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V. R.

AN ACT

To Regulate the Business of Pawnbrokers.

WHEREAS, it is expedient to regulate the business of Pawnbrokers, and hinder unlawful pawning in this Colony.

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its dependencies.

Interpretations.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction, that is to say—

NUMBER—Words purporting the singular number only, shall include the plural number; and words importing the plural number only, shall include also the singular number.

GENDER—Words importing the masculine gender only, shall also include the feminine.

MONTH—The word "month" shall mean calendar month.

GOODS—The word "goods" shall include chattels of every kind offered or taken in pawn or pledge.

PAWNBROKER—The word "Pawnbroker" shall include all persons in association or partnership to exercise or carry on the trade or business of Pawnbroker.

PAWNING—The word "pawning" shall include pledging and exchanging, and inversely.

DUPLICATE—The word "Duplicate" shall mean the note or memorandum delivered by any Pawnbroker on receiving any pawn or pledge.

Who Deemed Pawnbrokers.

II. All persons who shall receive by way of pawn, pledge, or exchange, any goods for repayment of money under Twenty Pounds lent thereon, shall be deemed Pawnbrokers.

Act to Extend to Executors, etc. of Pawnbrokers.

III. The provisions of this Act shall extend to and include the Executors, Administrators, and Assigns of all and every deceased pawnbroker in the same manner as the same extend to and include the Pawnbroker when living, save and except that no such Executor or Administrator shall be answerable for any penalty or forfeiture personally, or to be paid out of

his moneys or estate unless the same shall be incurred and forfeited by his own act and neglect.

Act not to Extend to Persons Lending More than £20.

IV. Nothing in this Act shall extend or be construed to extend to any person who shall lend money upon pawn or pledge to a greater amount than Twenty Pounds in one sum.

Liability of Pawnbrokers from Loss from Fire.

V. All Pawnbrokers shall be liable for the loss of redeemable pledges by Fire, if such pledges are kept in any place in respect of which the Surveyor General shall not have granted a certificate in the form marked A. contained in the schedule hereto.

Security for Performance of Duties.

VI. Before the grant of any Licence to any Pawnbroker, such Pawnbroker shall enter into a Bond with the Colonial Secretary of Vancouver Island and its dependencies, with two undoubted sureties in the sum of £1000 for the due performance of every contract of pawnbroking entered into by the said Pawnbroker with any other person, and for the safe keeping of the pledges for the time being subject to redemption entrusted to him.

Personal Right of Pawner to Sue on such Security.

VII. Any person who shall have recovered judgment against any Pawnbroker in respect of any breach of contract of Pawnbroking, may sue the Pawnbroker and his sureties, or either of them on the said Bond, in his own name for the amount mentioned in the said judgment.

Pawnbrokers to Take Out A Licence for Each House.

VIII. Every person or company of persons exercising the trade or business of Pawnbroker shall take out a licence for each and every shop or place where he or they shall carry on such business, and shall renew the same licence annually under pain of forfeiting the sum of Fifty Pounds.

Annual Licence.

IX. The person taking out such Licence shall pay into the Treasury for the use of Her Majesty, Her Heirs and Successors, such annual sum as shall be fixed by law in that behalf.

Licences—When and How Granted.

X. All such Licences may be granted by the Justices of the Peace in Quarter Session, at their discretion, and shall be for one year from the 1st day of January in each year. Provided nevertheless that the Justices may, and they are hereby authorised, from time to time, to grant to or for any shop or place not yet licenced, a licence for a shorter period than one year, but not less than three months, and that such licence shall terminate, as well as the licences for one year, on the 31st day of December. Provided also, that no licence shall be granted without due inquiry and information as to the character of the party applying for the same, nor without a certificate from the Colonial Secretary that the Bond aforesaid has been duly executed.

Pawnbroker's Name and Business to be Placed Over his Door, on Penalty of £10.

XI. Every Pawnbroker shall cause to be painted or posted in large legible characters over the door of each shop or place used by him for the said business, his Christian and surname, followed by the word "Pawnbroker," on pain of forfeiting the sum of Ten Pounds for every shop or place which shall be so made use of for the

space of one week without having such names and word posted as aforesaid.

