

# THE USURY LAWS

AND THE

## TRADE OF LENDING MONEY

TO THE

### POOR IN IRELAND.

A PAPER READ BEFORE

THE DUBLIN STATISTICAL SOCIETY

ON THE 18<sup>TH</sup> FEBRUARY, 1850,

BY

W. NEILSON HANCOCK, LL. D.

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# DUBLIN STATISTICAL SOCIETY.

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*On the effect of the Usury Laws on the Trade of Lending Money to the Poor in Ireland.* By W. Neilson Hancock, LL. D. Archbishop Whately's Professor of Political Economy in the University of Dublin; and Professor of Jurisprudence and Political Economy in Queen's College, Belfast.

GENTLEMEN,

In the course of some investigations into the condition of the poorer classes in Ireland, my attention has been directed to the state of the trade of lending money amongst them. I find that whilst the large farmers resort to regular banks to make deposits and obtain loans, there are no banks established by private enterprise for the smaller farmers and the labourers. They are forced to carry their deposits to charitable savings banks, and obtain their loans from charitable loan funds at  $9\frac{1}{2}$  per cent. or else resort to local usurers at from 25 to 100 per cent. An inquiry then naturally suggests itself as to the cause of this difference. Why has private enterprise not done for the poor what it has done for the rich? The common theory which ascribes the rate of interest charged to the poor to a want of capital is manifestly fallacious, for such a cause would raise the rate of interest to the rich as well as to the poor. The cause of the phenomena to be explained must be something peculiar to loans of small sums, and especially to loans to small farmers. Such a cause is discovered by an examination of the state of the usury laws.

For in all the recent suspensions of the usury laws, contracts for loans under £10, or on the security of land, were left under their operation, so that it is illegal to charge more than 6 per cent. on such loans. The remnant of the usury laws, by making the trade of lending money to the poor illegal made it disgraceful, and by preventing the foundation of banks of discount for the poor, prevented by the same means the establishment of banks of deposit for them, since the rich have banks of deposit because they have banks of discount.

From this line of investigation I have been led to consider the state of the law respecting pawnbroking, and the results of the attempt to interfere with that trade by the system of *Monts de Piete*, or charitable pawnbroking. The restriction of the usury law which prohibits money lenders from charging more than 6 per cent. on

\* This paper was also read at the Statistical Section of the British Association, Birmingham, September, 1849.

loans of sums under £10, is placed in a very absurd point of view when we contrast it with the legislation respecting pawnbroking. It is a well-known principle that the rate of interest depends to a considerable extent on the risk run by the lender. The greater the risk, the higher the rate of interest. Now, it is manifest that a man who lends on the mere credit of the borrower runs a greater risk than he who lends on the deposit of an article of the full value of the loan and interest. Yet, according to law, the rate of interest allowed to pawnbrokers, in the latter case, is always more than four times, and for some sums more than ten times, the rate allowed in the former case. Thus, the rate of interest fixed by statute for pawnbrokers in Ireland is  $\frac{1}{2}$ d. per calendar month for every 2s., in lieu of all interest, warehouse-room, and expense of safe-keeping. But  $\frac{1}{2}$ d. a-month is 6d. a-year, and 6d. a-year on 2s. is 25 per cent. Thus, pawnbrokers' interest is allowed to be above 25 per cent. per annum for all sums under £10.

But the month in which the loan is redeemed is to be added, if more than three days have elapsed. Again, any money above 1s. bears the interest of 2s., and above 2s., the interest of 4s., and so on. Besides this, there is a charge allowed for duplicates, of 1d. if the loan be not above 10s.; 2d. if above 10s. and not above 40s.; and 4d. if above 40s. The period for which goods are usually pawned may be estimated from the time when the pawnbroker is allowed to sell the pledges, viz., not above 20s. six months; above 20s. and not above 40s. nine months; above 40s. a year. Taking the halves of these respective periods, I have calculated the rate of interest which pawnbrokers are allowed by law to charge for the following sums:—

Ireland.		England and Scotland.	
£ 0	1 1	85 per cent.	46
0	1 2	71	43
0	1 3	66	40
0	1 4	62	37 $\frac{1}{2}$
0	1 8	50	30
0	2 0	41	25
0	2 1	64	24
0	2 8	50	
0	4 0	33 $\frac{1}{2}$	
0	4 2	44	
0	6 0	30	
0	10 0	28	
0	15 0	31	
1	2 0	28	
1	10 0	26 $\frac{2}{3}$	
2	0 0	26	
5	0 0	25 $\frac{2}{3}$	
10	0 0	25 $\frac{2}{3}$	

Now, when there are 447 pawnbrokers in Ireland, lending above £2,000,000 on 14,000,000 tickets; in other words, on loans on an average less than 3s., at a rate of interest, consequently, on an

average exceeding 41 per cent. can there be anything more absurd than to enact that it shall be illegal to charge more than six per cent. on loans under £10 without pawns, and to call any person who charges above that rate an extortioner, and cruel, and hardhearted?

