



Mysore.

Joint Select Committee on the Mysore
Pawn - Brokers Bill, 1958 : Report.

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**Report of the Joint Select Committee on the Mysore Pawn-brokers
Bill, 1958.**

(Presented on 19th April, 1961).

We, the Members of the Joint Select Committee to which the Mysore Pawn-brokers Bill, 1958 was referred, have considered the several clauses of the Bill and have the honour to submit the following report :—

1. We met on the 7th, 8th and 9th November 1960 and on 24th March 1961.

2. We heard the representations of—

- (1) M/s. Misrilal Parasmall, Mamulpet, Bangalore-2.
- (2) The Mysore Pawn-brokers, Association, Mysore.
- (3) The Pawn-brokers and Money Lenders' Association, Robertsonpet, K.G.F.

3. **Clause 2, Item (2).**—Since the Mysore Co-operative Societies Act, 1959, has come into force, we consider that a reference to this Act should be made in this item. We have accordingly amended this item.

4. **Clause 3.**—We are of the opinion that instead of the period of three months, a period of six months should be allowed to obtain a licence after the commencement of the Act in any area. We have accordingly amended this clause.

5. **Clause 4.**—We are of the opinion that provision should be made for renewal of licences granted under this Bill. We have accordingly amended sub-clauses (1), (2), (3) and (4) to make this clear.

We consider that the fee payable for grant or renewal of licences should be fixed in the law itself. This fee should be Rs. 10 in respect of the original licence and Rs. 5 in respect of renewal of licence, and where business is carried on in more than one place, in respect of each place other than the principal place, the fee should be Rs. 3, both for the original licence and also for renewal of licence. Where an application is made after the expiry of the period prescribed in rules, a fee at double the rates specified will have to be paid. Provision is also necessary that the fee should not be refunded if the grant or renewal of licence is refused or the application

is withdrawn. We have accordingly added sub-clauses (5) and (6) to this clause.

6. Clause 6.—We consider that no distinction should be made in respect of the rate of interest on loans above twenty-five rupees and below such sum. We are also of the opinion that a uniform rate of nine per cent per annum simple interest would be a reasonable rate taking into consideration the existing conditions. Provision should, however, be made empowering the Government to vary the rate by notification, if such variation is considered necessary. We have accordingly modified sub-clause (a) of this clause.

7. Clause 7.—We consider that the pawn ticket issued to the pawner should be signed by the pawner and the pawn-broker. We have amended this clause accordingly.

8. Clause 9.—We are of the opinion that the pawn-broker should be allowed at his own risk to deliver the pledge to a person claiming to be the owner of the pledge if the pawn-broker is satisfied that such person is the owner of the pledge and is entitled to the delivery of the pledge either after obtaining an indemnity bond or otherwise. We have accordingly inserted a new sub-clause as sub-clause (2) and re-numbered the present sub-clause (-) as sub-clause (3).

9. Clause 10. Sub-clause (2).—We are of the opinion that the use of a language other than English or Kannada may be permitted by Government in any area for a period not exceeding three years as the Government may determine. We have accordingly added a proviso to this sub-clause.

We are also of the opinion that the books, accounts and documents maintained by the pawn-broker should not be open to inspection by a police officer. They may, however be open to inspection by the licensing authority or an officer subordinate to the licensing authority authorised by that authority. We have accordingly made provision in the new sub-clause (3) of this clause, and have renumbered the existing sub-clause (3) as sub-clause (4).

10. Clause 11.—We consider that the days of grace for redemption should be fifteen instead of seven. We have accordingly amended sub-clause (1) of this clause.

11. Clause 17.—It may not always be possible for a pawn-broker to seize and detain persons, when he reasonably suspects that an article offered to him in pawn by such persons has been stolen or otherwise illegally or clandestinely obtained. We have therefore suitably amended this clause.

12. **Clause 20** — We are of the opinion that only the offence punishable under clause 18 for contravening the provisions of clause 3 should be cognizable. We have accordingly amended this clause.

13. The other amendments made in the Bill are either consequential or intended to clarify the wording.

14. The Bill was published in the *Mysore Gazette*, dated 26th March 1959.

15. We recommend that the Bill as amended be passed.

16. In our opinion, the Bill has not been so altered as to require circulation.

Sriyuths.—

MALI MARIYAPPA (*Chairman*).

