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1. PAWNBROKERS ACT — ARTICLES OFFERED TO LICENSED PAWNBROKER FOR PLEDGE BY SAME PERSON AT DIFFERENT TIMES — SEPARATE AND DISTINCT TRANSACTIONS — INTEREST CHARGED — STORAGE FEES — LOAN — ARTICLES PLEDGED COLLECTIVELY — NOT SEPARATE LOANS — SINGLE LOAN — SECTION 6339-3 G. C.

2. BOND — IN ABSENCE OF NEGLIGENCE, PAWNBROKER NOT LIABLE FOR LOSS OF PLEDGED ARTICLES — BURGLARY, THEFT OR OTHER CAUSE — PAWNBROKER NOT INSURER OF ARTICLES LEFT FOR PAWN — SECTION 6339 G. C.

SYLLABUS:

1. Articles offered to a licensed pawnbroker for pledge by the same person at different times constitute separate and distinct transactions. The provisions of Section 6339-3, General Code, permit a pawnbroker to so regard same for the purpose of determining the rate of interest that may be charged thereunder. A pawnbroker is also authorized by said section to charge separate storage fees for each loan. However, articles presented for pledge collectively may not legally be made the subject of separate loans for the purpose of securing a higher rate of interest and added storage fees than would be authorized for a single loan.

2. The fact that a pawnbroker is required to execute and file a bond pursuant to the provisions of Section 6339, General Code, does not, in the absence of negligence render him liable for the loss of a pledged article occasioned through burglary, theft, or other cause; nor is a pawnbroker an insurer of articles left for pawn.

Columbus, Ohio, February 14, 1944

Hon. Paul L. Selby, Chief of Division, Division of Securities
Columbus, Ohio

Dear Sir:

Your request for my opinion reads:

"The Division of Securities administers the Ohio Pawnbrokers Act, Sections 6337 to 6346, inclusive, of the Ohio General Code. Section 6339-3, General Code, limits the rates and charges which a licensed pawnbroker may charge with respect to loans and conditional purchases. The rate of interest is 5% per month on any loans up to and including the sum of $25, or 3% per month on amounts above $25. The licensee is permitted to charge, in addition to interest, a storage charge, for storage of pledged articles held as security for a loan, in the sum of 25 cents per month or 50 cents per month on cumbersome articles provided the borrower signs a written agreement to pay such storage charges.

The Division has interpreted this section as limiting the total interest charge per month to 5% on the first $25 of the total obligations of the borrower to the licensee and 3% per month on the balance thereof whether the obligation consists of one loan or two or more loans. Likewise we interpret the provision as to storage charges as limiting a licensee to one storage charge against a borrower regardless of the number of pledges held by the licensee for that borrower. We deem this interpretation necessary in order to prevent evasion of the intent and purpose of the Act on the part of some pawnbrokers who have made a practice of receiving in pawn a number of pledges at or near the same time but in order to obtain the 5% rate or interest and to receive multiple storage charges, divided the loan obligation into a number of pledge agreements or pawns none of which exceeded $25 even though the total obligation of the borrower might amount to several times $25. The purpose of the multiple loan arrangement was to obtain the benefit of a higher interest rate and multiple storage charges. 'In our opinion, this practice constitutes an evasion of the Act.

Our interpretation of this section has been challenged by the Pawnbrokers Association of Ohio. The pawnbrokers contend that the Act does not prohibit multiple loans to the same borrower and that in good faith in practice a licensed pawnbroker frequently has occasion to make two or more loans to the same borrower at or near the same time or at widely separated intervals of time and is entitled to charge 5% on each loan up to $25 plus a storage charge irrespective of the fact that the same borrower may have one or more other loans with the same pawnbroker which, in the aggregate, amount to much

more than $25.

For example, pawnbroker X claims that, in November of 1942 borrower A pledged a radio on a loan of $20 for which he agreed to pay 5% per month and a storage charge of 50 cents per month. On January 10th, borrower A pledged a watch with pawnbroker X to secure a loan of $12 for which he agreed to pay 5% per month and a storage charge of 25 cents per month. On March 5, Borrower A pledged a wardrobe trunk with contents for a loan of $25 for which he agreed to pay interest of 5% per month plus storage charge of 50 cents per month. The pawnbroker claims each loan was made in good faith as a separate transaction and further claims that the Division Rule deprives him of the interest and storage charges to which he is justly entitled under the Act.

