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4 November 2008

**The Speaker of the House**  
House of Commons  
London  
via: [sinclaira@parliament.uk](mailto:sinclaira@parliament.uk)

Mr Speaker

## **PEDLARS - LEGISLATION**

May I draw to your attention that there are documents in circulation that indicate that a point of order may be raised in the House that requires your Ruling.

I refer you to the Manchester & Bournemouth Bills, including those of Canterbury, Leeds, Nottingham & Reading among others, and with this letter direct you to the substantive points, which I hope you consider to be appropriate and essential for understanding the provisions of these Bills, their fitness for passage through the Legislature, and their ultimate administration by the Judiciary. Your ruling will determine either that the amendment to Statute proposed by the clause titled "Pedlars" is redundant, and if not, that the amendment affects interests of such a vast magnitude that it should more properly be embodied in a public rather than in a private Bill, and I herewith submit why this is so.

The Pedlars Act 1871 describes the itinerant behaviour of one who does not occupy a fixed pitch by the words "*town to town or to other men's houses*". All Authorities are consistent in interpretation. It is worth noting that pedlars are not street trading for the purposes of the Local Government (Miscellaneous Provisions) Act 1982 schedule 4 clause 2(a). The Pedlars Act 1881 entitles a pedlar to act within any part of the United Kingdom including the street.

In regard to pedlars, the wording of the Bill/s state "*only by means of visits from house to house*" which reiterates that a Certified Pedlar may not occupy a fixed pitch because a fixed pitch falls under the control of local authority regulation. Both Licensed Street Trading and Certificated Pedlary occur on the street but under different regulation.

Your ruling will determine that the Pedlars Act and the Bill/s are consistent in construction or not. If they are consistent then I seek your ruling that the alteration to the LG(MP)A1982 in the Bill/s is redundant. If your ruling determines that they are not consistent then vast and substantial issues arise primarily concerning whether they are fit to proceed as private Bill/s and I submit that Mr Speaker has ruled previously that they are not and that they should only proceed as public Bill/s.

**The Bill/s raise questions that are more than practical local questions because:**

- Certified Pedlars are currently regulated nationally by the Pedlars Acts.
- Licensed Street Traders are regulated by the Local Government (Miscellaneous Provisions) Act adopted by the local authority.
- The locus of Petitioners<sup>1</sup> against the Bill/s has not been challenged – they each come from outside the district with bona fides recognised nationally. It follows that all pedlars in the UK are lawfully entitled to trade in the district and are directly affected by the Bill/s.
- Anyone above 17 has the right to apply for a pedlars certificate and trade in the jurisdiction – therefore the existing liberty of some 80% of British people is affected by any restriction on this national freedom.
- Evidence<sup>2</sup> from the City of Westminster<sup>3</sup> indicates that rogue trading and the requirement for continued expenditure on enforcement continues even after introduction of a Bill to abolish the alleged problems. The promoters more recently admit further failure of the City of Westminster Act to resolve rogue trading problems and now bring forth further legislation in the London Local Authorities Bill<sup>4</sup>

**The Bill/s shifts the burden and affects others and other towns in the land because:**

- The short purpose of the Bill/s is “*to confer powers for the better control of street trading*”. Pedlars are not street trading<sup>5</sup> and the Bill makes no mention of Licensed Street Trading, and there is a case to answer that the short purpose of the Bill/s is wholly misleading as the main objective is to deal with the issue of illegal street trading but the burden of the Bill/s falls on lawful pedlars.
- There is a case to answer that the Bill/s also shift the burden onto private dwelling houses in prohibited streets – eg vulnerable elderly and there is no evidence of the impact this may cause.
- That the scope of Local Authority regulation be permitted to extend beyond its remit over the public domain and into the private domain establishes a dangerous precedent by driving alleged illegal activities onto the door steps of houses.

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<sup>1</sup> <http://www.pedlars.info/petitions.html>

<sup>2</sup> item 299 Butterworth “*we still have significant problem with illegal street trading*”  
<http://www.publications.parliament.uk/pa/cm200203/cmselect/cmllaweb/30909/3090916.htm>

<sup>3</sup> City of Westminster Act 1999 – identical amendment to LG(MP)A1982 as the bill/s.

<sup>4</sup> preamble clause 27 <http://www.publications.parliament.uk/pa/privbill/0708/018/018.pdf>

<sup>5</sup> Local Government (Miscellaneous Provisions) Act 1982 schedule 4 clause 2(a)

- There is also a case to answer that surrounding jurisdictions that do not have the same powers will suffer the alleged problems and this may extend far afield.
- The Bill/s stand in contradiction with the general law and, contrary to being a local Bill applying to specific individuals or organizations<sup>6</sup>, it changes the law as it applies to the general public who obtain a Pedlars Certificate nationally.

