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Earle Edward Eubank

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LOAN SHARKS AND LOAN SHARK LEGISLATION IN ILLINOIS

EARLE EDWARD EUBANK¹

The question of usury is by no means a new one. It is almost as old as the human race; certainly as old as any financial system. In earlier periods of history, *interest*, payment for the use of money, and *usury*, payment in excess of the rate allowed by law, were used as synonymous terms, and any attempt to extract a fee for the use of a loan was looked upon as immoral. Solon, archon of ancient Athens, forbade it by law, a position which Socrates and Plato later endorsed on ethical grounds. In mediæval England, as late as the thirteenth century, Parliament made all payments for the use of money illegal.

The impracticability of doing away with interest entirely by means of legislation has been commonly apparent, however, wherever attempted, and legislative bodies have for the most part given consideration to the question of the establishment and enforcement of fair and practical rates for loans rather than to measures for their complete suppression. That this question should be, as it is, one of universal interest is in itself indicative of the abuses to which the borrower everywhere has been subjected during many generations by the unscrupulous money lender.

In practically every city and large town in the United States today men exist who make a business of exploiting the financial extremity—actual or imagined—of individuals who are unable or unwilling to utilize the ordinary channels for securing money. These persons, professional money lenders, use the urgent necessity of their patrons to exact from them in illegal ways usurious rates of interest, extortionate fees and special charges, mounting up in some cases to hundreds of per cent a year. They have, in many instances as organized companies, built up a systematic technique of business, none the less effective because contrary to law. Elaborate devices for holding old trade and securing new, reprehensible ways of collecting illegal charges, skillful processes for evading the law—these are worked out with consummate skill.

To this class of money lenders popular speech has applied the descriptive term "loan shark," an unmistakable phrase which has found a place for itself in our common language.

Chicago has been the happy hunting ground of the usurer for

¹Professor of Sociology, Young Men's Christian Association College, Chicago.

many years. Not only is business here exceptionally good, but the law has been such that an operator could carry on his transactions without personal risk.

While the loan shark situation has long been generally known to be bad, no definite statement as to its extent and organization was possible up to a few months ago. Between June and November, 1916, the Department of Public Welfare of the city of Chicago undertook to make a survey of the situation in order that it might present a concrete array of facts concerning the activities of the loan shark in the city which would open the eyes of the community to the methods by which the business was being carried on, and its enormous volume. It was hoped that the information thus secured might serve as a basis for constructive measures dealing with the situation. So questionable an occupation does not seek publicity, and considerable time and patience were required in getting at the facts. Altogether the names and addresses of 229 definite concerns, 139 of which were actually engaged in business November 1st, 1916, were secured. Specific cases of extortion with verifiable details are on file against 199 of the number, and against the others there is conclusive circumstantial evidence. How many firms or individuals escaped detection there is no way of telling.

Of the concerns observed the rate of interest (whether in the form of a bona fide interest charge, or cloaked under the name of "fee" for service, extension or renewal) ranged from ten per cent to forty per cent a month. In occasional instances the rate was even higher. The volume of business ranged from \$40,000 per year in the smaller concerns up to \$300,000 in the larger, the average being about \$85,000 per year, or more than eleven million dollars annually in Chicago alone in the hands of the 139 companies in active business when the report was published.

A cardinal principle of the loan shark business is that it shall be carried on with as little conspicuousness as possible. Numbers of designations are employed with the intent of concealing the true character of the concern. Professional usurers are found in the Telephone Directory under all of the following classifications: Investments and Securities, Real Estate, Coal Dealers, Lawyers, Tailors, Banks, Manufacturers' Agents, Collections.

The loan shark "clearing house" has its headquarters in an office on Dearborn street, but the glass door is devoid of any business insignia whatsoever. "Commercial paper" is a designation on the office

door and the business stationery of one concern. Among the ones most difficult to reach, and most harmful, are those which pose as banks and use such descriptive terms as "United States," "Peoples," "Illinois," "Federal," "State," in connection with them, to give the impression that they are doing a regular banking business, or are in some way connected with the government.