We therefore respectfully request your official opinion interpreting the said Section 6339-3, General Code, and advising this Division whether or not such multiple loans or 'double-ups' are permissible under said statutes at the maximum charge of 5% plus storage charge for each loan or whether a proper interpretation of the statute limits the maximum charge of 5% per month plus storage charges on a basis of aggregate indebtedness of the borrower to the licensee irrespective of the number of loans or pledges by said borrower.

In the event your opinion should sustain the contention of the pawnbrokers as to loans made in good faith at intervals of a day or more, what is your official opinion as to the right of a pawnbroker operating under said statute to divide a loan of more than $25 into separate loans and separate pledges in order to charge the higher rate of interest and charges applicable to loans under $25?

We also desire your opinion interpreting the said Ohio Pawnbrokers Act with respect to the practice of some pawnbrokers attempting to limit their liability by a provision on the pawn ticket contract with pledgor as follows:

'Pledgee shall not be liable for loss by fire, tornado, explosion, water, theft, robbery, burglary, unforseen accident, or any contingency over which pledgee has no control.' (See specimen copy of pawn ticket attached.)

The pawnbroker is required to give bond. He is a 'bailee' under a pignus or pledge. Is he obligated to return the pledge or the value thereof in any event regardless of the hazard of fire or burglary, theft or other circumstance beyond his control? Does such a 'bailee' assume the responsibility of an insurer of the goods in which event he would be prohibited from so limiting his liability? If the licensee cannot so limit his liability, may the Division refuse to approve a form containing the above phrase? (See sec. 6340, G. C.)"

You mention at the outset of your request the responsibility of the Divison of Securities to administer the so-called Pawnbrokers Act

of this state which, as you have pointed out, is contained in Sections 6337 to 6346 of the General Code. The provision of law with reference to the enforcement of the Act is Section 6344-1, General Code, which it might be well to note. Said section reads as follows:

> "The commissioner of securities shall enforce the provisions of this act, make all reasonable effort to discover alleged violators, notify the proper prosecuting officer whenever he has reasonable grounds to believe that a violation has occurred, act as complainant in the prosecution thereof, aid such officers to the best of his ability in such prosecutions, and make a separate report to the governor at the end of each fiscal year. The commissioner of securities shall employ such deputies as may be necessary to make the investigations, inspections and otherwise perform the duties imposed by this act."

Your first question centers around the provisions of Section 6339-3, General Code, which I quote, to-wit:

> *"No licensee shall charge, receive or demand in excess of five per cent per month interest on any loans, or discount on any conditional purchase, up to and including the sum of* $25.00, *or in excess of three per cent per month on loans or discounts above the sum of* $25.00. In addition to the above rates of interest or discount, the licensee may make a total charge for the storage of pledged articles held as security for a *loan,* a sum not exceeding twenty-five cents per month, or fraction thereof and for the storage of cumbersome articles such as furs, clothing, trunks, motorcycles, etc., held as security for a *loan,* a sum not exceeding fifty cents per month, or fraction thereof, to be agreed upon in writing between the licensee and the pledgor at the time the *loan* is made; in instances where the licensee is to forward the pledged article by express or parcel post, he shall be allowed an additional charge of twenty-five cents to cover packing, etc. Said interest and charges shall not be deducted in advance and interest for actual number of days shall be computed on unpaid balances, and shall not be compounded, except that such licensee shall have the further right to charge and collect interest or discount at the specified rate for one full month on any *loan* which is made and repaid within thirty days. In addition to the interest, discount and charges herein provided, no further or other charge, or amount whatsoever for any examination, service, brokerage, commission or any other thing or otherwise, shall be procured, or indirectly charged, contracted for, or received by any licensee."
>
> (Emphasis added.)

If the interpretation which you have placed thereon can stand, then it would follow that multiple loans or "double-ups" are not permissible. Such a construction would raise certain problems relative to the invok-

ing of Section 6344-1, supra, which I need not consider for reasons that will be apparent hereinafter.

It will be noted that the word "licensee", is used in the last quoted section of the law. It has reference, of course, to a pawnbroker. And since our General Assembly has declared, by the enactment of Section 6338, General Code, supra, who is a pawnbroker within the meaning of the Act, I therefore quote the same.

> "That any person, firm, partnership, association or corporation now or hereafter engaged in the business of *lending money on deposit or pledges of personal property or other valuable thing,* other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, or choses in action, or other valuable thing, and selling or agreeing to sell the same back to the seller at a price other than the original price of purchase, or in the business of purchasing personal property such as articles made of or containing gold, silver, platinum or other precious metals or jewels of any description for the purpose of reducing or smelting them into any form different from their condition or construction when purchased and reselling or marketing the product, *is hereby declared and defined to be a pawnbroker within the meaning of this act."*
> (Emphasis added.)