Pawnbrokers to Place in View an Abstract from this Act.

XII. Every Pawnbroker shall cause to be painted, printed or written in large legible characters, an abstract of the provisions of this Act in form marked B. contained in the schedule hereunto annexed, and shall place the same in a conspicuous part or parts of the shop or place where his business is carried on, so as to be visible and legible by every person coming to pawn or redeem goods.

Pledge not to be Taken from Persons under 12 Years of age, or intoxicated, nor Duplicates from other Pawnbrokers.

XIII. No Pawnbroker shall purchase or receive, or take away any goods in pledge of or from any person who shall appear to be under the age of twelve years; or to be intoxicated; nor employ any servant or apprentice or any other person under the age of sixteen years, to take in any pawn or pledge; nor receive or take in any goods by way of pawn, pledge, or exchange, before the hour of five in the morning, or before sunrise when later than five, nor after eight o'clock at night.

Pawns to be Entered in Books to be Kept.

XIV. Every Pawnbroker shall before advancing or lending any money upon any pawn or pledge whatsoever, enter or cause to be entered, in a fair and regular manner, in a Book for that purpose, a description of the goods received in pawn, pledge, or exchange, and also the sum of money to be advanced or lent thereon, with the day of the month and year on which, and the name of the person by whom such goods are so pawned, and the name of the street, number of the house, or other sufficient description of the place where such person may abide, and whether he be a lodger or housekeeper, by using the letters L. or H. accordingly; and also the name and place of abode of the owner according to the information of the party pawning the goods; into all which circumstances the Pawnbroker is hereby required to enquire of the aforesaid party before any money shall be lent or advanced; and every such entry shall be numbered progressively from No. 1 onward, beginning with each licensed year and ending with the same.

Pawnbrokers to Give Duplicates.

XV. Every Pawnbroker shall, at the time of taking any pawn, pledge or exchange whatsoever, deliver gratis to the person so pawning, a fair and legible note or memorandum called "duplicate," bearing the same number and description and all the other details required in the aforesaid entry, and moreover the name and place of abode of the Pawnbroker giving the same, nor shall he receive or retain such pledge unless the party pawning or offering to pawn shall accept and take such duplicate, the which shall be produced to the Pawnbroker, save as hereinafter provided, before he shall be obliged to re-deliver the goods so pawned.

Rate of Profit Allowed to be Taken by Pawnbrokers.

XVI. It shall be lawful for every Licensed Pawnbroker to demand, receive and take of and from every person applying or offering to redeem any goods pawned with said Pawnbroker, a profit or interest over and above the principal sum, which shall have been by him lent and advanced thereon, before he shall be obliged to re-deliver the same, such rate of interest or profit to be not greater than

five per centum for any time during which the said pledge shall remain in pawn, not exceeding one month, and the same for every month afterwards, including the current month in which such pledge shall be redeemed, although such month be not expired; and such profit shall be takeu in lieu of and as a full satisfaction for all interest due, and charges for warehouse room or others.

Limiting the Profits for Part of a Month.

XVII. Nevertheless, in all cases where the party entitled thereto shall apply to redeem the goods within seven days after the expiration of the first or any succeeding month, after the same shall have been pawned, the Pawnbroker shall take no profit for the said seven days or such part thereof as shall then have elapsed.

Persons Producing Duplicate deemed the Owners as Against the Pawner of the Goods.

XVIII. Any person who shall at any time produce a Duplicate to the Pawnbroker, to whom the goods therein specified were pawned, as being the owner thereof, or as authorized by the owner to redeem the same, and require their delivery, such person shall be and is hereby deemed and taken to be, so far as respects the person having such goods in pledge, the real owner and proprietor of such goods, and the Pawnbroker is hereby directed and required, after receiving due payment according to this Act, to deliver such goods to the person who shall so produce the said duplicate, and such Pawnbroker shall be and is hereby indemnified for so doing, unless previously notified by the real owner of the goods, not to deliver the same to the person producing such duplicate, or unless notice shall have been given to him that the goods pawned have been or are reputed to have been fraudulently taken and obtained or unless the real owner thereof proceeds in manner hereinafter provided and directed for the redeeming of goods pawned where such Duplicate has been lost, mislaid, destroyed or fraudulently obtained from the owner thereof.

