



ANNO OCTAVO

Gulielmi IV. Regis.

No. 7.

By His Excellency SIR JOHN FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer and a Captain in His Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council.

*Repealed
by 4th Vict. A. 3.*

An ACT for the preventing Fraud in the taking of Goods in Pawn.

WHEREAS for the protection of Poor Persons who are occasionally reduced to raise money by pledging their goods and in order to prevent Fraud in the receipt and disposal of Property taken in Pawn it is expedient to regulate the Trade of Pawnbrokers in the manner hereinafter provided. **BE IT THEREFORE ENACTED** by His Excellency Sir John Franklin Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies that after the twentieth day of August next every person taking in Pawn any articles or article whatsoever whereon shall be lent in the whole any sum *exceeding Two Shillings* shall forthwith (before advancing any money thereon) cause to be entered in a fair and legible manner in some book kept for that purpose a description of every such article and the sum of money in the whole advanced thereon with the rate of interest to be charged on the same by the week or month (as the

PREAMBLE.

Articles pledged to be entered in Book.

case may be) and the true date at which and the name of the party by or for whom all such articles are pawned and his or her place of residence according to the statement of the person so pawning into which last mentioned circumstances the Pawnbroker is hereby enjoined to inquire of the party so pawning before any money shall be lent or advanced to him or her.

Period for Sale of Pledges.

II.—AND BE IT ENACTED that unless a longer time shall be expressly agreed upon the period for redemption of any article or articles so taken in pawn shall be six months at the expiration of which period (or at the expiration of any such longer period as may have been so agreed upon) every such article shall be deemed forfeited and may be sold. And if any Pawnbroker shall under any circumstances or upon any pretence sell or otherwise dispose of or cause or knowingly suffer to be sold or disposed of any article whatever so pawned before the expiration of the said term of six months or of such longer period (if any) as was so agreed upon he shall forfeit and pay (over and above any damages for which he may be liable to the owner or party injured) the penalty or sum of not less than Two Pounds nor more than Twenty Pounds. *Provided* that in every case where a longer time for redemption than the said term of six months shall have been agreed upon such time shall be specified in the Entry so to be made as aforesaid or at the foot thereof and shall be mentioned in like manner in the Duplicate of such Entry hereinafter required to be given to the party Pawning. *Provided also* that any Agreement for the forfeiture of any article in any case before the expiration of six months shall be wholly void.

Mode of sale.

III.—AND BE IT ENACTED that all articles forfeited on which in the whole any sum *above Five Shillings* shall have been lent shall be sold by Public Auction and not otherwise and a Notice of every such Sale containing a Catalogue of all such articles together with the name of the Party by or for whom and the time when the same were respectively taken in Pawn shall be inserted in some Public Newspaper four days at the least before the first day of Sale upon pain of forfeiting to the Owner of any Articles sold contrary to the provisions of this Section a sum not exceeding Twenty Pounds to be paid by the Pawnbroker in any such case offending. And no purchase or pretended purchase by any Pawnbroker or person on his behalf of any Article or Articles pawned with him shall be lawful or (if made) shall be valid against the Owner in any case.

Entries to be Numbered and Duplicates given.

IV. —AND BE IT ENACTED that every such Entry as aforesaid shall be numbered consecutively throughout the year the first Pledge received by any Pawnbroker after the commencement of this Act being numbered *one* the second *two* and so on until the end of the present year and the first Pledge received on or after the first day of January next and on or after any succeeding first day of January being respectively numbered *one* and so on progressively throughout each year. *And* every Pawnbroker at the time of taking any Article in Pawn shall give to the person pawning the same a Duplicate of every such Entry fairly

and legibly written (or partly written and partly printed) with the Signature of such Pawnbroker thereto attached containing every particular inserted in the original Entry and corresponding therewith in number and no Pawnbroker shall receive or retain any Pledge unless such Duplicate shall be or shall have been accepted at the time by the party pawning. And every such Duplicate shall be delivered gratis and shall be produced to the Pawnbroker before he shall be obliged to re-deliver the articles mentioned therein or any of them.