It might be stated preliminarily that the business or occupation of pawnbroking is a privilege — and not a right — and he who avails himself of its benefits must bear its burdens and conform to the laws in force regulating the occupation. While a pawnbroker is to be distinguished from one engaged in the business of making small loans on the security of chattel mortgages, both occupations have long been subject to the police power of the state. In this connection it is stated in 40 Am. Jur., at page 691, that:

> "The business of pawnbroking in particular is deemed subject to police regulations because of the opportunities which such business offers in aid of criminals in the disposition of stolen goods. It is equally well settled that the evils attendant upon the business of making small loans to wage earners, housewives, and others who generally must seek necessary loans from those engaged in that business, and are compelled to pay oppressive and exorbitant rates of interest, bring that business within the scope of regulatory police power. The purpose of stamping out the evils that have grown up in connection with such types of business, by limiting business and other finance charges, preventing unnecessarily quick sales of articles which constitute, in actual personal use of those securing the

> loan, the necessities of decent existence, is a justly righteous purpose, and generally it may be said that the legislature is the judge of the wisdom and expediency of such regulatory legislation and the necessity for its passage. At the same time it is recognized that those who make a business of loaning money on salaries or chattels serve a useful and oftentimes a most beneficent purpose, for there are in every community many persons who have little or no personal credit, and in case of an emergency, no means of raising money except through loans made upon the security of a pledge of their salaries or chattels by persons engaged in the particular business of making loans. * * * ".

In so far as pawnbrokers are concerned, the question presented by your first inquiry seems not to have been passed upon by the courts of this state. However, the matter of multiple loans by persons engaged in the small loan business has been the subject of consideration. But in such instances it has been in connection with the construction of a statutory enactment peculiar to that business. The most recent case in point is McFadden v. Public Loan Corp., 71 Ohio App. 407, wherein the court had under review the provisions of Section 6346-5a, General Code, as then in effect, the same having since been repealed. Said section stated:

> "Provided, however, that upon the amount in excess of three hundred dollars for principal owing to the licensee for any such loan, purchases or furnishing guaranty or security, no licensee shall directly or indirectly charge, contract for or receive any interest or consideration greater than at the rate of eight per cent per annum, which shall include all charges, shall not be paid in advance and shall be computed on unpaid monthly balances, without compounding interest or charges. *The foregoing eight per cent per annum limitation of rate herein made shall also apply to any licensee who permits any person, as borrower, or as indorser, guarantor, surety for, or as spouse of any borrower, to owe directly or contingently, or both, to the licensee at any time the sum of more than three hundred dollars for principal.*
>
> If interest, consideration or charges in excess of those permitted by this act shall be charged, contracted for or received, the contract and all the papers in connection therewith shall be void and the licensee shall have no right to collect or receive any principal, interest or charges whatsoever."
>
> (Emphasis added.)

It is stated in the opinion of the court that:

> "From an examination of the last paragraph of the above

section, it is apparent that the Legislature intended to prohibit the licensee from directly or indirectly charging, contracting for or receiving interest or consideration greater than permitted by the statute, under penalty of having the contract voided, and the right to collect principal, interest or charges forfeited."

Without setting forth the facts in further detail, as quoted in the first branch of the syllabus of the case, I call attention to the holding of the court, to-wit:

"The first note, not exacting interest greater than that prescribed by statute, is valid and enforceable; the second note, raising the total indebtedness, upon which 2½% per month is being charged, to an amount over $300, is, with all papers connected with it, void and unenforceable."

In the case of Capital Loan and Savings v. Biery, et al., 134 O. S. 333, wherein the same section was construed, it was said at page 337 of the opinion that:

"A statute like the one here involved should receive such interpretation as will accomplish the purpose intended."

However, if it can be urged that there was ever any doubt as to the meaning of Section 6346-5a, supra, the question is no longer of consequence. The last General Assembly repealed it and cognate sections and there is now in effect in this state a new Small Loan Act. Section 8624-62 thereof reads in part as follows:

"(a) Every licensee hereunder may make loans, as such licensee, at a total charge of not more than three per cent per month on that part of the unpaid principal balance of any loan not in excess of one hundred and fifty dollars, two per cent per month on that part of the unpaid principal balance of the loan exceeding one hundred and fifty dollars, but not exceeding three hundred dollars, and eight per cent per annum payable monthly, on any remainder of the unpaid principal balance on such loan; provided, however, that no licensee, as such licensee, shall make any loan of more than one thousand dollars.

