CHAP. 96.

An Act for granting Certificates to Pedlars. A.D. 1871.

[21st August 1871.]

WHEREAS it is expedient to amend the law relating to pedlars:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as The Pedlars Act, 1871.

Commencement of Act.

2. This Act shall not come into operation until the first day of January one thousand eight hundred and seventy-two, which date is in this Act referred to as the commencement of this Act.

Interpretation of certain terms in this Act.

3. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them; that is to say,

"Pedlar."

The term "pedlar" means any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered, or selling or offering for sale his skill in handicraft:

"Police district."

The term "police district" means any of the districts mentioned in schedule one to this Act, and the term "chief officer of police" with reference to any police district means the officer mentioned in relation to that district in the said schedule, and such schedule with the notes thereto shall have effect as if it were enacted in this section:

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"Summary Jurisdiction Acts."

The term "Summary Jurisdiction Acts" means as follows:

As to England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties "of justices of the peace out of sessions within England and "Wales with respect to summary convictions and orders," and any Acts amending the same:

As to Scotland, "The Summary Procedure Act, 1864:"

As to Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland, "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same:

"Court of summary jurisdiction."

The term "Court of Summary Jurisdiction" means and includes any justice or justices of the peace, sheriff or sheriff substitute, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to, or to proceedings before whom the provisions of the Summary Jurisdiction Acts are or may be made applicable.

Certificates to be obtained by Pedlars.

No one to act as a pedlar without certificate.

4. No person shall act as a pedlar without such certificate as in this Act mentioned, or in any district where he is not authorised by his certificate so to act.

Any person who—

(1.) acts as a pedlar without having obtained a certificate under this Act authorising him so to act; or

(2.) acts as a pedlar in any district in which he is not authorised so to act by a certificate under this Act,

shall be liable for a first offence to a penalty not exceeding ten shillings, and for any subsequent offence to a penalty not exceeding one pound.

Grant of certificate.

5. The following regulations shall be made with respect to the grant of pedlars certificates:

1. Subject as in this Act mentioned, a pedlar's certificate shall be granted to any person by the chief officer of police of the police district in which the person applying for a certificate has, during one month previous to such application, resided, on such officer being satisfied that the applicant is above seventeen years of age, is a person of good character, and in good faith intends to carry on the trade of a pedlar:

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2. An application for a pedlar's certificate shall be in the form specified in schedule two to this Act, or as near thereto as circumstances admit:

3. There shall be paid for a pedlar's certificate previously to the delivery thereof to the applicant a fee of five shillings:

4. A pedlar's certificate shall be in the form specified in schedule two to this Act, or as near thereto as circumstances admit:

5. A pedlar's certificate shall remain in force for one year from the date of the issue thereof, and no longer:

6. On the delivery up of the old certificate, or on sufficient evidence being produced to the satisfaction of the chief officer of police that the old certificate has been lost, that officer may, either at the expiration of the current year, or during the currency of any year, grant a new certificate in the same manner as upon a first application for a pedlar's certificate. In Great Britain one of Her Majesty's Principal Secretaries of State, and in Ireland the Lord Lieutenant or other chief governor or governors of Ireland for the time being, may from time to time provide for the expiration of all pedlars certificates at the same period of each year, and in doing so shall provide for the apportionment of the fees payable in respect of any such certificate.

Effect of certificate.

6. A pedlar's certificate granted under this Act shall, during the time for which it continues in force, authorise the person to whom it is granted to act as a pedlar within the police district in which the certificate is taken out.

10 & 11 Vict. c. 14.

For the purpose of the Markets and Fairs Clauses Act, 1847, and any Act incorporating the same, a certificate under this Act shall have the same effect, within the district for which it is granted, as a hawker's license, and the term "licensed hawker" in the first-mentioned Act shall be construed to include a pedlar holding such a certificate.

Extension of certificate by indorsement to other districts than that for which it was granted.

7. Any pedlar who, having obtained a pedlar's certificate, desires to act as a pedlar in any other police district than that in which the certificate is taken out, may, while his certificate remains in force, apply to the chief officer of police of such other district to indorse his certificate, and such officer shall, if satisfied that the applicant is above seventeen years of age, is a person of good character, and in good faith intends to carry on the trade of a pedlar, and on payment by the pedlar of a fee not exceeding sixpence, indorse such certificate, and such indorsed certificate shall, while it continues in force, authorise the pedlar to act as a pedlar in such other district,

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and have in all respects the same effect as a certificate granted under this Act by an officer of such district to a person resident therein would have.