V.—AND BE IT ENACTED that if any person shall knowingly pawn pledge exchange or otherwise unlawfully dispose of any article whatsoever belonging to any other person without the consent or authority of such owner and with a fraudulent intent in any such case to deprive the owner (whether wholly or temporarily) of the use thereof the person so offending shall be deemed guilty of a Misdemeanor and shall suffer such punishment by Fine or Imprisonment or both (with or without Hard Labour) not exceeding in any case Two Years' Imprisonment as the Court shall think fit.

Persons unlawfully pawning goods the property of others.

VI.—AND BE IT ENACTED that if any person shall Forge or Alter or cause to be forged or Altered or shall knowingly assist in Forging or Altering any such Pawnbroker's Duplicate as aforesaid or shall utter sell dispose of or put off any such Duplicate so Forged or Altered (knowing the same to be so Forged or Altered) with intent to defraud any person whatsoever—or if any person shall steal or unlawfully take any Pawnbroker's Duplicate with a fraudulent intent to deprive the Owner thereof or of any Article specified therein every person in any case so offending shall be deemed guilty of a Misdemeanor and shall suffer such punishment by Fine or Imprisonment or both (with or without Hard Labour) not exceeding in any case Two Years' Imprisonment as the Court shall think fit.

Forging or Stealing any Duplicate.

VII.—AND BE IT ENACTED that every person who shall at any time produce any such Duplicate as aforesaid to the Pawnbroker who gave the same and shall require delivery of the Articles therein specified claiming to be the Owner or representing himself to be authorised by the Owner thereof shall be deemed and taken to be such Owner or to be so authorised and shall be entitled to redeem such Articles accordingly unless such Pawnbroker shall previously have had notice from the real Owner that such Duplicate hath been lost by him or fraudulently taken or obtained from him or such Pawnbroker shall have been informed by some credible person that such articles have been stolen. *Provided* that in every case where the Pawnbroker shall refuse to deliver the articles to the party producing such Duplicate he shall give immediate information of such refusal and of the particular grounds thereof to the nearest Police or Assistant Police Magistrate or to some District or Division Constable together with a description of the person of such party or (if known to the Pawnbroker) such party's name and place of residence.

Holders of Duplicates to be deemed Owners.

VIII.—AND BE IT ENACTED that in case any Pawnbroker's Duplicate shall be lost or mislaid by or fraudulently taken or obtained

Where Duplicate is lost a copy may be obtained.

from the Owner thereof and the Articles mentioned therein shall remain unredeemed the Pawnbroker who gave such Duplicate shall at the request of any person representing himself to be such Owner deliver to such person a copy of such Duplicate such person previously producing to and leaving with such Pawnbroker a Written Declaration (in the form prescribed by the Act in such case made) duly taken before and authenticated by some Justice of the Peace setting forth the circumstances of such loss or otherwise satisfactorily accounting for the non-production of such Duplicate.

Entry to be made of Articles Sold, above 5s.

IX.—AND BE IT ENACTED that every Pawnbroker shall from time to time enter in a Book to be kept by him for that purpose a true and just account of the Sale of every Article above the value of Five Shillings or which shall have been pawned for that amount or upwards and which shall be sold or otherwise disposed of by him specifying the date when such article was pledged and the true number of the entry then made thereof and the name of the person who pledged the same and the day when and the amount for which each such article was sold. And in case any such article shall have been sold for more than the full amount of the principal money and interest thereon which was due at the time of such Sale then the overplus (deducting the necessary charges of such Sale) shall if claimed within twelve months next after such Sale be paid upon demand to the person by or for whom such article was pawned or his Agent or Assigns or (in case of his death) to his Executor or Administrator.

Every such Entry may be inspected.

