

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbyshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 82

An Act for the regulation of Pawnbrokers and Pawnbroking. 30th August, 1851.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That every person exercising the trade of a Pawnbroker, within this Province, shall take out a license, under the hand of the Governor, to be issued by the Revenue Inspectors, and shall renew the same annually, on pain of forfeiting Fifty Pounds for every pledge taken without such license, to be recovered in any of Her Majesty's Courts in this Province.

II. And be it enacted, That upon every license to be taken out yearly for using or exercising the trade or business of a Pawnbroker within this Province, there shall be paid the sum of Fifteen Pounds currency, into the hands of the Collector of Customs, nearest the residence of the said Pawnbroker, to be accounted for to the Receiver General, for the uses of this Province.

III. And be it enacted, That no person shall keep more than one house or shop, or place for taking in goods to pawn, by virtue of one license, but persons in partnership carrying on trade as Pawnbrokers together, in one house, shop or place, need only take out one license for one house.

IV. And be it enacted, That all persons who shall receive or take by way of pawn, pledge or exchange of or from any person any goods for the repayment of money lent thereon, shall be deemed Pawnbrokers within the intent and meaning of this Act, and shall take out a license for the same accordingly.

V. And be it enacted, That every Pawnbroker shall cause his name and the word "Pawnbroker" to be painted or written in large legible characters over the door outside of the shop, or other place used by him for carrying on such business, on pain of forfeiting Ten Pounds for every shop or place made use of for one week without having the same so put up; to be recovered with costs, on confession, or by oath or affirmation of one witness, before any two Justices of the Peace, and if not forthwith paid, upon conviction, may be levied by distress and sale, by Warrant under the hands and seals of two Justices of this Province, one half to the informer, the other half to the Queen; and if there be not a sufficient distress, or payment be not forthwith made, the offender to be committed to the County or District Gaol, for not exceeding three calendar months nor less than fourteen days, unless such penalty and reasonable charges shall be sooner paid.

VI. And be it enacted, That every Pawnbroker may demand and take the following rates over and above the principal sum advanced, before he shall be obliged to redeliver the goods pawned, that

is to say, for every pledge upon which there shall have been lent not exceeding Two Shillings and Six Pence current money of this Province, one Half-penny for any time not exceeding one calendar month, and the same for every calendar month afterwards, including the current month in which such pledge shall be redeemed, although such month shall not be expired:

If Five Shillings currency shall have been lent thereon, One penny;

If Seven Shillings and Six Pence, One Penny Half-penny;

If Ten Shillings, Two Pence;

If Twelve Shillings and Six Pence, Two Pence Half-penny;

If Fifteen Shillings, Three Pence;

If Seventeen Shillings and Six Pence, Three Pence Half-penny;

If One Pound, Four Pence;

And so on progressively and in proportion for every Pound up to Five Pounds, and if exceeding Five Pounds, after the rate of Three Pence for every Twenty Shillings by the calendar month, and so on in proportion for any fractional sum, which said several sums shall be in lieu of, and taken as, a full satisfaction for all interest due and charges for warehouse room.

VII. And be it enacted, That where any intermediate sum lent upon pawn shall exceed Two Shillings and Six Pence, and not exceed Five Pounds, the Pawnbroker lending the same may take a profit as aforesaid, at the rate of Four Pence, and no more, for the loan of Twenty Shillings by the calendar month, including the current month as aforesaid.

VIII. And be it enacted, That the party entitled to, and applying for, the redemption of goods pawned within fourteen days after the end of the first calendar month after the same shall have been pledged, may redeem such goods upon paying the rate or profit payable for one calendar month and a half, but if after the expiration of the first fourteen days, and before the end of the said second calendar month, the Pawnbroker may take a rate or profit of the whole second calendar month, and the like regulation and restriction shall take place in every subsequent calendar month wherein application shall be made for redeeming goods pawned.

IX. And be it enacted, That in all cases where the lowest fraction of the sum to be received by any Pawnbroker from persons offering to redeem goods shall be less than one Half-penny, such Pawnbroker shall be permitted to receive the Half-penny for the said fraction from the person redeeming the goods.

X. And be it enacted, That every Pawnbroker shall cause to be painted or printed in large legible characters the rate of profit allowed by this Act to be taken, and also the various prices of the

notes or memorandums to be given according to the rates hereinafter mentioned, and an account of such as are to be given gratis, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed or fraudulently obtained, and place the same in a conspicuous part of the shop or place where such business is carried on, so as to be visible to and legible by persons pledging goods.

