 10 days' notice by advertisement.	
ALASKA	Compiled Laws (1913), Secs. 2569, 2570, 2572.		Issued by District Courts; fee \$300 a year.		No provision; legal rate is 8% per annum, contract rate 12%.				
	Revised Statutes (1913), Secs. 3592, 4143.		Issued locally; fee \$50 quarterly.		No provision; legal rate is 6% per annum, contract rate 10%.			Must be sold at public auction after 15 days' published notice.	Belongs to pledger.
ARIZONA	Chapter 91, Laws of 1919. (Applies only to loans of \$300 or under.)	Local regulations subject to approval of licensing official.	Issued by State Auditor; fee \$50 a year.	\$1,000.	3¼ % per month.	Forbidden.			

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
ARKANSAS	Crawford & Moses' Digest (1921), Sec. 9955.				No provision; legal rate is 6% per annum, contract rate 10%.				
CALIFORNIA	Civil Code (1923) Secs. 2986-3011. Penal Code (1915) Secs. 338-343. Political Code (1915), Sec. 4408.	Common councils of cities have power to regulate.	Issued locally; fee \$30 quarterly.		2% per month.	Forbidden.	Subject to contract.	Must be held for 6 months after end of loan period. Notice of sale must be published 5 days prior thereto.	Belongs to pledger.
COLORADO	Compiled Laws (1921), Secs. 3781-3801. (Applies only to loans of \$300 or less.)	By State Bank Commissioner.	Issued by State Bank Commissioner; fee \$50 a year.	\$1,000.	1% per month.	Inspection fee of \$1 not often more than four times a year to same borrower.			

COLORADO (Continued)	Compiled Laws, Secs. 4810-4828.	By licensing official and police.	Issued locally; fee fixed by ordinance.	Fixed by local au- thorities.	3% per month.	For- bidden.	Subject to con- tract.	Must be sold at public auc- tion after 10 days' written notice to pledger and published notice; but not until 6 months after end of loan period.	Belongs to pledger.
CONNECTICUT	General Stat- utes (1918), Secs. 3005-3013.	By licensing official and police.	Issued locally; fee \$50 a year.	\$2,000.	Up to \$15, 5%; \$15 to \$50, 3%; over \$50, 2% per month.	For- bidden.	Six months.	May be sold at public auc- tion or private sale, after pub- lished notice.	
DELAWARE	Revised Code (1915), 1196 Sec. 52-1203 Sec. 59; Chap- ters 83 and 126, Laws of 1919.	By police.	Issued locally; fee fixed by ordinance, but not to exceed \$200 a year. (Applies to Wilmington only.)	\$1,000.	3% per month.	For- bidden.	Four months; wearing apparel, 2 months.		
DISTRICT OF COLUMBIA	37 Stat. 657 (Code of 1919, p. 433).	By licensing officials.	Issued by Commissioners of the Dis- trict; fee \$500 a year.	\$5,000.	1% per month.	For- bidden.			

ILLINOIS	Smith's Revised Statutes (1921), Chapter 107½; Chapter 24, Sec. 65.	Municipalities may license, tax and regulate.	Issued locally; fee not fixed by statute.		3% per month.	Forbidden.		May not be sold within a year after pledger's default in payment.	
	Smith's Revised Statutes (1921), Chapter 32, Secs. 332-347. (Applies only to corporations with capital stock of \$50,000 or over, in cities of over 250,000 population.)	By State Auditor of Public Accounts. State and city each has the appointment of one director.			1% per month. (Loans are limited to \$1,000.)	½% per month for storage and insurance.		May not be sold within a year after expiration of loan. Sale must be at public auction.	Belongs to pledger if claimed within 2 years after sale.
	Chapter 125, Laws of 1917. (Applies only to loans of \$300 or less.)	By State Auditor.	Issued by State Auditor; fee \$100 a year.	\$1,000.	3½% per month.	Forbidden.			
INDIANA	Burns' Annotated Statutes (1914), Sec. 8655.		Issued by Common Councils of cities; fee not fixed by statute.		No provision; legal rate is 6% per annum, contract rate 8%.				