B. VAIKUNTA BALIGA.

P. G. SIDHANTI.

S. C. EDKE.

M. B. INAMATI.

GORUR RAMASWAMI IYENGAR.

L. RAMAIAH.

C. M. ARUMUGHAN.

T. TARE GOWDA.

K. A. PATIL.

M. DYAVAMMA.

Y. VIRUPAKSHAPPA.

S. SUBBAYA NAIK.

S. MUKUNDA RAO.

G. V. ANJANAPPA.

T. HANUMAIAH.

NARAYANAPPA KONDA.

SIVANNA WARAD.

G. S. VENKATARAMANA IYER,

*Secretary,
Mysore Legislature.*

Sriyuths V. S. Patil, M. M. J. Sadyojathappiah did not attend the meetings of the committee.

THE MYSORE PAWNBROKERS BILL, 1961.

Arrangement of Clauses.

Preamble.

Clauses.

- 1 Short title, extent and commencement.
- 2 Definitions.
- 3 Pawn-broker to obtain licence.
- 4 Grant and renewal of licences.
- 5 Pawn-brokers to exhibit their names over shops, etc.
- 6 Interest and charges allowed to pawn-brokers.
- 7 Pawn-ticket to be given to pawnier.
- 8 Person producing pawn-ticket presumed to be entitled to redeem the pledge.
- 9 Protection of owners and of pawniers not having pawn-tickets.
- 10 Pawn-brokers to keep books, give receipts, etc.
- 11 Redemption of pledge.
- 12 Sale of pledge and inspection of sale book.
- 13 Liability of pawn-broker in case of fire.
- 14 Compensation for depreciation of pledge.
- 15 Pawn-broker advancing smaller amount or receiving higher interest than that specified in accounts to be punishable.
- 16 Certain other acts of pawn-brokers to be punishable.
- 17 Certain acts of pawniers to be punishable.
- 18 General penalty for contravention of Act, etc.
- 19 Jurisdiction to try offences.
- 20 Offence under section 3 cognizable.
- 21 Contract of pawn to be void in certain cases and not to be void in certain other cases.
- 22 Power to make rules.
- 23 Savings.
- 24 Repeal.

[AS AMENDED BY THE JOINT SELECT COMMITTEE].

(Words underlined or side-lined indicate the amendments suggested by the Committee; omissions are indicated by asterisks.)

THE MYSORE PAWN-BROKERS BILL, 1961.

A Bill to regulate and control the business of Pawn-brokers in the State of Mysore.

WHEREAS it is expedient to make provision for the regulation and control of the business of pawn-brokers in the State of Mysore;

BE it enacted by the Mysore State Legislature in the Twelfth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Mysore Pawn-brokers Act, 1961.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force—

(a) at once in the Madras Area; and

(b) in such other area of the State on such date as the State Government may by notification specify.

2. Definitions.—In this Act, unless the context otherwise requires,—

(1) “company” means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956);

(2) “co-operative society” means a society registered or deemed to be registered under the Mysore Co-operative Societies Act, 1959 (Mysore Act 11 of 1959) * *

(3) “interest” includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a pawn-broker in consideration of or otherwise in respect of a loan; but does not include any sum lawfully charged in accordance with the provisions of this Act by a pawn-broker for or on account of charges;

(4) “licence” means a licence granted under this Act;

(5) “loan” means an advance at interest whether of money or in kind and includes any transaction which the Court finds in substance to amount to such an advance but does not include—

(i) a deposit of money or other property in a Government Post Office Savings Bank or Government Savings Bank

or banking company or in a company or with a co-operative society ;

- (ii) an advance made by a banking company as defined in clause (c) of section 5 of the Banking Companies Act, 1949 (Central Act X of 1949) or by the State of Bank India or by any other banking institution notified under section 51 of the said Act or by a co-operative society ;
- (iii) an advance made by Government or by any person authorised by Government to make advances on their behalf, or by any local authority ;
- (iv) an advance made by any person *bona fide* carrying on any business not having for its primary object the lending of money, if such loan is advanced in the regular course of such business ; and
- (v) an advance made by a landlord to his tenant, for the purpose of carrying on agriculture ;

(6) "notification" means a notification published in the Official Gazette ;

