

PAWNBROKERS.

24° VICTORIÆ, No. 7.

[As amended by 41 Vict., No. 10.]

**AN ORDINANCE for regulating the Trade or Business
of Pawnbrokers in Western Australia.**

[Assented to 28th November, 1860.]

WHEREAS it is necessary and expedient to regulate the trade of Pawnbrokers in the Colony of Western Australia: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

Preamble.

1. That from and after the first day of January now next ensuing it shall not be lawful for any person to carry on the trade or business of a pawnbroker in the said Colony without having obtained a license to carry on such trade or business in manner and form as hereinafter directed.

No person to carry on the business of a pawnbroker without a license.

2. That every person who shall carry on business or shall seek his livelihood in or by advancing upon interest or for or in expectation of profit, gain or reward any sum of money upon security (whether collateral or otherwise) of any article whatsoever taken by such person by way of pawn, pledge or security, shall be deemed and taken to be a pawnbroker, and be deemed and taken to have carried on the trade or business of a pawnbroker within the intent and meaning of this Ordinance.

Who shall be deemed a pawnbroker.

3. That any person wishing to obtain such license shall deliver to the Clerk of the Bench of Magistrates of the district in which such person intends to reside or carry on business an application in the form in the Schedule to this Ordinance annexed marked A, recommended by five householders residing in the district in which such applicant may

Manner of obtaining license, and what shall be paid for the same.

reside; and it shall be lawful for the Justices at any Petty Sessions next after ten days from the delivery of such notice, if they shall be satisfied with the character of the person so applying, to grant a license to such person under their hands in the form in the Schedule to this Ordinance annexed marked B, which license shall be in force until the thirty-first day of December next after the date thereof, and shall be delivered to the person so applying for it on payment of ten pounds to be paid to the Colonial Treasurer for the public uses of the said Colony.

Now Treasurer.
No. 8 of 1925.

Applicants to be
heard in open
Court.

4. That the matter of all such applications shall be determined in open Court.

Clerk of Petty
Sessions to keep
a record of all
licenses.

5. That the Clerk of the Bench of Magistrates shall keep an alphabetical record of the names of all persons to whom any such license shall be granted, and such names shall be returned by the Magistrates to the Colonial Secretary for publication in the *Government Gazette*.

Now Chief
Secretary.
No. 8 of 1925.

Manner of
proving the
license.

6. That in any proceeding under this Ordinance against any person alleged to be a licensed pawnbroker the production of the alphabetical record hereinbefore directed to be kept shall be evidence both of the personal identity of the person therein named, and that the said person is a licensed pawnbroker under this Ordinance, until the contrary is shown: Provided always that in the absence of such record other proof as to the fact of any person holding such license may be given in any such proceedings.

Pawnbroker to
be deemed un-
licensed until the
contrary be
proved.

7. That in all proceedings under this Ordinance against any person acting as a pawnbroker without a license such person shall be deemed to be unlicensed unless the license authorising such person to carry on such trade or business shall be produced or other proof shall be given to the satisfaction of the Justice or Justices hearing the case of his being licensed under the provisions of this Ordinance.

Pawnbroker's
names to be
painted on their
premises under
a penalty.

8. That every person who shall hold a pawnbroker's license under this Ordinance shall have his name at length painted in legible characters at least two inches deep, with the words "Licensed Pawnbroker" constantly and permanently remaining and plainly to be seen and read over the door of the shop or other place by him kept or made use of for carrying on the trade or business aforesaid.

9. That if any person not holding a pawnbroker's license shall keep up any sign, writing, painting or other mark on or near to his house, shop or premises which may imply or give reasonable cause to believe that such shop, house or premises is or are the house, shop or premises of a licensed pawnbroker, he shall for every such offence forfeit and pay on conviction any sum not exceeding ten pounds

Unlicensed persons keeping up signs to be fined.

10. That no pawnbroker licensed by authority of this Ordinance shall by virtue of one license keep more than one house, shop or other place, but that for each house, shop or other place which any person shall keep for the purposes aforesaid a separate and distinct license shall be taken out and paid for by such pawnbroker.

Not to keep more than one shop by virtue of one license.

11. Provided always that persons in partnership and carrying on the trade or business of a pawnbroker in one house, shop or tenement only shall not be obliged to take out more than one license in any one year for the carrying on any such trade or business.

Persons in partnership need take out one license only.

