

HOUSE OF LORDS  
SESSION 2009-10

### LEEDS CITY COUNCIL BILL

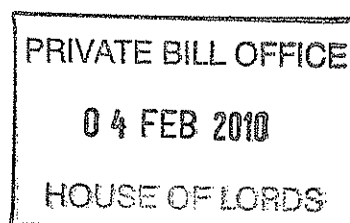
Petition against the Bill -on merits -Praying to be heard by Counsel etc.

To the Right Honourable the Lords Spiritual and Temporal of the United Kingdom of Great Britain and Northern Ireland in Parliament assembled.

The humble petition of **Mr Tony Furnivalis**

SHEWETH as follows;

- 1) A Bill (hereinafter referred to as "the Bill") has been introduced and is now pending in your Right Honourable House intituled "A Bill to confer powers on Leeds City Council for the better control of street trading and touting in the city of Leeds".
- 2) The Bill is promoted by Leeds City Council. The preamble to the Bill recites that;
  - i) The city of Leeds (hereinafter called "the city") is a district under the management and local government of Leeds City Council (hereinafter called "the council");
  - ii) Certain powers relating to street trading in the borough are exercisable by the council under the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) and for their better enforcement it is expedient to amend that Act in its application to Leeds and supplement those powers:
- 3) Your petitioner petitions against the whole Bill now proposed and contends that the Bill is neither expedient nor in the general interest.
- 4) Your petitioner is Mr. Tony Furnivalis, who lives Manchester. Your petitioner is a holder of a pedlar's certificate and has held one for eight years. Your petitioner under the authority of such a certificate granted by statute (Pedlars Acts 1871 and 1881), acts as a pedlar throughout much of the United Kingdom, including the City of Leeds.
- 5) Your Petitioner and his rights, interests and property are injuriously affected by the Bill, to which your Petitioner objects for reasons amongst others, hereinafter appearing.
- 6) Your Petitioner declares great disdain that he find himself personally petitioning the Houses of Parliament in defence of Parliament's own Statutes, the Pedlars Acts, against what he considers to be an insidious Private Bill that seeks a **hidden agenda** to repeal the liberties, rights and freedoms granted to me by Statute. For Leeds City Council to attack National Statute merely because it has the power and



the funds to do so, and to wilfully neglect to address his rightful interests to operate within regulation, seems to your Petitioner to be profoundly wrong.

- 7) Your Petitioner contends that Clause 5 causes a **misnomer** because it does not differentiate him, a pedlar, from a rogue trader, with an intended effect that he is perceived to be illegal or a rogue – such unwarranted projection is considered defamatory and emotive and prejudices the good name of his profession.
- 8) Your Petitioner contends that Clause 5 causes an **anomaly in construction** because Primary legislation [Pedlars Act 1871] carries in precedent a *liberal* construction of the activities of a pedlar but this Bill can carry a narrow *literal* construction that proscribes normal activities of a pedlar. Under the Pedlars Act *going to other men's houses* means in precedent that a pedlar can trade in the street – therefore under the Bill *going house to house* can also mean that a pedlar can trade in the street. Construction is then consistent. To change construction to a *literal interpretation* in isolation without the context of the whole is to make bad law.
- 9) Your Petitioner contends Clause 5 engages clause 6 seizure & forfeiture if he trades in designated streets going from house to house making it an **implied offence** to be on the street trading from house to house:
- 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 or merchandise immediately to be delivered*  
*or selling or offering for sale his skill in handicraft*
- a) the Pedlars Act 1871 can be shown by precedent to carry a **liberal construction** enabling a pedlar going from town to town or to other men's houses to trade on busy shopping streets and not only at houses – your petitioner, who by definition is also a trader in the street, does not occupy a fixed pitch like a licensed street trader.
- b) the Bill is promoted with **literal construction** of the words:  
*If the trade is carried out*  
*only by means of visits from house to house*  
 making any activity of a pedlar in a designated street a perceived offence.
- c) it follows that the Bill is promoted in designated streets to restrict his activities exclusively to private dwelling houses which are places outside the remit of local authority [under the LGMPA82]
- d) the Bill contains no undertakings in regard to responsibility towards the occupants of those private dwelling houses to which he is directed.