The indorsement shall be in the form specified in schedule two to this Act, or as near thereto as circumstances admit.

Register of certificates to be kept in each district.

8. There shall be kept in each police district a register of the certificates and of the indorsement of certificates granted and made in such district under this Act, in such form and with such particulars as may from time to time be directed in Great Britain by one of Her Majesty's Principal Secretaries of State, and in Ireland by the Lord Lieutenant or other chief governor or governors of Ireland for the time being.

The entries in such register, and any copy of any of such entries, certified by the chief officer of police to be a true copy, shall be evidence of the facts stated therein.

Forms of application to be kept at chief police office.

9. Forms of applications for certificates shall be kept at every police office in every police district, and shall be given gratis to any person applying for the same; and all applications for certificates shall be delivered at the police office of the division or subdivision of the police district within which the applicant resides, and certificates, when duly signed by the chief officer of police, shall be issued at such office.

Certificate not to be assigned.

10. A person to whom a pedlar's certificate is granted under this Act shall not lend, transfer, or assign the same to any other person, and any person who lends, transfers, or assigns such certificate to any other person shall for each offence be liable to a penalty not exceeding twenty shillings.

Certificate not to be borrowed.

11. No person shall borrow or make use of a pedlar's certificate granted to any other person, and any person who borrows or makes use of such certificate shall for each offence be liable to a penalty not exceeding twenty shillings.

Penalty for forging certificate.

12. Any person who commits any of the following offences; (that is to say,)

1. Makes false representations with a view to obtain a pedlar's certificate under this Act:
2. Forges or counterfeits a pedlar's certificate granted under this Act:
3. Forges or counterfeits an indorsement made under this Act on such a certificate:
4. Aids in making or procures to be made such forged or counterfeited certificate or indorsement:

5. Travels with, produces, or shows any such forged or counterfeited certificate or indorsement,

shall for the first offence be liable to a penalty not exceeding two pounds, and for any subsequent offence, either instead of or in addition to such penalty, to be imprisoned for any term not exceeding six months, with or without hard labour.

No exemption from vagrant law.

13. A person shall not be exempt from the provisions of any Act relative to idle and disorderly persons, rogues, and vagabonds, by reason only that he holds a certificate under this Act, or assists or is accompanying a pedlar holding a certificate under this Act.

Convictions to be indorsed on certificate.

14. If any pedlar is convicted of any offence under this Act, the court before which he is convicted shall indorse or cause to be indorsed on his certificate a record of such conviction.

The indorsements made under this Act on a pedlar's certificate shall be evidence of the facts stated therein.

Appeal against refusal of certificate by chief officer of police.

15. If the chief officer of police refuses to grant or indorse a certificate, the applicant may appeal to a court of summary jurisdiction having jurisdiction in the place where such grant or indorsement was refused, in accordance with the following provisions:

1. The applicant shall, within one week after the refusal, give to the chief officer of police notice in writing of the appeal:
2. The appeal shall be heard at the sitting of the court which happens next after the expiration of the said week, but the court may, on the application of either party, adjourn the case:
3. The court shall hear and determine the matter of the appeal, and make such order thereon, with or without costs to either party, as to the court seems just:
4. An appeal under this Act to a court of summary jurisdiction in England or Ireland shall be deemed to be a matter on which that court has authority by law to make an order in pursuance of the Summary Jurisdiction Acts, and in Scotland the court may adjudicate on matters arising under this section, in accordance with the enactments relating to the exercise of their ordinary jurisdiction:
5. Any certificate, or indorsement of a certificate, granted or made in pursuance of an order of the court, shall have the same effect as if it had been originally granted or made by the chief officer of police.

Deprivation of pedlar of certificate by court.

16. Any court before which any pedlar is convicted of any offence, whether under this or any other Act, or otherwise, may,

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if he or they think fit, deprive such pedlar of his certificate; and any such court shall deprive such pedlar of his certificate if he is convicted of begging.

Any court of summary jurisdiction may summon a pedlar holding a certificate under this Act to appear before them, and if he fail to appear, or on appearance to satisfy the court that he is in good faith carrying on the business of a pedlar, shall deprive him of his certificate.

