

'Chairs to mend and delf to sell!'

I wish I lived in a caravan,
With a horse to drive, like the pedlar man!
Where he comes from nobody knows,
Or where he goes to, but on he goes!

If you were of an older generation, you may have learned this at your primary school, a charming poem by William Brighty Rands (1823-1882) 'the laureate of the nursery'. You may have had a vision of the pedlar, possibly a Victorian or even a mediaeval figure with his pack full of ribbons and thimbles and wooden toys made by bespectacled old men in leather aprons in Nuremburg. Possibly, like me, you had thought the pedlar as extinct as the Great Auk. But you would be wrong. Pedlars are alive and well and move among us.

It may be recalled that in a piece somewhat whimsically entitled 'Spaghetti Junction' (December 2011), I drew attention to the wide gulf that existed between the claims of all administrations to practise 'joined-up government' and the disjointed reality on the ground. 'Let not thy left hand know what thy right hand doeth.' Though these words in St Matthew apply to the giving of alms, they are now applied as a universal principle of government.

If I may digress, readers may have noticed a charming juxtaposition of news items in the recent press. The Government has spent a great deal of (our) money on a plan to cull thousands of badgers. This cull has now been postponed for a variety of reasons (none of them creditable) and its postponement has cost further shed-loads of money. So, though execution has been stayed, it's still thumbs down for Brock. Or is it? The same government, apparently, is throwing round spondulicks like a sailor on shore-leave in Port Said on, guess what? Building tunnels under main roads so as to enable badgers to avoid having to cross the tarmac, because, it is said, too many of them are being slaughtered by the motorist. Hmmm.

This bi-polarisation of Government has now spread to the itinerant salesman. In 'Pooh and the Heffalump' I opined that the door-to-door salesman was a vanishing – nay, a vanished – breed. I suggested that the thunderbolts of the European Union and our own dear Department for Business Innovation and Skills launched against the door-to-door salesman were directed against a will-o-the-wisp. The Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008 (SI 2008/1816) – aka the Doorstep Selling Regulations – proceed on the premise that the doorstep salesman is a scourge and a menace necessitating Draconian regulations to keep him from fleecing the gullible householder. As with Mr Badger, the doorstep salesman was due for the Governmental cull.

The right hand, however, doeth otherwise. Towards the end of November, one Jo Swinson announced that the equivalent of badger tunnels were going to be constructed for pedlars. Just in case Ms Swinson's name was not quite as familiar to you as, say, Rihanna or Jessica Ennis, she is (or was when this piece was written – you never know these days) a Minister (possibly even *the* Minister) for Consumer Affairs. She is proposing to repeal the Pedlars Act 1871 and unleash a 'free-for-all for rogue traders' (*Daily Mail*, as you guessed). Having a nose for legislative arcana quite as sensitive as that of the average badger for the expensive tulip bulbs you have planted in your garden, I have decided to regale you with the *splendeurs et misères* of the Pedlars Act.

Mr Gladstone's administration of 1868-1874 was probably the most reforming government in our history, even including the Attlee government of 1945-50. Major changes were made to education, the armed services, the civil service, the judicial system and much else. Amidst

these legislative whales were a few minnows and one was the Pedlars Act 1871. In true Victorian fashion the answer was not to ban pedlars but to regulate them by licensing.

But who is a 'pedlar'? Section 3 provides: '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, wares, or merchandise immediately to be delivered, or selling or offering for sale his skill in handicraft'. Now *that's* legislative drafting for you, this marvellous list, worthy of Walt Whitman at his best. Interestingly, it would exclude Mr Rands's pedlar who must surely have had a 'horse or other beast' to draw his caravan. And what is a 'petty chapman'? Are there gross or important or magnanimous chapmen (surely, in diverse modern Britain, 'chap-persons')?

The pedlar is to apply for a certificate to be granted by the 'chief officer of police' (or someone to whom he has delegated the task). Nowadays you get a form at your local police station. You must be 17 or over, of good character and 'in good faith' intending 'to carry on the trade of a pedlar'. The certificated pedlar will be equated with a hawker licensed under the Markets and Fairs Clauses Act 1847. He must not transfer the certificate or lend it to anyone and he is in dead trouble if he forges one or obtains one by telling porkies (sec 12).

