

PREM 19/3794

PART 2

CONFIDENTIAL FINING

Review of Restrictions on Shopping Hours and Sunday Trading

HOME AFFAIRS

Shops Act 1950.

Review of Licensing Hours

Part 1: NOV 1981
Part 2: Feb 1986

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
20.2.86		7.7.88					
21.2.86		13.12.88					
27.2.86		16.12.88					
4.3.86		13.2.89					
20.3.86		4.11.91					
7.4.86		11.11.91					
25.4.86		28.11.91					
29.4.86		28.12.91					
20.4.86		10.1.92					
7.5.86		14.1.92					
9.5.86		30.1.92					
19.5.86		PT2					
23.7.87		6N05					
3.8.87							
10/5/88							
11.3.88							
18.4.88							
24.4.88							
28.6.88							
10.5.88							
13.5.88							
16.5.88							
18.5.88							
20.5.88							

PREM 19 / 3794

Attached folder contains Press Cuttings.

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
CC(86) 7 th Meeting, item 1	20/02/1986
CC(86) 8 th Meeting, item 1	27/02/1986
CC(86) 15 th Meeting, item 2	15/04/1986

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate CAB (CABINET OFFICE) CLASSES

Signed _____ *S. Gray* _____

Date *12/10/2017*

PREM Records Team

HOME AFFAIRS - Sunday

Trading Pt 2,

(Keep at top of file).

Please note - MEA to
PM 4.3.86 - not to be
seen by Policy Unit.

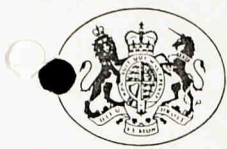
● PART 2 ends:-

L.O.D to Ho. 30.1.92

PART 3 begins:-

L.O.D to MA. 3.2.92

CPV



File

THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

General enquiries 071-828 7155
Direct line 071-828

30 January 1992

Peter Honour Esq
Home Office
Queen Anne's Gate
LONDON S W 1

De Peter

SUNDAY TRADING : JUDICIAL REVIEW

In my letter dated 20 January I undertook to inform you when I heard about a date for the hearing of Mr Edey's application to the Court of Appeal for leave to bring judicial review proceedings. Mr Edey rang me this morning to tell me that the hearing would take place on 26 February. Apparently, Mr Edey asked for an earlier date, but this was refused.

I have copied this to Mark Adams at No 10.

Yours ever

R Alderman

R J ALDERMAN

Home Affairs: P2
Sunday Trading

File

R2111



THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

General enquiries 071-828 7155
Direct line 071-828

20 January 1992

Peter Honour Esq
Home Office
Queen Anne's Gate
LONDON S W 1

Dear Peter,

SUNDAY TRADING : JUDICIAL REVIEW

You may like to know that Mr Edey will be renewing his application for judicial review by asking the Court of Appeal to grant him leave. I do not know when this will take place but I shall keep you informed.

I have copied this to Mark Adams at No 10.

*Yours ever,
Richard*

R J ALDERMAN

CONFIDENTIAL

SUBJECT
MASTER

Filed on:

NOTE FOR THE FILE

c.c. Mrs. Chaplin

PRIME MINISTER'S MEETING WITH SIR IAN MacLAURIN AND SIR ALISTAIR GRANT ON SUNDAY TRADING: MONDAY 13 JANUARY 1992

The Prime Minister met Sir Ian MacLaurin (Tesco) and Sir Alistair Grant (Safeway) to discuss Sunday trading.

The Prime Minister invited Sir Ian and Sir Alistair to outline the background to their trading on Sunday. Sir Ian MacLaurin explained that many DIY operators had been opening on Sundays for some time. Around the middle of last year, the grocers Budgen and Gateway also began opening on Sunday. Tesco found their market share slipping and reluctantly the Board decided they would have to open on Sundays. Apart from a few Sundays before Christmas, when they were open from 9.00 a.m. until 6.00 p.m., they have been opening between 10.00 a.m. and 4.00 p.m. They have noticed some transfer of trade from other days, particularly away from their Thursday night late opening.

Sir Alistair Grant explained that Safeway's much larger representation in Scotland has given them experience of Sunday trading over recent years, and persuaded them that the market is elastic enough to support Sunday trading. It allows them to run departments such as delicatessens continuously, avoiding waste. They have also observed that Sunday shoppers tend more towards luxury foods.

Both Sir Ian and Sir Alistair have data available on their experience, and agreed to send it to us.

The Prime Minister explained that public perception is that the Government is allowing their big business friends to break the law. The public are not convinced by the argument that the law as it stands is in question. Although the Government will be applying for expedition of the ECJ judgement, there is no prospect of such for several months. Furthermore, there are likely to be difficulties obtaining a Parliamentary majority for any proposals for new legislation. The Prime Minister said he did understand the commercial pressures the stores were under to open.

Sir Ian MacLaurin explained that Safeway experienced a growth in business of 30% when it started opening stores on Sunday in Scotland seven years ago. Even with the limited number of stores open, 6% of total trade for the week was this week taken on Sunday. It would be about two months before it became clear whether Sunday opening in England and Wales was commercially viable. As for their employees, they pay double time for Sunday working, and currently have a waiting list. In time they may attempt to negotiate a new deal on Sunday payments with their unions.

CONFIDENTIAL

CONFIDENTIAL

- 2 -

The Prime Minister asked what had happened to small shops in Scotland. Sir Alistair Grant explained that the large stores were not on the whole opening in towns dependent on small shops. Sir Ian MacLaurin added that they were aware of the difficulties experienced by some people in getting to their stores, and were offering free buses.