Comparatively few loan shark companies are incorporated, partly because incorporation would necessitate keeping indefinitely the name which is written into the charter. This would be exceedingly inconvenient for some of them who make it a practice to change names from time to time as one grows too unpopular.

The complete list of 229 names and addresses of money-lenders was sent by the Department of Public Welfare to the Secretary of State of Illinois with a request that his office should indicate which of them had been incorporated, together with the date and purpose for which they were chartered. Of the 229 only eighteen were found that had been chartered in Illinois at any time, and of the eighteen, nine had already been cancelled, in most cases for failure to file an annual report as required by law.

The purpose of incorporation where specified is worthy of note. The exact language of a number of charters follows as it was found in several illustrative cases:

1. "To conduct a general lunch-counter, restaurant and hotel business and to do and perform all the necessary business incident thereto."

2. "For the examination of titles to real and personal estate, to furnish information upon which to base credits, to transact a general collection business."

3. "For the manufacturing and sale of dry goods."

4. For the purpose of "carrying on the business of buying and selling bonds and other securities."

5. "To manufacture and deal in furniture, stoves, rugs, and all kinds of household properties."

6. "For the purpose of raising, harvesting and dealing in leaf tobacco; to purchase and own real estate in connection with said business, and to transact any legitimate business coming within the province of this corporation as regards the purchase and sale of personal property."

7. For the purpose of "purchasing and presenting plays in carrying on the theatrical business."

Definitely chartered for such objectives as the foregoing, various

loan firms freely use the term "incorporated" upon their printed matter, conveying the impression that they have been incorporated for loan purposes particularly. As a matter of fact not a single one of the charters which were recorded by the Secretary of State carries within it any provision for doing a money lending business.

Not one in twenty, as the report of the Secretary of State shows, is incorporated. The business is too shifty to desire the permanence and fixity of name which incorporation would give. Change of name is resorted to frequently because of the unpleasant connections which associate with it after it has been running awhile. This gives it a mushroom-like character and complicates investigation. Circulars appear every two or three weeks advising the public that a "new" company has begun business at such and such an address. As a matter of fact the only new thing about the company is the name. The management and capital and outstanding claims of some company that has "gone out of business" merely take up a new designation and continue the even tenor of their way.

The success of the money-lending business, as that of any other that requires a market, depends upon its ability to get its offerings effectively before the public. The columns of the daily papers afford the best medium for this and they were extensively used in Chicago so long as they were open to loan shark advertising. With one or two exceptions this privilege has been withdrawn by the Chicago press and other forms of advertising have had to be developed. Literature is distributed freely through the residence sections of the city; personal solicitors are at work, the agent sometimes being a debtor himself who obtains a reduction in his account as a commission for drumming up new trade. Still another method of getting in touch with prospects is that of exchanging names with other money-lenders, the names exchanges being those of former customers who have ceased to be profitable to the original firm.

The essence of the power of the loan shark over his victim in Chicago as elsewhere is in the victim's ignorance. Ignorance, due first to carelessness in many instances of the obligations which he signs when he receives his loan; second, ignorance as to what his rights really are under the law; third, ignorance as to the means of redress which are available after he has discovered the plight in which he is. With reference to the first of these the loan shark system has worked out an elaborate set of forms, guarantees and assignments, which the borrower is required to sign before he can get the money. Usually he does not read the papers signed, and if he should he would

not dare protest, for he wants the money and he is made to feel all the while that the lender is doing him a personal favor by letting him have it, and therefore he must not ask too many questions. He may or may not know it, but he has probably signed all of the following papers: First, notes for the money borrowed (separate notes for the principal and interest, so that in case that he should subsequently discover his rights and protest against the interest, the note for the principal will appear as a separate item); second, an assignment of his wages to the lender (in case of the salary loan shark) to be drawn on in case he fails to pay up; third, usually a further security in the form of a mortgage on his household effects; and fourth, a power of attorney to be vested in the loan shark himself. No copies of these are given to the borrower, so he has no way thereafter of proving what he has or has not signed. Neither are receipts given for amounts paid in, nor the documents returned which he originally signed.

