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WESTERN AUSTRALIA.

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REPORT

OF THE

Royal Commission

ON

Money-lending and Hire-purchase Traders

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*Presented to both Houses of Parliament by His Excellency's Command.*  
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[FIRST SESSION OF THE SIXTEENTH PARLIAMENT.]

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ROYAL COMMISSION

WESTERN AUSTRALIA, } By His Excellency Sir James Mitchell,
TO WIT. } K.C.M.G., Lieutenant-Governor in and
JAMES MITCHELL, } over the State of Western Australia
Lieutenant-Governor. } and its Dependencies in the Common-
[L.S.] } wealth of Australia.

To Henry Doyle Moseley, Police Magistrate, Perth,
Western Australia.

I, THE said Lieutenant-Governor, acting with the
advice and consent of the Executive Council, do here-
by appoint you Henry Doyle Moseley to be a Com-
missioner to inquire into and report on—

1. Generally the operations of money-lenders in
relation to their transactions concerning the making
of loans and the giving of financial accommodation.

2. In particular, the following specific heads re-
lating to the foregoing subject-matter of inquiry:—

- (a) the methods employed by money-lenders in
carrying on business;
- (b) any abuses which exist in that regard;
- (c) the form and nature of transactions en-
tered into by such money-lenders.

3. The methods of trading of hire-purchase
traders in regard to their retail customers, including
the procedure followed by and the rights and reme-
dies of such traders when such customers make de-
fault in payment of the hire or in performance of
obligations undertaken by them under hire-purchase
transactions.

4. The laws relating to money-lenders and to hire-
purchase traders, and to make recommendations in
regard to any matters where in the opinion of the
Commission an amendment is necessary.

And I declare that you shall, by virtue of this
Commission, be a Royal Commission within "The
Royal Commissioners' Powers Act, 1902," as re-
printed in the Appendix to the Sessional Volume of
Statutes for the year 1928, and that you shall have
the powers of a Royal Commission or the Chairman
thereof under that Act. And I hereby request you
so soon as reasonably may be, to report to me in
writing the result of this your Commission.

Given under my hand and the Public Seal of
the said State, at Perth, this 2nd day of
July, 1936.

By His Excellency's Command,

S. W. MUNSIE,
for Premier.

GOD SAVE THE KING ! ! !

Report of the Royal Commission on Money-lending and Hire-purchase Traders.

Parliament House, Perth.

To His Excellency Sir James Mitchell, K.C.M.G., Lieutenant-Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia.

May it please Your Excellency—

On the 3rd day of July, 1936, I received Your Excellency's Commission to inquire into and report on—

1. Generally the operations of money-lenders in relation to their transactions concerning the making of loans and the giving of financial accommodation.
2. In particular the following specific heads relating to the foregoing subject matter of inquiry:—
 - (a) the methods employed by money-lenders in carrying on business;
 - (b) any abuses which exist in that regard;
 - (c) the form and nature of transactions entered into by such money-lenders.
3. The methods of trading of hire-purchase traders in regard to their retail customers, including the procedure followed by and the rights and remedies of such traders, when such customers make default in payment of the hire or in performance of obligations undertaken by them under hire-purchase transactions.
4. The laws relating to money-lenders and to hire-purchase traders, and to make recommendations in regard to any matters where, in the opinion of the Commission, an amendment is necessary.

RECOMMENDATIONS.

My views, set out in detail in the report, may briefly be summarised in the following recommendations:—

1. Annual license for money-lenders.
2. Restrictions on money-lending advertisements.
3. Restriction on charges for preliminary expenses on loans by money-lenders.
4. Copies of documents of security in all cases to be delivered by money-lenders to borrowers.
5. Copies of accounts to be supplied by money-lenders to borrowers on demand.
6. Standard rate of interest to be fixed.
7. Rate of interest to be stated in all documents of security.
8. Prohibition of compound interest.
9. Rebate of interest where loans repaid before due date.
10. Limitation of time for legal proceedings in respect of money lent.

11. In certain legal proceedings borrower's name not to be published.
12. Non-registration of bill of sale to render transaction void.
13. Hire-purchase agreements entered into by money-lenders as security for loans to be void.
14. On repossession of goods under hire-purchase agreements by owner, notice to be given by owner to hirer of his remedies.
15. Extension of time for demanding account from owner of goods on repossession.

I commenced my inquiry on the 20th day of July, 1936.