- e) the Bill does not define how he may act whilst on the street between houses in designated areas – his trade as a pedlar is not limited to mere sale or display of goods.
  - f) the Bill does not state that a pedlar cannot trade in the street then this makes interpretation of the Bill confusing and misleading.
  - g) the Bill does not define whether the proscribed activities of a pedlar are limited to economic activity and also his cultural activity which both form part of his professional trade.
- 10) Your Petitioner contends that under existing legislation the *burden of proof* is with the local authority to show that his activities are such that those activities take him outside the exemption from the street trading regime granted to him by way of a Pedlar's Certificate. The Bill when enforced literally introduces a **Reverse Burden** that your Petitioner cannot discharge because of the *implicit offence* brought upon him by clause 5.
- a) The burden of proof is reversed by the Bill because clause 5 when applied literally makes it an implied offence for him to be in a designated street – there is no definition of the *trade* of a pedlar save that in the Pedlars Act.
  - b) The burden cannot be discharged in a Magistrates Court because from experience issues of construction are deemed frivolous and/or outside the remit of a Magistrates Court.
  - c) The burden is therefore insurmountable.
  - d) If the burden of proof remains with the Local Authority, the implied evidential requirement is both fair and proportionate as the means for proof already exist - CCTV, police, licensing and trading standards officers.
  - e) The imposition on him of the burden of proof that "to other men's houses [Pedlars Act]" has the same construction as "only by means of visits from house to house [the bill]" is unfair and disproportionate because the penalty at stake, seizure & forfeiture, is severe and the proscribed conduct, trading as a pedlar in a designated street, relatively minor.
  - f) The **Reverse Burden** is a mischievous sleight-of-hand that takes us backwards to that time in history preceding the Pedlars Acts, which is why then, for good reason Parliament legislated protection for travelling traders with good faith.
- 11) Your Petitioner contends that Clause 5, given ascent with literal interpretation engages **Human Rights Articles 5, 6, 7, 8, 10, 11, 14 and Article 1 Part 2 First Protocol** for the following reasons:
- a) The liberty granted to him under the LGMPA82 exempts his activities as a pedlar from street trading regulation. The liberty granted to him under the Pedlars Act 1881 allows him to act within any part of the United Kingdom. Security and protection is granted by way of a Pedlars certificate issued under the Pedlars Act 1871. The Bill contains no safeguards against violation of **Article 5 [HRA1998]** - the right to liberty and security for him to trade in the street.
  - b) Pedlars received no consultative process in formulating the wording of the Bill. The Bill clause 5 can impose an insurmountable Reverse Burden and violate a pedlar's presumption of innocence. The notion that he has recourse for compensation against seizure & forfeiture is illusory and wholly undermined by the fact that an officer need only claim reasonable grounds for suspecting that a relevant offence has been committed. Such offence only

- comes about by clause 5 criminalising a pedlar. The Bill contains no safeguard against violation of **Article 6** - the right to a fair trial, good administration and presumption of innocence.
- c) The protection granted by the 1871, 1881, 1982 Acts by way of the Pedlars Certificate are threatened by the Bill's 'seizure and forfeiture' of goods the moment your petitioner steps onto a designated street. A zealous officer need only claim reasonable grounds for suspecting that a relevant offence had been committed for him to lose his right to possible compensation. Anyone walking in the street offering goods or services does not commit an offence until overzealous perception threatens criminalisation. The Bill contains no safeguard against violation of **Article 7** - no punishment without law and equality before the law.
- d) The way of life of your petitioner incorporates his domestic life and his public life without differentiation, his cultural identity by choice is that of a pedlar which carries rights, liberties and freedoms to interact with dignity within his culture without frontiers. The Bill contains no safeguard against violation of **Article 8** - the right to respect for private and family life with dignity.
- e) The Promoters seek qualification of the exemption for pedlars under the Miscellaneous Provisions Act regarding street trading. 'Street trading' means 'the selling exposing or offering for sale of any article (including a living thing) in the street and includes services'. Your petitioner enjoys an oral tradition and the street is where not only his street trading is carried out but all aspects of the *travelling* and *trade* which includes social & fraternal networking, receiving and imparting information, meeting, exchanging, demonstrating, displaying, researching and investigating ideas all of which amount to more than mere economic activity. The Bill contains no safeguard against violation of **Article 10** - freedom of expression & information without interference from public authority and regardless of frontiers.
- f) The scope of the Miscellaneous Provisions Act is limited to matters of trading in the street ie the selling, exposing or offering of goods but the scope of the Bill appears to seek control of your petitioner's association with others which forms the greater part of a pedlar's activity of networking and seeking contacts. The Bill contains no safeguard against violation of **Article 11** - freedom of assembly & association with others.
- g) The Promoters seek supplementary powers under the 1982 Act to control rogue traders whom they allege cause problems and circumvent street trading regulation by claiming to be pedlars but who are not acting as pedlars. They claim it is difficult to differentiate a genuine pedlar from a rogue trader and state in the preamble that it is expedient to amend the 1982 Act. Whether expediency is right or just is the issue affecting your petitioner who could be innocently caught in a blanket policy. The Bill contains no safeguard against violation of **Article 14** - prohibition of discrimination.
- h) The Bill Clause 5 in effect criminalises him going in a designated street by denying his right to an interest of going in the street, preferring the general economic benefit to other trading interests. This prohibition effects 'freedom of movement' by threat of seizure and forfeiture whilst going in designated streets. The Bill contains no safeguard against violation of **Article 1 Part 2 First Protocol** - freedom of movement and access to services of a general economic interest.