But the loan shark knows that when taken into court even so formidable an array of documents will have no binding power to compel his patron to pay interest in excess of the seven per cent permitted by law. He therefore makes use of the borrower's ignorance to the fullest and works upon it with a monumental bluff. He knows that he must rely more upon threats than upon his legal security.

In the campaign against loan sharks in Cleveland about three years ago, Mr. Poulson, the City Prosecutor, captured some of the confidential instructions issued to loan shark managers, among others a thirty-six-page book entitled, Blank's "Book of Instructions." This man, who bears the title of "King of the Loan Sharks," in his own advertisement some time ago claimed to be doing a business in sixty-six cities of the country. Some quotations from these confidential papers were presented at the Baltimore convention of the National Federation of Remedial Loan Associations in 1915 by Mr. John E. Taylor, manager of the Equitable Collateral Loan Company of Youngstown, Ohio. The following extracts convey a graphic picture of loan shark methods:

"Do not get timid on account of the kicks by customers. Do not allow too much sympathy, when they come around with hard-luck tales."

"Use 'soft-soap' talk on the borrower only after you have tried stones and gravel. If a customer mentions the law, hunch your shoulders and say you do not know much about it."

"Bluff the borrower by rattling papers in your desk. Pretend to

phone to an attorney, but hold the phone closed. Remember the whole proceeding is more or less of a bluff. Give your customer good hard roasts."

"In the case of a dead-beat, you might bring up the point of a new law, and do whatever bluffing you want to; but to talk to customers in general about new laws I do not approve. There is no use putting the notion into their heads, as they would probably go and see somebody to find out what the new law is. The result would be more apt to harm us than do us any good."

"You can say anything you like to a customer in a sealed letter so long as it is not criminal threats, immoral or indecent."

"We need managers with bull-dog determination. Get some attorney who will sell you his legal letter-heads and then write your customers upon them."

Mr. Taylor, in his interesting paper, speaks as follows on his experience in loan shark methods:

"Sometimes legal looking notices are sent to the victims, such as 'garnishee demand' and 'demand notice,' 'notice of judgment,' 'original notice before suit,' and some loan sharks have gone so far as to have letters printed purporting to come from a local collecting bureau. One of these notices which recently came into my hands was entitled 'Ultimo notitia'—a very legal looking scrap of paper prepared and delivered in such a way that the victim would think it came from the civil branch of the Municipal Court. All these notices have a certain legal look about them in the eyes of the unsophisticated victim, and oftentimes bear fruit, at which the loan shark chuckles to himself and says, 'Well, once again the bluff worked beautifully.'"

The average outsider does not know of the complex organization of the money-lending business. He thinks of each operator as more or less isolated in his operation, bound to his fellow usurers by a "consciousness of kind," it is true, but separated from them by barriers of competition. He is amazed when he learns of the close interrelation which exists among the leading ones and of the high form of organization which the business manifests.

The larger operators do not confine themselves to a single city. A number of the Chicago firms are branch houses of a larger concern which operates in many states. One of these some time ago was doing business in over sixty cities. Recently there appeared as witness in a loan shark case before Judge Landis in the Federal Court a manager of a money-lending firm who reluctantly testified that the owner of his company was the owner of nearly seventy others scat-

tered about the country. Eastern capital is found financing certain of the firms and in one or two instances the firms are chartered in another state. Not only this, but records show that in many instances the real backers of loan shark concerns are persons of influence and prestige in their communities, sometimes prominent in church, fraternal and social life.

In Chicago the leading operators have banded themselves together into an organization known as the "clearing house." This organization, founded in 1895, is a close corporation of the severest type, admitting new members only after most rigid investigation. Its work is carried on with the utmost secrecy. No designation of any kind appears on its office doors. Its members are known not by name, but by number, and the designating number is employed in all communications between member and clearing house and between members themselves. In telephone conversations no information is vouchsafed until the pass-word has been given. The expenses are met by a monthly membership fee paid by each affiliated concern.