For the purpose of the inquiry I have taken the term "money-lender" as used in the Terms of Reference to apply only to those individuals and firms who come within the definition of "money-lender" as contained in the Money Lenders Act, 1912.

The Commission was the outcome of a resolution carried by the Legislative Assembly on 13th November, 1935, "that in the opinion of this House a Royal Commission should be appointed to inquire into the methods adopted by money-lenders in this State as regards the computing of interest charged to clients, the business methods practised and other matters relating thereto."

Various speakers, during the debate on the motion, referred to specific cases to support their statements that harsh methods are adopted by some persons carrying on the business of money-lending, that exorbitant rates of interest are charged, and that artifice is employed in order to avoid the consequences of the Money Lenders Act.

It was naturally anticipated by me that evidence would be produced of these specific cases which would assist me in forming an opinion of the existing state of affairs. My anticipation was not realised, and it is a matter for regret that I have not had the advantage of hearing that evidence. It may be said that persons involved in money borrowing transactions would have a natural disinclination to talk of their experiences. To encourage witnesses to appear before the Commission it was announced that their names would not be divulged for public information, but notwithstanding this the response was poor and throughout the proceedings only fifteen witnesses have appeared to complain of the treatment received by them from money-lenders.

Although from the evidence of those witnesses it would be less than fair to the money-lenders to say that the rather sweeping statements made by some members during the debate in Parliament were justified, the information obtained from that evidence has been of value in that it exemplified what in the circumstances of a transaction might happen, even if it failed to show, in the particular case mentioned, that anything did actually happen to give serious cause for complaint. The evidence, such as it is, at least paved the way for an investigation of the books and documents of various persons conducting a money-lending business, as a result of which investigation it is now possible to suggest certain alterations to existing methods of business.

One should not, I think, approach this subject in any spirit of animosity. There should be no feeling of bitterness against money-lenders generally. Their profession is at least distinguished by a background of antiquity. One may assume that they are still necessary, or at least justifiable, in the life of the community, in that they continue to carry on their business under statute law, just as they have done from time immemorial. They are probably just as necessary as bankers, who may, not unreasonably I think, be termed superior money-lenders, but the nature of the money-lending business with which this report is concerned requires very strict supervision in the same way that publicans and pawnbrokers require—and receive—very special legislation. The supervision becomes more necessary in the case of money-lenders when one considers the class to which the majority of their clients belong. They are too often people of inferior mentality, ill-versed in matters of business. But there are others who go to money-lenders, people of intelligence faced with misfortune, in many instances unavoidable, and who through having no assets to offer as security acceptable to other financial institutions, are forced to go to a money-lender for accommodation in order to save themselves from misery and ruin. There is still another class to be considered—a class which may be termed one of unscrupulous borrowers. There are no doubt women who borrow without their husbands' knowledge and live in fear of exposure by the money-lender. There are people of both sexes who borrow with an idea of extricating themselves from a difficult position brought about by extravagant living.

Any legislation to provide adequate control must necessarily be framed to protect the unfortunate and unskilful against the shrewd, experienced and doubtless sometimes rapacious money-lender. If, bearing that necessity in mind, one can suggest amendments to existing legislation which, while not causing the honourable money-lender embarrassment, or uneasiness, will make the way of the transgressor more hard, then future transactions may prove less irksome for those experiencing financial difficulties and the status of the money-lending industry may improve.

In addition to investigating the operations of money-lenders, Your Excellency's Commission also requires me to inquire into and report on the methods of hire-purchase traders in regard to their retail customers, and again on this branch of my inquiry there has not been offered very much information of specific transactions. Just as money-

lenders appear to form a necessary unit in the commercial community, so do those firms which sell goods on hire-purchase or time payment terms seem from some points of view to be justified. The practice cannot be said to be wholly bad, but it carries with it always a potential danger. The poor man can, by means of time payment, obtain an article which he is reasonably entitled to regard as necessary for ordinary personal comfort, and which, in the absence of such means, he would be unable to secure.

