

Mr. Seddon.

HAWKERS AND PEDLARS.

ANALYSIS.

<p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. No person to act as hawker or pedlar unless licensed. Penalty. 4. Application for license. 5. Applicants' names to be published. 6. Resident Magistrate to hear application, and may grant certificate for license. 7. Forms of licenses and fees. 8. Licenses issued by and fees paid to local authority. 9. Licenses to be issued where place of abode situate. 10. Penalty for Treasurer improperly issuing a license. 11. Form of license. 12. Governor to provide for issue of licenses in certain parts of the colony. 13. Duration of license. 14. Saving as to existing licenses. 	<ol style="list-style-type: none"> 15. Hawkers' badge. 16. Assumption of badge by unlicensed person. 17. Spirituous liquors not to be carried. 18. Searching hawkers. 19. Seizure and forfeiture of liquors. 20. Liquors seized may be condemned and sold. 21. Onus of proof as to carrying liquors. 22. Selling smuggled or stolen goods. 23. Seizure of unlicensed person. 24. Penalty for not exhibiting license on demand. 25. Penalty for selling contrary to Act. 26. License improperly obtained to be forfeited. 27. Penalty for forging, &c., license. 28. Penalty for lending or hiring, &c., license. 29. Non-production of license. 30. License may be cancelled. 31. Recovery of fines, &c.; to be paid to Public Account. 32. Saving clause. 33. Provincial Ordinances repealed.
---	---

A BILL INTITULED

AN ACT to regulate the Licensing of Hawkers and Pedlars.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Hawkers and Pedlars Act, 1885." **Short Title.**

It shall come into force on the first day of *January*, in the year one thousand eight hundred and *eighty-six*.

10 2. In this Act, if not inconsistent with the context,— **Interpretation.**
"Conveyance" includes any vehicle, vessel, or other contrivance of any sort, which may be used for the carriage of commodities either by land or by water:

“District” means any portion of the colony under the administration of a local authority as herein defined :

“District Fund” means the fund of a district as herein defined, and where the Governor is the local authority it means the Consolidated Fund :

“Hawker” and “pedlar” mean and shall apply to any person who sells, or attempts to sell, or offers for sale, goods, wares, or merchandise carried about on the person, or on any animal, or in any movable conveyance, whether by land or water, in any city, town, borough, street, road, or place within the colony :

“Local authority” means and includes the Council or Board of any borough or town district ; and outside of such places means the Council of a county, or such Boards as may be administering the functions of a County Council ; and in the absence of such Boards within any county where “The Counties Act, 1876,” is not in force, and also in all parts of the colony not included in any borough, town district, or county, means the Governor :

A town district, for the purposes of this Act, shall be deemed not to form part of the county wherein it is comprised :

“Public notification,” “public notice,” “publicly notify,” respectively mean the insertion of a notice in one or more newspapers having general circulation in the district or place affected by the matter contained in such notification or notice :

“Treasurer” means the person acting as the Treasurer for a local authority as herein defined, and includes the person who may be appointed by the Governor to receive fees and issue licenses in all parts of the colony where the Governor is the local authority.

No person to act as hawker or pedlar unless licensed.

3. No person whatever, except as hereinafter mentioned, shall exercise the trade or business of a hawker or pedlar, or act in either such capacity, unless he shall be duly licensed in manner hereinafter provided.

Penalty.

Every person offending against this provision shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

Application for license.

4. Any person desirous of obtaining a hawker's and pedlar's license shall lodge with the Clerk of the Resident Magistrate's Court which is holden nearest to the usual place of residence of such person a notice in writing of his intention to apply for the same, in the form in the *First* Schedule hereto, stating in such notice his true name and place of abode, and whether he applies for a license for carrying goods for sale on his own person or by a conveyance of any sort ; and shall also deliver with such last-mentioned notice a certificate of character, in the form attached to the said Schedule, signed by at least four householders resident not less than six months in the district wherein the applicant usually resides, or within five miles of the place where the Court is held.

Applicants' names to be published.

5. The Clerk of such Court shall, on receiving such notice as aforesaid,—

(1.) Inform the applicant or person delivering such notice of the day on which the application will be considered, which

day shall not be until after the expiration of ten clear days from the receipt of the notice ; and

5 (2.) Forthwith transmit a copy thereof to the police-station nearest to the Court, and shall cause a list of all applicants for hawkers' licenses, with their places of abode respectively, and the names and residences of the householders signing the aforesaid certificate, to be posted in some conspicuous place inside and outside of the courthouse for at least seven days before the applications shall be heard.

