

(Mr. Clive W. Bare, referee in bankruptcy for the Eastern District of Tennessee, submitted the following material pertaining to bankruptcy proceedings in the State of Tennessee:)

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE, NORTHERN DIVISION

IN THE MATTER OF WILLIAM SYLVESTER BRANCH, DEBTOR

In Proceedings Under Chapter XIII, No. 23,372

MEMORANDUM OPINION

Section 656(b) of Chapter XIII of the Bankruptcy Act (wage earner plans) provides that before confirming any plan the court shall require proof from each creditor filing a claim that such claim is free from usury. General Order 55(4) which applies to proceedings under Chapter XIII provides that each proof of claim based upon the loan of money shall contain proof that the claim is free from usury as defined by the laws of the place where the debt was contracted.

William Sylvester Branch, the above debtor, filed an original petition under Chapter XIII on February 21, 1966. The debtor is 46 years old, married, and employed as a porter at the East Tennessee Tuberculosis Hospital, earning \$200.00 per month. With his petition, he submitted his wage earner plan providing for payment out of his future earnings and wages the sum of \$20.00 each week. The plan further provided that Merit Finance Company (Merit), a secured creditor, receive fixed monthly payments of \$60.00. Merit, on March 9, 1966, filed its proof of claim in the amount of \$2,870.00, accepting the debtor's plan.

Merit is an industrial loan and thrift company operating under the provisions of Tennessee Code Annotated. Secs. 45-2001-45-2017. Merit asserts that it holds a note secured by a second mortgage on the debtor's home, and a security interest in the debtor's household goods and an automobile, all executed November 19, 1965, at Knoxville, Tennessee. Merit's claim is based upon the following transactions.

(1) On December 22, 1964, the debtor negotiated a loan with Merit. He executed a note in the sum of \$72.00 payable in 12 monthly installments of \$6.00 each. Merit's ledger card (Account No. 63-235) indicates the \$72.00 note was made up of the following items and charges:

Cash received by debtor-----	\$59.04
Interest -----	4.32
Investigation charge-----	2.88
Life insurance premium-----	1.44
Accident and health premium-----	4.32
Total of note-----	72.00

(2) On January 23, 1965, the first loan was renewed or "flipped."¹ The debtor executed a new note in the amount of \$378.00 payable in 18 monthly payments of \$21.00 each. Merit's ledger card (Account No. 63-337) indicates the following items and charges:

Payment to Merit on unpaid balance old loan (credit given for insurance premium rebate, \$4.94)-----	\$68.06
Paid Franklin Finance Company for borrower-----	108.00
Cash to borrower-----	95.11
Property insurance-----	15.00
Interest -----	34.02
Investigation charge-----	15.12
Life insurance premium-----	11.34
Accident and health premium-----	28.35
Recording fee (security agreement, household furniture)-----	3.00
Total of note-----	378.00

¹ "Industrial loan and thrift companies . . . freely engage in the practice of 'flipping,' whereby a borrower who has repaid a portion of a loan is allowed to make or is enticed to make another loan whereupon the new loan is set up combining the new amount with the old balance on which all allowable charges have already been made, and the full amount of allowable charges is again imposed on the new balance." *Final Report of the Legislative Council of the 80th General Assembly, State of Tennessee (1968).*