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
IOWA	Code (1897), Sec. 700.		Issued locally; fee not fixed by statute.		No provision; legal rate is 6% per annum, contract rate 10%.				
KANSAS	General Statutes (1915), Secs. 1221, 1723, 1925.		Issued locally; fee not fixed by statute.		No provision; legal rate is 6% per annum, contract rate 10%.				
KENTUCKY	Carroll's Kentucky Statutes, (1915), Secs. 3011, 3787-3794, 4190, 4224.	By police.	State license issued by Clerks of County Courts; fee \$500 a year. Municipalities may by ordinance require local license and fee, maximum \$500, minimum \$300, a year.	\$1,000.	No provision; legal rate is 6% per annum.			May not be sold within 90 days after maturity of loan.	

LOUISIANA	Merrick's Revised Civil Code (1913), Secs. 136-3175; Act No. 233, Acts of 1920, Secs. 7, 35.		Issued by State Auditor of Public Accounts; graduated fee, ranging from \$300 a year on capital of \$25,000 or less, to \$3,000 on capital of \$250,000 or more.		No provision; legal rate is 5% per annum, contract rate 8%.			Subject to contract.	Belongs to pledger.
	Revised Statutes (1916), Chapter 42, Secs. 1-5.		Issued locally; fee not fixed by statute.		On loans up to \$25, 25% per annum, over \$25, 6% per annum. (This provision, as to loans up to \$300, stands repealed, as being inconsistent with Chapter 298, Laws of 1917.)			May not be sold until 3 months after expiration of loan period. Sale must be at public auction, after 2 weeks' published notice.	Belongs to pledger.
MAINE	Chapter 298, Laws of 1917. (Applies only to loans of \$300 or less.)	By State Bank Commissioner.	Issued by State Bank Commissioner; fee \$50 a year.	\$1,000.	3½% per month.	Forbidden.			

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
MARYLAND	Annotated Code (1911) and Supplement (1914), Art. 56, Secs. 16, 16a; Chapter 354, Laws of 1916.	By police.	Issued by Clerks of Circuit Courts; in Baltimore, by Clerk of Court of Common Pleas; fee \$100 a year.		Up to \$25, 5% for first 30 days and 2½% for each 30-day renewal; over \$25, 3% and 2%, respectively, on foregoing basis. (Applies to Washington County only.)	Forbidden.			
	Chapter 88, Laws of 1918. (Applies only to loans of \$300 or less.)	By State Bank Commissioner.	Issued by State Bank Commissioner; fee \$50 a year.	\$1,000.	3½% per month.	Forbidden.			
	General Laws (1921), Secs. 70-85, of Chapter 140.	By licensing officials and police. Local regulations are subject to approval	Issued locally; fee \$50 a year.	\$300.	Fixed by licensing officials, subject to approval of State Bank Commissioner.		Four months; perishables, 1 month.	May be sold at public auction after expiration of loan period. (Applies only to pledges ex-	Belongs to pledger.
MASSACHUSETTS									

MICHIGAN	Act No. 273, Public Acts of 1917.	of State Bank Commissioner. By police and certain county offi- cials.	Issued locally; fee \$250 a year, but by local ordinance it may be other- wise fixed, maximum \$500, minimum \$50.	\$3,000.	3% per month; minimum charge 50 cents.	For- bidden.	Six months.	Must be sold at public auc- tion after pub- lished notice as prescribed.	Belongs to pledger.
MINNESOTA	General Stat- utes (1913), Secs. 5811, 5812; 8742- 8744.		Issued locally; fee (for certain corporations only) \$25 a year.		1% per month. (Applies only to loans of \$200 or less made by corporations which limit their dividends to 6%.)	For- bidden.			
MISSISSIPPI (Continued on next page)	Code of 1906, Secs. 3155-3169. (Applies only to pledge of house- hold goods, wear- ing apparel or musical instru- ments.)	Records are subject to in- spection by Mayor, Sher- iff or Grand Jury.	Issued locally; fee \$1.50.	\$500.	10% per an- num.	Investi- gation fee from 50 cents for \$5 loan to \$2 for loans from \$35 to \$60; over \$60, limited to 6% of loan.			