(7) "pawn-broker" means a person who carries on the business of taking goods and chattels in pawn for a loan ;

Explanation.—Every person who keeps a shop for the purchase or sale of goods or chattels and who purchases goods or chattels and pays or advances thereon any sum of money, with or under an agreement or understanding expressed or implied that the goods or chattels may be afterwards re-purchased on any terms, is a pawnbroker within the meaning of this clause ;

- (8) "pawner" means a person delivering an article for pawn to a pawn-broker ;
- (9) "pledge" means an article pawned with a pawn-broker ;
- (10) "prescribed" means prescribed by rules made under this Act ;
- (11) "principal" means in relation to a loan the amount actually lent to the pawner ;
- (12) "year" means the calendar year.

3. Pawn-broker to obtain licence.—No person shall, after the expiry of six months from the date on which the provisions of this Act come into force in any area, carry on or continue to carry on business as a pawn-broker at any place in such area, unless he has obtained a pawn-broker's licence under this Act,

Explanation 1.—Where a pawn-broker has more than one shop or place of business, whether in the same town or village or in different towns and villages he shall obtain a separate pawn-broker's licence in respect of each such shop or place of business.

Explanation 2.—Every pawn-broker's licence granted under this Act shall be valid from the date on which it is granted to the 31st December following but may be renewed from year to year.

4. Grant and renewal of licences.—(1) Every application for the grant or renewal of a pawn-broker's licence shall be in writing and shall be made to the prescribed licensing authority.

(2) The grant or renewal of a licence shall not be refused except on any of the following grounds, namely:—

(a) that the applicant is of bad character ;

Explanation.—If any evidence of bad character is adduced against the applicant, he shall be given an opportunity of rebutting such evidence ;

(b) that the shop or place at which he intends to carry on the business of a pawn-broker or any adjacent house or shop or place, owned or occupied by him, is frequented by persons of bad character, or

(c) that the applicant does not hold a licence under the Mysore Money-lenders Act, 1961.

(3) Any person aggrieved by an order refusing the grant or renewal of a licence may, within the prescribed time, appeal to the prescribed authority.

(4) Every licence shall be granted or renewed in such form and subject to such conditions as may be prescribed. * * * * *

(5) Every application for the grant or renewal of a licence shall be accompanied by a fee at the following rates:—

(a) If the place at which the business of pawn-broker is to be carried on is not more than one.	Ten rupees in respect of the original licence and five rupees in respect of the renewal of the licence.
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- (b) If the business as pawn-broker is to be carried on at more than one place. Ten rupees in respect of the original licence for the principal place of business and five rupees in respect of the renewal of the licence, and three rupees in respect of the original licence and in respect of renewal of the licence for each of the other places :

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a fee at double the rates specified above.

(6) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded; notwithstanding the fact that the grant or renewal of the licence is refused or the application is withdrawn.

5. Pawn-brokers to exhibit their names over shops, etc.—Every pawn-broker shall—

(a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word pawn-broker in English and its equivalent in Kannada, and

(b) always keep placed in a conspicuous part of his shop or place of business so as to be clearly visible to all persons resorting thereto the information required to be printed on pawn-tickets by rules made under this Act, in the Kannada language.

6. Interest and charges allowed to pawn-brokers.—(1) No pawn-broker shall

charge interest in respect of a loan on a pledge at a rate exceeding nine per cent per annum simple interest * * or at such other rate as the State Government may by notification fix from time to time.

* * * * *

(2) A pawn-broker may demand and take from the pawner such charges and in such cases as may be prescribed.

(3) A pawn-broker shall not demand or take from the pawner any profit, interest, charge or sum whatsoever, other than the interest due to him and the charges, if any, referred to in sub-section (2).

7. Pawn-ticket to be given to pawner.—Every pawn-broker shall on taking a pledge in pawn give to the pawner a pawn-ticket in the prescribed form signed by the pawner and the pawn-broker, and shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

8. Person producing pawn-ticket presumed to be entitled to redeem the pledge.—(1) The holder for the time being of a pawn-ticket shall be presumed to be the person entitled to redeem the pledge, and subject to the provisions of this Act, every pawn-broker shall on payment of the principal and interest, deliver the pledge to the person producing the pawn-ticket, and he is hereby indemnified for so doing.