No licensee *shall induce or permit any person* or any husband and wife, jointly or severally, to be obligated, directly or contingently or both, under more than one contract or transaction at the same time for the purpose *or with the result of obtaining a higher charge* than would otherwise be permitted upon a single loan under this act."

(Emphasis added.)

While I do not here specifically decide the question, I am of the view that this above quoted language would prohibit multiple loans or "double-ups".

Can it be urged that because the General Assembly has dealt with the question of multiple loans in the Small Loan Act we are to draw any particular inference from that fact when considering the provisions of Section 6339-3, supra? I feel the force of any such argument is materially weakened when we take note of the fact that the Pawnbrokers Act has been in force and effect in this state in its present form since September 7, 1921, and that Section 6346-5a, above quoted did not come into existence until 1929. See 113 O. L. 44. Furthermore, it was a supplemental section — no statute of similar purport having theretofore existed. I think, therefore, it might be urged that if it required the enactment of a statute in order to prevent possible evasion of the Small Loan Act, then a statute of like purport might be necessary to accomplish the same result with respect to pawnbrokers.

It is a well established principle that an act such as the one we are here dealing with should be given a construction broad enough to prevent any possible evasion of the requirements of the law. Moreover, it would appear that it should be liberally construed in favor of the borrower and strictly as to the interest of the lender. Even though such liberal construction is given the statute here under consideration, it could scarcely be argued that a pawnbroker who makes one loan of $25.00 and then at some later time makes another loan to the same person when the first loan is unpaid, may not treat the second loan as a separate and distinct transaction and charge the rate of interest that the statute permits for separate loans to different parties.

Let us consider for a moment the legal relationship that exists between the pawnbroker and the pledgor. And in this connection I refer to loans that are made when personal property is pledged. Although deprived of possession, the pledgor is still the legal owner of the property. He has the right at any time to obtain possession thereof by paying the principal due on the loan together with interest and such storage charges as have accrued. That such a transaction is clearly a bailment for mutual benefit was decided in Savin v. Bulter, 19 O. App. 68. A person may make as many loans as he wishes with a pawnbroker. In each instance he pledges an article or articles and the pawnbroker retains the same until redeemed. And if he so chooses, the pledgor may

exercise his right to recover possession of all his property by paying off the loans or such of the loans as he may decide to discharge. As to those loans that are not paid the pawnbroker is authorized to sell the pledged article provided he conforms to the procedure outline in Section 6341-1, General Code.

I might also suggest that I know of no reason why the pledgor may not sell or transfer his interest in the pawned article subject to the rights of the pawnbroker. While it may be true that Section 6339-4, General Code, requires that the pledgor shall be given a statement — a pawn ticket — which must contain certain information relative to the article pledged, the presentation of the ticket by one who is the lawful holder thereof would entitle him to possession of the pledged property. We might therefore have this situation. A pawnbroker makes a loan to a party and advances him the sum of $25.00. The next day, or at some later time, the same pledgor might present another article for pawn and secure a loan of $25.00. If such loans are not to be considered as separate transactions and the entire principal is still owing on the first loan, the pawnbroker would be required to charge a lesser rate of interest on the second loan. This same pledgor may immediately transfer his interest in the pleged article to a third party. His assignee, therefore, when he redeems the pledged article, would not be required to pay the same rate of interest per month as he would have been obligated to pay had he pledged the article in the first instance. It would be possible under such circumstances for the law to be used as a means of preventing the pawnbroker from charging to two different pledgors the rate of interest he would be entitled to from each under the law. I do not believe it was the legislative intent to permit such a situation to come about.

As I have noted earlier in this opinion, the business of a pawnbroker is to be distinguished from that of one engaged in making small loans. In the latter instance the borrower usually obtains a loan on security of chattel mortgage — frequently on household furniture and equipment. However, the borrower remains in possession of the mortgaged articles and this is one of the distinguishing features between the two types of business. Nor is it unusual for a loan in a small amount to be increased to a larger sum on the same security by the execution of a new chattel mortgage. Although the first mortgage may be cancelled and the debt extinguished by payment thereof with the proceeds

of the second loan, for all practical purposes the transaction is merely a supplemental loan. In view of the nature of the security offered, and considering the fact that possession is not parted with and the other distinguishing characteristics between the two types of transactions, I do not believe that in the absence of an express statute so providing the Pawnbrokers Act should be construed as prohibiting multiple loans.