- 12) Your Petitioner contends that the Promoters have in all Select Committee Hearings to date presented **anecdotal evidence** – such anecdotal evidence, to be acceptable, has to have a viable empirical basis and be capable of proof in a Court of Law.
- a) With similar Bills [Bournemouth] in other places, the promoters have relied on witnesses who conceded not to be an expert in trading standards, nor to be an expert in street trading regulation, nor in policing and enforcement, nor in consumer law, nor in legal matters, nor in other issues about pedlars and their grasp of the description of a pedlar was confused or misled, and altogether unreliable.
  - b) The Promoters called evidence consisting of 68 instances of rogue trading with admission that none were genuine pedlars. There was no evidence whatsoever that pedlars acting within regulation cause problems and the claim that evidence has been presented to demonstrate why the restriction on genuine pedlars is in the general interest has not been proven.
  - c) In Evidence from London Local Authority Bill, whilst trumpeting the success of the Westminster Act, the Promoter's Mr Butterfield states "we still have a significant problem with illegal street traders" and your Petitioner contends that rogue traders are not affected by the Bill and will continue to be rogue traders as in other places – clause 5 is ineffective in resolving the Purposes for the Bill.
- 13) Your Petitioner contends that the Promoters rely on anecdotal concerns to justify the Bill but when pressed in previous Evidence their witnesses acknowledge that existing legislation is available to deal with shoddy goods, counterfeit goods, dangerous goods, illegal goods and obstruction. One witness repeatedly referred to **lack of economic resource** as the main reason for introducing a Bill to restrict pedlars activity in designated streets and alleged that the business of licensed street traders is being undermined by pedlars across the country. The economic argument is promoted in two different ways.
- a) Firstly, that a Pedlar pays so little [£12.50pa] compared to some £3000-£4000pa that a licensed street trader pays. On a relative price per square metre rate he pays about £100/square metre/year compared to £200/square metre/year by a licensed street trader. The fact that your petitioner is a traveller incurring heavy costs for travelling to towns and cities indicates that in real terms those overhead costs balance the lesser fee and he contends that such argument is invalid.
  - b) Secondly, that the cost of local authority administration is too high and the return from conviction and fines too little. The Petitioner contends that the local authority has neglected its responsibilities in prosecuting rogues and as a consequence the rogues have been encouraged to trade in the streets. This policy of neglect has harmed his trade and the Council remedy [the Bill] makes for further harm. A more robust prosecution regime would have been sufficient deterrent to rogues and be considerably less expensive than the cost of private legislation to harm your petitioner.
  - c) This issue was addressed by Lord Bach for the Government who encouraged local authorities to take a different direction and await the Regulatory Enforcement and Sanctions Bill which may enable adequate financial penalties against rogues as the solution. However for this Bill to pass in its

present conflicting terms, without strict definition about what constitutes a genuine pedlar will add a greater burden of difficulty to the law.