12. That every licensed person taking in pawn any article or articles whatsoever whereon shall be lent any sum of money shall forthwith (before advancing any money thereon) cause to be entered in a fair and legible manner in some book kept for that purpose in the form of Schedule C hereto, a reasonable and sufficient 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 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 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.

Articles pledged to be entered in books under a penalty.

13. Unless a longer time shall be expressly agreed upon, the period of redemption of any article taken in pawn after the passing of this Act shall be three months, at the expiration of which period (or the expiration of such longer period as may have been so agreed upon) every such article shall be deemed forfeited, and may be sold: Provided always that in every case where a longer time of redemption than the said term of three months shall have been agreed upon, such time

Articles pawned to be forfeited, and may be sold at the expiration of three months, except in case of agreement extending the time.
Inserted by 41 Vic. No. 10, s. 2, in lieu of original section 13, thereby repealed.

shall be specified in the entry required by the Pawnbrokers Ordinance, 1860, to be made at the time of taking any article in pawn, or at the foot thereof, and shall be mentioned in like manner in the duplicate of each entry by the said Ordinance 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 three months shall be wholly void.

Mode of sale

14. 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 and the time when the same were respectively taken in pawn, shall be twice inserted in some public newspaper published in the said Colony four days at least before the proposed 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 over and above the value of the articles pawned to be paid by the pawnbroker in any such case offending, and to be recovered from such pawnbroker by such owner by action of debt in any Court of competent jurisdiction; and no purchase or pretended purchase by any pawnbroker on his behalf of any articles pawned with him shall be lawful or, if made, shall be valid against the owner in any case, and until such sale it shall be lawful for the owner of any article pledged to redeem the same upon payment of the amount advanced and interest thereon at the rate originally agreed, with the expenses (if any) to the date of such payment.

Entries to be numbered and duplicates given.

15. 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 Ordinance being numbered one, the second two, and so on until the end of the year, and the first pledge received 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 at a charge not exceeding one penny, and shall be produced to the pawnbroker before he shall be obliged to re-deliver the articles mentioned therein or any one of them.

16. 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, representing himself to be the owner or to be authorised by the owner thereof, shall be deemed 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 shall have been informed by some credible person that such articles have been stolen: Provided always 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 a Justice of the Peace or to some 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 of goods pawned.

17. That in case any pawnbroker's duplicate should be lost or mislaid by or fraudulently taken or 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 for which he shall be entitled to charge twopence, such person previously producing to and leaving with such pawnbroker a written declaration in the form of Schedule D hereto annexed, 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.

When duplicate is lost a copy may be obtained.

18. 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 or disposition of every article which shall have been pawned, and shall have been 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,

Entries to be made of all articles sold.

and the name of the person who pledged the same, and the day when and the amount for which every such article was sold.

Every such entry may be inspected.

19. That any 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.

Any Justice may compel a pawnbroker to produce books, vouchers, etc., under a penalty.

20. That it shall be lawful for any Justice of the Peace to require the production before him of any book, note, voucher, entry, memorandum, license or other paper by this Ordinance directed to be kept by or which ought to be in the custody of any pawnbroker, and every pawnbroker shall, upon being duly summoned, attend and produce every such book, duplicate, note, voucher, entry, memorandum, license or other paper before such Justice accordingly.

Hours between which pawnbrokers are allowed to take in pledges.

21. That no licensed pawnbroker shall receive or take in or permit or suffer to be received or taken in any article by way of pawn, pledge, or in exchange before eight of the clock in the morning or after nine of the clock in the evening, excepting only until eleven of the clock on the evenings of Saturday throughout the year, and the evenings next preceding Good Friday and Christmas Day.

Not to carry on business on Sunday, Christmas Day or Good Friday.

22. That no pawnbroker shall in any way exercise or carry on his trade or business as such pawnbroker on any Sunday, Christmas Day or Good Friday.

Justices to order delivery of goods fraudulently pawned.