It should be borne in mind that thus far I have dealt with the matter on the theory that the loans are made in good faith at different periods of time and with no intent on the part of the pawnbroker to split a loan so as to make two or more advances for the purpose of obtaining a higher rate of interest than would otherwise be permissible. I shall discuss later this question of intent.

It is a well established rule that the practical interpretation of an ambiguous or uncertain statute by the executive department charged with its administration or enforcement is entitled to the highest respect and although not controlling, if acted upon for a number of years, will not be disturbed except for very cogent and persuasive reasons. But, of course, the rule that a definitely settled administrative construction of a statute is entitled to the highest respect does not apply where the wording of the statute is not doubtful. While it may well be that the construction suggested in your letter would have the effect of preventing *any* evasion of the act, nevertheless such a view would likewise apply to those instances wherein separate loans — whether made on successive days or at varying intervals of time — were in complete good faith. I think it is manifest, however, that if the pawnbroker deliberately splits up the loan, when articles are offered collectively, in such manner that he receives a higher rate of interest than would otherwise be allowed, this would constitute an evasion of the act. The facts in each particular case are therefore necessarily controlling as to whether or not there is good faith on the part of the pawnbroker.

Your first inquiry also concerns the right of the pawnbroker to charge for storage. I think it must be apparent that, in the light of what has hereinbefore been said, the same reasoning which I have adopted with reference to the matter of interest must necessarily apply to the right to make separate storage charges.

Therefore, in specific answer to your first question, it is my opinion that: Articles offered to a licensed pawnbroker for pledge by

the same person at different times constitute separate and distinct transactions. The provisions of Section 6339-3, General Code, permit a pawnbroker to so regard same for the purpose of determining the rate of interest that may be charged thereunder. A pawnbroker is also authorized by said section to charge separate storage fees for each loan. However, articles presented for pledge collectively may not legally be made the subject of separate loans for the purpose of securing a higher rate of interest and added storage fees than would be authorized for a single loan.

You have further requested my advice relative to the right of a pawnbroker to place certain wording on a pawn ticket designed to limit financial responsibility in the event the pawned article is not on hand for delivery to the pawnor when he exercises his right of redemption. You have set forth in your letter the specific language which has been used in one instance. You ask that I interpret the Pawnbrokers Act particularly with regard to the liability of the pawnbroker in view of the fact that he is required to give bond. Of course, if the fundamental reason for the furnishing of bond can be held to be for the purpose of making the pawnbroker an insurer, then it is immaterial whether or not the pawnbroker attempts to limit his financial responsibility. In other words, whatever he may place on the pawn ticket could be of no legal significance. And, under such circumstances, it is possible that he could be required to eliminate any such wording on the pawn ticket. However, I do not need to pass on that question.

Section 6339, General Code, which provides for the giving of a bond deals in the main with the question of who may obtain a license, the fees to be paid therefor, the distribution of such fees, the establishment of the place of business and the service of process and the right of the Commissioner of Securities to revoke a license. The section then concludes with this language:

> " * * * Every such applicant shall execute and file bond to the State of Ohio, in the penal sum of $2000.00 with commissioner of securities, to be approved by him for the faithful observance of all provisions of this act. Any person claiming to be injured by violation of this act by a licensee may maintain an action on said bond."

As the section is lengthy I have not deemed it necessary to set forth the same in full. However, I am convinced from a reading thereof that it

was not the legislative intent to require the furnishing of a bond in order to make the pawnbroker an insurer. Statutes requiring a licensee to furnish a bond are intended to serve in part the worthy purpose of affording the person who has a valid legal claim the means of collecting from the defendant who, in the absence of a bond, might be financially irresponsible. But I cannot read into the aforementioned section any language which is designed to increase the pawnbroker's liability or to make him an insurer.

There is nothing in the law which would prevent a pawnbroker from becoming an insurer as he may enlarge his liability in that respect by contract. And this seems to have been somewhat the situation in the case of Savin v. Butler, 111 O. S. 695 (affirming the decision of the Court of Appeals which was heretofore referred to). It is disclosed that in that case the following language appeared on the pawn ticket, "Sam Savin not to be held accountable in case of fire or burglary" and it was said, "Thus pro tanto he became an insurer". However, I think we must first consider the question as though there were no contract to determine the rights of the parties. In the absence of such an agreement the transaction between a person who pledges an article and the pawnbroker must be regarded as a bailment for mutual benefit. In the case of Hotel Statler Co., v. Safier, 103 O. S. 638, it was held that as to bailments for mutual benefit the bailee is required to use ordinary care for the safekeeping of goods and it would therefore follow that the same conclusion should be reached with respect to a pawnbroker.