The main purpose of the organization is to supply its members quickly with information as to applicants for loans, in this way saving time and expense which would be necessitated by separate investigations. In the files of the clearing house, ready indexed for quick access, are the records of all persons who have borrowed in the past from any member of the association. Everything is recorded which may serve to indicate whether or not the applicant is desirable: his place of business, standing in the community, how often he has borrowed previously, ready or slow pay, etc. When a new application is made to any member of the clearing house, the applicant is immediately looked up to see whether any record already exists concerning him, whether he is owing money to some other concern and how much, and kindred matters. Persons who have dropped out of sight of one firm without settling accounts in full may be located through the clearing house in case they should later make application to another member, ignorant of the existence of this information exchange.

Three times a day young women "runners" make the rounds of the clearing house membership to secure the names and addresses and other information concerning new applicants for loans. This information is checked up with the records already filed in the central office and the result reported back to the office to which the applicant has just come.

With such a system great expedition is possible, and the answer may be given to the applicant within a few hours as to whether a

loan may be granted. Of course the clearing house can afford no information concerning transactions with non-clearing house members, but it is remarkably efficient within its own field. It also serves as a ready instrument of communication among those who compose it.

Of late years, as public opinion against the loan shark business has been growing, the movement against it has gained strength. In a rough way we may classify opposition under the following heads: 1, Publicity campaigns. 2, Organized defense of loan shark victims. 3, Loan shark substitutes. 4, Legislation. These cannot be marked off from one another sharply; they are interwoven. Legislation, organized defense and loan shark substitutes have come about after public opinion has been aroused by publicity campaigns. Likewise certain of the substitutes which now exist have required special legislation before they could be formed.

Constructive opposition to extortionate money lending is generally recognized to head up in the Division of Remedial Loans of the Russell Sage Foundation, of which Mr. Arthur H. Ham is director. Mr. Ham began his work as "special agent for the study of remedial loan problems" in October, 1909, as a result of requests coming from leading persons in the National Federation of Remedial Loan Associations. Since his appointment he has been particularly active in assisting to organize new remedial loan agencies and in securing legislation in the various states.

Publicity campaigns against the loan shark are, within certain limitations, considerably effective. They are instrumental in educating the public, and in creating public opinion against the culpable methods which are a part of the trade. When the interest of the community begins to wane the campaign loses its force, as is evidenced by the history of the loan shark campaigns which have been conducted in various cities.

Organized defense of loan shark victims, growing largely out of interest aroused by publicity campaigns is highly valuable in assisting individual cases, although it does not in itself strike at the root of the trouble. The Chicago Legal Aid Society during its past three fiscal years has settled 1,266 cases, with a total saving of \$16,884.88. The First State Industrial Wage Loan Society of Chicago has had from its inception the defense of the borrower against the loan shark as one of its leading objects. From its opening in November, 1913, to June 1st, 1916, the society had made 2,004 loan company settlements, which had saved to its clients approximately \$19,000 in excessive interest charges. To the large number of settlements made by these two

societies must be added those handled at various times by the members of the *Chicago Tribune* Anti-Loan-Shark Bureau. Fifteen months after it had been established its director, Mr. Daniel P. Trude, stated that "altogether approximately 5,000 accounts have been taken under consideration by the Bureau and the majority settled, for the Bureau has found that the loan sharks have contested in the court less than three per cent of the cases." Besides these definite agencies for organized defense of the small borrower there have been a number of individuals who have rendered genuine service in legal and advisory capacities, usually without any charge. If the amounts saved to those who have been helped seem somewhat small it should be remembered that loans of this kind are made to people who are on small incomes, often to those in extreme circumstances, and that a very few dollars saved may mean a great deal to them. In many cases the settlements mean the rescue of people who have been for years in financial servitude, a much more important matter than the money which is involved.