No one could justifiably condemn a principle limited to transactions of that kind. The practice becomes bad when carried to the extent of acquiring the possession of articles which may be termed luxuries, new inventions, without which, a few years ago, the community generally was well content. And it is safe to assume that transactions of that nature form the greater part of this kind of business. To be able to obtain possession of things, by no means necessary to one's life, by a system which in many cases constitutes a constant drain on the hirer's slender resources, cannot be to the real advantage of anyone save the trader. One can understand the trader's point of view, even if one finds a difficulty in commending it. His outlook is to find what the public generally thinks it wants and to be able to supply it in a way that will bring trade. His article is usually expensive and few can purchase it for cash. Therefore he must give terms. And in this, as in some money-lending transactions, one is frequently faced with inequality of business acumen in the parties of the contract of hiring. On the one hand the experienced salesman, a specialist in methods appropriate to almost every type of likely buyer, very ready to counteract any argument or any sign of disinclination with ingenious suggestions (all for the benefit of the customer), and on the other hand an individual in many instances so devoid of business instinct and so susceptible to the flattery of the salesman that the contract is made before the hirer really understands what is happening.

The system, in common with that of money-lending, has the sanction of the legislature, and in the Hire Purchase Agreements Act of 1931 measures have been taken to protect purchasers against possible unscrupulous practices on the part of vendors. It appears that advantage is not taken of these protective measures to any great extent. This may be evidence that, on the whole, these transactions are carried out on honest lines, or, on the other hand, that like the borrower, the purchaser hesitates to advertise his methods of acquiring his property.

In my observations later on the Terms of Reference dealing with this subject I shall suggest provisions which, though doing nothing to prevent a form of business which has apparently come to stay, will at least render the purchaser less likely to be victimised.

1. Generally the Operations of Money-lenders in Relation to their Transactions concerning the Making of Loans and the Giving of Financial Accommodation.

There are 259 names in the Register of Money-lenders in this State, but of these registrations 65 only are now operative. Forty-seven carry on business in Perth, eight in Fremantle, and the remaining 10 in country town or suburbs. Each applicant on

registration as a money-lender pays a fee of £1. Registration is for a period of three years and each renewal (which also costs a sum of £1) is for a similar period. This is no more than a very nominal fee and would offer no obstacle to the registration of anyone who desired to become a money-lender as understood by the Act.

I much prefer a system of license.

Such a system obtains in respect of pawnbrokers and second-hand dealers and (without suggesting a complete analogy) auctioneers and land agents.

I think an annual licence at an increased charge should be obtained by money-lenders, and provision for this will be found in Clause 4.

Investigation has shown that the advances made by those who, judging from the volume of their business, may be regarded as the six principal money-lenders of Perth, aggregated in a period of three years a sum of £149,116. The average yearly advance by each of those money-lenders is therefore £8,284. Figures indicating the total of the loans outstanding on the 30th June, 1936, were examined, and it was shown that the sum of £81,871 was due to lenders. The majority of this amount comprised advances made at a rate exceeding 20 per cent. This large sum was spread over 2,815 accounts, so that the average balance of each account was £29 1s.

It might here be noted that the business transacted by a firm having a very large turnover was divided as follows:—

Registered Bills of Sale	64.6%
Assignments	12.9%
Promissory Notes	10.4%
Unregistered Bills of Sale	6.5%
Mortgages	3.9%
Miscellaneous	1.7%
	<hr/>
	100%

These last figures cannot be regarded as a general distribution between the varying types of transactions because it was found that different lenders encouraged a different class of business, but it might be stated that generally a very large number of advances are made on the security of Bills of Sale.

It was noticed also that the greater proportion of loans were for comparatively small amounts, and it is estimated that approximately 75 per cent. of the total number of advances made were for amounts of £40 or less.

As would be expected, the borrowers are to be found mainly amongst those who occupy a humble position in the community—wages men and clerks. One regrets to hear in evidence and to find from inspection of money-lenders' books that so many borrowers come from the ranks of the Civil Service—both Commonwealth and State. This seems in the majority of cases, in so far as State civil servants are concerned, to be in direct breach of the regulations which govern their employment, in that their loans are usually obtained on the security of promissory notes endorsed by fellow civil servants. These people, though not highly paid, are in permanent positions, and it cannot be that in every borrowing transaction the difficulty is so unexpected and so acute that there is no alternative to the payment of a very high rate of interest. I am in-

clined to think that it is, in many cases, lack of foresight which places the man who received a regular salary in financial difficulties, and that something should be done to compel him to look further ahead and arrange for his commitments, because his commitments should not exceed his income. In some branches of the Public Service there is a form of provident fund from which contributors may draw to meet unexpected and unavoidable expenditure, and it would be well if such a fund were established for the benefit of the Service generally. In a hope that something of this nature might eventuate, and because of the extent to which the practice has grown of civil servants borrowing from money-lenders, I am proposing that no money-lender shall be allowed to lend to civil servants, nor accept the endorsement of a civil servant on any promissory note, without first obtaining the authority in writing from the permanent head of the applicant's department.