Where Duplicates lost, the Pawnbroker to deliver a copy and form of declaration to claimant, on proof of which the Goods may be redeemed.

XIX. In case any Pawnbroker shall have had such previous notice as aforesaid, or in case any duplicate shall have been lost, mislaid or destroyed, or fraudulently obtained from the owner thereof, and the goods mentioned therein shall remain unredeemed, then such Pawnbroker shall at the request and application of any person representing himself as aforesaid to be the owner of the goods in pledge, deliver to such person so requesting and applying for the same, and on payment of one shilling a copy of the duplicate so lost, mislaid, destroyed, or fraudulently obtained, together with the form of a declaration at the bottom of the said copy, of the particular circumstances attending the case. And such declaration of ownership shall be verified and proved to the satisfaction of some Justice of the Peace, and if so, be by him authenticated, whereupon such Pawnbroker shall suffer said person on leaving such copy and declaration with him, to redeem the said goods.

Amount of profits to be endorsed on duplicates and the same kept twelve months.

XX. In all cases where any goods shall be redeemed, the Pawnbroker shall at the time of such redemption fairly and legibly endorse upon every duplicate respecting such pawn or pledge, the full amount of the profit or interest taken, with the date thereof, and shall keep such duplicate in

his custody for the space of one year then next following.

Pawned Goods when deemed forfeited.

XXI. All goods pawned or pledged as aforesaid, shall, except as hereinafter provided, be absolutely forfeited if not redeemed at the expiration of six months from and exclusive of the day whereon they were pawned, any doctrine of law or equity heretofore held to the contrary notwithstanding.

Further Allowance of Time on Notice Being Given.

XXII. In case any person entitled to redeem any goods in pawn, shall before or upon the expiration of the said six months, give notice in writing, or in the presence of one witness, to the person having the same in pledge, or leave notice in the same manner at his usual place of abode, of his intention to redeem, then such goods shall not be absolutely forfeited until the expiration of one month more, during which the owner of said goods shall have liberty to redeem the same upon the terms provided by this Act.

Penalty on Pawnbrokers who will not deliver up goods to Pawner.

XXIII. If within the six months aforesaid, or the seven months as the case may be, after the pawning or pledging of any goods, satisfactory proof thereof having been made before any Justice by declaration and producing the duplicate of the Pawnbroker, the pawner who was the real owner of said goods at the time of pawning the same or his administrators or assigns, shall tender unto the Pawnbroker who lent on such security the sum borrowed thereon, together with the profit according to the rate by this Act established, and said Pawnbroker shall thereupon, without showing reasonable cause for so doing, to the satisfaction of such Justice, neglect or refuse to deliver back the goods so pawned, and if such tender shall be proved to have been so made and refused, then any such Justice may upon hearing, commit the Pawnbroker so refusing until the said goods so pawned and still redeemable, be by him delivered up, or shall order such other satisfaction or compensation to the pawner as by such practice shall be adjudged reasonable for the value thereof together with costs.

Goods forfeited to become the Property of the Pawnbroker.

XXIV. All goods absolutely forfeited as aforesaid, shall become the property of the Pawnbrokers having the same in pawn.

Pawnbroker Selling Goods Before Limited Time, or injuring them, shall make a reasonable satisfaction, on penalty of £10.

XXV. If in the course of any proceedings under this Act, it shall appear or be proved to the satisfaction of any Justice that any goods pawned as aforesaid are not produceable, or have been embezzled, or lost, save by fire or unavoidable casuality, or are become or have been rendered of less value than at the time of pawning them, by or through the default, neglect, or wilful misbehavior of the Pawnbroker, his agents, servants, executors, administrators or assigns, then it shall be lawful for such Justice and he is hereby required to allow and award a reasonable satisfaction to the owner of such goods in respect thereof, or of such damage, to be deducted out of the aforesaid principal and profit due to the said Pawnbroker, if the same be more than sufficient, and if such satisfaction shall equal or exceed the amount of principal and profit aforesaid, then the Pawnbroker shall deliver the goods to the owner without receiving any compensa-

tion, and shall also pay such excess, if any, to the owner, under a penalty not exceeding £50.