DIGEST OF STATE LAWS TO REGULATE PAWN BROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
MISSISSIPPI (Continued)	Code of 1906, Secs. 3366-3368, 3771, 3848, 3896-3911; Chapter 98, Laws of 1912.		State license issued by Auditor of Public Accounts through local tax collectors; fee \$250 a year. Municipalities are authorized to require local license and fee not to exceed \$125.		No provision; legal rate is 6% per annum, contract rate 10%.				
MISSOURI	Revised Statutes (1919), Chapter 82.				2% per month.			May not be sold within 60 days after loan is due.	Belongs to pawnbroker.
MONTANA	Political Code (1921), Secs. 2434, 4186-4192; Civil Code (1921), Chapter 89.		Issued by County Treasurer; fee \$55 quarterly.		3% per month.	Forbidden.		Must be sold at public auction, after actual notice to pledger a reasonable time before sale.	Belongs to pledger.

NEBRASKA	Compiled Statutes (1922), Secs. 428-436.		Issued locally; fee \$100 a year in metropolitan cities, \$50 elsewhere.	\$5,000.	No provision; legal rate is 7% per annum, contract rate 10%.		Six months.	Must be sold at public auction, after posted notice and personal notice to pledger a week before sale.	
	Compiled Statutes (1922), Secs. 2845-2856.	By Secretary of State.	Issued by Secretary of State; fee \$60 a year.	\$2,000.	10% per annum.	Brokerage fee, 10% of amount loaned.			
	Revised Laws (1912), Secs. 3727, 6465-6471.	By District Attorney and police.	Issued by County Sheriff; fee \$100 quarterly.		3% per month.			May not be sold within 90 days after loan is due.	
NEVADA	Public Statutes (1901), Chapter 141, Secs. 3-7; Chapter 26, Laws of 1907; Chapters 58 and 129, Laws of 1909.	By licensing board.	Issued locally; fee fixed by licensing board.		Fixed by licensing board.		Four months; perishables, 1 month.	Must be sold at public auction, after 14 days' notice, publicly posted and served on pledger. (This requirement may be waived by agreement, as to loans not exceeding \$25.)	Belongs to pledger.
NEW HAMPSHIRE (Continued on next page)									

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
NEW HAMPSHIRE (Continued)	Chapter 228, Laws of 1917. (Applies only to loans of \$300 or less.)	By Board of Bank Commissioners.	Issued by State Board of Bank Commissioners; fee \$50 a year.	\$1,000.	3% per month.	Inspection fee of \$1 on loans from \$15 to \$50, or \$2 on loans over \$50.			
NEW JERSEY	Compiled Statutes (1910), pp. 3929-3933.	By police.	Issued locally; fee to be fixed by ordinance, maximum \$150 a year.	\$2,000.	2% per month.	Forbidden.	1 year.	Must be sold at public auction, upon 5 days' published notice.	
NEW MEXICO	Annotated Statutes (1915), Secs. 4047-4051.		Issued locally; fee \$250 a year.		10% per month.			Must be sold at public auction, after 6 months' grace and one month's notice posted at place of business.	Belongs to pledger.

NEW YORK	General Business Law (Chapter 20 of the Consolidated Laws 1909), Secs. 40-52. (Applies only to cities of 200,000 population or over.)	By licensing official and police.	Issued by Mayor; fee \$500 a year.	\$10,000.	On loans up to \$100, 3% per month for first 6 months and 2% per month thereafter; on loans over \$100, 2% per month for first 6 months and 1% per month thereafter.		1 year.	Must be sold at public auction, after published notice as prescribed.	Belongs to pledger.
	Banking Law (Chapter 2 of the Consolidated Laws 1914), Secs. 23, 340-373; as amended by Chapter 703, Laws of 1920. (Applies only to loans of \$300 or less.)	By State Superintendent of Banks.	Issued by State Superintendent of Banks; no fee required.	One-tenth of licensee's capital stock; minimum \$3,000.	3% per month.	Forbidden.			
NORTH CAROLINA	Consolidated Statutes (1919), Secs. 2305, 7000-7007, 7816.	By licensing authority and police.	Issued locally; fee \$200 a year.	\$2,000.	Apparently limited to legal rate, 6% per annum.			Must be sold at public auction, but not within 60 days after loan is due.	Belongs to pledger.