Duties of Pedlars.

Pedlar to show certificate to certain persons on demand.

17. Any pedlar shall at all times, on demand, produce and show his certificate to any of the following persons; (that is to say,)

1. Any justice of the peace; or,
2. Any constable or officer of police; or
3. Any person to whom such pedlar offers his goods for sale; or
4. Any person in whose private grounds or premises such pedlar is found:

And any pedlar who refuses, on demand, to show his certificate to, and allow it to be read and a copy thereof to be taken by, any of the persons hereby authorised to demand it, shall for each offence be liable to a penalty not exceeding five shillings.

Arrest of uncertificated pedlar or pedlar refusing to show his certificate.

18. Where a person acting as a pedlar either refuses to show his certificate or has no certificate, or refuses to allow or prevents or attempts to prevent any such opening or inspection of his pack, box, bag, trunk, or case as is authorised under this Act, it shall be lawful for any of the persons authorised to demand the production of the certificate, and also for any other person acting by his order or at his request and in his aid, to apprehend such offender, and forthwith to convey or cause him to be conveyed before a justice of the peace. In Scotland such justice of the peace may commit such offender for trial if he think fit.

Police empowered to inspect pedlar's pack.

19. It shall be lawful for any constable or officer of police at any time to open and inspect any pack, box, bag, trunk, or case in which a pedlar carries his goods, wares, and merchandise; and any pedlar who refuses to allow such constable or officer to open or inspect such pack, box, bag, trunk, or case, or prevents or attempts to prevent him from opening or inspecting the same, shall be liable for each offence to a penalty not exceeding twenty shillings.

Legal Proceedings.

Summary proceedings for offences, &c.

20. In England and Ireland all offences and penalties under this Act may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts, before a court of summary jurisdiction.

In Scotland all offences and penalties under this Act shall be prosecuted and recovered before a court of summary jurisdiction under the provisions of the Summary Procedure Act, 1864, and all necessary powers are hereby conferred on such court. A.D. 1871.

Provided as follows:

1. The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted in some one of the following manners; that is to say,

(*a.*) In England, either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of one of the magistrates herein-after mentioned, sitting alone or with others at some court or other place appointed for the administration of justice; that is to say, the Lord Mayor, or any alderman of the city of London, a metropolitan police magistrate, a stipendiary magistrate, or some other officer or officers for the time being empowered by law to do alone or with others any act authorised to be done by more than one justice of the peace; or,

(*b.*) In Scotland, of two or more justices of the peace sitting as judges in a justice of the peace court, or of one of the magistrates herein-after mentioned sitting alone or with others at some court or other place appointed for the administration of justice; that is to say, the sheriff of the county or his substitute, or the provost or other magistrate of a royal burgh, or some other officer or officers for the time being empowered by law to do alone or with others any act authorised to be done by more than one justice of the peace:

(*c.*) In Ireland, within the police district of Dublin metropolis, of one of the divisional justices of the said district, sitting at a police court within the said district; and elsewhere, of a stipendiary magistrate sitting alone or with others, or of any two or more justices of the peace sitting in petty sessions at a place appointed for holding petty sessions.

2. The description of any offence under this Act in the words of such Act, or as near thereto as may be, shall be sufficient in law.

3. Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified

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or negatived in the information, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

4. Penalties recovered in the metropolitan police district shall be applied in manner directed by the Acts relating to the metropolitan police.

5. Penalties recovered in Ireland shall be applied according to The Fines Act (Ireland), 1851, or any Act amending the same.

6. In Scotland the following enactments shall have effect:

(1.) All penalties imposed under this Act may, in default of payment, be enforced by imprisonment for a term not exceeding three months:

(2.) All penalties recovered under this Act shall be paid to the clerk of the court of summary jurisdiction, and by him accounted for and paid—

(*a.*) To the Queen's and Lord Treasurer's Remembrancer, on behalf of Her Majesty, when the court is the Sheriff's Court:

(*b.*) To the collector of county rates, in aid of the county general assessment, when the court is the Justice of Peace Court:

(*c.*) To the treasurer of the burgh, in aid of the funds of the burgh, when the court is a burgh court:

(*d.*) To the treasurer of the Board of Police or Commissioners of Police, in aid of the police funds, when the court is a police court.