Some persons have alleged that the rates of interest which pawnbrokers are allowed to charge are exorbitant. If this statement be true, the best remedy would be to leave the trade in money perfectly free, and then the competition of money-lenders would reduce the rate of discount, whether on deposits or on personal security, to the lowest possible amount. But there are two circumstances which indicate that this rate is not so excessive as it seems to be. First, the effects produced by the lower scale allowed to be charged in England and Scotland; secondly, the failure of the Monts de Pieté established in Ireland, for the purpose of lending on more favourable terms than pawnbrokers.

In England and Scotland the pawnbrokers are not allowed to charge more than  $\frac{1}{2}$ d. per calendar month for any sum under 2s. 6d. without any charge for the ticket. This makes the rate per cent. for the sums under 2s. 6d. from 20 to 40 per cent. lower than the rate allowed to be charged in Ireland.

		Ireland.	England and Scotland.		
Thus for	1s. 1d.	85	46	39	difference.
„	1s. 2d.	71	43	28	„
„	1s. 3d.	66	40	26	„
„	1s. 4d.	62	37 $\frac{1}{2}$	24 $\frac{1}{2}$	„
„	1s. 8d.	50	30	20	„
„	2s. 0d.	41	25	16	„
„	2s. 1d.	64	24	40	„
„	2s. 6d.	53	20	33	„

The consequence of the restrictions in England and Scotland is that the regular pawnbrokers refuse the great majority of pawns under 2s. 6d., comprising, we have seen, the largest class of Irish pawns. The demand for such loans, however, has created a set of unlicensed pawnbrokers, who systematically violate the law, and who are called in London “dollyshop-keepers,” and in Glasgow “wee pawns.” The trade carried on by these parties is limited by the odium attending their operations; the poor are consequently charged much higher sums than they would be if there was free competition.

It may be interesting to notice the manner in which these parties evade the law. The dollyshop-keepers nominally purchase the article from the borrower, with a tacit agreement that if the latter come back in a month or six weeks at farthest, he will get back his goods on paying the sum lent and a bonus. I have been informed by an intelligent gentleman, who had inquired into the matter, that there are in London more dollyshop-keepers than regular pawnbrokers. He estimated the former at 500, and the latter at 400. I am informed by the same authority that in Glas-

gow the trade carried on by the "wee pawns" exceeds by one-half the entire trade transacted by all the licensed pawnbrokers, their number being 1,500. Some further information on this subject is contained in a paper\* read before the Statistical Section of the British Association, at the meeting at Glasgow, by ~~Mr. Henry John Porter~~ *Mr. Porter*:—"There exists in Glasgow," he says, "a system of pawning quite new to me, and I believe wholly unknown in Ireland. These are called wee or little pawns. I regret to say that the evils of the system are neither wee nor little. The supposed advantages or inducements to pawn at these dealers are as follow:—1. They give money on articles of less value than the licensed pawnbrokers will receive. 2. They give about 2s. 6d. on articles which at licensed pawnbrokers will produce but 2s.; this is 25 per cent more on the deposits. 3. They are open earlier and later than the usual pawnbrokers. 4. There is one of these houses opened on the Sabbath, both for pawning and releasing, which is kept by a Jew in Gibson's Wynd, or Princes-street. The manifest disadvantages are:—1. That they give no tickets, and consequently there is no security. They pretend to effect a purchase of the article, and although the poor persons are under the impression that the article is still their own, yet in cases of dispute which come before the police authorities, these illegal pawnbrokers almost invariably contrive to prove that there have been *bona fide* purchase and sale of the article. 2. The time for redeeming these pawns is one month, instead of one year. 3. The interest charged is 1d. per week for 1s., or at the rate of 433 and one-third per cent. per annum!"