- d) Your Petitioner humbly submits with the benefit of experience and testified by Parliament's own witness that the removal of genuine pedlars will not resolve the problem of rogue traders and that problems with economic resource lie outside of the remit of this proposed legislation and should not be entered to justify ending his trade.
- 14) The Petitioner contends Standing Order 38(3) requires a statement of opinion be given as to the issue of the European Convention on **Human Rights** and that the Promoters are reliant on their reply to questions from Joint Committee on Human Rights in Scrutiny of Medway Council Bill HC Paper 427.
- a) The Promoters claim that the Bill complies with the formality under SO38(3) but the Petitioner is not convinced because in his view the provisions of the Leeds City Council Bill which are the same as in the Bournemouth Borough Council Bill are incompatible with the Convention of Rights and petitioners reasons have been reported to the Joint Committee on Human Rights and given in Evidence.
  - b) The JCHR reply referred to a forthcoming Select Committee Hearing stating "there will be ample opportunity to be heard re the impact on human rights".
  - c) JCHR previously ruled [Leicester Liverpool & Maidstone] that "it was for the appropriate committee in the Lords to consider the justification for limiting the rights of pedlars and for that to be in the general interest, and further that it is for the Select Committee to decide whether the Promoters can establish their case for the Bill with regard to proportionality as a legitimate aim and if justified, interference with a pedlar's rights".
  - d) Rt Hon Ian McCartney MP DTI reiterated the same opinion in regard to that Bill.
  - e) In the minutes of the Select Committee on Bournemouth hearing at item 704 the Chairman declared on behalf of the Committee that "we are not experts in human rights" and "we rely on expert committee & legal advisers who have both pronounced that they are clear that there are no human rights implications.....".
  - f) The Petitioner's Agent's detailed presentation to the Committee was curtailed by the Chairman and a very restrained & condensed outline of the Human Rights issues was presented.
  - g) A Special Report [HL Paper 148] for the first time identified *genuine pedlars*.
  - h) The report refers to compliance with the European Convention on Human Rights but a paper-trail analysis of previous scrutiny reveals that at no time has the effect on *genuine* pedlars been specifically heard.
  - i) Much has been written by the Promoters attempt to justify previous Bills but the Petitioner contends that the Bill does not comply with regard to *genuine* pedlars.
  - j) The House of Lords has identified the need for a clear statement about the definition of a genuine pedlar. Previous Petitioners have given Evidence towards that definition which the Promoters refuse to accept.
  - k) Minister Gareth Thomas repeats previous opinion that he "has not seen the evidence the promoters rely on to justify restrictions as being in the general interest".
  - l) Your petitioner contends that the bill is a 'local interest' with negative 'general interest' impact on himself. It is of benefit to other socio-economic groups for their advantage but to the disadvantage of he and his socio-economic group, namely pedlars, effectively prohibiting access to an economic benefit of general interest.