10 Any person may lodge objections to any application at any time before the same is disposed of.

15 6. The Resident Magistrate of the Court aforesaid shall hear and dispose of such applications, and inquire into any objections thereto, and may examine on oath any witnesses he may think necessary, and after such examination, or without hearing any such evidence, may, in his own discretion, on proof that the notice of application has been lodged with the Clerk of the Court at least ten clear days previously, and on being satisfied with the character of the applicant, either refuse any such application, or grant a certificate to the applicant authorizing
20 the issue of the license.

Resident Magistrate to hear application, and may grant certificate for license.

Such certificate need not be of any particular form, but shall be signed by the Resident Magistrate granting the same, and sealed with the seal of his Court.

25 7. Hawkets' and pedlars' licenses shall be of two sorts, namely,—

Forms of licenses and fees.

A district license, for which an annual fee of *two* pounds shall be paid, and which shall authorize the holder thereof to exercise his trade as a hawker and pedlar in any part of the district wherein the same is issued ; and

30 A general license, for which the annual fee shall be *five* pounds, which shall authorize the holder thereof to exercise his trade in any part of the colony :

Provided that any such fee shall be augmented by a sum not exceeding one-half the amount thereof where the license authorizes
35 the holder thereof to carry his wares and merchandise for the purpose of sale by packhorse or other animal, or by any vehicle, boat, vessel, or craft.

40 8. Hawkets' and pedlars' licenses shall be granted in any county, town district, or borough by the local authority thereof, and issued on its behalf, by the treasurer thereof, to any person who shall deposit with such treasurer the certificate mentioned in the *last-preceding* section, on payment into his office of the sum hereinbefore mentioned in respect of such license.

Licenses issued by and fees paid to local authority.

45 All sums received as license-fees under this Act shall belong to the local authority granting the license, and shall be paid by the Treasurer receiving the same into its district fund.

9. No Treasurer shall issue any such license to any person whose place of abode is not within the district for which such
50 Treasurer is appointed.

Licenses to be issued where place of abode situate.

10. Every Treasurer who improperly issues a license contrary to the provisions of this Act shall be liable to a penalty not exceeding the amount of any license-fee payable in respect of the license so issued by him.

Penalty for Treasurer improperly issuing a license.

Form of license.

11. All licenses as aforesaid shall be signed by the principal officer of the local authority of the district wherein the same are issued, and countersigned by the Treasurer of such district, in the form in the *Second* Schedule hereto.

Governor to provide for issue of licenses in certain parts of the colony.

12. In all parts of the colony outside of any county, borough, or town district, and where "The Counties Act, 1876," is not in operation, or not wholly in force, or is suspended, the Governor may appoint persons to grant licenses and to receive the fees for the same, and may prescribe the form of application for such licenses, and by whom they shall respectively be issued, signed, and counter-
signed.

Duration of license.

13. Every license granted under the provisions of this Act shall be and continue in force, from and after the date of the granting thereof, until the thirty-first day of December then next ensuing, and no longer; and, when any such license shall be granted after the first day of July in any year, one-half only of the license fee shall be payable for the said licenses respectively.

Saving as to existing licenses.

14. Every hawker's or pedlar's license in force at the commencement of this Act shall be deemed to have been granted under and shall be subject to the provisions of this Act, and shall remain in full force and effect until its expiration by effluxion of time or forfeiture.

If any such license shall expire at any time before the period herein appointed for the renewing of licenses, such license may be extended in force until the thirty-first day of December first ensuing after the expiration thereof by an indorsement to that effect by the principal officer of the local authority of the district, on payment, in respect of such extension, of a part of the annual license-fee proportionate to the time for which the license is extended.

Hawkers' badge.

15. Every person to whom any such license as aforesaid shall be granted, or who shall carry on the business of a hawker or pedlar under the authority of such license, shall cause to be written, painted, or printed, in large legible Roman letters, upon some conspicuous part of every pack, bag, box, trunk, case, cart, dray, wagon, boat, or other vehicle or conveyance in or with which he shall so carry on such business the words "licensed hawker," together with his name at full length, and the number of his license.

And every such person making default therein shall forfeit and pay on conviction for every such offence such sum not exceeding *ten* pounds as to the convicting Justices shall seem meet.

Assumption of badge by unlicensed person.