Now it is very remarkable that it never occurred to ~~Mr. Porter~~ *Mr. Porter* to inquire why the "wee pawns" existed in Scotland and not in Ireland. Had he done so, he would have readily discovered that their existence in Scotland arose entirely from the state of the law there. This discovery would have shown him that both the advantages and disadvantages of wee pawns are the offspring of restrictive legislation. As to the alleged advantages:—1st. They give money on articles of less value than the licensed pawnbrokers will receive; because the law does not allow the licensed pawnbroker in Scotland to charge on very small sums a rate of interest that will remunerate him, the rate being from twenty to forty per cent. lower than what is allowed to be charged in Ireland. 2nd. They give about 2s. 6d. on articles which at licensed pawnbrokers will produce but 2s. This arises from the act of parliament providing a scale of remuneration for pawnbrokers, which increases as the sum lent diminishes; thus, if a pawnbroker in Scotland lends on an article 2s. 6d., he makes only twenty per cent.; 2s. 1d., 24 per cent.; 2s., 25 per cent.; 1s. 8d., 30 per cent.; 1s. 4d., 37½ per cent.; 1s. 3d., 40 per cent.; 1s. 2d., 43 per cent.; 1s. 1d., 46 per

\* Published in the Journal of the Statistical Society of London, vol. iii., p. 302.

cent. It is his interest, therefore, to lend as small a sum as possible on each article. He would lose 5 per cent. if he advanced 2s. 6d. instead of 2s. on an article. As to the third alleged advantage, that the wee pawns are open earlier and later than the usual pawn-brokers, this arises entirely from the act of parliament which limits the hours of opening and closing pawn-offices. I have not looked what these limits are in England and Scotland; but in Ireland the taking of a pawn before ten and after seven o'clock from March to September, and before ten or after four o'clock from September till March, renders the pawnbroker liable to a penalty of 40s. In the same way, if a Jew opened a licensed pawn-office on Sunday, he would be liable to a penalty. It is not easy to perceive the policy of limiting the hours of pawnbrokers carrying on their business: the effect in Scotland is, as we see, to throw the business into the hands of irregular traders.

Again, as to the alleged disadvantages. The wee pawns give no tickets, because the law inflicts a penalty on parties giving tickets who charge the rate of interest they charge. They are forced in like manner to pretend a sale, because if they received on pawn they would be liable to a penalty for charging the rate of interest they do charge. 2nd. The time for redeeming in the wee pawns is a month and not a year, because the loans being in very small sums, at a very high rate of interest, on articles taken very near their full value, the pawnbroker would lose if he held them for any time. The third disadvantage, that the wee pawns charge 433 $\frac{1}{2}$  per cent. per annum, affords one of the strongest arguments against the restriction which causes their existence, and, indeed, against usury laws in general. Thus, the legislative attempt to prevent the poor being charged more than from 20 to 40 per cent. produces, as a result, that the regular pawnbrokers do not lend small sums to them at all, and they have to borrow from wee pawns at 433 per cent., whilst in Ireland, where pawnbrokers are allowed to charge from 40 to 80 per cent. on similar sums, *wee pawns* have no existence. There is another restriction on the trade of pawnbroking, namely, the sum of £10 to which the loans are limited. This forces the pawnbroker to adopt different methods of lending sums above that amount. These methods are attended with inconvenience and risk, which impose a proportionate burden on the borrower. The obvious remedy for the evils of *wee pawns*, dollyshops, and the other evils connected with the trade of pawnbroking, is to leave that trade perfectly free. Let borrower and lender make their own bargains. Let the law not interfere, except to enforce *bona fide* contracts, and to protect against fraud.

As to Monts de Piete, the first was established at Rome by Padre Giovanni Calvo, a Franciscan of the Order of Minorites, about 1541, for lending money not above thirty crowns, or about £6 British. The rate of interest charged was only £2 per cent.; the capital arising from charitable contributions or deposits for safety without interest. That an institution started on such a basis could

not support itself, if exposed to free competition, is sufficiently manifest. But the undertaking, besides large donations, was enriched with indulgences and privileges, and had favours and endowments of a religious character conferred upon it, such as the privilege of appointing to certain benefices, or of enjoying them in a mode different from the customary tenure. These presented inducements sufficient to lead a religious order to undertake a work which other parties could not carry on as an ordinary business, and which would never defray its expenses. But the prejudice against usury, and the canon and temporal laws against it at Rome, not noticed by Mr. Porter, exempted this institution from competition as a place of deposit or of discount. The extent to which these prevailed is indicated by the long and warm contest between the Franciscans and Dominicans as to the merits of Monti di Pieta; the latter opposing them as illegal and usurious. At Leghorn the Monte di Pieta is supported by a tax from every Tuscan vessel, and also from the deposits free of interest which all persons acting as sureties for public officers are obliged to lodge. At Paris the Monts de Pieta, like many other institutions in France, are under government control—the rate of interest charged is  $9\frac{1}{2}$  per cent. But it does not appear what the law is respecting other parties entering into the trade.

