

# DECLARATORY JUDGEMENT ON PEDICABS

By Alan Fleming

I read recently in the January 7th issue of Taxi Globe that TFL have applied to the High Court for a declaratory judgement regarding pedicabs. This is because they are of the opinion that an earlier judgment which stated that pedicabs are stagecoaches was wrongly decided. TFL are hoping that the decision will fall in their favour and that pedicabs will be declared as hackney carriages. On this issue I have to agree with TFL; pedicabs are in fact hackney carriages. Having been to and sat through the hearing when the judgement was made, I have always been confident that the judgement was wrong.

It is quite plain that the pedicab does come within the scope and definition of a hackney carriage. The first case to come before the High Court was *Simon Lane v Cambridge City Council*. This is the man who wanted to operate them in Cambridge but ran into a problem with the council. The council stated that his riders would have to do the knowledge as they were hackney carriages. Simon Lane did not agree and the case went to the High Court and finished in the Court of Appeal.

The case came before The Vice Chancellor Sir Richard Scott, the second highest judge in the land. His judgement was that the pedicab came within the scope and definition of a hackney carriage. So TFL are correct to ask for a declaratory judgement on the grounds that the decision in the case involving the LTDA was wrong. However, if the court does decide in favour of TFL what does that mean for the cab trade? It opens up a can of worms as TFL want to licence the pedicab as a hackney carriage.

We have to go back to Cambridge who stated that to act as hackney carriages the riders would have to do the knowledge. Will TFL then insist upon the same - for if they do not then why should cab drivers have



to? Further all licensed hackney carriages in London must conform to the Metropolitan Conditions of Fitness. If TFL decide to allow them to operate as hackney carriages they will have to review the Conditions of Fitness. The problem faced by TFL is how would they be able to have two

different forms of hackney carriages operating under different rules? If this were to be the case, then it would be most unfair on those drivers who have the purpose built cab. Why should we have to pay £35K to ply for hire when pedicabs only cost about £4K? Would the present licensed taxi trade be able to use an ordinary saloon car, which would cost a lot less to buy. Obviously this would cause a problem as they would clash with the PHV vehicles. We would then have the prospect of the Private Hire Trade then starting to demand the right to ply for hire if pedicabs are allowed to do so..

I have to agree with the LTDA who have campaigned against this form of transport for some time. The only way that TFL can deal with this problem is to ban them from the streets of London, and save themselves a big headache.

## PHV AND WHITCOMB ST

I have been informed that since the demo on the 5th February that the cars are no longer allowed to stand in Whitcomb St. They now have to wait in the underground car park at the end of the street. It seems to me that TFL have been looking at the case of *Cogley v Sherwood 1958*, at Heathrow Airport. In this case it was decided that there was no plying for hire as the cars were not on view to the public. The most important issue with this case was that the public did not have access to where the cars were parked. However, the car park in Whitcomb Street is different, as the public do have access, therefore the cars are plying for hire. So where do the cars go from here? I am convinced that TFL by allowing this situation is a preconceived plan to spread this around London. As you know it has been going on in Kingston for the last four years. A TFL official in the last Mayor's administration told me that TFL were looking at allowing PHVs to ply for hire after 8pm. So it seems to me that he was right. I have to ask what are the trade organisations going to do about it?

It's all very well to have a demo but the situation will not change until a legal challenge is made. The trade will only stop this nonsense when the trade take the initiative and invest some money in a court action, which I am sure will be successful.



# PUTTING THE WOW FACTOR INTO LONDON

In the week when a journalist in one of London's evening papers praised the cab trade, retailers have written to Boris Johnson urging "a more energetic response to the recession." Tourists coming to London often have riding in a black cab as one of their top priorities, along with visiting The Tower of London and Buckingham Palace. The journalist said of taxis: "The drivers nearly always know exactly how to get where you want to go, no matter how obscure the destination. Indeed, on the few occasions I've witnessed black cabbies consult the A-Z, they do it furtively, as though they're ashamed to let you see them looking at a map. As for satnav, a driver told me recently that you're as likely to find one of them in a black cab as you are a leaflet urging you to join the Labour Party.

"The crucial difference, of course, is that black cabbies have to "do the knowledge". This doesn't simply mean they know how to get from A to B, it transforms their whole attitude to their profession. Driving a cab is not a dead-end job, as it is in New York. It's a trade and its practitioners take pride in their work. That's why their cabs are clean. London taxi drivers

are not the flotsam and jetsam spat out by a teeming metropolis, they're ambassadors for the city. They know that if London is to maintain its status as the capital of the world - the New York of the 21st century, in fact - our cabs need to be the best in the world. And they are."

So the taxi trade is ready and waiting with its WOW factor of the iconic taxi and its iconic driver, ready to transport tourists. The retailers, including Selfridges, Harrods, Fortnum & Mason, John Lewis Partnership, Marks & Spencer and shopping centre group Westfield were amongst the 19 businesses which signed a letter sent by business organisation London First. The retailers are asking the Mayor to spend more on marketing the capital to foreign tourists, "seizing the opportunity afforded by a competitive exchange rate" to boost spending and consumer confidence. The businesses also want a promotional campaign for London that "engenders a wow factor, to create a new buzz". However Johnson says he does not want to spend taxpayers' money "prematurely" He said: "We want to wait and decide when is the moment of optimum impact."