

TRINIDAD AND TOBAGO.

No. 6—1898.

18th April.

AN ORDINANCE to repeal certain Orders in Council relating to Usury.

[L.S.]

HUBERT E. H. JERNINGHAM,

GOVERNOR.

16th April, 1898.

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BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as “The Usury Short title. Ordinance, 1898.”

2. From and after the commencement of this Ordinance the Order in Council relating to Usury dated 8th Repeal. June, 1816, and the Order in Council relating to Usury dated 10th December, 1845, shall be no longer in force in this Colony, and Ordinances No. 2 of 1846 and 12 of 1859 shall be and the same are hereby repealed.

3. In this Ordinance the word “interest” shall be Interpretation. deemed to include any payment agreed to be made

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credited or allowed by way of premium, commission or other reward or consideration for the loan or forbearance of money, other than the sum actually advanced or forborne by the lender to the borrower.

“ Judge ” shall mean a Judge of the Supreme Court or the Judge or Commissioner of any District Court or inferior Court of civil jurisdiction sitting in Court.

Contracts for  
loan not to be  
void by reason  
of interest.

4. From and after the commencement of this Ordinance no contract for the loan or forbearance of money shall by reason of any interest taken thereon or secured thereby or any agreement to pay or receive or allow interest thereon be void, nor shall any person or persons lending or advancing or forbearing any money as aforesaid be subject to any penalty or penalties whatever in respect of the same.

Limitation of  
actions for  
interest.

5. No action shall be brought to recover any sum of money for interest due or alleged to be due by virtue of any contract to pay interest on any loan or indebtedness under Twenty Pounds sterling where the interest taken thereon or secured thereby exceeds the rate of twenty-five per centum per annum on the amount of such loan or indebtedness, save within twelve calendar months of such interest or the several instalments or payments thereof in respect of which such action is brought respectively becoming due and payable.

Power of Judge  
to limit execu-  
tion for  
interest.

6. It shall be lawful for a Judge in giving judgment in any action to recover any loan and interest thereon or any part thereof in any case in which such loan has been originally of a sum less than Twenty Pounds sterling and on which interest has been secured, agreed upon, or made payable at any rate exceeding twenty-five per centum per annum, to order

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that execution to enforce such payment shall be limited to such sum or rate (not being less than will suffice to realize the debt sued for together with interest thereon at the rate of twenty-five per centum per annum) as he shall think fit: Provided that the exercise of the power in the last Section mentioned and the extent as in such Section provided to which the amount of interest shall be ordered to be recoverable shall be discretionary with such Judge, and that such discretion to reduce interest recoverable by execution shall not be exercised unless the Judge is satisfied

Power to be exercised on discretion of Judge in certain events.

- (a.) That the rate of interest made payable by the agreement between the parties was under the circumstances and taking into consideration the risk attending the loan excessive and extortionate; and
- (b.) That the person who by such agreement rendered himself liable to the payment of such interest, was at the time of contracting such liability by reason of imperfect education, want of intelligence or actual ignorance of the conditions to which he assented, unable to comprehend or appreciate or did not comprehend or appreciate or know the effect of his so contracting the same.

7. No excess of the amount for which judgment has been recovered in any such action as in the sixth section hereof mentioned over the amount, if any, to which execution has been limited as in such section provided, shall thereafter be recoverable or leviable in the same or in any other or further action, proceeding, or execution whatever.

Excess over 25 per cent. when disallowed not to be thereafter recoverable.

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Proviso  
respecting  
further ad-  
vances on prior  
agreements for  
mortgage.

8. The provisions of Section 6 hereof shall not be held to apply to any incumbrance, mortgage or charge affecting land for a sum amounting to Twenty Pounds or more and further advances simply by reason that any specific further advance has been of a sum not exceeding Twenty Pounds. But no agreement or obligation for the payment of interest exceeding twenty-five per centum per annum shall be excluded from the operation of the said Section by reason of the fact that at the time of such agreement being entered into there was already due from the borrower to the lender any sum which together with the sum advanced at the time of such agreement being entered into amounted to Twenty Pounds.

Discretion to  
be without  
appeal.

9. The exercise of the discretion of the Judge in Section 6 hereof provided for shall in no case be subject to any appeal or review whatever.

Passed in Council this Eighteenth day of April, in the year of Our Lord one thousand eight hundred and ninety-eight.

C. J. ROOKS,  
*Acting Clerk of the Council.*

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