23. That if any articles, goods or chattels shall be stolen or unlawfully obtained from any person or being lawfully obtained shall be unlawfully deposited, pawned, pledged, sold or exchanged, and complaint shall be made to any Justice of the Peace thereof, and that such goods are in the possession of any licensed pawnbroker, it shall be lawful for such Justice to issue a summons or warrant for the appearance of such licensed pawnbroker before two Justices, and for the production of the goods: and such two Justices may order such goods to be delivered up to the owner thereof, either without any payment or upon payment of such sum, and at such time as the said Justices shall think fit: and every licensed pawnbroker who being so ordered shall refuse or neglect to deliver up the goods or who shall dispose of or make away with the same after notice that such goods were stolen or unlawfully

obtained as aforesaid, shall pay to the owner of the goods the full value thereof to be determined by the said Justices: Provided always that no such order shall bar such licensed pawnbroker from recovering possession of such goods by suit or action at law from the person into whose possession they may come by virtue of the order of the said Justices, so that such action be commenced within three calendar months next after such order shall be made.

24. That in case any person who shall offer by way of pawn, pledge, exchange or sale any articles to any pawnbroker or his servant shall not be able or shall refuse to give a satisfactory account of himself or of the means by which he became possessed of such articles or shall wilfully give any false information as to whether such articles 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 or owners of the said articles or if there shall be any reason to suspect that such articles are stolen or unlawfully obtained or if any person not entitled nor having any colour of title by law to redeem any articles in pledge or pawn shall attempt to redeem the same, it shall be lawful for any pawnbroker or his servant to whom such articles shall be so offered or with whom such articles are in pledge to seize and detain such person and the said articles, and to deliver such person immediately into the custody of a constable or other proper officer, who shall as soon as may be convey such person and the articles so offered before some Justice of the Peace near to the place where such person may be apprehended; and if such Justice shall upon examination have cause to suspect the said articles were stolen or unlawfully obtained or that the person attempting to redeem the same hath not any colour of right to redeem the same, it shall be lawful for such Justice to commit such person into safe custody for such reasonable time as shall be necessary for obtaining proper information on the subject, in order to be further examined; and if it shall be made to appear to the satisfaction of any two Justices of the Peace that such articles were stolen or unlawfully obtained, or that the person attempting to redeem the same hath not any colour of right so to do, the said Justices shall commit the person so offending to any common gaol. there to be dealt with according to law, where the nature of the offence shall authorise such commitment by any other law: and where the nature of the offence shall not authorise such commitment

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

by any other law, then such commitment shall be for any time not exceeding three calendar months, at the discretion of such Justice or Justices.

Offences against this Ordinance.

25. [*Repealed by Criminal Code, 1 & 2 Edw. VII., No. 14, 3rd Schedule.*]

Licensed person not having name and business painted.

26. That if any person who shall hold a license under this Ordinance shall not have his name and business painted and maintained as hereinbefore provided, or shall not upon demand produce his license to any Justice of the Peace or police constable without some reasonable excuse in that behalf, or shall fail to keep such books as hereinbefore provided, and insert therein the description of every article pawned, or to give a duplicate of such entry, or to enter therein particulars of the sale of any article, or shall refuse to permit the inspection of any such last-mentioned entry, or to produce the book containing the same, as hereinbefore provided, or shall purchase or take in pledge any article from a person apparently under the age of fourteen years, or apparently intoxicated, or shall when the sum agreed to be advanced upon any pledge is under ten pounds, make any part of such advance in any thing but money, or sell or exchange any article for any part of the money agreed to be advanced upon such pledge, or shall without reasonable and lawful excuse refuse or neglect to attend upon any summons by a Justice of the Peace, and produce any books, documents, or papers mentioned in such summons, or shall take in pledge any article excepting within the hours hereinbefore specified, or shall carry on his business on any Sunday, Christmas Day, or Good Friday, every such person, or any servant or agent of such person offending in any of the above particulars shall for each and every such offence upon conviction thereof forfeit and pay any sum not exceeding ten pounds: Provided that any sum so forfeited by a servant or agent of any licensed pawnbroker may at the discretion of the convicting Justice or Justices be levied by distress and sale of the goods and chattels of the said licensed pawnbroker.

Not produce license.

Not keeping books, etc.

Purchasing articles of persons under years or intoxicated

Person not licensed acting as pawnbroker.

27. That if any person shall, without having obtained such license as aforesaid, carry on the business of a pawnbroker, or having obtained such license shall sell or otherwise dispose of any article pledged to him before the period of forfeiture of the same, or having obtained a license as aforesaid, shall

in any other respect offend against this Ordinance (where no other penalty is by this Ordinance in that behalf specifically imposed) such person shall for every such offence forfeit and pay on conviction a sum not exceeding twenty pounds.

