

began in ancient times and continued through the Middle Ages.³⁰ In the United States, there have been many usury laws which set maximum ceilings on interest rates somewhere in the range of 6 to 10 per cent. With such ceilings, however, it was totally impossible to make small loans profitably. Lending to the consumer in small amounts was much costlier and more risky than business lending. Investigation, service, collection and other handling costs, plus the market rate of interest, drove the total cost of a loan to a consumer well above the ceilings set in traditional usury laws. If the state did not wish to leave the whole field of small loans to illegal "loan sharks," with interest-rate charges sometimes as high as 50 or 100 per cent a year, it had to make it possible for legitimate capital and legitimate lenders to function within the law. This conflict between law and economic reality led to the practice of special small loans licensing and to controlled exemption from ordinary maximum rates. As one author on consumer credit has written, "The lending of money to consumers is an economic activity which apparently thrives with or without legal sanction. The only choice is whether such lending is to be done in large part by loan sharks or by legitimate lenders."³¹

Most states now have laws establishing ceilings on the interest rates and finance charges that may be applied to consumer credit. This is particularly true of most categories of what are commonly called "small loans." Presuming, therefore, that the government has done all it can to establish the proper framework conditions for the credit market to operate in the public interest, is this enough, or must the state go further? Should it attempt to fix any rates at all, or should it leave the whole matter to the forces of competition at the market? Assuming it is decided that the state should fix some maximum rates, at what level should these be set? Should they be set deliberately high in order to make it possible for all, even the most inefficient suppliers of credit, to function in the market, or should they be set very low so that only the most efficient suppliers can stay in the market, and if so will this accentuate whatever trend to monopoly already exists? Should ceilings be set close to prevailing market prices, or should they be set rather high in order to prohibit only the most exorbitant charges? The issue raised by this problem—freedom of pricing—is one on which hot debate and lively dissent take place among economists.

On the one hand is a school of thought which believes that, apart

³⁰ Those governmental and church restrictions on interest stemmed largely from several aspects of the borrower-lender relationship in early times; loans were frequently made to a person in distress, while capital and money were not considered productive goods as they are today. In fact, in some periods a negative interest rate was paid by the owner to someone who guaranteed to keep his principal safe for him.

³¹ Edwards, *Consumer Credit Institutions Other Than Banks*, in *American Financial Institutions* 716 (1951).