XI. And be it enacted, That every Pawnbroker who shall take any goods by way of pawn or pledge, whereon shall be lent above Five Shillings, shall, before he advance or lend any money thereon, enter in a fair and regular manner in a Book to be kept by him for that purpose, a description of such goods so received in pawn, pledge or exchange, and the sum lent thereon, with the day and year, and name of the person by whom they were pawned, and the name of the street and number of the house, if numbered, where such person shall abide, and whether he or she be a lodger in or keeper of such house, by using the letter L if a lodger, and the letter H if a housekeeper, and also the name and place of abode of the owner, according to the information of the person so pawning the same, into all which circumstances he is required to enquire of the party before any money shall be advanced, and if the sum lent shall not exceed Five Shillings, such entry shall be made within four hours after the said goods shall have been pawned, and every pledge upon which shall be lent above Ten Shillings, shall be entered in a Book to be kept for that purpose, and be kept separate from all other pledges, and every such entry shall be numbered in such Book progressively as such goods are pawned in the following manner, viz: the first pledge that is received in pawn No. 1, the second No. 2, and so on progressively until the end of the month, and so on in every succeeding month throughout the year, and upon every note respecting such pledge shall be written the number of entry of such pledge so entered in such Book aforesaid; and at the time of taking every pawn, a note or memorandum written or printed shall be given to the person pawning, pledging or exchanging the same, containing a description of such goods received in pawn, pledge or exchange, and also the money advanced thereon, with the day of the month and year, and names and places of abode, and numbers of the houses of the parties, and whether lodgers or housekeepers, by using the letters aforesaid, and upon such note or memorandum, or on the back thereof, shall lie written or printed the name and place of abode of such Pawnbroker, which note or memorandum the party pawning such goods is required to take, and unless he shall take the same, such Pawnbroker shall not receive and retain such pledge, and such note, when the sum lent is under Five Shillings, shall be given gratis.

If the sum lent is Five Shillings and under Ten Shillings, such Pawnbroker may take One Halfpenny;

If the sum lent is Ten Shillings and under Twenty Shillings, such Pawnbroker may take One Penny;

If the sum lent is Twenty Shillings and under Five Pounds, such Pawnbroker may take Two Pence;

If the sum lent is Five Pounds and upwards, such Pawnbroker may take Four Pence;

Which note shall be produced to the Pawnbroker before he shall be obliged to re-deliver such goods, except as hereafter is excepted, and a duplicate of the said note or memorandum shall be affixed to the goods pledged, and in all cases where goods pawned shall be redeemed, the

Pawnbroker shall write or indorse, or cause so to be done, on every duplicate, the profit taken by him for such pledge, and shall keep such duplicate in his custody for one year next following.

XII. And be it enacted, That if any person shall knowingly and designedly pawn, pledge or exchange, or unlawfully dispose of the; goods of any other person, not being employed or authorized by the owner so to do, any Justice of the Peace resident at the place nearest to the place where the offence is committed, may grant his Warrant to apprehend such offender; and if he shall be thereof convicted by the oath of one witness, or confession, before any Justice of this Province, he or she shall forfeit not more than Five Pounds, nor less than Twenty Shillings current money of this Province, and also the value of the goods so pawned, and if not forthwith paid, the Justice convicting shall commit him to the common Gaol of the District or County where the offence was committed, there to remain and be kept to hard labor for not more than three calender months, unless the forfeiture shall be sooner paid; the said forfeitures when recovered to be applied towards making satisfaction thereout to the party injured, and defraying the costs of the prosecution, as shall be adjudged reasonable by the Justice who shall have convicted.

XIII. And be it enacted, That if any person shall counterfeit, forge, or alter any such note or memorandum given by the Pawnbroker for goods pledged, or cause or procure the same to be done, or shall utter, vend, or sell such note or memorandum, knowing the same to be counterfeited, forged or altered; with intent to defraud any person, such offender shall be punished as hereafter mentioned; and any, person to whom any note or memorandum aforesaid shall be uttered, shown or offered which he shall have reason to suspect to have been counterfeited, may seize the person so offering, the same, and deliver him to a Bailiff or Constable, who shall convey him before some Justice of the place where such offence shall have been committed, or nearest thereto, and if upon examination it shall appear, to the satisfaction of such Justice that such person is guilty, he shall,, commit such person to the Common Gaol of such, District or County for any time not exceeding, three calendar months.