Coming now to the question of the specific wording which appears on the pawn ticket referred to in your inquiry. Although the same is set forth in your request I see no harm in again quoting the same, to-wit:

> "Pledgee shall not be liable for loss by fire, tornado, explosion, water, theft, robbery, burglary, unforseen accident, or any contingency over which pledgee has no control."

I construe this language to mean that the pawnbroker shall not be liable for happenings over which he has no control. In other words he is endeavoring to say that if burglary or robbery occurs and he is without fault, then he is not liable. The pawnbroker is not attempting to exempt himself from liability due to his own negligence. The weight of modern authority is to the effect that he may not legally do so. See 6 Am. Jur. 270.

I have not lost sight of the provisions of Section 6340, General Code, which you mention. This section reads as follows:

> "Every pawnbroker shall keep and use such books and forms as shall be approved by the commissioner of securities, in which shall be legibly written in the English language, at the time each purchase or loan is made, an accurate description of the goods, articles, or things deposited, the time of pledging or selling the same, the amount of money loaned thereon or paid therefor, the rate of interest and charges to be paid on such loan, the time within which such pawn is to be redeemed, the amount of any repurchase price, with the name, age, place of residence, and a short description of the person of the pledgor or seller. When any watch is pledged or sold, he shall also write in such book the number of the movement, the number of the case, and the name of the maker thereof; and where jewelry or gold or silver articles of any kind are pledged or sold, the licensee shall write in said book all identifying letters or marks inscribed thereon. Such book, at all times, shall be open to the inspection of the chief or superintendent of police of the corporation, a police officer deputed by him, or the mayor thereof. Upon demand of any of them, such person so licensed shall produce and show an article thus listed and described which is in his possession."

It seems to me that it deals in the main with the right of the Commissioner of Securities to exercise supervision and control over the operations of pawnbrokers in so far as the keeping of certain records is concerned. It is my view, however, that Section 6339-4, General Code, is controlling as to what shall appear on the pawn ticket. This section reads:

> "Every person so licensed shall give to the pledgor or seller, a statement upon which shall be legibly written in ink, typewritten or printed, the name of the licensee, making such loan or purchase, the amount of the loan or purchase price, the rate or amount of interest, discount charged, or the repurchase price, the date when the loan is made, or goods sold, and the date when payable; and shall also give the pledgor a receipt for each payment of principal or interest. Said statement shall also contain a full and accurate description of the articles pledged or sold, including any identifying marks thereon, and when any watch is pledged, he shall also write in such statement, the number of movement, the number of the case and the name of the maker thereof. The statement shall further contain a full statement of all charges for storage, if any, and on the back of said receipt shall be printed in type a copy of section 6339-3 of the General Code."

Obviously, the pawnbroker is required to place on the pawn ticket the data required by this section. I find nothing therein, however, that

precludes him from printing any other matter on the ticket which he may desire. Certainly he could provide thereon that he was an insurer and thus enlarge his liability and there would be no objection thereto. I am not here confronted with a factual situation wherein there is attempted by contract to limit liability to an extent less than that imposed by law and I therefore consider it unnecessary to pass on that question.

In the concluding paragraph of your letter you have asked three questions. One and two relate to the liability of a pawnbroker and the third question deals with certain language appearing on the pawn ticket, the legal effect of which I have discussed hereinbefore. I feel, therefore, that no further comment is necessary with respect to this last question. Therefore, in specific answer to your inquiries, it is my opinion that:

1. Articles offered to a licensed pawnbroker for pledge by the same person at different times constitute separate and distinct transactions. The provisions of Section 6339-3, General Code, permit a pawnbroker to so regard same for the purpose of determining the rate of interest that may be charged thereunder. A pawnbroker is also authorized by said section to charge separate storage fees for each loan. However, articles presented for pledge collectively may not legally be made the subject of separate loans for the purpose of securing a higher rate of interest and added storage fees than would be authorized for a single loan.

2. The fact that a pawnbroker is required to execute and file a bond pursuant to the provisions of Section 6339, General Code, does not, in the absence of negligence render him liable for the loss of a pledged article, occasioned through burglary, theft, or other cause; nor is a pawnbroker an insurer of articles left for pawn.

Respectfully,

THOMAS J. HERBERT
Attorney General