X.—AND BE IT ENACTED that every person by or for whom any such Article as last aforesaid shall have been pawned shall be permitted to inspect the Entry of such sale thereof. And if any Pawnbroker or person employed by a Pawnbroker shall refuse to permit any such person as aforesaid to inspect any such Entry (such person producing the Duplicate relating to the articles respecting which such inspection is required) or shall not produce the Book containing such Entry or shall in any manner offend against the provisions of the preceding Section or any of them the party so offending shall forfeit and pay a Penalty or Sum of not less than Five Pounds nor more than Fifty Pounds.

Pledges not to be taken from Children or Drunken Persons.

Goods not to be lent on Pledges.

XI.—AND BE IT ENACTED that if any Pawnbroker shall at any time receive or take in pawn any article whatever from any person appearing to be under the age of Twelve Years or in a state of Intoxication or shall (in any case where the value of the Pledge or the amount agreed to be lent thereon does not exceed Ten Pounds) advance upon any article or articles pawned or offered in pawn anything but money or shall in respect of any such article or articles give sell or exchange any goods or property in lieu of or in return for money such Pawnbroker in any case so offending shall forfeit and pay a Penalty or Sum of not less than Two Pounds nor more than Twenty Pounds.

Any Justice may compel a Pawnbroker to produce his Books.

XII.—AND BE IT ENACTED that if in the course of any Proceedings whatsoever before any Justice of the Peace (whether under this

Act or otherwise) it shall appear to him to be material or proper to require the production before him of any Book Duplicate or Entry required by this Act to be kept by or which ought to be in the custody of any Pawnbroker it shall be lawful for such Justice to summon such Pawnbroker to attend before him and produce the same and such Pawnbroker is hereby required to produce every such Book Duplicate or Entry before such Justice accordingly. And in case such Pawnbroker shall not attend upon such Summons or shall not produce to such Justice any Book Duplicate or Entry so required or shall produce the same in an altered state and shall not show a reasonable excuse in that behalf to such Justice he shall in every such case forfeit and pay a Penalty or Sum of not less than Two Pounds nor more than Twenty Pounds.

XIII.—AND BE IT ENACTED that in every case in which any Pawnbroker shall in any respect offend against this Act or any provision therein (where no other Penalty in that behalf is by this Act specifically imposed) such Pawnbroker shall for every such offence forfeit and pay a Penalty or Sum of not less than Two Pounds nor more than Twenty Pounds. *And* all offences against this Act not otherwise provided for may be heard and determined and every Forfeiture and Penalty in respect thereof be awarded and imposed by and before any Two Justices or (where this Act so directs) by and before any one Justice in a summary way in the manner prescribed by the Act intituled “ *An Act to regulate summary Proceedings before Justices of the Peace.*” And any person feeling aggrieved by any Summary Judgment or Conviction under this Act may appeal therefrom in the manner by the said Act in that behalf also provided.

General provision for Penalties.

XIV.—AND BE IT ENACTED that the term “ *Article*” used in this Act shall be considered to include every species of Chattel and Goods whatsoever and the term “ *Pawn* ” shall be taken to include and extend to every species of advance or loan upon property (not being an actual bonâ fide sale) where the article or articles shall be taken as security for the amount of such advance or loan (unless such amount shall exceed Twenty Pounds) whether the transaction be directly one of pledge or indirectly by way of exchange or pretended exchange or otherwise and the term “ *Pawnbroker*” shall (for the purpose of this Act) be construed to intend and apply to every person whatsoever who shall upon any occasion take any articles or article in pawn within the meaning of this Act or in any manner advance Money on Goods under the amount of Twenty Pounds as aforesaid. *And* throughout this Act every word and term used in the singular number only shall be construed equally to imply and include the plural and vice versa unless there be something in the context repugnant to such construction.

Explication of Terms.

JOHN FRANKLIN.

Passed the Legislative Council this nineteenth day of July one thousand eight hundred and thirty-seven.

ADAM TURNBULL,
Clerk of the Councils.