Application of fees.

21. All fees received under this Act in England and Ireland shall be applied in manner in which penalties recoverable under this Act are applicable.

All fees received under this Act in Scotland shall be accounted for and paid to the collector of the police assessment levied for support of the police of the district in which they are received, in aid of such assessment.

Miscellaneous.

Deputy of chief officer of police.

22. Any act or thing by this Act authorised to be done by the chief officer of police may be done by any police officer under his command authorised by him in that behalf, and the term "chief officer of police" in this Act includes, in relation to any such act or thing, the police officer so authorised.

Certificate not required by commercial travellers, sellers of fish, or sellers in fairs.

23. Nothing in this Act shall render it necessary for a certificate to be obtained by the following persons as such; (that is to say,)

1. Commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein and who buy to sell again, or selling or seeking orders for books as agents authorised in writing by the publishers of such books:
2. Sellers of vegetables, fish, fruit, or victuals:
3. Persons selling or exposing to sale goods, wares, or merchandise in any public mart, market, or fair legally established.

Reservation of powers of local authority.

24. Nothing in this Act shall take away or diminish any of the powers vested in any local authority by any general or local Act in force in the district of such local authority.

Repeal.

As to repeal of Pedlars Act, 1870.

25. The Pedlars Act, 1870, is hereby repealed; provided that,—

(1.) Any license granted under that Act shall continue in force as if it was granted under this Act:

(2.) This repeal shall not affect,

(*a.*) Anything duly done or suffered under the said Act before the commencement of this Act:

(*b.*) Any right or privilege acquired or any liability incurred under the said Act before the commencement of this Act:

(*c.*) Any penalty, forfeiture, or other punishment incurred in respect of any offence against the said Act before the commencement of this Act:

(*d.*) The institution or prosecution of any investigation or legal proceeding, or any other remedy, for ascertaining, enforcing, recovering, or imposing any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULE ONE.

Police Districts.	Chief Officer of Police.
IN ENGLAND.	
The city of London, and the liberties thereof, exclusive of Southwark.	The Commissioner of Police of the City.
The Metropolitan Police District -	The Commissioner of Police of the Metropolis.
Any county, any riding, parts, division, or liberty of a county, any borough, or town maintaining a separate police force.	The chief constable or head constable, or other officer, by whatever name called, having the chief command of the police in the district.
IN SCOTLAND.	
Any area maintaining a separate police force.	The chief constable, superintendent of police, or other officer, by whatever name called, having the chief command of the police in the district.
IN IRELAND.	
The police district of Dublin metropolis	Either of the commissioners of police for the district.
Any district, whether city, town, or country, over which is appointed a sub-inspector of the Royal Irish Constabulary.	The sub-inspector.

NOTE.—All the police under one chief constable shall be deemed to constitute one police force for the purposes of this schedule.

SCHEDULE TWO.

FORM A.

FORM OF APPLICATION FOR PEDLAR'S CERTIFICATE.

1. I *A.B.* [*Christian and surname of applicant in full*] have during the last calendar month resided at in the parish of in the county of

2. I am by trade and occupation a [*here state trade and occupation of applicant, e.g., that he is a hawker, pedlar, &c.*]

3. I am years of age.

4. I apply for a certificate under The Pedlars Act, 1871, authorising me to act as a pedlar within the police district.

Dated the day of

(Signed) *A.B.* [*Here insert Christian and surname of applicant.*]

FORM B.

FORM OF PEDLAR'S CERTIFICATE.

In pursuance of The Pedlars Act, 1871, I certify that *A.B.* [*name of applicant*] of in the county of aged years, is hereby authorised to act as a pedlar within the police district for a year from the date of this certificate. [*To be altered, if necessary, to correspond to any order of the Secretary of State or Lord Lieutenant of Ireland as to time of expiration of licenses.*]

Certified this day of A.D.

(Signed)

[*Here insert name and description of the officer signing the certificate.*]

This certificate will expire on the day of A.D.

FORM C.

FORM OF INDORSEMENT OF PEDLAR'S CERTIFICATE.

The within-named [*here insert Christian and surname of pedlar*] is hereby authorised to act as pedlar up to and until the day of , the day on which his certificate expires within the police district of

(Signed) [*Here insert name and description of the chief officer of police by whom the certificate is indorsed.*]

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