(2) Except as otherwise expressly provided in this Act, a pawn-broker shall not be bound to deliver back a pledge unless the pawn-ticket for it is delivered to him.

9. Protection of owners and of pawners not having pawn-tickets.—

(1) The following provisions shall have effect for the protection of owners of articles pawned, and of pawners not having their pawn-tickets to produce:—

(a) Any person claiming to be the owner of a pledge but not holding the pawn-ticket or any person claiming to be entitled to hold a pawn-ticket, but alleging that the same has been lost, mislaid, destroyed or stolen, or fraudulently obtained from him, may apply to the pawn-broker for a printed form of declaration (which shall be in the prescribed form), which the pawn-broker shall deliver to him:

Provided that an application shall not be made under this clause where the loan exceeds two hundred and fifty rupees unless the applicant has caused a public notice of his claim, containing such particulars as may be prescribed, to be published in the prescribed manner not less than the prescribed number of days before the date of the application.

(b) If the applicant delivers back to the pawn-broker the declaration duly made before any Magistrate or Judge by the applicant and by a person identifying him, the applicant shall have, as between himself and the pawn-broker, all the same rights and remedies as if he had produced the pawn-ticket:

Provided that such a declaration shall not be effectual for that purpose—

(i) in cases where the loan exceeds two hundred and fifty rupees, unless the applicant executes a bond with two sureties, to the satisfaction of the pawn-broker or of such authority or person as may be prescribed in this behalf, agreeing to indemnify the pawn-broker in respect of any

liability which may be incurred by him by reason of delivering the pledge or otherwise acting in conformity with the declaration ; and

- (ii) in all cases, unless the declaration is duly made and delivered back to the pawnbroker within such period after the delivery of the form to the applicant, as may be prescribed ;
- (c) The pawnbroker is hereby indemnified for not delivering the pledge to any person until the expiration of the period aforesaid.
- (d) The pawnbroker is hereby further indemnified for delivering the pledge or otherwise acting in conformity with the declaration unless, he has had notice within the meaning of the Transfer of Property Act, 1882 (Central Act IV of 1882), that the declaration was fraudulent or was false in any material particulars.

(2) Notwithstanding anything contained in sub-section (1), but without prejudice to his liability to account for the pledge to the owner of the pledge or the person entitled to hold the pawn ticket, the pawnbroker may deliver the pledge to any person claiming to be the owner of the pledge but not holding the pawn-ticket, if the pawnbroker is satisfied that such person is the owner of the pledge and is entitled to the delivery of the pledge, either after obtaining a bond from the claimant or otherwise.

(3) Any person making a declaration under sub-section (1), either as an applicant or as identifying an applicant knowing the same to be false in any material particular, shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

10. Pawnbrokers to keep books, give receipts, etc.—(1) Every pawnbroker shall—

- (a) regularly record and maintain or cause to be recorded and maintained in a pledge book in the prescribed form an account showing for each pawner separately—
 - (i) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan per cent per annum or per rupee per mensem or per rupee per annum ;
 - (ii) the amount of every payment received by the pawnbroker in respect of the loan, and the date of such payment ;

- (iii) a full and detailed description of the article or of each of the articles taken in pawn ;
 - (iv) the time agreed upon for the redemption of the pawn ; and
 - (v) the name and address of the pawner, and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof ;
- (b) keep and use in his business the following documents and books (which shall be in the prescribed form) and enter therein from time to time, as occasion requires, in a fair and legible manner such particulars and in accordance with such directions as may be prescribed :—
- (i) pawn-ticket ;
 - (ii) sale book of pledges ;
 - (iii) declaration where pledge is claimed by owner ;
 - (iv) declaration of pawn-ticket lost ; and
 - (v) receipt on redemption of pledge ;
- (c) give to the pawner or his agent a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment ; and
- (d) on requisition in writing made by the pawner furnish to the pawner or, if he so requires to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent, showing the particulars referred to in clause (a) and also the amount, which remains outstanding on account of the principal and of interest, and charge such sum as the State Government may prescribe as fee therefor.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be either in English or in Kannada as may be prescribed :

Provided that the State Government may by notification permit the use of any other language in any area for such period, not exceeding three years, as may be specified in the notification.