- 15) The Promoters are reliant on Scrutiny of the Medway Bill by JCHR for **compliance with the Convention on Human Rights**. No new questions have been raised by JCHR since then and so the Promoters merely repeat this reliance; but your Petitioner is concerned by Question 3 in the scrutiny of Medway *“Why do the Promoters consider that clause 4 [Medway- same as clause 5 Bournemouth and clause 5 of this bill] represents a fair balance between the general interest and the right to peaceful enjoyment of possessions under Article 1 of Protocol No 1 to the ECHR?”* and with the Promoters reply.
- a) The Promoters undertake to justify the interference with genuine pedlars to be in the public interest and the Petitioner contended that the anecdotal evidence brought before the Committee on that Bill could not withstand scrutiny, was not proved and was provided by an unreliable witness who admitted having no expertise in trading standards, nor street trading regulation, nor policing and enforcement, nor in consumer law, nor in legal matters, nor in other issues about pedlars.
  - b) The Promoters undertook to bring evidence of manifest problems but that Petitioner contended that no proved evidence was provided and by the witness own admission the anecdotal evidence involved no genuine pedlars.
  - c) The witness when pressed admitted that the photographic evidence taken was not really evidence in the strict term but *“what it is meant to do is give the Committee a feel for the problems”* and the Petitioner contended that any significance in evidence based on *“feelings”* should be dismissed.
  - d) The Promoters undertook to bring evidence of significant complaints from those who hold street trading licences, those who buy shoddy goods from pedlars and from other business charge payers but that petitioner contended that such evidence when subject to scrutiny was heresay rallied from those who want pedlars removed because they are commercial rivals. As then and now with this bill your Petitioner contends that insignificant complaints should be dismissed as frivolous.
  - e) The Promoters also undertook to *“seek to persuade the Committee that in many cases the quality of goods sold by pedlars is shoddy or in breach of copyright”* but your Petitioner notes that no examples of *“shoddy”* or *“breach of copyright”* was brought in Evidence.
  - f) The Promoters acknowledge that *“the Council has powers to deal with obstruction and nuisance”*.
  - g) The Promoters contend that *“very few if any ‘genuine’ pedlars would be affected”* - but provided no statistical evidence gathering about the effect on genuine pedlars and your Petitioner contends that this goes to the heart of the matter, and recommends the Committee not to give weight to such hypothetical surmise. Your Petitioner is before this committee as a living example of a genuine pedlar and who is directly affected.
  - h) The Promoters contend that *“clause 4 does not, of course, necessarily take away the right of a pedlar to trade in the street”* and your Petitioner urges this Committee to dismiss their contention as a mis-direction, clause 5 prohibits the effect of a pedlars certificate in designated streets.
  - i) Your Petitioner contends that in the matter of this most serious Question 3 the Promoters fail to show Compliance with the Convention on Human Rights.
- 16) The Promoters acknowledge *“the justification for removal of a pedlars right to trade in the street as being proportionate to a legitimate aim, is a matter that the*

Select Committee was to consider when deciding whether the Promoters had established the case for the Bill". To this date the issue of *justification for removal of genuine pedlars rights* remains outstanding and: - whether or not the interference with pedlar's rights is in the **general interest** - as also whether this particular interference benefits other economic interests disproportionately to the detriment of your petitioner.

- a) Lord Boyd reiterated the duty of his Committee to consider the matter of "proportionate response" and the Promoters witness was filled with feelings that all Councils who adopted the same Bills were successful in dealing with the alleged problems but your Petitioner contends that the witness may have been unaware of the fact that the Head of Licensing for City of Westminster when called as witness in the London Local Authorities Bill 2003 stated "although we still have a significant problem with illegal street trading – the pedlars issue has not operated since".
- b) Your Petitioner here presents accepted Evidence that the effect of the bill will remove genuine pedlars - but rogues will still continue to trade – making the Bill without effect on rogues but catching your petitioner.
- c) *"There is without doubt a powerful and organized lobby against pedlars. This operates both at national and local level. At National level various individuals and organizations are engaged in informing interested MPs about street trading problems as they see them. In general their representation focus on (1) the repeal of the Pedlars Acts 1871 & 1881, that is to say, the amendment of street trading legislation so that the exemption for pedlars is abolished; and (2) that the power of seizure of goods be extended beyond London in accordance with the Westminster model. Amongst the organizations which have urged Parliament to one or more of these changes are the National Association of British Market Authorities, the Local Government Association, the Association of the British Chambers of Commerce and the Association of Town Centre Management. The Local Government Licensing Forum has also been urged to lobby Parliament to abolish the pedlars' exemption. There is an All Party Parliamentary Group on Town Centre Management Issues which receives these representations"* [Hough B, Professor of English Law, Bournemouth University]. Your Petitioner contends that the Parliamentary Agents are directly responsible for orchestrating the furore against humble pedlars by rallying meetings with those who may gain from pedlars demise.
- d) Your Petitioner does not have a war-chest to oppose this Bill but recons it is surely good business for agents that promote it and worth touting by coercion with canapés and wine parties for council managers in support of NABMA who seek to repeal the Pedlars Acts.
- e) *"That Attornies at Law shall be deemed Hawkers"* [House of Commons Journal Vol 12: 26 May 1698 – Supply Bill; Hawkers and Pedlars – a Clause was offered, to be added to the Bill]. Your Petitioner asserts that honourable Parliamentary Agents may well have the lineage of a pedlar in their honour as does one of our most famous and successful pedlars, going on to give his name to one of the nation's most successful brands – Marks & Spencer.
- f) Your Petitioner also has an economic interest in continuing his fragile way of life as a pedlar, and humble as it may seem he simply seeks to maintain his right to an economic interest provided by the Pedlars Acts and protected by Human Rights Convention Article 1 Part 2 First Protocol.