16. If any person who shall not have previously obtained any such license as aforesaid shall write, paint, or print, or cause to be written, painted, or printed, or keep or continue or cause to be kept or continued written, painted, or printed upon any pack, bag, box, trunk, case, cart, dray, wagon, boat, or other vehicle or conveyance, in or with which he shall sell or expose to sale any goods, or in or with which he shall convey any goods, the words "licensed hawker," or any other word or words to that effect, he shall forfeit and pay on conviction such sum not exceeding *ten* pounds as to the convicting Justices shall seem meet.

Spirituous liquors not to be carried.

17. If any person, having obtained any such license as aforesaid, shall have in his possession, or on his cart, dray, wagon, boat, or

other conveyance any fermented or spirituous liquors, he shall forfeit and pay on conviction for every such offence such sum not exceeding *fifty* pounds as to the convicting Justice shall seem meet.

18. In case any person shall have reasonable ground for suspecting
 5 that any hawker or pedlar is carrying fermented or spirituous liquors
 contrary to the provisions of this Act, or otherwise offending against
 the same, such person may make oath before any Justice of the Peace,
 at his private residence or elsewhere, of the circumstances; and, if
 it shall appear to such Justice that reasonable ground for suspicion
 10 exists, such Justice may grant a warrant authorizing such person to
 examine and search the person, packs, baggage, boxes, trunks, cases,
 carts, drays, wagons, boats, or other conveyance of such hawker or
 pedlar therein named or described, such warrant to remain in force
 for such time as shall be therein mentioned.

Searching hawkers.}

15 Any Justice of the Peace, police officer, or constable, having
 reasonable ground for suspicion as aforesaid, may examine and search
 the persons, packs, baggage, boxes, trunks, cases, carts, drays,
 wagons, boats, or other conveyance of any sort of any such hawker
 or pedlar without a warrant for such purpose.

20 Upon any such person authorized by warrant as aforesaid, or any
 such Justice of the Peace, police officer, or constable, finding any such
 fermented or spirituous liquors carried contrary to law, he may seize
 the same; and such hawker or pedlar, on conviction of such offence in
 a summary way before two or more Justices of the Peace, shall forfeit
 25 and pay a sum not exceeding *fifty* pounds, or be imprisoned with hard
 labour for any period not exceeding *six* months, at the discretion
 of such Justices.

19. Any Justice of the Peace, police officer, or constable may,
 without warrant, seize all such fermented and spirituous liquors as
 30 shall be hawked or conveyed about or exposed to sale in any street,
 road, footpath, or in any booth, tent, stall, or shed, or in any boat or
 vessel, or any other place whatever, by any person not licensed
 according to law to sell the same in such place, and the vessels
 containing the same, and all the vessels and utensils used for drinking
 35 or measuring the same, and any cart, dray, or other carriage, and any
 horse or horses or other animal or animals employed in drawing or
 carrying the same, as well as any boat or vessel used in the
 conveyance of such liquors as aforesaid.

Seizure and
 forfeiture of liquors.

20. Any one or more Justice or Justices of the Peace may, on
 40 his or their own view, or if, after due inquiry and examination, it
 shall appear to the said Justice or Justices that any fermented or
 spirituous liquors were carried contrary to law, or were hawked and
 conveyed about for the purpose of being illegally sold or disposed of
 by retail, adjudge the said liquors and vessels and utensils containing
 45 the same, and any cart, dray, or other carriage, horse or horses or
 other animal or animals, as well as any boat or vessel used in con-
 veying the same, to be condemned and forfeited, and the same shall
 and may be sold, and the proceeds thereof shall be paid into the
 Public Account, and form part of the Consolidated Fund.

Liquors seized may
 be condemned and
 sold.

50 Nothing in this Act contained shall prevent any penalty or
 punishment being inflicted on any person so offending as aforesaid
 under any other law or Act now or hereafter to be in force in the
 colony.

Onus of proof as to carrying liquors.

21. In all cases where fermented or spirituous liquors shall be carried from one place to another the burden of proving that such fermented or spirituous liquors were not so carried for sale or exposed to sale shall be cast upon the party or parties so carrying them.

Selling smuggled or stolen goods.

22. If any hawker or pedlar shall be convicted of knowingly dealing in or selling any kind of smuggled or contraband goods, wares, or merchandise, or knowingly dealing in, vending, or selling any goods, wares, or merchandise fraudulently or dishonestly procured, either by himself or through the medium of others with his privity and knowledge, every such hawker and pedlar shall, from and after such conviction, forfeit his license, and for ever thereafter be incapable of obtaining or holding any new license, or dealing, trafficking, or trading under the same; and that over and above all such other forfeitures and incapacities, fines, and penalties to which he is or shall be by law subject and liable for such illicit and illegal trafficking and dealing.