Mr. Raymond B. Fosdick, formerly commissioner of accounts in New York City, in discussing remedial loans before the Academy of Political Science November 11th, 1911, epitomized a truth which all students of the loan shark situation sooner or later discover:

"Before any campaign to oust the loan shark can be effected, there must be some agency equipped and prepared to take its place. Indeed no campaign of extermination will ever succeed, no amount of condemnation will ever be effective, no negative laws, however drastic, can permanently relieve the present abuses; as long as we have citizens who want to borrow money—and we shall always have them—so long will loan agencies of some kind continue, and it is only the better kind that will succeed in driving out the worse."

This desire to borrow money may be legitimately born of necessity growing out of extremities beyond the power of the individual to avoid. It may be born of lack of thrift or of extravagance, but there will always be persons needing funds to tide over emergencies and willing to go to almost any length to secure them. If legislation does no more than drive the loan shark under a more careful cover, it will only accentuate the evil by forcing him to still more exorbitant charges for the greater risk involved, and there will always be men willing to take the risk if it can be made profitable. When legislation against the loan shark goes on the statute books it is necessary that there be set up substitutes for them, agencies of one sort or another

that can minister to the very real need which has for centuries been the fundamental reason for the existence of the loan shark.

In looking over the various types of substitutes one may roughly group them in four classes:

1. The purely philanthropic, which, whether under a religious organization or a non-sectarian charity or fraternal order, operates a loan fund, charging no rate of interest to the borrower. In this respect it is a charity pure and simple and should be considered just as much so as a gift of food or clothing or rent.

2. The semi-philanthropic organization is established primarily for the sake of the borrower, but it is capitalized and is run upon business principles, not only paying expenses, but giving a small profit to its backers. The members of the National Federation of Remedial Loan Societies are almost entirely of this character. These are business organizations with a social purpose, and should be described as such. They are not charitable in the sense of giving something for nothing, and they are not commercial in the sense of being primarily a money-lending enterprise. Their dividends are usually limited by law.

3. The purely business type is organized primarily as a matter of investment. While it may serve a definite social purpose, it is not organized for that purpose and performs it only incidentally. These organizations keep within the law and so are not to be confused with the loan shark whose characteristic is that of usurious money-lending.

4. The self-help type is probably the most constructive of all. It is exemplified in employees' co-operative loan associations, and in the "Credit Union," which is growing in popularity in the United States. This latter form of organization, known in Europe for sixty-five years, is composed of individuals who are—to quote the language of the Massachusetts law of 1909—"associated by reason of residence, occupation, fraternal association or otherwise;" its objects are the promotion of savings and investments among its members and the provision for a convenient source for legitimate loans. Organizations of the self-help type put a premium upon thrift and saving and the element of mutual benefit, appraise character at its true value and recognize it as a definite form of security. An added advantage resides in the fact that they are independently organized by each group upon whose members themselves each must depend for success or failure.

Valuable as they are in helping to meet the loan shark problem, publicity campaigns, organized defense and systematic competition by means of social-spirited loan organizations can do little until the small

loan business is, in its entirety, definitely regulated by law. The inadequacy of the present Illinois statute is clear upon its face (Hurd's Revised Statutes, 1915-1916, p. 1580, chap. 74, sections, 4, 5, and 6):

"Seven Per Cent May Be Contracted for. In all written contracts it shall be lawful for the parties to stipulate or agree that seven (7) per cent per annum, or any less sum of interest, shall be taken and paid upon every one hundred (\$100) dollars of money loaned or in any manner due, or owing from any person or corporation to any other person or corporation in this state, and after that rate for a greater or less sum, or for a longer or shorter term, except as herein provided.

"No Greater Rate Shall Be Contracted for. No person or corporation shall, directly or indirectly, accept or receive, in money, goods, discount or thing in action, or in any other way, any greater sum or greater value for the loan, forbearance or discount of any money, goods or thing in action, than as above prescribed.

"Penalty for Contracting for More Than Seven Per Cent. If any person or corporation in this state shall contract to receive a greater rate of interest or discount than seven (7) per cent upon any contract, verbal or written, such person or corporation shall forfeit the whole of said interest so contracted to be received, and shall be entitled only to recover the principal sum due to such person or corporation. And all contracts executed after this act shall take effect, which shall provide for interest or compensation at a greater rate than herein specified, on account of non-payment at maturity, shall be deemed usurious, and only the principal sum thereon shall be recoverable."

