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NOTE OF JUDGEMENT OF HIS HONOUR JUDGE PROCTOR
AND 2 MAGISTRATES

MANCHESTER CROWN COURT: 7th July, 1989.

THE APPEAL OF: ROBERT TAYLOR

THE FACTS: (summarised)

Mr. Taylor was seen on 25/4/88 by P.C. Pullen on Salford Precinct. He was selling goods—glove puppets, to people in the Precinct. They were in a bag at his side. A female member of the public bought one and walked away. Another purchase was made by another member of the public whereupon P.C. Pullen approached Mr. Taylor. All the relevant formalities had been complied with and the street was a prohibited street. The officer spoke to Mr. Taylor saying that he was not permitted to trade on Albany Way in Salford as it was a prohibited street. Mr. Taylor produced a Pedlars certificate valid from 7th April, 1988 to 6th April 1989 issued by The Lancashire Constabulary. The officer assured Mr. Taylor he was trading unlawfully, but Mr. Taylor refused to move. He was told he would be reported and he just said "you do that". Another 2 puppets were then sold. The officer left.

The question for the Court was whether Mr. Taylor was a pedlar within the meaning of the Act. If he was then the

prohibition on street trading did not apply.

The Learned Judge, having summarised the facts, said:

This was a unanimous decision of the Court. The crux of this appeal is: was the Appellant Peddling? It is agreed that he had a valid Pedlar's certificate. The evidence of P.C. Pullen was that on 25th April, 1988, he saw the Appellant selling puppets. There were 2 bags at his side. The officer was not interested in the certificate as it was prohibited to trade there. He said he had been watching Mr. Taylor, the appellant, for some 30 seconds.

The appellant goes all over the country although his base is Blackpool. He had come to Salford for new stock. He sells in a region at a time. He was in Cumberland last week. He goes by car. He has a supply of goods in bags and says he acts as a Pedlar, walking through towns selling as he goes. He had come to Salford from Blackpool to restock. The Appellant went on to say he had been in the Precinct for 10-15 minutes, and had been next to Marks and Spencers at that time. He had made 2/3 sales in 30 seconds. The Appellant says he was working his way through.

The Court has been directed to WATSON -V- MALLOY 1988 WLR 1026 and to SAMPLE -V- HULME 1936 1 WLR 1319. The second case helped considerably on 'travel'. The Appellant travels

on foot as soon as he gets out of his car. That is important as the 1871 Act requires travel on foot. A Pedlar is defined by S.3 of the Act (S.3 Repeated). In WATSON -V- MALLOY there were 2 Appellants. One describes his trade as: Quotation from middle of Hutchinson J.'s judgement - "I am a pedlar by trade ... which I thought covered me."

This is clearly trading from a pitch, a stall. The static nature of the sale is important. Hutchinson J. describes the popular conception of a Pedlar as an itinerant seller, and in the next paragraph as one who trades as he travels as distinct from one who merely travels to trade. Each case must be decided on its own facts; in this case upon Mr. Taylor's activities. It is urged that the Appellant had stopped for 10-15 minutes and that by so doing and putting down his bags he was disqualified from pedling.

Mr. Bloomer for the Appellant submitted that you have to look at the whole incident, and that the Appellant was trading as he travelled. He was not going to a particular place to trade. Here the Appellant was going through the Precinct, selling. Members of the Public were coming up to him to buy. He submits that Mr. Taylor was a pedlar on that day because he was:-

- (1) on foot;
- (2) he was travelling;
- (3) he was trading;
- (4) he was carrying his goods; and

Judge Proctor found: Mr Taylor was trading as a pedlar - Appeal upheld