XIV. And be it enacted, That if any person shall offer, by way of pawn, pledge or exchange or sale, any goods, and such person shall not be able or shall refuse to give a satisfactory account of himself or herself, or of the means whereby he or she became possessed thereof, or shall wilfully give any false information to the Pawnbroker or his servant as to whether such goods are his own property or not, or of his name and place of abode of the owner of such 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 such goods, shall attempt to redeem the same, it shall be lawful for any person to whom the same shall be offered, to seize and detain such person and the said goods, and to deliver the said person immediately into the custody of a Peace Officer or Constable, who shall, as soon as may be, convey such person and the said goods before a Justice of the District or County, and if such Justice shall, upon examination and enquiry, have cause to suspect that the said goods were stolen or illegally or clandestinely obtained, or that the person offering to redeem the same hath not any pretence or color of right so to do, he shall commit such person into safe custody for such reasonable time as shall be necessary for obtaining proper information in order to be further examined, and if upon either examination it shall appear to the satisfaction of such Justice that the

said goods were stolen or illegally or clandestinely obtained, or that the person offering to redeem the same hath not any pretence or color of right so to do, he shall commit such offender to the Common Gaol of the District or County where the offence was committed, for any time not exceeding three calendar months, except the offence shall authorize such commitment by any other law.

XV. And be it enacted, That if any person shall knowingly buy or take in pawn, or exchange, from any journeyman mechanic, any goods of any manufacture or of any part or branch of any manufacture, either mixed or separate, or any materials plainly intended for manufacturing any goods after such goods or materials are put into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials are finished for the purpose of wear or consumption, or any goods, materials, linen or apparel which are entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up, and shall be convicted thereof upon confession, or on the oath of one witness, before one Justice of the District or County where the offence was committed, he shall forfeit the sum lent thereon, and forthwith restore the said goods or materials to the lawful owner.

XVI. And be it enacted, That if the owner of any goods, of any manufacture, or of any part or branch of any manufacture, either mixed or separate, or any materials plainly intended for manufacturing any goods after such goods or materials are put into a state for any process or operation to be thereupon or therewith performed, and before such good or materials are finished for the purpose of wear or consumption, or of any linen or apparel which shall be so entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up as aforesaid, or any other goods whatsoever, which shall be unlawfully pawned or exchanged, shall make out either on his oath or the oath of one witness or solemn affirmation, before the Justice aforesaid where such offence is committed, that there is just cause to believe or to suspect that any person hath taken to pawn or exchange any such goods without his knowledge, and shall make appear probable grounds for such suspicion, such Justice may issue his Warrant for searching within the hours of business, the hooks, house, warehouse or any other place of such person who shall be charged on oath as suspected of having received the same without the privity of the owner, and if the occupier of any such place, shall, upon request being made to him by any Peace Officer authorized to search, refuse to exhibit his pledge books, or to open such place as required, to permit such search to be made, such Peace Officer may break open any such house, warehouse or other place on the said premises within the hours of business, and search as he shall think fit for the goods suspected to be there, taking care to do no wilful damage, and no person shall oppose the same; and if after such refusal by the occupier of the house or premises to permit the search being made by proper authority, and upon forced search, any such goods aforesaid so pawned or exchanged shall be found, and the property of the owner shall be made out to the satisfaction of such Justice, by the oath or solemn affirmation of one witness, or by the confession of the person charged, such Justice shall cause the goods so found to be forthwith restored to the owner, and the occupier shall be fined not less than Two Pounds nor more than Five, to be recovered as other fines before mentioned.

XVII. And be it enacted, That if any goods shall be pawned or pledged for securing any money lent thereon, and if within one year after the pawning thereof, the pawner, or other person on his behalf, shall tender to the person who lent on security of the said goods the note or memorandum directed to be given by this Act as aforesaid, together with the principal money borrowed thereon, and profit according to the rates by this Act established, and if the person who took the goods in pawn shall thereupon, without reasonable cause, neglect or refuse to deliver back the goods so pawned, in such case oath thereof may be made by the pawner, his tutor, curator, executors and administrators or assigns, before a Justice of the District or County where the offence was committed, who shall cause such person to come before him, and shall examine on oath the parties themselves, and such other credible persons as shall appear before him touching the premises, and if tender of the note or memorandum, together with the principal sum lent, and all profit thereon, shall be proved on oath, to have been made within the space of twelve months, then on payment by the borrower, his executors, or legal representatives, of such principal money and the profit due thereon as aforesaid, to the lender, and in case the lender shall refuse to accept thereof on tender before the said Justice, he shall thereupon, by order under his hand, direct the goods so pawned forthwith to be delivered to the pawner, his executors or legal representatives, and if the lender shall neglect or refuse to deliver up or make satisfaction for such goods as aforesaid, as such Justice shall order, then the said Justice shall commit the party refusing to the common Gaol of the District or County where such offence was committed, until he shall deliver up the said goods according to the order of such Justice, or make satisfaction for the value thereof to the party entitled to the redemption.