As it stands, this is a law practically without penalty, inasmuch as the money lender, however unjust he may have been in his dealings, is guaranteed his principal in any event. Furthermore, the Illinois courts have held on this point that interest in excess of the legal rate cannot be recovered once the borrower has voluntarily paid it. Such a law as this makes the position of the extortionate money lender one of perfect safety. Few of his patrons know what the law is, or that legal redress can be obtained by carrying a claim into court; fewer still are financially able to seek the aid of the court. Should any particular case be decided against the lender and the interest be forfeited, that in itself can in no way restrain him from continuing his operations. Because there has been no legal provision for the inspection of his books or records, he has carried on his business without fear of interference. The abuses which citizens of Illinois have endured in the past at the hands of unscrupulous money lenders have

been accentuated by the state's indifference to the need of the regulation of the business.

Following the survey made by the Chicago Department of Public Welfare representatives of the Industrial Club, the Legal Aid Society, the First State Industrial Wage Loan Society, the Illinois Committee on Social Legislation and other organizations of strong civic interest, were organized into a committee to prepare a bill for the consideration of the 1917 session of the General Assembly of Illinois. The bill was framed with the assistance of the Division of Remedial Loans of the Russell Sage Foundation, and it embodied the results of the best experience of all the states which have attempted to regulate the business of making small loans. The salient features of the bill are as follows:

1. Any person or organization desiring to engage in the business of making small loans (sums of \$300 or less) shall first procure a license from the Auditor of Public Accounts. The license shall be renewed annually, and a fee for the same shall be paid. A bond of one thousand dollars shall be filed. The license shall apply to only one firm and place of business, is not transferable, and may be revoked for violation of any provision of the act under which it has been granted.

2. The Auditor of Public Accounts or his authorized agent is given the authority to investigate the business of any licensee at any time and as often as he may desire; and for that purpose he shall have free access to all books and records of the licensee.

3. To all persons or firms which are licensed under this act permission is given to charge interest not to exceed three and one-half per cent per month, or forty-two per cent a year. It has been determined by careful studies that this is as low a rate as can be made consistent with business security and a reasonable profit on the investment. Because of the heavier overhead expense involved in the individual transaction, and the greater risk, ordinary interest rates are impossible in the making of small loans. Admitting the desirability of providing for that part of the public to whom small loans are a necessity, it is considerably better to allow firms to organize under a law which will permit them a fair profit, to take care of that necessity, than by drastic restriction to make a legitimate business impossible.

4. Under this act no charge is allowed other than the stipulated interest, which is to be computed solely on unpaid balances. Many times the money-lender exacts usury under other forms than those

which are technically classifiable as interest. "Renewal fees," "cost of extension," "appraisal charges," "expenses of investigation," etc., are often nothing else than usury in disguise, and therefore must be guarded against carefully.

5. The licensee is further required to give the borrower at the time the loan is made a clear statement of the facts and terms connected with the loan; the amount, when it was made, when it falls due, the nature of the security, the rate of interest, and a copy of the law governing the transaction. He is required to give plain and complete receipts for all payments made, and upon complete repayment of the loan to return all documents signed or pledges made when the loan was accomplished. He is forbidden also to accept, in connection with the transaction, any notes or pledges signed in blank to be filled in after execution.

6. The violation of any provision of the act not only carries with it the likelihood of having the license revoked; it is also made a misdemeanor, for whose violation a maximum penalty of \$500 fine, or six months' imprisonment, or both, may be inflicted.

Such, in brief, are the provisions of the proposed law for meeting the loan shark situation in Illinois. Not only has it met the approval of leading students of the problem, but it has been endorsed by certain of the leading loan firms as well. The latter, having large funds tied up in the business, are anxious to continue; and they prefer to operate in the open as legitimate concerns recognized by law, even at a lower rate of profit, than to do so as outlaws who are in public disrepute.