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
NORTH DAKOTA	Compiled Laws (1913), Secs. 3599, 3818, 3861, 9701-9703.	Municipalities may license and regulate.	Issued locally; fee not fixed by statute.		Interest above legal rate authorized, but not fixed by statute.				
	General Code (1921), Secs. 6346-1-6346-11.	By licensing official.	Issued by State Commissioner of Securities; fee \$100 a year.	\$2,000.	3% per month.	On loans up to \$50, inspection fee of \$1.			
OHIO	General Code, Secs. 6337-6346; as amended by Senate Bill No. 65, Laws of 1921.	By licensing official.	Issued by State Commissioner of Securities; fee \$150 a year.	\$2,000.	Up to \$25, 5% per month; over \$25, 3% per month.	For storage, 25 cents per month (on some articles, 50 cents).	Six months.	May be sold at public or private sale, but not until 60 days after maturity of loan and 30 days' notice to pledger by registered mail.	Belongs to pledger if claimed within a year; otherwise it reverts to pawnbroker.
	General Code, Sec. 3570.	Municipalities are also empowered to license and regulate.				For shipping collateral, 25 cents.			

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
PENNSYLVANIA	3 Purdon's Digest (13th Ed. 1907) 3468-3471. (Applies to city of Philadelphia only.)	By police.	Issued by Mayor; fee \$100 on capital under \$10,000; \$200 on capital between \$10,000 and \$20,000; \$300 on capital from \$20,000 up.	\$1,000.	Limited to legal rate, 6% per annum.	Not to exceed 5% per month for storage, etc.	Eight months (dry goods and clothing, four months).	Must be sold at public auction after 10 days' notice.	Belongs to pledger.
	3 Purdon's Digest (13th Ed. 1907) 3016; 8 Purdon's Digest (13th Ed.) 8789; 6 Purdon's Digest (13th Ed.) 7064.		Second-class cities may license; fee fixed by ordinance. Third-class cities may license; fee fixed by ordinance, not to exceed \$100 a year.						

PHILIPPINE ISLANDS	Public Laws, Vol. 3, pp. 404, 430-433 (Act No. 1189, of 1904); Public Laws, Vol. 11, p. 328 (Act No. 2655, of 1916).	In Manila, by Municipal Board.	Issued by Provincial Treasurer; fee 200 pesos a year.		On loans under 100 pesos, 3% per month; 100 to 500 pesos, 2% per month; 500 pesos or over, 14% per annum.					
PORTO RICO	Political Code (1913), Secs. 1874, 2912-2918; 5753-5758.	By police.	Issued locally; fee \$100 a year in cities of first class, \$75 in cities of second and third classes.		4% per month.	Forbidden.	Subject to contract.	May not be sold within 6 months (in case of clothing, 30 days) after expiration of loan period. Sale must be at public auction after 7 days' notice publicly posted.	Belongs to pledger if claimed within 6 months.	

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
RHODE ISLAND	General Laws (1909), Chapter 126; Chapter 435, Laws of 1909.	By police.	Issued locally; fee fixed by Town Council, minimum \$50 a year.	\$2,000.	On loans up to \$50, 5% per month for first 3 months, 2½% per month thereafter; on loans of over \$50, 2½% per month. Minimum charge, 50 cents per month.	Forbidden.		May not be sold within 3 months after maturity of loan. Sale must be at public auction (except of articles worth less than \$25), after 6 days' published notice.	Belongs to pledger if claimed within a year.
SOUTH CAROLINA	Civil Code (1922), Secs. 356, 3638, 3945-3953.		Issued by Mayor or Clerk of Circuit Court; fee fixed by municipal authorities or county board of commissioners.	\$1,000.	Limited to legal rate, 7% per annum, or contract rate, 8%.			May not be sold within 60 days after maturity of loan.	