- 17) Petitioners have previously in Evidence presented a form of wording for Clause 5 that would enable the Bill to go forward without infringing his Rights. Clause 5 would read: *"In their application to the borough, the provisions of Schedule 4 to the 1982 Act shall apply as if in paragraph 1(2)(a) of that schedule there were inserted, after the reference to the Pedlars Act 1871 (c.96), the words 'with goods carried on the person as a pedestrian'."*
- a) The amendment satisfies the Promoter's problem of rogue traders who use street traders trolleys and pretend to be pedlars; it satisfies the concerns of genuine pedlars that clause 5 seeks an unjust blanket policy; it satisfies the concerns of Government that local issues be resolved locally without conflict with National Statute; it satisfies the Human Rights issues; it satisfies Council's concern that its officers have little or no skill in perceiving a rogue from a genuine pedlar; it satisfies the needs for enforcement to be simple and cost effective; it satisfies local residents concern that rogues will not be displaced from the streets onto their doors; it satisfies outlying districts concern that rogues will not be displaced to their towns; it is a win win situation for everybody concerned, unless of course there is a blatant hidden agenda to harm genuine pedlars to satisfy the wishes of powerful lobbyists.
  - b) The Promoters have stated in Evidence that "The reasons why it [Petitioner's amendment] is not accepted are these: first, the general point that Mr Campbell-Lloyd is seeking to reverse amendments to existing legislation - that is just simply not possible, as the Committee I have no doubt is aware. So as a general point it would be sensible to have continuity in the legislation particularly to the nine or ten towns or cities, and the continuity would, it is submitted, require a form of words as is promoted in clause 5." That Clarkson states "reversing amendments to existing legislation is just simply not possible" goes against the purpose of Parliament. The Petitioners have maintained all along that there have been human rights issues since Westminster 1999 and the contention to simply continue without regard to error or neglect is to challenge the merit of post-legislative scrutiny.
- 18) The preamble to the bill lacks any consideration whatsoever about the effect of the Bill on pedlars other than to **mislead the Committee** with the statement that "they will continue to enjoy the protection of the 1982 Act".
- i) There is no analysis of how many pedlars may be affected by the Bill.
  - ii) There has been no consultative process with pedlars.
  - iii) Besides the effect on pedlars there is no consideration of the effect on ordinary citizens - this effect should not be underestimated.
  - iv) The sifting procedure [JCHR23rd Report item 27] for closer scrutiny of legislation raises amongst others, the question of "how many people are likely to be affected by the legislation" and it is important to recognize the fact that every citizen above the age of seventeen (four out of every five citizens - 48 million citizens) has the liberty to apply for a Certificate to act as a trader on the streets - a craftsman to sell his wares, an entrepreneur to market-research his new invention, the balloon seller to cheer up the children - each to meet and exchange ideas, information and goods and to be as a travelling pedlar.
  - v) It is a fact that few choose this particular trade or lifestyle - perhaps because for now we live in an affluent society, but it is a society that has a wonderful safety mechanism for those moments when for the few, hard times prevail and the common man or woman, like your petitioner, with a need to survive has as a saving liberty - the freedom to become a pedlar and trade on the streets for his daily needs.
  - vi) The Petitioner contends that the Bill has the capacity to deprive not only himself but 48 million citizens of their rights in designated streets of Leeds and once lost they cannot not be regained.