28. That if any person having obtained any license as aforesaid shall lend the same to any other person for the purpose of carrying on such business as aforesaid under colour thereof, he shall forfeit and pay on conviction for every such offence any sum not exceeding twenty-five pounds; and on conviction it shall be lawful for the Justice or Justices so convicting to declare his said license void, and no such license shall thereafter be granted to such person so convicted for the period of two years from the date of such conviction.

Penalty on persons lending license:

29. That the term "article" used in this Ordinance shall be considered to include every species of chattels and goods whatsoever.

Interpretation of term.

30. Provided always that nothing in this Ordinance shall be held or construed to apply to loans or advances made on any goods, chattels, live stock, wool, bonds, bills, title deeds, or other security by merchants, bankers, commission agents, brokers, or licensed auctioneers in the ordinary and *bona fide* course of mercantile or banking transactions.

Not to apply to merchants, etc.

31. That sections A, C, F, H, and I of the Shortening Ordinance, 1853, shall be incorporated with, and taken to form a part of this Ordinance to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Ordinance.

Sections of Shortening Ordinance. See now Interpretation Act, 1918, 2nd Schedule.

32. That this Ordinance shall come into operation on the first day of January next.

Operation of Ordinance.

33. That this Ordinance may be cited as the *Pawnbrokers Ordinance*, 1860.

Short title.

Pawnbrokers.

SCHEDULES REFERRED TO IN THE FOREGOING ORDINANCE.

A.

Form of Application for a Pawnbroker's License.

To the Worshipful Justices of the Peace acting in and for the Magisterial District of _____, Western Australia.

I, A.B., (*state the trade or occupation*) now residing at _____, do hereby give notice that it is my intention to apply to the Bench of Magistrates to be holden (*for this* _____) on the _____ day of _____ next, for a license to carry on the trade or business of a Pawnbroker, in the house and appurtenances thereunto belonging, situated at (*here describe the house proposed to be licensed, specifying the situation of it, the person to whom rented, the present occupier, and whether now licensed*) and which I intend to keep as a Pawnbroker's shop.

Given under my hand at _____ this _____ day of _____ one thousand nine hundred and _____

FORM OF HOUSEHOLDERS' CERTIFICATE TO BE APPENDED TO THE ABOVE.

We, the undersigned householders within the _____, do hereby certify that the above A.B. is a person of good fame and reputation, and fit and proper to be licensed to carry on the trade or business of a Pawnbroker.

Witness our hands this _____ day of _____, one thousand nine hundred and _____

- One.....
- Two.....
- Three.....
- Four.....
- Five.....

B.

Western Australia }
To Wit. }

Magisterial District of

Whereas A.B., of _____, in the Magisterial District of _____ has applied to us, the Justices assembled in Petty Sessions holden at this _____ day of _____, in the year of our Lord one thousand nine hundred and _____, for a license to carry on the business of a Pawnbroker in the house and premises now occupied by him, situate in _____ street, in the _____ of _____.

Now we, the said Justices so assembled as aforesaid, having inquired into the character of the said A.B., and being satisfied that he is a fit person to have such license granted to him, do hereby authorise and empower him

to carry on the trade or business of a Pawnbroker in the said house and premises, and not elsewhere, and this license shall continue in force until the thirty-first day of December next after the date hereof, and not longer.

Granted by the Bench of Magistrates at _____ aforesaid, the day of _____, one thousand nine hundred and _____

(Signed) _____ C.D., Chairman.

Registered,
A.B.,
Clerk of the Bench.

C.

ORIGINAL ENTRY.

| Number and Date. | Name of Party Pawning. | Residence. | Description of Article Pawned. | Advance made thereon. | Rate of Interest. | Signature of Pawnbroker. |
|------------------|------------------------|------------|--------------------------------|-----------------------|-------------------|--------------------------|
| | | | | | | |

D.

I, A.B., of _____, do hereby solemnly and sincerely declare that I am justly and truly entitled to (*here state the particulars of the goods referred to in the lost or missing duplicate*), and that the same was (or were) pledged by me with C.D. (*Pawnbroker*) on the _____ day of _____ last, as a security for the sum of _____, then advanced to me, and is (or are) still unredeemed; and that I have not sold or otherwise disposed of the duplicate of such property, or of my interest therein; and that the duplicate of such property hath been (*here state whether lost or mislaid or fraudulently obtained or taken*).

A.B.

Declared before me this _____ day of _____, one thousand nine hundred and _____

E.F.,
Justice of the Peace.