SOUTH DAKOTA	Revised Code (1919), Secs. 1605-1630, 3930- 3932, 6169.	Municipali- ties may li- cense, tax and regulate.	Issued locally; fee not fixed by statute.		No provision; legal rate is 7% per annum, contract rate 12%.			Must be sold at public auc- tion after ac- tual notice to pledger a rea- sonable time before sale.	Belongs to pledger.
TENNESSEE	Shannon's An- notated Code, (1917), Secs. 712, 1001, 3493, 3608a 105-3608a 109.	By local peace officers.	Issued by Clerk of Coun- ty Court; fee ranging from \$250 a year in cities of 30,000 population to \$15 a year in rural districts.		Limited to legal rate, 6% per annum.	For- bidden.		Must be sold at public auc- tion after no- tice to pledger.	Belongs to pledger.
TEXAS	Complete Stat- utes (1920), Secs. 6155-6171, 7355.		No statutory provision for license; state occupation tax \$150 a year.	\$1,000.	No provision; legal rate is 6% per annum, contract rate 10%.		Subject to con- tract.	Must be sold at public auc- tion after 5 days' written or printed notice, publicly posted.	Belongs to pledger if claimed within 30 days; oth- erwise it reverts to the coun- ty.

DIGEST OF STATE LAWS TO REGULATE PAWNBROKING—(Continued)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
UTAH	Compiled Laws (1917), Secs. 570x38, 3865, 4375, 4376.	Cities may license, tax and regulate.	Issued locally; fee not fixed by statute.		Up to \$50, 5% per month; over \$50, 3% per month; minimum charge \$1.			May not be sold within 3 months after forfeiture, nor in any event within 6 months after pledging.	
VERMONT	General Laws (1917), Chapter 285 (Secs. 6649-6660).		Issued by Selectmen of town or Aldermen of city; fee \$15 a year.	\$500.	Up to \$50, 5% per month; over \$50, 3% per month; minimum charge 15 cents.			May not be sold within 6 months after maturity of loan.	Belongs to pledger.
VIRGINIA	Pollard's Annotated Code (1904), pp. 2232-2235.	By police.	Issued by Hustings or Corporation Court of city or Circuit or County Court of county; fee \$250 a year.	\$2,500.	On loans under \$25, 10% per month; from \$25 to \$100, 5% per month; over \$100, 3% per month.	For storage and care of certain kinds of pledges, 2% per month for first 3 months.	Four months unless otherwise fixed by contract.	Must be sold at public auction after 5 days' published notice.	Belongs to pledger.

WASHINGTON	Remington's Compiled Stat- utes (1922), Secs. 2481-2488, 8966, 9034, 9127, 9175.	By police.	Issued locally; fee not fixed by statute.		3% per month.			May not be sold within 90 days after ma- turity of loan.	
WEST VIRGINIA	Hogg's Anno- tated Code (1913), Secs. 11, 14, 1124, 1131, 1243.		State license issued by Clerk of County Court; fee \$100 a year. Municipalities may also re- quire local li- cense and fee.		No provision; legal rate is 6% per an- num.				
WISCONSIN	Wisconsin Stat- utes (1921), Secs. 1688-1691, 2988, 3347, 4575 g-1.				Apparently limited to legal rate, 6% per annum, or con- tract rate, 10% per annum.	On loans up to \$100, 7% per annum; on loans over \$100, 4% per an- num.		If value does not exceed \$100, pledge may be sold at public auction 3 months after default, upon written notice to pledger. If value exceeds \$100, lien must be enforced by court proceed- ings.	

DIGEST OF STATE LAWS TO REGULATE PAWN BROKING—(Concluded)

<i>State or territory</i>	<i>Statutory reference</i>	<i>Regulation or supervision</i>	<i>License and fee</i>	<i>Amount of bond</i>	<i>Rate of interest</i>	<i>Extra charges</i>	<i>Period of loan</i>	<i>Sale of pledge</i>	<i>Surplus from sale</i>
WYOMING	Compiled Statutes (1920), Secs. 3368, 3369, 3387.		Issued by County Sheriff; fee \$25 quarterly.		No provision; legal rate is 8% per annum; contract rate 12%.				