XVIII. And to prevent inconveniences to Pawnbrokers from several different persons claiming a property in the same goods, it is hereby enacted, That the person who shall produce such note or memorandum as aforesaid, and require a delivery of the goods mentioned therein, shall be deemed, so far as concerns the person who has the goods in pledge, the owner, and such Pawnbroker, after receiving satisfaction respecting principal and profit as aforesaid, shall deliver such goods to the person producing such note or memorandum, and he shall be indemnified; unless he shall have had previous notice from the real owner not to deliver such goods to the person producing such note or memorandum; which said notice shall be in writing.

XIX. And be it enacted, That in case any Pawnbroker shall have had such previous notice as aforesaid, or in case any such note or memorandum shall be lost, mislaid, destroyed, or fraudulently obtained from the owner, and the goods mentioned therein shall remain unredeemed, the Pawnbroker with whom such goods were pledged, shall, at the request of any person who shall represent himself as the owner thereof, deliver to such person a copy of the note or memorandum, with the form of an affidavit of the particular circumstances attending the case written thereon, as the same shall be stated to him by the party applying, for which copy and affidavit, in case the money lent shall not exceed Five Shillings, the Pawnbroker shall receive One Penny, and if above Five Shillings, and not exceeding Twenty Shillings, the Pawnbroker shall receive Two Pence, and if above Twenty Shillings, the Pawnbroker shall receive Three Pence, and the person having received such copy and form of affidavit shall thereupon prove his property in or right to such goods to the satisfaction of some Justice of this Province, and also verify on oath before such Justice the truth of the particular circumstances attending the case mentioned in such

affidavit, and such oath shall be authenticated by the hand-writing of such Justice, whereupon the Pawnbroker shall suffer the person proving such property to redeem such goods on leaving such copy of the said note or memorandum, and the said affidavit, with such Pawnbroker.

XX. And be it enacted, That all pawned goods shall be deemed forfeited, and may be sold at the expiration of one year from the time of pawning the same, exclusive of the day on which pawned, and where the sum lent thereon shall exceed Ten Shillings, shall be sold by public auction, but not otherwise, by the Pawnbroker, and the said goods shall be exposed to public view, and a catalogue thereof published, containing the name and place of abode of the Pawnbroker, and the month the goods were received in pawn, and the number of the pledge; and an advertisement giving notice of such sale, and containing the name and abode of the Pawnbroker, and the month the goods were received in pawn, shall be inserted on two several days in some public newspaper, two days at least before the day of sale, and the goods pledged shall be inserted in the catalogue separately, on pain of forfeiting to the owner of such pledge not exceeding Ten Pounds nor less than Forty Shillings, to be recovered as other fines before mentioned.

XXI. And be it enacted, That every Pawnbroker shall enter into a Book, to be kept for that purpose, a just account of the sale of such goods by auction, expressing the day of the month when pledged, the name of the person pledging, and the day when, and the money for which each pledge was sold, together with the name and abode of the auctioneer, and if such goods are sold for more than is due thereon, the overplus shall be paid on demand to the person by whom, or on whose account such goods were pawned, his executors or assigns, provided such demand be made within three years after such sale, the necessary costs and charges of such sale and catalogues being first deducted; and the person who pawned such goods, his executors or assigns, or for whom they were so pawned, shall, for his satisfaction, be permitted to inspect the entry made of such sale, paying for such inspection Three Pence, and no more; and if the Pawnbroker shall refuse the person who pawned such goods to inspect such entry, or if an executor, administrator or assignee, at such time, producing his letters testamentary, letters of administration or assignment, or if the goods were sold for more than the sum entered in such Book, or if the Pawnbroker had not made such entry, or shall not have bonâ fide according to this Act, sold the goods, or shall refuse to pay the overplus on demand as aforesaid, he shall forfeit Ten. Pounds, and treble the sum such goods were originally pawned for, to the person by whom, or on whose account, they were pawned, to be recovered as other fines before stated, and if not forthwith paid, to be levied by distress by Warrant of the Justices before whom the same shall be recovered.