Such being a sketch of the history of Monts de Pieta in foreign countries, we come to their introduction into Ireland. The first of them in Ireland was established at Limerick, by Mr. Barrington. The success of that institution was relied on by Mr. Porter, in 1840, as the strongest argument in favour of their general adoption. Thus he says, I can state with confidence that “that institution is succeeding beyond the most sanguine expectations of its benevolent founder.” The principle on which the Limerick Mont de Pieta was conducted was to lend on much lower terms than the ordinary pawnbrokers. Thus the manager says:—“I have taken six weeks of the business of our establishment, and there were released a total of 1095, giving an average of 182 pawns released each week. If they were released in any other office, the annual interest on them would be £59 3s.; in our office it is only £19 17s. 2d; therefore we save that description of borrower £49 5s. 10d. a year upon 3s. loans only. On the 12th of May, 1838, we released £174 19s. 7d. money lent, and our interest was £7 15s. 2d. The pawnbroker’s interest on that sum (including penny tickets) would have been £17 1s. 11d., so that the saving effected in one day to the poor was £9 6s. 9d.” Such was the very promising outset of the Limerick Mont de Pieta. But what was the result? The losses of the institution became so great, that it was abandoned in a few years.

In 1841, the first year when the accounts were kept separate from the loan funds, there were eight Monts de Pieta in Ireland. In seven of these institutions the operations led to a loss, and in only one was there a nett profit; but this would convey a very in-

*book in London read out*



adequate idea of the proportion of profit and loss, for the loss on the seven institutions amounted to £5,348 3s. 4d.; whilst the profit on the one was only £8 8s. 5d. An explanation of this loss is attempted by showing that in one case there was an outlay £110 9s. 8d. in law costs; in another £1,243 17s. for outfit and lease of premises; and in another £2,534 15s. 1d. for outlay on buildings, but even deducting these sums, the loss will be upwards of £1,500 against a gain of £8. The losses of these institutions produced the very natural result, that some of them were discontinued. Thus we find that before 1844, Limerick, Cork, and Dungannon Monts de Piete, those in which the loss had been greatest in 1841, had ceased their operations. I may observe that the annual return shows no profit from the Monts de Piete applicable to charity either in 1842 or 1843. In 1844, of the remaining five Monts de Piete we find no account from one; three are returned as having been profitable, viz.: Tandragee, Portadown, and Lismore; whilst Newcastle sustained a loss of £6. But in 1846 three out of the five Monts de Piete sustained a loss, so that two more gave up business, and the only institutions carried on in 1847 were those of Newcastle, Portadown, and Tandragee. Let us examine the profit and loss of these institutions for seven years. In Newcastle, the losses in four years were £91, £5, £6, and £70; and the gains in three years £8, £5, and £2; leaving £180 loss against £15 gain. Such was the result of lending £2,000. In Portadown one of Mr. Porter's institutions lost in three years £45, £8, and 5s. 11d.; and gained in two years £24 and £6; giving a loss of £53 3s. 11d. against £30 gain. The only Mont de Piete which appears on the returns to have gained more than it lost is the institution at Tandragee. But a note of the Commissioners to one of the returns shows that no confidence can be placed in the alleged profit of that institution. "The managers of the Tandragee Mont de Piete profess their inability to furnish any separate accounts of its transactions, so that the table is necessarily incomplete. The items furnished are extracted from the account of the Tandragee Loan Fund." And the most conclusive proof that the institution must really have sustained heavy losses like the rest, is the fact that it began to wind up its affairs in 1847; for it lent only £64 in that year, whilst it had lent £3,882 in the previous year.

By the returns in 1848 it appears that both the Tandragee and Newcastle Monts de Piete have ceased to exist, and the only institution left in Ireland was that of Portadown.