Penalty Against Unlawfully Pawning Goods the Property of Others.

XXVI. If any person shall knowingly and designedly pawn, pledge or exchange, or unlawfully dispose of the goods or chattels of any other person, not being employed or authorized by the owner thereof so to do, or if he pawn the same being authorized or employed so to do, by friendly transaction and connivance of the owner, with intent to defraud the Pawnbroker, it shall be lawful for any Justice to grant his warrant to apprehend any of the parties so offending, and on conviction every such offender shall, for every such offence, forfeit any sum not exceeding ten pounds, nor less than one pound, and also the full value of the goods so pawned, pledged, or exchanged or disposed of, such value to be ascertained by said Justice, and when recovered, applied towards making satisfaction to the party injured, and defraying costs, as shall by said Justice be adjudged reasonable.

Forging Counterfeiting or Altering Duplicate, Punished by Imprisonment.

XXVII. If any person shall counterfeit, forge, or alter, or cause or procure to be counterfeited, forged, or altered, any duplicate as aforesaid, or shall utter, vend, or sell any such duplicate, knowing the same to be counterfeited, forged, or altered, with intent to defraud, such person shall on conviction be committed to prison for any time not exceeding three months: and it shall be lawful for any person, his servants or agents, to whom any such duplicate shall be uttered or produced, shown or offered, which they shall have reason to suspect to have been counterfeited, forged, or altered, to seize or detain such person uttering, producing, showing or offering the same, and to deliver him into custody.

Persons not giving a good account of themselves on offering to pawn goods, liable to punishment.

XXVIII. In case any person shall offer by way of pawn, pledge, exchange, or sale, any goods or chattels and shall not be able, or shall refuse to give a satisfactory account of himself, or of the means by which he became possessed of the same, or shall wilfully give any false information to the Pawnbroker, his servants or agents, as to whether such goods are his own property or not, or of his name and place of abode, or of the name and place of abode of the owner of said goods, or if there shall be any other reason to suspect that such goods are stolen or otherwise illegally or clandestinely obtained, or if any person not entitled nor having any color of title by law to redeem goods in pledge, shall attempt or endeavor to redeem the same, it shall be lawful for such Pawnbroker, his servants or agents to whom such goods shall be so offered, or with whom such goods are in pledge (and if in their power they are hereby required) to seize and detain such person and the goods, and to deliver him immediately into custody, together with the same. And if upon examination and enquiry any Justice shall have cause to suspect that said goods were stolen, or illegally or clandestinely obtained, it shall be lawful for him to detain such person, and on conviction to commit him, for any time not exceeding three months, or to be otherwise dealt with according to law.

Empowering Peace Officers to search for goods unlawfully pawned, which shall be restored to the owner.

XXIX. If the owner of any goods unlawfully pawned shall make a declaration to that effect before a Justice of the Peace, and

that there is just cause to suspect any person of having taken the same to pawn without the privity or authority of such owner thereof, the Justice may, if satisfied, issue a warrant for searching, within the hours of business, the house, warehouse, or other place, of any Pawnbroker or other person so charged as aforesaid, and if on request made by any Peace Officer the occupier of such house, warehouse or other place, refuse to open the same and permit such search, it shall be lawful for such officer to break open the same, and to search as he shall think fit, doing no wilful damage ; and no Pawnbroker or other person shall oppose or hinder any such search ; and the Justice shall cause any such goods so found and verified to be forthwith restored to the owner thereof, either with or without compensation.

Pawnbrokers shall produce their Books when necessary, on penalty from £50 to £5.