XXII. And be it enacted, That no Pawnbroker having goods in pledge shall, either by himself or other person for him, purchase any such goods during the time they shall remain in his custody, as such pledge (except at public auction,) nor shall purchase, receive or take any goods in pledge, from any person who shall appear to be under the age of fifteen years old, or to be intoxicated with liquor; or purchase or take in pawn, pledge or exchange, the note or memorandum aforesaid of any other Pawnbroker; nor employ any servant or other person under sixteen years of age to take in any pledge; nor receive any goods by way of pawn, pledge or exchange, before eight o'clock in the morning, nor after eight o'clock in the evening, except on Saturday evenings, and the

evenings preceding Good Friday and Christmas day, when they may remain open until ten o'clock in the evening; nor on any Fast or Thanksgiving day appointed by authority, on which days and on Sundays no person shall carry on the trade of a Pawnbroker.

XXIII. And be it enacted, That if it shall appear, or be proved on oath before a Justice of this Province, that the goods pawned as aforesaid have been sold before the time limited, or been embezzled or lost, or are become of less value than when pawned, through the neglect or wilful misbehaviour of the Pawnbroker or his servants, to whom they were pawned, such Justice shall award a reasonable satisfaction to the owner in respect of such damage; and in case the sum so awarded shall not amount to the principal and profit due to such Pawnbroker, his executors or legal representatives, it shall be sufficient for the pawner, his executors, or assigns, to pay or tender the balance; and upon so doing, such Justice shall proceed as if the pawner, his executors or assigns had paid or tendered the whole money due for principal and profit as aforesaid; and if such satisfaction to be allowed shall be equal to or exceed the principal and profit as aforesaid, then such Pawnbroker, his executors and assigns, shall deliver the goods so pledged to the owner without being paid any thing for the principal or profit, and shall also pay such excess, if any, on penalty of Ten Pounds, to be recovered as penalties hereinbefore mentioned.

XXIV. And be it enacted, That where such Justice shall think the production of any pawn book, note, voucher, memorandum, duplicate or other paper necessary, which shall or ought to be in the hands, custody or power of any Pawnbroker, he shall summon him to attend with the same, which the said Pawnbroker is required to produce in the state the same was made at the time the pawn was received, without any alteration, erasement, or obliteration whatsoever; and in case the Pawnbroker shall neglect or refuse to attend or produce the same in its true and perfect state, he shall, unless he shew good cause to the satisfaction of such Justice, forfeit not exceeding Ten Pounds, nor less than Five Pounds, to be levied and recovered as fines hereinbefore mentioned.

XXV. And be it enacted, That no Pawnbroker shall be liable to any prosecution before any Justice under this Act, unless information be given within twelve calendar months next after the offence was committed; and such prosecution shall be before some neighbouring Justice, where the offence shall have been committed; and no person who has been convicted of any fraud, or of any felony, shall prosecute or inform against any person for any offence against this Act.

XXVI. And be it enacted, That all the provisions of this Act shall extend to and include the executors, administrators and assigns of every deceased Pawnbroker, as if he were living, except that no such executor, administrator or assign shall be answerable for any penalty personally or out of his own estate, unless forfeited by his own act.

XXVII. And be it enacted, That no fee shall be taken for any Summons or Warrant granted by any Justice or Justices in pursuance of this Act so far as the same relates to goods pawned, pledged or taken in exchange.

XXVIII. And be it enacted, That if any person convicted of any offence punishable by this Act shall think himself aggrieved by the judgment of the Justices before whom he shall have been

convicted, he may appeal to the next General Quarter Sessions of the Peace for the District or County where such offence was committed, and the execution of the judgment shall in such case be suspended, the person convicted entering into recognizance, at the time of the conviction, with two sureties in double the sum he shall have been adjudged to pay, upon condition to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of and pay such costs as shall be awarded at the said sessions; and the Justices are hereby empowered to hear and finally determine the matter of appeal, and to award such costs as shall appear just and reasonable to be paid by either party; and if the judgment shall be affirmed, the appellant shall immediately pay the sum adjudged to be forfeited, together with such costs as the Court shall award, or in default thereof shall suffer the pains and penalties by this Act inflicted upon persons respectively, who shall neglect to pay or shall not pay the forfeitures hereby imposed.