Seizure of unlicensed person.

23. Any constable may seize and detain any person found by him carrying on the business of a hawker or pedlar within the colony without having previously obtained a license for such purpose, and may keep him so detained until the day next after the day on which he shall have been so seized for the purpose of being proceeded against for such offence, unless the same can be sooner disposed of.

Penalty for not exhibiting license on demand.

24. If any hawker or pedlar, having obtained a license under this Act, shall at any time, on demand thereof being made of him by any Justice of the Peace or constable, or by any person to whom he shall within twenty-four hours previously have sold or offered to sell any goods, neglect or refuse to produce and show to such Justice of the Peace, constable, or other person his said license, he shall forfeit and pay on conviction for every such offence such sum not exceeding *ten* pounds as to the convicting Justices shall seem meet.

Penalty for selling contrary to Act.

25. If any licensed hawker and pedlar shall exercise his business at any time or in any manner contrary to the provisions of this Act, or otherwise offend against this Act, he shall, for every such offence, be liable to a penalty not exceeding *fifty* pounds.

License improperly obtained to be forfeited.

26. Every licensed hawker and pedlar who has improperly obtained a license contrary to the true meaning of this Act shall, in the discretion of any two Justices of the Peace, forfeit his license, and thereafter shall be deemed to be unlicensed.

Penalty for forging, &c., license.

27. Every person who shall forge, counterfeit, or alter, or cause to be forged, counterfeited, or altered, any license, or any seal or signature to any license, or shall use or travel with, produce, or show, with intent to use the same as a genuine instrument, or shall tender in evidence, any such forged, counterfeited, or altered license, or seal, or signature, knowing the same to be forged, counterfeited, or altered, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Penalty for lending or hiring, &c., license.

28. Every person shall be liable to a penalty not exceeding *fifty* pounds for every separate offence who shall let out or hire or lend any license granted to him, or shall trade with or under colour of any

license granted to any other person whomsoever, or of any license in which his own name shall not be inserted as the name of the person to whom the same is granted.

5 **29.** In all proceedings against any person for having acted as a hawker and pedlar without a license such person, unless he shall produce his license or bring other satisfactory proof of his having been licensed at the time at which the offence was committed, shall be deemed to have been unlicensed. Non-production of license.

10 **30.** If any hawker and pedlar holding a license under this Act shall be convicted of an offence under this Act, and thereafter be convicted of a second or any subsequent offence of any kind under this Act, the convicting Magistrate or Justices may, in addition to any other penalty, cancel his license. License may be cancelled.

15 **31.** All offences under this Act, except under section *twenty-seven*, may be heard and determined, and all fines and penalties may be recovered in a summary way, before a Resident Magistrate or any two or more Justices of the Peace, and one moiety of any penalty may, at the discretion of the convicting Justices, be paid to the person who shall sue for the same, and the other moiety shall be paid into the Public Account, and form part of the Consolidated Fund. Recovery of fines, &c.; to be paid to Public Account.

32. Nothing in this Act contained shall be construed—

25 (1.) To prevent any person from selling or offering for sale any printed newspaper, fish, fruit, water, fuel, milk, vegetables, or victuals of any description, or any agricultural produce, without having previously obtained a license under this Act; nor to prevent the actual maker, or the children, apprentices, agents, or servants of and residing with the maker, of any goods from selling or offering for sale the same without having previously obtained a license as aforesaid; nor to prevent the sale without such license of any goods whatever in any market that may be legally established in the colony, or in any house or shop occupied by the person so selling or offering to sell the same. Saving clause.

30 (2.) To alter or affect the provisions of any law or by-law now or hereafter to be in force relating to the sale or exposing for sale of any articles or goods whatsoever within the limits of any borough or town district.

40 **33.** The following Provincial Ordinances of Otago are hereby repealed:— Provincial Ordinances repealed.

1864, Session 19, No. 170.—“The Licensed Hawkers Ordinance, 1864.”

1870, Session 28, No. 336.—“The Licensed Hawkers Ordinance (Southland) Repeal Ordinance, 1870.”

45 SCHEDULES. Schedules.

FIRST SCHEDULE.

APPLICATION FOR LICENSE.

To the Resident Magistrate of District.

50 I [A.B.], now residing at _____, do hereby give notice that it is my intention, at the expiration of *ten* days from this date, to apply for a hawker's and pedlar's license authorizing me to carry goods, wares, and merchandise for the purpose of sale on