XXX. It shall be lawful for any Justice upon information duly laid against any Pawnbroker for any offence against this Act, or respecting any dispute between any Pawnbroker and person having pawned goods, or being the owner of goods pawned, or respecting any felony or other matter, or on any other occasion whatsoever which in the judgment of any Justice shall make the production of any book, note, voucher, memorandum, duplicate, or other paper necessary, which shall, or ought to be in the hands, custody or power of any Pawnbroker, to summon such Pawnbroker before him to attend with all and every or any such book or paper as aforesaid relating to the same, and which he is hereby required to produce before said Justice in the state the same was or were made at the time the pledge was received without any alteration, erasement, or obliteration whatsoever, and in case such Pawnbroker shall neglect or refuse to attend, or to produce the same in its true and perfect state, he shall, in case he does not show good cause for such neglect or refusal, forfeit any sum not exceeding Fifty Pounds nor less than Five.

Penalties on Pawnbrokers not before specified.

XXXI. In case any Pawnbroker shall in anywise offend against this Act, he shall forfeit for every offence where no forfeiture or penalty is hereinbefore provided or imposed on any particular or specific offence, not less than Forty (40) Shillings nor more than Forty (40) Pounds.

Time of prosecution or information limited to 12 Months

XXXII. No Pawnbroker shall be liable to any prosecution or information under this Act unless information be given against him within twelve months after the offence committed.

Penalties enforceable by distress.

XXXIII. All forfeitures or penalties under this Act may be sued for and recovered before any Justice of the Peace, and shall and may be levied by distress and sale by warrant under the hand and seal of such Justice.

No Fees shall be taken.

XXXIV. No fee shall be taken for any Summons or Warrant granted under this Act, so far as the same relates to goods pawned, pledged, taken in exchange, or unlawfully disposed of.

General Issue.

XXXV. Any person sued under this Act may plead the general issue, and give the special matter in evidence for his defence and on verdict for the defendant, or if the plaintiff be nonsuited, then the defendant shall be entitled to a full indemnity against costs.

Appeal on entering into Recognizances.

XXXVI. Any person convicted under this Act shall have liberty to appeal to the Justices at the next General or Quarter Session, on entering into a recognizance at the time of conviction with two sufficient sureties, in double the sum adjudged to be paid or forfeited; and the execution of the judgment shall in such case be suspended.

Short Title.

XXXVII. This Act may be cited as the "Pawnbroker's Act 1861."

Passed the House of Assembly the 13th day of September, 1861.

E. BOWERS DOGGETT,
Clerk of the House of Assembly.

Passed the Council the 22d day of November, 1861.

JOSEPH PORTER,
Acting Clerk of the Council.

Received my assent this 28th day of November, A. D. 1861.

JAMES DOUGLAS.

SCHEDULE A.

I hereby certify that the (House, Warehouse, &c., ... being apt words of description of the place desired to be certified) is a safe place for the deposit of property perishable by fire, and is calculated to sufficiently withstand the ordinary attacks of Fire.

(Signed) .....
Surveyor General.

SCHEDULE B.

ABSTRACT FROM THE "PAWNBROKER'S ACT 1861."

Duplicate to be given gratis.

SECTION XV. Every Pawnbroker shall at the time of taking any pledge, deliver in return, gratis, a fair and legible *duplicate*, to be produced to the Pawnbroker on redeeming the same.

Rate of Interest.

SECTION XVI. The rate of Interest or Profit allowed shall not exceed *Five per Cent per Month*, including the month in which the goods are redeemed.

SECTION XVII. Nevertheless when the goods are redeemed within *seven days* after the expiration of any month, no profit shall be taken for the seven days, or such part thereof as shall have then elapsed.

Lost Duplicates.

SECTION XIX. In case any duplicate shall be lost, mislaid, destroyed, or fraudulently obtained, a copy of the duplicate, together with a form of declaration of the circumstances attending the case, shall be delivered by the Pawnbroker at the request of the person applying for the same, and on payment of one shilling.

Forfeiture at the end of Six Months.

SECTION XXI. All goods shall be deemed forfeited at the end of *six months*, exclusive of the day whereon they were pawned.

On request Forfeiture to be postponed for another month.

SECTION XXII. Nevertheless on notice being given in writing, or in the presence of one witness, on or before the expiration of the above six months, the goods shall not be disposed of for one calendar month longer.