**The Bill/s raise questions of public policy of great importance:**

- Pedlary is an historic institution enshrined in Statute to protect a vulnerable socio-economic minority of individuals in a fair and just society where all have a right to access services of a general economic interest as provided for in law and practices without interference by public authority and regardless of frontiers.
- The House of Lords directed<sup>7</sup> that “*promoters will ensure that genuine pedlars are not prevented from carrying on their trade*”.
- The Lords have urged government to halt the plethora of private Bills and waste of public money<sup>8</sup> in favour of a public Bill<sup>9</sup> as the issues call for national response.
- The Bill proponents LGA/NABMA stated objective is “*repeal of the Pedlars Acts*”. In the absence of either public interest or evidence, BERR for the government is preparing a mid-November report to the minister to formulate policy options.
- The minister will decide amongst several options: (a) that the number of private Bills suggest national legislation is required; or (b) that existing national legislation be amended; or (c) that new national legislation be considered; or (d) that a Private Members Bill be considered.
- Promoters of the Bill seek to avoid Petitioner’s allegation of Human Rights infringements by arguing that the Bill seeks “*limited control*” and not “*total prohibition*”<sup>10</sup>.
- Petitioners produce evidence<sup>11</sup> to the contrary – that local authorities, once granted the very wide powers of the Bill on the basis that they only seek limited control in some streets, thereafter seek to extend such control to the boundaries of the jurisdiction – thus prohibiting pedlary anywhere in the jurisdiction.

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<sup>6</sup> Private Bills – <http://parliament.uk/about/how/laws/private.cfm>

<sup>7</sup> HL Report Paper 147

<http://www.publications.parliament.uk/pa/ld200607/ldselect/ldobcbm0607/148/14803.htm>

<sup>8</sup> Hansard col1939

<http://www.publications.parliament.uk/pa/ld200708/ldhansard/text/71129-0014.htm>

<sup>9</sup> Pedlars (Street Trading) Regulation Bill – Dr Iddon

<sup>10</sup> Sharpe Pritchard “Legal Framework” circulated at Select Committee 10 July 2007

<sup>11</sup> Leicester City Council Act 2006 –

<http://rcweb.leicester.gov.uk/consultations/ConsDetails.aspx?ConsID=147>

- The case for justification for infringement of Human Rights remains to be heard by an appropriate Select Committee since JCHR ruling<sup>12</sup>.
- The government minister<sup>13</sup> reiterated the same opinion.
- JCHR “*recognise that the Bills may raise human rights issues which are worthy of further scrutiny*”<sup>14</sup>. Andrew Dismore undertakes to write to the Chair re “*issues deserving further consideration*”.
- JCHR “*no longer intend to report on any private Bill*”<sup>15</sup>.
- The current government minister<sup>16</sup> making no comment on private Bills, admits no scrutiny of ECHR compatibility other than a mere “belief” in the promoters assessment.
- The questions raised above are not exclusive to these Bills but apply to all similar Bills in all places throughout the United Kingdom and as a matter of public policy are of great importance as they affect the General Interest.

**The Bill/s affect interests of vast magnitude, greater than local:**

- Petitions have been filed by the public from outside the jurisdiction.
- Certified pedlars are under no obligation to trade in any particular jurisdiction but Statute protects their right to choose where they wish to act.
- Similar Bills have established a dangerous precedent giving scope to local authority to extend prohibition of pedlars to a whole jurisdiction<sup>17</sup>.
- This precedent fulfils the proponents stated objective to “*Repeal the Pedlars Acts*”<sup>18</sup>, if not nationally, then at least in their particular jurisdiction, and if not by repeal, then by meddling in other Statutes with the same effect.
- Perception exists that private business in Parliament is reverting the United Kingdom back to the days of medieval councils exerting restraint of trade on those least able to defend their historic rights.
- The viability of the concept “Pedlary” as a cultural inheritance may be terminated in the jurisdiction.
- The case for a Bill to be granted such vast scope that it can lead to the termination of an historic way of life has not been proved either in the interests a particular jurisdiction or in the General Interest.

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<sup>12</sup> Leicester, Liverpool & Maidstone – clause 8.6

<http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/201/201.pdf>

<sup>13</sup> Rt Hon Ian McCartney MP DTI 19 January 2007

<sup>14</sup> JCHR Andrew Dismore MP, letter 15 January 2008

<sup>15</sup> *ibid* 14

<sup>16</sup> Gareth Thomas MP -

<http://www.publications.parliament.uk/pa/cm200708/cmpribus/pb071204.htm>

<sup>17</sup> Leicester

<sup>18</sup> NABMA/LGA

I humbly draw your attention to a ruling by Mr Speaker on the Portsmouth City Council Bill<sup>19</sup> which referred to the London Rating (Site Values) Bill<sup>20</sup> and I put the case that your ruling in this matter should be consistent, substantive and contextual in the General Interest.