I have referred, not without hesitation, to this section of the community, and I hope that my remarks will be received as an indication of my genuine desire to improve the existing position.

As by far the most controversial matter in connection with money-lenders' operations is the question of interest, it will be well, I think, to discuss that subject in this part of the report.

It is submitted that a high rate of interest is not in itself incompatible with fair dealing. There are cases on record in England in which a rate of 100 per cent. per annum has been held by Courts not to be excessive. When one considers the class of business undertaken by money-lenders, the type of borrower, the nature of the security, and the risk of bad debts, then assuming, as one must, that the money-lender is necessary, one must realise that a high rate is unavoidable. The chief difficulty lies in fixing a limit to the rate which could be regarded as not excessive. It seems more than a difficulty. I suggest that it is impossible to prescribe a limit which could be adapted to the widely different conditions in which these loans are contracted, and further, supposing it were possible to fix a maximum rate, would not the interest tend in all cases to rise to that maximum?

The very emphatic opinion of one witness that a definite limit should be placed on the rate of interest to be charged on loans (see page 187) was somewhat qualified when his attention was drawn to the possible consequences to necessitous cases in which accommodation might be refused if such a limit were imposed. Consider a case by no means out of the ordinary. A loan of £5 might well save a man from going to gaol. His friends are not sufficiently financial to give him assistance and the money-lender charges him 10s. for one month's accommodation. Who would cavil at the lender's charge of 10s. for the assistance given and for doing the work necessary to the transaction. It seems reasonable, and yet it amounts to a rate of 120 per cent. per annum, which one would immediately term grossly excessive.

Looking at the question from every aspect, I have come to a conclusion that it would not be practicable to provide for an absolute limit on the rate of interest. Rather than attempt to fix a maximum rate, it would seem better to provide that, when

in any proceedings in respect of any money lent by a money-lender it is established that the rate of interest exceeds a certain fixed percentage per annum, it will be presumed to be excessive unless the contrary is proved by the money-lender. The amount prescribed would be a standard—neither a maximum nor a minimum—but a general guide as to what would be a fair and reasonable charge.

It is not, I think, placing too great an onus on the money-lender to prove that he has not charged an excessive rate. A very high rate of interest may, not unfairly, be regarded as in itself a suspicious circumstance, and it should be for the one who receives that very high rate of interest to justify the position, rather than for the one who borrows at the high rate to establish a case for reduction.

This was a matter which received the consideration of the Legislature in England. It was the subject of inquiry by more than one select committee, before which committees a mass of evidence was given, and the opinion of those who dealt with the question was expressed in the statute subsequently passed (The Money Lenders Act, 1927). That Act provides no fixed limit, but as an alternative has set a standard, above which any rate of interest will be regarded by Courts of Justice as excessive, unless it is proved by the money-lenders to be otherwise.

The English legislation has remained without amendment for nearly ten years. One may assume that Parliament has had no occasion to change its views on this question of interest chargeable.

It remains to be considered what would be a fair standard to prescribe. To serve as a guide I see no reason why one should not adapt ordinary business principles to the business of money-lending in order to provide for a fair return of profit on the lender's transaction. In his business, as in all others, he is entitled to use other people's moneys. I do not support his borrowing, as it has been suggested in evidence that he does, from individuals to whom he pays 12½ per cent., but he is certainly entitled to borrow from his bankers at the usual rate, or alternatively, if he uses his own money, to expect (apart from other profits) a return at the ordinary bank rate of interest.

He is entitled to provide for his office expenses on a percentage basis of the business he does, and he must make provision for bad debts.

Taking the bank rate as 6 per cent. and adopting the evidence given by the manager of a money-lending business (see page 143) which, in my opinion, is fair, an allowance of 6 per cent. should also be added for office expenses and 5 per cent. to cover bad debts.

Allowing a margin of 8 per cent. for profit, it would appear reasonable to suggest 25 per cent. as the standard rate of interest. The fairness of this rate to the lender becomes more apparent when it is remembered that the periodical repayments to him of his capital give him repeated opportunities of again placing his money in circulation. It might also be pointed out that a large proportion of the loans are for small amounts and of short duration, which might reasonably carry rates of interest exceeding 25 per cent.

It is thought that the introduction of the standard suggested will at least tend to reduce the rates of interest, that money-lenders will be more cautious and require better security, and that money will not be lent so freely and indiscriminately.