The certificate will not, however, exempt you from the provisions of the vagrancy laws relating to 'idle and disorderly persons, rogues, and vagabonds'. No sniggering at the back! These are terms of art. As a young barrister, I have myself seen someone arraigned before Quarter Sessions (predecessor of the Crown Court) charged with being an 'incorrigible rogue' under the Vagrancy Act 1824. This meant that it was the defendant's third vagrancy offence under the Act and thus involved a mandatory sentence of imprisonment. And you thought that 'three strikes and you're out' was a modern policy? Home Secretary Sir Robert Peel was there before you.

But, you will be pleased to know, under sec 23, a certificate is not required for

- '(1) commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein and who buy to sell again, or selling or seeking orders for books as agents authorized in writing by the publishers of such books:
- (2) Sellers of vegetables, fish, fruit, or victuals:
- (3) Persons selling or exposing to sale goods, wares, or merchandise in any public mart, market, or fair legally established.'

Certificates are issued annually and currently cost £12.50. There are, apparently, some 4,000 certificated pedlars and, if press reports are to be believed, they are well hacked off by the proposed repeal of the 1871 Act and the throwing open of the pedlar's trade to any old riff-raff. There is even a website <http://pedlars.info/> which I can thoroughly recommend. It will tell you what a 'petty chapman' really is (it's a retail dealer and the term derives from an Act of Edward VI in 1553) and will explain how to get a certificate and what to do if you are unreasonably refused one.

Will repeal of this Act really lead to a free-for-all? Do you really suppose that street traders and doorstep salesmen will really be unregulated? Dream on. Certificates may go but they will be replaced by a series of rules which will have to be enforced by the long-suffering (dare I say it?) Peeler on the beat. In the past, the constables simply rounded up uncertificated traders in, say, Oxford Street, and wheeled them round to Marlborough Street Magistrates

Court where they were tried in batches, like the French Revolution. ‘D’ye all plead guilty?’ barked the Stipendiary. ‘Yes’ (in chorus). ‘Anything known, Sergeant?’ ‘Yessir. Numbers two and five – here last week – fined ten shillings’. ‘Right. Numbers two and five, fined twenty shillings this time: the rest, ten shillings. Off you go and pay at the desk’. And they would be back on their pitch within the hour.

Under the new rules, pedlars will have to carry all their goods unsupported or in a trolley, which must be pushed or pulled and be no larger than two metres high. They will have to move to a new site 10 minutes after arriving at a location and attempting to sell their wares, and the new site must be at least 50 metres from the first location. They must then move on again after another 10 minutes. Pedlars will not be allowed to return to a previous location for at least three hours but, if they are approached by customers they will be allowed to complete any transactions before being expected to move.

Why in this year of grace 2013 have the Government been moved to dust off this hoary statute and consign it to the chop? Not, as you might suppose, as an exercise in clearing out the lumber from the legislative attic. There is a deeper and more surreal purpose. Apparently (and here I quote the *Daily Telegraph*) ‘the government believes the reforms could see more pedlars from other EU states operating in Britain, encourage “entrepreneurship”, and increase competition and “diversity”’. We are in the worst recession since Don Bradman scored his first century at Lord’s (28 June 1930: he made 254 out of Australia’s 729 for 6 declared). Is the answer to our woes really a hoard of colourful Sicilian or Latvian pedlars plying their trade in our streets? Are spivs and barrow boys truly ‘entrepreneurs’ as envisaged by Ms Swinson, who is recording as saying: ‘Some of the best places to shop are our vibrant street trading stalls, which are an important part of traditional British culture’?

And what is the interaction between these pedlars and the Doorstep Selling Regulations? These apply essentially to ‘a contract between a consumer and a trader which is made ... during a visit by the trader to the consumer’s home or place of work, or to the home of another individual’. The imprudent pedlar who knocks on your door is clearly caught but what of the trader who is on the pavement just outside your office? Is the contract made at your ‘place of work’ if you contract on the pavement or do you have to lure the trader inside the foyer to stuff him with all the rigmarole of cancellation rights, notice and so forth? Will the itinerant Bulgarian vendor of dubious Rolexes really comprehend all the niceties of the Regulations? These are very deep waters, Watson.

Perhaps I should leave the last word to the laureate of the nursery:

‘With the pedlar-man I should like to roam,
And write a book when I came home;
All the people would read my book,
Just like the Travels of Captain Cook!’

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