



EDITORIALS

In Our Opinion

Throw them out of here

Jesus threw them out of the temple, but the Arkansas courts do not want to be so rash about it. We're talking about usurers and specifically those who charge the poor and the desperate 300 percent interest, the payday lenders, who have storefront businesses all over this area.

Since 1999, when the legislature passed a law authorizing cash-cashing companies to charge people any kind of fee for a payday loan, Arkansas courts have tossed the issue from one to the other. Do charges that amount to 300 percent interest or more violate the state's constitutional bar to interest rates higher than 17 percent?

Of course they do. The courts never had an easier question if they embrace the doctrine of stare decisis, that precedent rules. For half a century, the Arkansas Supreme Court ruled sternly that banks, retailers and any other commercial entity that extended debt to people could not disguise interest as fees or special charges to get around the usury law. The late Justice George Rose Smith insisted that the Constitution was worthless if its clear purpose could be so easily ducked.

A challenge to the usury practices of the payday lenders reached a trial court once again, and last week Pulaski Circuit Judge Barry Sims ruled that the act authorizing the practices was constitutional. The act says the fees charged by the companies are not to be counted as interest but as, well, just fees. If the legislature says the charges are not interest then they must not be interest, in the judge's view. He wants the plaintiffs to take their case back to the State Board of Collection Agencies still another time to determine whether the interest-rate law is violated, but he says the statute is constitutional. The board will rule again for the lending companies.

A person writes a check to a payday lender for, say, \$500 and the company gives the person \$450 in cash and agrees not to cash the check for a week or two. The person likely can't redeem the check at the end of the period and has to keep borrowing. In a few weeks the borrower has paid the lender more than the amount of the original check.

Todd Turner, an Arkadelphia lawyer, has filed more than 30 lawsuits against the lenders and the Board of Collection Agencies. Some have resulted in settlements and others in judgments exceeding \$4 million. But Turner's clients got none of the judgments because the lenders closed or filed bankruptcy. The cases have bounced around among the trial courts, the Arkansas Court of Appeals and the Arkansas Supreme Court without a final determination of the central issue, whether the fees amount to interest and are, as a result, unconstitutional.

Now it will go one more time on appeal to the Arkansas Supreme Court, where we hope this time that the justices will heed the moral importunities of Justice Smith and end a practice that grinds the faces of the poor.