2. (a) The Methods Employed by Money-lenders in Carrying-on Business.

(b) Any Abuses Which Exist in That Regard.

It will be more convenient, I think, to deal with these two clauses together.

It seems the usual method of attracting borrowers for money-lenders to advertise their calling in newspapers. In other countries it has been their practice to issue circulars—couched very often in terms designed to attract the unwary; this custom received much adverse comment by Parliamentary Select Committees in England, where it was carried on extensively, and legislation was passed to prohibit their use. Although advertising in this State has not yet reached similar proportions, I have seen some advertisements which are, in my opinion, a little in excess of what is really advisable, and before the practice assumes a character which has proved undesirable in other places it may be well to prescribe certain restrictions which will prevent objectionable forms of advertisement. A recommendation as to this appears in Clause 4.

There is a practice amongst money-lenders, not perhaps universal, but no doubt almost so, of charging the borrower fees to cover preliminary expenses.

In one form of security (bill of sale) which has been produced by a money-lending firm, there is a clause which provides that the lender shall be entitled to interest at the rate of 60 per cent. per annum for the first month, and thereafter to interest at 30 per cent. per annum. The larger (and I think wholly excessive) rate was explained as being necessary to cover preliminary expenses.

I think there would be no valid objection to a fee being charged by money-lenders in cases where the transaction is not proceeded with. If an individual approaches a money-lender with an application, and the money-lender, as a natural preliminary, devotes some time to an inspection and valuation of the proposed security, only to find that the applicant abandons his intention to borrow money, he should, in my view, be entitled to some recompense for his trouble. But it must, I think, be a fixed fee and not left in doubt, and it must apply only to those cases where no loan is made. Where the transaction is definitely entered into, I suggest that no charge be allowed for such preliminary expenses. The rate of interest on the loan would be amply sufficient to cover such incidentals, but in all transactions in which security by way of mortgage or bill of sale is contemplated and the loan is not proceeded with, I suggest that the money-lender be entitled to a fee of ten shillings to cover all preliminary work done by him.

To justify the charge, it has been urged that the cost of advertising is great. I have attempted earlier to curb the activities of money-lenders in this direction, and the fee I propose is not intended to provide for this.

It is apparent, from the evidence given by many of the witnesses who have borrowed from money-lenders, that in a great many instances the documents setting out the details of the transaction are

not read by them, and in one case the document was actually signed before all details had been filled in. It is difficult to know how to deal with this question. Anything in the nature of the appointment of an official, whose duty it would be to peruse all documents relative to money-lending transactions and to explain to borrowers their obligations, would, in view of the vast amount of business done, be in my opinion, impracticable. It might, of course, be provided that each document should be endorsed with an acknowledgment by the borrower that he has read the contents and that he understands them. The chances are greatly in support of the assumption that that acknowledgment would also be signed without being read.

I am afraid nothing more can be done than to make it compulsory for the lender to supply the borrower with a copy of the document at the time of its execution, and hope (perhaps vainly) that, as a result of this Commission borrowers will realise how necessary it is for them to read and understand what they are signing.

Difficulties have been experienced by borrowers in obtaining from money-lenders statements of account from time to time and it is necessary that these difficulties should be removed. A proposed amendment to the Act will be found in Clause 4.

2. (c) The Form and Nature of Transactions Entered into by Money-lenders.

The forms of security in transactions common to the money-lending business may be summarised as follows, in order of the degree of risk taken by the lender.

1. Promissory notes.
2. Unregistered bills of sale.
3. Registered bills of sale.
4. Assignments of interests under a Will.
5. Mortgage of real estate.

In placing the forms of security in this order, I do not suggest that in all cases a promissory note involves the lender in the greatest risk, but the money-lenders' habit is, I think, to lend almost without discrimination on indorsed promissory notes, and in practice it will be found that invariably on loans with this class of security offered he charges the highest rate of interest.

The various rates of interest charged are approximately as follows:—

Promissory notes	40-60%
	(100-360% for short term loans)	
Unregistered bills of sale	30-50%
Registered bills of sale	20-45%
Assignments of interest under a will	20-30%
Mortgage of real estate	15-20%

Elsewhere I have dealt with the question of interest chargeable.

There are several features in some of the forms of bill of sale used which are, I think unsatisfactory.