(3) All books, accounts and documents referred to in sub-section (1), and all pledges taken by the pawnbroker shall be open to inspection at any time by the licensing authority or an officer subordinate to the licensing authority authorised by that authority.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act I of 1872), a copy of the account referred to in clause (a) of sub-section (1), certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(5) A pawner to whom a statement of account has been furnished under clause (d) of sub-section (1) and who fails to object to the correctness of the account shall not, by such failure alone, be deemed to have admitted the correctness of such account.

(6) In the pawn-ticket furnished to the pawner, in the receipt given under clause (c) of sub-section (1) and in the statement of account furnished under clause (d) of that sub-section, the figures shall be entered only in Arabic numerals.

11. Redemption of pledge.—(1) Every pledge shall be redeemable within one year from the day of pawning exclusive of that day; and there shall be added to that year of redemption fifteen days of grace within which every pledge (if not redeemed within the period of redemption) shall continue to be redeemable.

(2) A pledge pawned for a sum not exceeding ten rupees, if not redeemed within the period of redemption and days of grace, shall at the end of the days of grace become the pawnbroker's absolute property.

(3) A pledge pawned for a sum exceeding ten rupees shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

Explanation.—Where the contract between the parties provides a longer period for redemption than one year, the provisions of sub-sections (1), (2) and (3) shall be read and construed as if references to such longer period had been substituted for the references to the period of one year therein.

12. Sale of pledge and inspection of sale book.—(1) A pledge pawned for a sum exceeding ten rupees shall, when disposed of by the pawnbroker, be disposed of by sale by auction and not otherwise, and the sale shall be conducted in accordance with such rules as may be prescribed.

(2) A pawnbroker may bid for and purchase at a sale by public auction conducted under sub-section (1), a pledge pawned with him; and on such purchase he shall become the absolute owner of the pledge.

(3) At any time within three years after the public auction, the holder of the pawn—ticket may inspect the entry relating to the sale either in the pawnbroker's book or in such catalogue of the auction as may be prescribed.

(4) (a) Where on such inspection or otherwise the pledge appears to have been sold for more than the amount of the loan and the interest and charges due at the time of the sale, the pawnbroker shall pay to the holder of the pawn—ticket, on demand made within three years after the sale, the surplus after deducting therefrom the necessary costs and charges of the sale.

(b) If on such demand it appears that the sale of the pledge has resulted in a surplus but that within twelve months before or after such sale, the sale of another pledge or pledges of the same person has resulted in a deficit, the pawnbroker may set off the deficit against the surplus and shall be liable to pay only the balance, if any, after such set off.

13. Liability of pawnbroker in case of fire.—(1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation.—For the purpose of this sub-section, the value of the pledge shall be its estimated value (if any) entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall in no case be less than the aggregate of the amount of the principal and interest and twenty-five per cent on the amount of the principal.

(2) A pawnbroker shall be entitled to insure to the extent of the value so estimated.

14. Compensation for depreciation of pledge.—If a person entitled and offering to redeem a pledge shows to the satisfaction of a Civil Court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wrongful act of the pawnbroker, the Court may, if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker (as the case requires) in such manner as the Court directs.

15. Pawnbroker advancing smaller amount or receiving higher interest than that specified in accounts to be punishable.—(1) Any pawnbroker who actually advances an amount less than that shown in the pawn—ticket or in his accounts or registers or who takes or receives interest or any other charge at a rate higher than that shown in the pawn—ticket or in his accounts or registers shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) If a pawnbroker is convicted of an offence under subsection (1) after having been previously convicted of a similar offence, the Court convicting him may order his licence as a pawnbroker to be cancelled.

16. Certain other acts of pawnbrokers to be punishable.—A pawnbroker who—

- (1) takes an article in pawn from any person appearing to be under the age of fourteen years or to be intoxicated ; or
- (2) purchases or takes in pawn or exchange a pawn—ticket issued by another pawnbroker ; or
- (3) employs any person under the age of sixteen years to take pledges in pawn ; or
- (4) under any pretence purchases, except at a public auction, any pledge while in pawn with him ; or
- (5) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it ; or
- (6) makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale, or disposition thereof within the time of redemption ; or
- (7) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under the Act ;

shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

17. Certain acts of pawners to be punishable.—(1) Any person who—

- (a) offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article ; or

- (b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or
- (c) not being entitled to redeem and not having any colour of title by law to redeem, a pledge, attempts or endeavours to redeem the same;

shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) In every case falling under sub-section (1), and also in any case, where on an article being offered in pawn, for sale, or otherwise, to a pawnbroker he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, or either of them, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, or either of them (as soon as may be) to the custody of the police.