These results afford the most conclusive condemnation of the system. For the trials were made under the most favourable circumstances by persons, ~~as in Mr. Porter's case~~, whose scientific character depended on the result, and it has been a complete failure. It is, however, extremely profitable to inquire into the arguments by which many persons were induced to lend their support to these undertakings, because the same fallacies may produce injurious consequences in the case of other proposals to

remove evils arising from mistaken legislative restrictions, by the efforts of some charitable trading society.

The great argument of Mr. Henry John Porter <sup>has?</sup> consisted in a calculation of the probable gain of pawnbrokers. This he estimates as arising from two sources—the penny charge for duplicates, and the profit after printing duplicates, and deducting £6 per cent, for capital and £6 per cent. for stock. Thus for the county of Armagh he estimates the first of these at £926; the second at £2,646. The Mont de Piete, he argued, can gain both these sums. It can make the first a present to the borrowers, and out of the second it can support all the local charities. Thus he shows that the whole Grand Jury presentments for charitable purposes were only £2,600, whilst the profits from the pawnbroking was £2,300. But in this calculation he entirely overlooked the expense of management. Thus I have been informed by an intelligent pawnbroker that the lowest possible cost of taking in a pawn and recording it is one penny, quite independent of the remuneration of the proprietor, the rent of the extensive premises necessary for stowage, &c.

But the statistics of Monts de Piete demonstrate that these institutions were unable either to benefit the borrowers or to support local charities, or even keep the trade from pawnbrokers. The only effect they did produce, was one the direct opposite of what their promoters intended. These institutions, by creating an unfounded and unjust prejudice against pawnbrokers, and so by diminishing the competition in that trade, forced the borrowers from pawnbrokers to accept of less favourable terms than they would otherwise have obtained.

There are some other arguments of Mr. Porter, which I shall notice. His next argument is founded on a grave economic error. He proposes to lower the price of pawning, and at the same time to diminish the amount of the business. But it is one of the best ascertained laws in economic science, that every fall in price increases instead of decreasing the demand for a commodity. Another of Mr. Porter's arguments contradicts himself, and proves a proposition that he never perceived. Thus, he gives elaborate calculations to show the advantage borrowers had derived from the loans, and yet he had previously anticipated the diminution of pawning and loans as one of the beneficial results of the institution. How can it be good for the poor to diminish the number of the loans from which they gain so much? But Mr. Porter's facts as to the benefits which the poor derived from loans at from thirteen and a half to twenty per cent., the rate he charged, shows the injurious effects of the law that prohibits them from paying more than six per cent. to private money lenders. Why should they not be allowed to benefit the poor by lending to them at thirteen and a half to twenty per cent. as well as those who do so under the name of charity?

And, indeed, the whole investigation of the facts with regard to

*of Monts de Piete*

pawnbroking, dollyshops, wee pawns, and Monts de Piete, teaches one important lesson—the folly of legislating on different principles for the poor and rich. The real remedy for the evils which Mr. Porter vainly attempted to cure by charitable interference, is to establish the same freedom in lending small sums that has for some years existed with regard to large sums. The defenders of the present state of the usury laws can be reduced to a complete dilemma. For how stands the case? The merchants applied to parliament for a suspension of the usury laws, on the ground that these laws, instead of keeping down the rate of interest when any commercial crisis tended to raise it above the legal rate, really raised it much higher than it would have risen, compelling them to pay £20 or £30 per cent. where they need only have paid £8 or £10 per cent.

Now, if this reasoning be correct, as all economists of the present day admit it to be, can anything be more cruel than to expose the poor to the evils from which rich merchants have been relieved? But if the economists are mistaken, and the reasoning of the merchants unfounded, why is the suspension of the usury laws not repealed? Why are pawnbrokers and charitable loan funds allowed to violate the spirit of the usury laws, by charging far beyond the legal rate of interest on loans to the poor. In the commercial crisis of 1847, whilst the prime minister advised the bank directors not to charge less than 8 per cent. on loans on approved security to the rich merchants of London, the law made it illegal for any one to lend small sums to poor farmers to help them through the same crisis, at a higher rate than 6 per cent. How were they to get money at 6 per cent. when the market rate of interest in London was 8 per cent.? When merchants were allowed to borrow at 8 per cent., why should farmers and the poor be prohibited from borrowing at the same rate?

*See how the law is applied to the poor & rich*  
*Usury laws*