Undoubtedly what is needed is a clear bargain between the borrower and the lender which should be expressed in the form of a contract containing all the details as to principal and interest, and the dates on which the interest is to be paid. In many

cases it is found that the money-lender does not specifically state the rate of interest. Instead of the contract setting out that the rate if interest is so much per cent. per month or per annum, the borrower acknowledges in the document that he has received a specified sum repayable at the rate of so much per month. While it is advisable that the borrower should know what he is paying in the coin of the realm, unless the rate of interest is specified it leads to a confusion of principal and interest. It is essential that the borrower should know the rate of interest he is being charged. It is to the money-lender's own advantage, if he can only see it, that he should send away his customer knowing what he has done, understanding the bargain that he has made, and the interest he is going to pay.

It may be said that though this might easily be done where a contract in the nature of a bill of sale is drawn up, it could not well be complied with when the security is by way of promissory note. I see no difficulty in the latter case if it be made compulsory that at the time of the signing of the promissory note, a memorandum be handed to the borrower by the lender setting out the instalments to be paid, the dates of payments and the rate of interest charged.

I have had evidence of transactions in which the security provides that in the event of interest becoming due and remaining unpaid, such interest shall be capitalised and added to the principal moneys, and that all such capitalised moneys shall bear interest at the rate agreed to be paid on the loan. This is, of course, a provision for the payment of compound interest. On occasions the same thing is provided for in another—and not quite so open a way. Overdue instalments are chargeable with compound interest, notwithstanding that such instalments represent in part interest on the loan.

I have also seen clauses providing for the calling up of the whole amount of a loan on the default in payment of any one instalment, thereby making the whole subject to a penal rate of interest. This method of business should be eradicated once and for all, and a recommendation will be found later to that effect.

In many cases brought before the Commission it was noticed that loans made for a stated period had been repaid long before the expiration thereof, but that no rebate of interest had been allowed by the lender. One objectionable type of bill of sale even went further in that it provided that no rebate of interest could be claimed if the loan were repaid within a period of six months.

I suggest that all documents should contain a provision that a rebate of interest (at the original rate charged) shall be granted in respect of repayments made before the time stipulated, and that no contract should contain a provision which will in any way limit this principle.

It is realised that where a debt is repayable by instalments the lender is entitled to expect those instalments to be paid promptly so that he can use them again in his business. I am therefore later suggesting a proviso that simple interest only be allowed on overdue instalments.

A further undesirable feature of some securities is that though on the face of them, the amount of interest payable is not, in the circumstances, unreasonably high, in reality it constitutes what is known as a "flat" rate, the effect of which to the uninitiated is not clear. Interest is charged on the whole amount of the loan throughout the whole period, although weekly or monthly instalments are paid in reduction. The difference between the "flat" rate and the actual rate calculated on the amount outstanding is in some cases very great, and it is obvious that in this respect the borrower does not understand the true nature of the transaction. That the rate becomes unreasonably high was admitted in evidence by the manager of a money-lending firm (see page 146).

Case No.	Amount of Loan. £	Amount of Interest. £ s. d.	Terms of Repayment.	Interest Charged	
				Flat Rate % p.a.	Rate % on reducing Bal.
1.	50	17 0 0	Repay £67 by instalments of £1 p.w. ..	26.4%	51.97%
2.	60	20 0 0	Repay £80 by instalments of £1 p.w. ..	21.6%	42.8%
3.	50	10 0 0	Repay £60 by instalments of £1 5s. p.w. ..	21.6%	42.4%
4.	55	10 0 0	Repay £65 by instalments of £1 5s. p.w. ..	18.2%	35.7%
5.	10	2 15 0	Repay £12 15s. by instalments of 7s. 6d. p.w.	42%	81.1%
6.	70	14 0 0	Repay £84 by instalments of £1 15s. p.w. ..	21.6%	42.4%

It is characteristic of transactions with money-lenders that the loan often remains unpaid for a far longer term than that contemplated by the borrower at its inception. Sometimes it continues in existence for so long and the interest charges have increased the borrower's indebtedness to such an extent that the position becomes hopeless from the point of view of both sides.

It seems to me that there should be imposed some short limitation of time for proceedings in respect of money lent by money-lenders, and later in this report there appears a recommendation for an amendment to the Act to provide for this.

3. The Methods of Trading of Hire-Purchase Traders in regard to their Retail Customers, including the Procedure Followed by and the Rights and Remedies of such Traders when such Customers Make Default in Payment of the Hire, or in Performance of Obligations Undertaken by Them under Hire-Purchase Transactions.