I look forward to your earliest acknowledgement of my information, and that I am enabled to draw this to the attention of the Members in advance of the next roll over date.

I remain yours faithfully



**R Campbell-Lloyd**  
Roll B Parliamentary Agent

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<sup>19</sup> <http://hansard.millbanksystems.com/commons/1980/jan/29/portsmouth-city-council-bill>

HC Deb 29 January 1980 vol 977 cc1099-100 1099 1100

Mr. Speaker – “Order. I rule that the Portsmouth City Council Bill should be introduced as a Public Bill. Mr. Speaker Fitzroy ruled on 8 February 1939 that Bills which are allowed to proceed as Private Bills should never raise questions other than practical local questions. The Portsmouth City Council Bill affects other parts of the land and it also raises the question of public policy with regard to the export of live animals. For those reasons, I rule that it may proceed as a Public Bill only”. Bill withdrawn.

<sup>20</sup> <http://hansard.millbanksystems.com/commons/1939/feb/08/mr-speakers-ruling>  
HC Deb 08 February 1939 vol 343 cc950-4 “I have come to the conclusion that since it raises questions of public policy of great importance, and affects interests of vast magnitude, interests which are much more than local, the Bill ought to be introduced as a Public Bill and cannot be allowed to proceed as a Private Bill.”





## Ways and Means Office

House of Commons London SW1A 0AA  
Tel 020 7219 3771 Fax 020 7219 3879

17 December 2008

*Dear Mr Campbell-Cloyd,*

As you will know, the Chairman of Ways and Means has responsibility for private bills when they are before the House of Commons. As Secretary to the Chairman I have, therefore, been asked to provide a substantive response to your letter to Mr Speaker of 4 November which, I understand, was acknowledged by the Speaker's Office on 8 November.

In your letter you raise a number of points about private bills but, essentially, you question whether the six bills relating to pedlars should be allowed to proceed as private bills.

You may wish to note that, since 1999, Parliament has passed the following Private Acts with provisions relating to pedlars: Leicester City Council Act 2006, Liverpool City Council Act 2006, Maidstone Borough Council Act 2006, Medway Council Act 2004, City of Newcastle Act 2000 and City of Westminster Act 1999.

As you know also, all petitions against a private bill that have been deposited within time will be considered by the appropriate opposed bill committee when petitioners and their agents can present their arguments that are set out in the petitions. The members of the committee will act impartially on the evidence presented to them and will decide whether to approve, amend or reject the bill. The opposed bill committee will be able to enquire into the provisions of the bills and any implications for human rights.

The Chairman of Ways and Means is confident that the full implications of the bills, including those that relate to human rights, will be scrutinised by the members of the appropriate bill committee at the appropriate time.

The current position is that, since the bills have not yet been carried over from the previous session, they will not make any further progress unless and until a revival motion has been approved by the House. I would suggest that such a motion is unlikely to be approved without a full debate and no time has been scheduled for such a debate to take place.



You may find information on the position of each bill and motions to revive the bills on the Houses of Parliament webpages.

Yours sincerely

A handwritten signature in black ink, appearing to read "Mike Clark". The signature is fluid and cursive, with the first name "Mike" and the last name "Clark" clearly distinguishable.

Mike Clark  
Secretary to the Chairman of Ways and Means

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14 January 2009

**Angus Sinclair**

Speaker's Secretary

House of Commons

London

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Sir

## **PEDLARS - LEGISLATION**

I refer to my letters 4 November and 10 December and particularly to a response 17 December from the Secretary to the Chairman of Ways & Means – copy attached.

I am concerned that the response lacks any substance and merely refers to procedure about further progress. The essential judicial anomaly has not been addressed – *“that the alteration to the LG(MP)A 1982 in the Bill/s is redundant”*.

That previous Private Acts of a similar wording have reached the Statute book is unreliable as they were largely unopposed by competent scrutiny. The judicial anomaly remains the primary daily concern for those directly affected in all jurisdictions since they were introduced in 1999 and are the cause of all Petitions.

I have written to the Speaker about an issue in the General Interest on a Point of Order which precedes Select Committee scrutiny and which could be overruled by the Chair of such Select Committee as not being set out in the Petitions or that the committee lacks the necessary expertise as occurred previously in the other House regarding Human Rights.

I am obliged therefore once again to reiterate my letter of 4 November 2008 urging a substantive response to the judicial anomaly within the historical context of pedlary<sup>1</sup> and which is consistent with previous Speakers ruling on the Portsmouth City Council Bill.

Yours faithfully



**R Campbell-Lloyd**

Roll B Parliamentary Agent

cc Mike Clark Secretary to Chairman of Ways & Means

bills/speaker6

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<sup>1</sup> Pepper v Hart 1993