

BERR Research – Evidence to Durham University – 11 August 2008

The government Department for Business Enterprise & Regulatory Reform, BERR, is researching private legislation to restrict the lawful activities of pedlars. The National Association of British Market Authorities, NABMA, represents the most powerful lobby influencing policy with the published aim to repeal the Pedlars Act 1871 & Pedlars Act 1881. With no public interest or support to repeal the Statutes, a more devious back-door route is applied - Private bills have been introduced via Parliament by wealthy local authorities using charge payers money, without any consultation which effectively subvert Statute by meddling with the adoptive Local Government (Miscellaneous Provisions) Act 1982 and which Parliament never intended as an instrument against pedlars.

These private bills in effect directly reverse the Pedlars Act 1881 which clearly gives a pedlar the right to trade anywhere in the United Kingdom - they attempt to force pedlars onto private residents as only door to door sellers by prohibiting all free and social contact with citizens on the streets as they travel from place to place.

This is new & unique - that Parliament is being used by private business to oblige trading activity only at private dwelling houses under threat of criminalisation, seizure, forfeiture and fine - no longer implemented by the police but delegated by government to zealous, local authority officials. The Reverse Burden imposed on a pedlar to prove his innocence at the Magistrates is insurmountable and therefore unlawful, bringing into conflict the Legislature and the Judiciary.

There are now seven Private Acts that reverse a Public Act and/or are in direct conflict with the Pedlars Act.

There are 6 further Private bills before Parliament and some **fifty** [Iddon-Hansard] due in the next session.

Whilst government proclaims that it may not comment on Private legislation before Parliament, BERR states that "**the aim of these Bills is generally to restrict the legal activities of pedlars**".

BERR has to date declined all comment on Petitions against private bills currently blocked at second reading.

Minister Gareth Thomas, BERR, persuaded by Dr Iddon MP (Pedlars Street Trading Regulation Bill) and free from restrictive protocol of no comment about private business in Parliament, is considering adopting Private legislation as Public legislation (identical text) and requires evidence that is not only word of mouth (anecdotal) and so has commissioned evidence gathering by Durham University.

An "anecdotal" psychometric questionnaire is currently in circulation to interested parties that BERR says will enable it to assess the impact of adopting private legislation as a policy option

to amending existing legislation - but the intentions of what is going to be done about it have not been revealed.

BERR's own Better Regulation Office, BRE, in the "Rogers Review of National Enforcement Priorities for Local Authority Regulatory Services 2007" places street-trading issues at the lowest level of priority

This evidence based report from Peter Rogers the chief executive of Westminster City Council responsible for the first of these private bills but Butterfield, the Westminster Trading Standards Officer stated in evidence before the Select Committee on the London Local Authorities Bill c.299 - revealed that in Westminster 3 years after Assent - pedlars are gone but significant illegal street trading persists.....these bills do not resolve alleged problems, they simply harm pedlars!

Lord Bach, for the government stated (Hansard 29 Nov 2007) that local authorities have adequate legislation to deal with illegal street trading and noted that the Regulatory Enforcement and Sanctions Act 2007 allows local authorities to impose a range of administrative sanctions as an alternative to criminal prosecution when enforcing existing legislation, thereby reducing the need for local authorities to promote private bills.

Dr Brian Iddon when interviewed with pedlar and Parliamentary Petitioner, David Peter Murphy on BBC Radio 4 "You & Yours" 29 May 2008 had to concede fundamental misunderstanding about the activities of pedlars, had never ever met a pedlar, did not understand his own bill, and stood corrected after verification by his research assistant - that pedlars are lawfully entitled to trade in the street

Brian is Secretary of the All Party Parliamentary Group representing the lobby of Market Traders to the Association of Town Centre Managers, ATCM, which seeks to powerfully influence government policy by its own concocted Policy Summary portraying Pedlars as Illegal Street Traders.

It is against this background already addressed to Minister Gareth Thomas by Parliamentary Agents that "genuine pedlars" are hereby alerted that the private interest doctrine of restraint of trade

outlawed in the Labour Settlement Acts of 1871, is seeking to re-emerge by sleight of hand couched in the private guidance of public law - not through the law or will and guidance of Parliament but based on a selective out-sourced and intellectually conditioned research.

Concern is raised that:

- questionnaires apply unscientific methodology;
- provide only for opinion and anecdotal comment;
- leading questions seek pre-determined answers;
- will produce inadequate objective analysis;
- will be mis-used as endorsement of policy pre-determined by private business via BERR.

Questionnaires fail in that:

- they carry no legal preface outlining existing Statutes and/or Authorities;

- there is no reference to the Pedlars Act 1881;
- there is no reference to the legislative proposals and the effect on pedlars;
- those affected are least consulted - every police database provides pedlar's address for consultation;
- there is no reference to well documented objections to proposed text;
- they ignore proposed amendments by genuine pedlars;
- they offer no amendment to existing legislation;
- they deny access &/or comment from affected citizens;
- the rushed time scale to conclude research denies "good administration" HRA6

Evidence is already available:

- in legal Authorities eg Wrexham v Roberts, Chichester v Wood
- in opposed & unopposed Select Committee hearings
- JCHR o/s human rights issues in Leicester Liverpool & Maidstone
- in Hansard HL 29.11.07& HC 01.07.98, 21.02.07
- in Government reports - Home Office, BRE
- in Petitions against private bills
- Petitioner's letter to JCHR re human rights infringements HRA5,6,7,8,10,11,14,part2/first protocol/1
- extensive correspondence by Petitioners' Parliamentary Agents

Evidence of intent to prejudice & mislead is well documented:

- PPE representations from NABMA 22.10.99
- COW/Chambers presentation to APPG TCM 26.01.00
- promoters response to JCHR Medway 04
- NABMA website photo/article
- Policy Summary ATCM 2003
- Iddon's 10 minute rule bill 21.02.07
- Promoters Agent's Legal Framework 03.07.07
- Promoters' Agents Legal Opinion 11.06.08
- IOL website photo/article by Chambers 08.08

We genuine pedlars are most directly affected by proposed legislation (and there are 48 million other citizens whose liberty to become a pedlar is also affected) and we are being hobbled into a process that must withstand the need for proof and close scrutiny as required by Good Administration under Article 6 of the Human Rights Act 2000.

Each of the above documents referred to is available upon request.

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Roll B pro-bono Parliamentary Agent for Petitioners Against Privatisation of Parliament