This matter was not included in the motion before the Legislative Assembly and consequently was not mentioned during the debate. I have already said that little information of purchasers' disabilities has been given to me in evidence during my inquiry, but I am indebted to the Secretary of the Hire Purchase Traders' Association for an informative statement of the methods commonly adopted in transactions of this nature (see p. 121). He spoke only of that branch of the business which deals with the sale of more costly articles, and specified the various matters which justify in such transactions the charging of an increased price.

The practice of hire purchase trading generally is difficult to control and one can, I think, do little more than safeguard as far as possible the purchaser from objectionable methods on the part of traders. One

To overcome this, the English Money Lenders Act includes a schedule setting out a method of calculation when the interest charged on a loan is not expressed in terms of a rate. It would be well to embody in our own Legislation a similar schedule.

To illustrate the necessity for the expression of interest in terms which may readily be understood, several cases submitted in evidence before the Commission have been examined and the rate per cent. calculated on the reducing balance in accordance with the English method.

The following table indicates how very deceptive the statement of interest can really become and that the suggestion by the money-lender that the rate of interest is the proportion which the amount of interest stated bears to the principal, is entirely misleading:—

cannot—and indeed in many cases should not—interfere with this means of acquiring property, but it is regrettable that it is so often carried too far.

The present Hire Purchase Agreement Act, which has been described by the Crown Solicitor in his evidence as satisfactory, provides, as I have previously pointed out, some form of protection to the hirer, but it seems doubtful whether the provisions are generally known. I have recommended an amendment to improve the present position.

A suggestion was put forward that all hire-purchase agreements should be registered. Although I see great advantages in such a system, I am afraid the custom of dealing in this class of business has assumed such proportions that the idea is entirely impracticable.

4. The Laws Relating to Money-lenders and to Hire-Purchase Traders, and Recommendations in regard to matters where in the opinion of the Commission, an Amendment is Necessary.

The laws relating to money-lenders are contained in the Money Lenders Act of 1912 and regulations made thereunder, and in many respects the legislation has proved adequate. In some details there is room for improvement and this inquiry has produced suggestions which are entitled to consideration.

I have already referred to the provisions for registration of money-lenders. These seem to make the matter of registration a mere formality, and it would be better if money-lenders were required to obtain an annual license. They should make application to a Court of Petty Sessions, after advertising their intention to apply. Certificates as to character should be furnished. Procedure on the lines of that embodied in the Land Agents Act might well be adopted.

The present fee of £1 for registration for three years should, in my opinion, be altered to an annual license fee of £5. The license would be subject to cancellation in the event of the money-lender failing to comply with the provisions of the Act.

I propose an addition to the existing Act to restrict advertising. This takes place chiefly through the medium of newspapers, but I think it would be well to prevent the possible use of other methods. I suggest that advertising by means of letters, or by circulars, or by wireless broadcasts be prohibited, and that newspaper advertisements be limited to particulars stating the name and address of the money-lender and the fact that he has moneys to lend.

There should, I think, be a prohibition against charges of preliminary expenses by money-lenders in every case where a loan transaction is entered into, and in cases where an application is made, but no contract completed, a provision that the money-lender should be entitled to a fee of ten shillings to compensate him for the time involved in making valuations, etc.

Section 10 of the Act makes provision that in certain cases a duplicate of the contract, or a memorandum of particulars, shall be supplied to the borrower.

I think the section should be amended to extend to all cases. In every transaction where a contract (other than on the security of a promissory note) is entered into, a copy of the document of security signed by the borrower should, at the time of signing, be delivered by the lender to the borrower and the lender be compelled to obtain from the borrower his written receipt for such copy (such receipt to be the subject of a separate document).

In the cases of promissory note transactions the lender should hand to the borrower a memorandum setting out the amount of the loan, the dates for payment of instalments, and the rate of interest charged, obtaining a similar receipt as in other cases.

In addition the money-lender should be under an obligation to supply to the borrower, on reasonable demand being made in writing, a full statement of account on payment of a nominal fee.

It has been suggested that in proceedings brought before a Court by a money-lender for recovery of money lent, the Court should have wider powers of re-opening the transaction and taking an account between the parties. At present the Court must be satisfied that the interest charged is excessive *and* the transaction is harsh and unconscionable. It is submitted that the terms of a contract may be harsh and unconscionable, even though the rate of interest is not excessive.

The section of the Act might, I think, be amended to provide for a re-opening of a transaction if it appears to the Court that the interest charged is excessive *or* that the transaction is harsh and unconscionable.