(3) A list of properties believed to have been stolen may be delivered by the police to any pawnbroker licensed under this Act and thereupon it shall be the duty of such pawnbroker—

- (a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale, or otherwise, to proceed in accordance with the provisions of sub-section (2); and
- (b) if any such article is already in his possession, forthwith to communicate to the nearest police station the facts of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the pawnbroker) and also, if so required by the police, to deliver the article to them.

18. General penalty for contravention of Act, etc.—(1) Whoever contravenes any of the provisions of this Act or of any rule or of any terms or conditions of a licence made or granted thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, on conviction be punished with fine which may extend to fifty rupees and, if such person has been previously convicted whether under this

section or any other provision contained in this Act, with fine which may extend to one hundred rupees.

(2) Any person who after having been convicted of the offence of carrying on, or continuing to carry on the business of pawnbroker in contravention of the provisions of section 3, continues to commit the same offence in the same year, shall in addition to the fine to which he is liable under sub-section (1), be punished with a further fine which may extend to ten rupees for each day after the previous date of conviction during which he continues so to offend.

(3) Any Court convicting a pawnbroker of contravention of the provisions of clause (d) of sub-section (1) of section 10, may direct him to furnish a statement of account in accordance with the provisions of that clause, and if the pawnbroker fails to comply with the direction, the Court may order his licence as a pawnbroker to be cancelled.

19. Jurisdiction to try offences.—No Court inferior to that of a Magistrate of the second class shall try any offence against this Act.

* * * * *

20. Offence under section 3 cognizable.—An offence punishable under section 18 for contravening the provisions of section 3 shall be cognizable.

* * * * *

21. Contract of pawn to be void in certain cases and not to be void in certain other cases.—(1) If any pawnbroker not licensed under this Act, takes any article in pawn for a loan, the contract of pawn so far as it confers any right on the pawnbroker in respect of the article pawned shall be void and the retention of the article by such pawnbroker shall be wrongful.

(2) Where a pawnbroker is guilty of an offence against this Act (not being an offence against any provision of this Act relating to licences), any contract of pawn or other contract made by him, in relation to his business of pawnbroker, shall nevertheless not be void by reason only of that offence, nor shall he by reason only of that offence, lose his lien on or right to the pledge or to the loan and the interest and other charges, if any, payable in respect thereof:

Provided that if a pawnbroker fails to deliver to the pawner a pawn-ticket as required by section 7 or fails to give to the pawner or his agent a receipt as required by clause (c) of sub-section (1) of section 10 or to furnish on a requisition made under clause (d) of that sub-section, a statement of account as required therein within one

month after such requisition has been made, the pawnbroker shall not be entitled to any interest for the period of his default :

Provided further that if in any suit or proceeding relating to a loan the Court finds that a pawnbroker has not maintained accounts as required by clause (a) or clause (b) of sub-section (1) of section 10, he shall not be allowed his costs.

22. Power to make rules.—(1) The State Government may, after previous publication, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed ;
- (b) the form of, and the particulars to be contained in, an application for a pawnbroker's licence under this Act ; and
- (c) the form in which books, accounts and documents specified in this Act shall be recorded, maintained, kept or used.

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. Savings.—(1) Nothing contained in this Act shall apply to any loan advanced on a pledge in any area in which this Act is brought into force by a notification under sub-section (3) of section 1 before the expiry of six months from the date appointed in such notification.

(2) The provisions of this Act shall be in addition to the provisions of the Mysore Money-lenders Act, 1961.

24. Repeal.—The Madras Pawnbrokers Act, 1943 (Madras Act XXIII of 1943) as in force in the Madras Area is hereby repealed :

Provided that section 6 of the Mysore General Clauses Act, 1899 (Mysore Act III of 1899) shall be applicable in respect of the repeal of the said enactment and sections 8 and 24 of the said Act shall be applicable as if the repealed enactment had been repealed and re-enacted by this Act.