- 19) Your petitioner considers the Bill **disregards Government policy** which is “against ad hoc changes to national Statute brought about through local legislation” [City of Westminster Bill 1998 Report of Secretary of State for the Home Department].
- a) Gareth Thomas M.P. Parliamentary Under Secretary of State, (DFID) October 17, 2007 did not support Lord Harrison’s recommendation for a Government Review. On the contrary he states that “local authorities have existing powers to tackle illegal street-trading, if they choose to take them up, and to tackle illegal street-traders in areas such as counterfeit goods or dangerous goods. My own Department would require strong evidence-based case from advocates of national powers to highlight the extent to which all local authorities face such enforcement problems. In the absence of evidence we consider the case for national powers has not been properly made”
  - b) Lord Harrison, November 29 HL debate, misleads with the statement:- “The Government allow that there is a problem particularly with pedlars”. Gareth Thomas does not “allow” that statement, he accepts that “some local authorities **may** face particular difficulties with street trading, and that some of the difficulties **may** be caused by licensed pedlars,”.
  - c) Your Petitioner is concerned that Lord Harrison’s voice carries significant weight and his irritation with the plethora of similar Bills taking precious time in the Lords should bear no weight against pedlars. He himself having written a Report drawing attention to “genuine pedlars” confuses the issue by remarking “about the unfairness of having two types of street trader: the pedlar and the “genuine street trader” – your Petitioner considers this as obfuscation by high order.
  - d) The minister in 2008 conceded to pressure to consider consulting further on the matter and BIS produced the Durham Report early last year. Your petitioner has engaged with this process and is aware that a BIS consultation with all stakeholders will conclude in February toward formulating national policy to replace any need for private bills. As a pedlar your petitioner finds it very difficult to understand why the government allows ad hoc bills and would prefer to work under consistent national legislation so that he can trade town to town without the worry that varied local legislation may catch him without being aware of it.
- 20) The Promoters presented the Select Committee HL with their **Legal Framework** document to persuade a change in the law. It attempts to justify “the change of definition of a pedlar in the particular circumstances of the Local Government Miscellaneous Provisions Act 1982” however the Petitioner contends that the argument fails under close scrutiny:
- a) definition of a pedlar in the 1982 Act is that of the Pedlars Act 1871
  - b) Parliament in 1982 had good reason to state “trading by a person acting as a pedlar under the authority of a Pedlars Certificate granted under the Pedlars Act 1871 is not street trading for the purposes of this schedule”
  - c) Clarkson states “The short purpose of the Bills is to prevent pedlars.....”, not to *control* pedlars but to *deprive* pedlars and the ‘wide margin of appreciation concerning ‘control’ compared to ‘deprivation’ is an invalid justification for infringing human rights

- d) the definition of a Pedlar is different to that of a fixed pitch street trader
  - e) the pedlar is exempt from street trading regulation under the authority of a Pedlars Certificate granted under the Pedlars Act 1871, and under the Pedlars Act 1881 has clear definition authorising a pedlar within any part of the United Kingdom.
- 21) The Promoter's claim that the Bill imposes "**limited control**", however the Petitioner contends the purpose of the Bill and the effect of the Bill imposes an unwarranted control of pedlars and therefore fails to represent a fair balance between the general interest and the right to peaceful enjoyment of possessions and therefore engages Human Rights.
- a) the Petitioner contends that such control amounts to a total prohibition of pedlars (deprivation of the authority of a Pedlars Certificate) in designated streets contrary to existing Law, giving rise to anomaly and difficulty in law, and does not serve the public interest;
  - b) to state that "elsewhere a pedlar would be unconstrained" is capable of misleading as "elsewhere" pedlars rarely go for to do so would make them a vagabond. The Pedlars Act gives a pedlar an option to travel anywhere or to go from house to house or anywhere else, and by doing so "have built up the very networks that have played a crucial role in the birth of the modern European economy" [Fontain];
  - c) the very notion that to constrain or to deprive a pedlar, is as vile as it is repugnant to human rights; it goes against the dignity of good faith given by a Certificate, and only furthers the prejudice that preceded the Victorian Reforming Acts that gave birth to the Pedlars Acts.
- 22) There are other clauses and provisions of the Bill which, if passed into law as they now stand will prejudicially affect your Petitioner and his rights, interests and property and for which no adequate provision is made to protect your Petitioner.
- 23) The Preamble to the Bill, in so far as it relates to the matters aforesaid, is untrue and incapable of proof.

YOUR PETITIONER therefore humbly prays to Your Honourable House that the Bill may not pass into law and that he may be heard by himself his Counsel or Agent against the Preamble of the Bill and if the same do pass against all the clauses and provisions in the Bill which relate to or affect his property rights and interests and in support of other clauses and provisions for the protection and benefit of your Petitioner and his property rights and interests and that he may have such other relief as Your Honourable House may deem meet.

AND YOUR PETITIONER will ever pray, etc.

Signed by: Tony Furnivalis (Petitioner)