Such a distinction is drawn in the Hire Purchase Agreements Act* and the proposed amendment will bring the two Statutes more into line.

I think money-lenders should register all bills of sale taken by them from borrowers. A provision that non-registration shall have the effect of rendering the transaction absolutely void will, doubtless, meet the case.

Provision should also be made to check the practice of money-lenders taking a hire-purchase agreement over chattels as security for a loan—in effect the lender purports to purchase the goods or chattels from the borrower for the amount of the loan ad-

vanced and to resell them by instalments under the hire-purchase agreement. It is a security entirely inappropriate to the transaction, and such a contract should also be void.

I need not further elaborate the proposed restriction on borrowing by members of the Civil Service. I have already recommended a provision to this effect, and the matter is mentioned here merely because it concerns an amendment to existing laws.

Reference has earlier been made to the necessity, in all cases, of setting forth a rate per cent. per annum.

To overcome the difficulty of ascertaining that rate when a sum representing the total amount of interest is added to the principal, the whole being repayable by weekly or monthly instalments, the English legislation has provided a method of calculation which, I think, might well be adopted in this State.

Briefly, the system provides for the division of each instalment between principal and interest in the proportion which the principal bears to the total amount of interest. One is then in a position to ascertain the principal outstanding after each payment is made. The results so ascertained are added together and divided by fifty-two or twelve (according to whether the repayments are expressed to be weekly or monthly) for the purpose of ascertaining the average principal outstanding for one year.

The Act then sets out that the rate per cent. of interest per annum shall be the total interest multiplied by 100, divided by the average principal outstanding for one year. Thus the fraction would be:—

$$\frac{\text{Total Interest}}{\text{Average Principal outstanding}} \times \frac{100}{1} = \text{Rate \% per annum.}$$

While the English schedule would appear difficult of explanation it is an endeavour to express, in as simple a form as possible, the rate of interest really being paid by people who reduce their indebtedness by periodical payments.

It is significant that this method of calculation has been in use in England without alteration since 1927, and in 1933 New Zealand adopted the same standard.

My suggestion in Clause 1 relating to a standard rate of interest will require the insertion of a special section on the lines indicated by me.

While dealing with the question of interest, it is appropriate to suggest a provision which will render illegal any contract which provides directly or indirectly for the payment of compound interest, or for the rate or amount of interest being increased by reason of any default in the payment of loans due under the Contract, with a proviso that if default is made in payment on their due date, simple interest at a rate not exceeding the rate payable in respect of principal may be charged. Provision should also be made for a rebate of interest in cases where loans are repaid before the due date.

In order to prevent a transaction becoming unduly prolonged, a limitation of time should be imposed within which proceedings may be taken. It is proposed that a provision be inserted in the Act that no proceedings shall lie for the recovery by a money-lender of any money lent by him or of any

interest in respect thereof, or for the enforcement of any agreement made or security taken in respect of any loan made by him unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued.

Regarding transactions in which husbands and wives join as borrowers, and in respect of which legal proceedings are subsequently taken, the rules regarding service made under the Local Court Act require, I think, some amendment.

It is not at present clear that both husband and wife should be served personally with any process. This, I think, is necessary.

Although I have attempted to improve the measure of relief to borrowers and to make their remedies more apparent to them it remains a reasonable assumption that a natural aversion from publicity will discourage them from seeking the aid of the Court. I think they should be given a right to have their names withheld from publication—not perhaps an absolute right, but subject to the Court's power, in such circumstances as the Court shall think fit to authorise publication.

Dealing with hire-purchase transactions, I recommend that an amendment to the Hire Purchase Agreement Act, 1931, be made to provide that in cases of repossession of goods a notice shall be

served by the owner on the hirer setting out the provisions of the Act which enable the hirer to demand an account, and if necessary to have such account reviewed by a Magistrate.

In this connection it seems advisable that the Court should have power to extend the time within which such a demand should be made.

I also recommend, in order to provide for cases in which the same goods have been repossessed on more than one occasion for non-payment of instalments, that it be made clear in the Act that the hirer may apply to the Court for relief within twelve months from the date of the last act of repossession.

I desire, in conclusion, to acknowledge the very valuable help which I have received during the inquiry from the Secretary to the Royal Commission, Mr. R. J. Bond.

I have the honour to be,
Your Excellency,
Your obedient servant,

H. D. MOSELEY,
Royal Commissioner.

Perth, 26th August, 1936.