Sir Ian and Sir Alastair agreed that compliance with previous restrictions on Sunday trading could only work if all stores agreed to stop trading. For the future, both Sir Ian and Sir Alastair suggested that Sunday trading should be allowed between the hours of 10.00 a.m. and 4.00 p.m., with extra time allowed before Christmas. The only exception might be Easter Sunday. The Prime Minister said he would welcome further advice.

The Prime Minister asked about regulation in Europe. Sir Ian and Sir Alistair replied that Germany and Holland were both heavily regulated, with less regulation in the southern member states.

Sir Ian MacLaurin explained that he was about to begin bilateral meetings with Tesco's major shareholders, to whom he would be explaining that although the increase in trading before Christmas came late, overall business was very good. Sir Alistair Grant confirmed that trading was not currently as bad as perceived. The Prime Minister said it would be helpful if both were able to make that clear publicly.

Finally, Sir Alistair Grant suggested that CSO's method of compiling retail sales figures - involving frequent revisions - did not help the public perceptions. He suggested that more accurate figures were produced by the Institute of Grocery Distributors and the British Retail Association. The Prime Minister asked for this point to be pursued separately with the Treasury.



MARK ADAMS

14 January 1992

TMW A:\HOME\SUNDAY

CONFIDENTIAL

CONFIDENTIAL

PRIME MINISTER

cc Mr Bright
Mrs Chaplin

You are meeting ^{P for} Alistair Grant (Argyll) and Sir Ian MacLauren (Tesco) on Monday to discuss Sunday trading.

The meeting was set up at the request of Graham and he can have a word with you before the meeting on Monday.


You may wish to be reminded of the current position, and a factual brief is attached.

FLAG A: Position on discussions Mrs Rumbold is conducting to seek a compromise for reform. The discussions are likely to be concluded early this year, but a compromise is unlikely to be found.

FLAG B: A note on the enforcement issues. You will wish to note that a private individual is applying for a judicial review of the AG's November announcement. The hearing will take place on Monday, and we may know the result before the meeting. If so I will let you know.

FLAG C: A note on the future intentions of retailers. Overall, it is too early for the retailers to have made an assessment of the commercial benefits.

In addition, you have just agreed to the expedition of the ECJ judgement. An application to do so is likely to be made later this week.


MARK ADAMS

10 January 1992

C:\HOME\SUNDAY (ECL)

CONFIDENTIAL

CONFIDENTIAL

File

*cc'd
cc B - up*



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

110 JAN 1982

Dear Mark,

Map

Thank you for your letter of 7 January, asking for specific briefing notes, by today, for the Prime Minister's meeting with Sir Ian Maclaurin and Sir Alistair Grant on 13 January.

You asked, first, for a note on Mrs Rumbold's programme of discussions. That is attached at A.

You also asked for a note on private injunctions to restrain retailers from trading contrary to the Sunday trading provisions of the Shops Act 1950 which may have been applied for or granted. As I have explained on the telephone, we are not aware of any such injunctions (which is not, of course, to say that there is none). But I enclose at B a Note on current issues and developments on the Enforcement of the Sunday trading law. Among other issues, that refers to the application by a Mr Edey, to be heard on 13 January, for judicial review of the Attorney-General's view, announced by him on 27 November, that for the present he should not himself intervene (ie by seeking injunctions). The Law Officers' Department also copied to you their letter of 9 January to officials here about this.

I also enclose, as you asked, at C a note on the information we have - from the Shopping Hours Reform Council and from press reports - about the current level of Sunday trading and the plans of major retailers for this in the future. The note records a development which may lose the retailers sympathy - apparent intentions to cease additional payments to their staff for Sunday work.

Finally, you asked when the European Court of Justice will be invited to expedite its judgement of the questions referred to it by the House of Lords, about the compatibility of our Sunday trading laws with the Treaty of Rome. The Home Office and the Law Officers Department have invited the Treasury Solicitor's Office to ensure that the application for expedition is made this week, so that the Written Answer on 13 January to a Question (from Mr Alun Michael) about this can say that the application has been made.

/As an indication of

Mark Adams Esq

CONFIDENTIAL

CONFIDENTIAL

As an indication of the level of interest in this issue, the Prime Minister might find it useful to know that the Attorney General and the Home Office have received between them over 2200 letters since October and that 1800 of these have concerned enforcement of the current law.

Mrs Rumbold has also commented that she would favour the same sort of protection for employees that was contemplated in the 1986 Bill and that her continued view is that deregulation is the only logical way to legislate because anything short of that would lead to the same sort of difficulties that are being experienced now.

I am copying this and the enclosed notes to Juliet Wheldon (Attorney General's Office).

Yours ever
Joy

JOY HUTCHEON
Private Secretary

CONFIDENTIAL

CONFIDENTIAL

A

NOTE A

SUNDAY TRADING: MRS RUMBOLD'S DISCUSSIONS

In April 1991, Mrs Rumbold began a programme of discussions with the principal interest groups concerned with reform of the Shops Act 1950. Given the defeat of the wholly deregulatory Shops Bill in 1986, the public aim of the discussions has been to help in trying to identify legislative proposals for reform short of total deregulation which would be workable, enforceable and enjoy widespread public and, sufficient Parliamentary, support.

Principal points

2. The principal points concerning these discussions are that:

3. (i) The initial round of discussions is expected to be completed early this year, although some of the groups are, at their request, to be seen again. Of the 22 groups initially invited, only the Church of England Board of Social Responsibility and the British Shops and Stores Association remain to be seen: dates in February seem likely to be mutually convenient. Second, separate meetings with representatives of the Keep Sunday Special Campaign, and of the Association of District Councils, are booked for later this January. Mrs Rumbold reflected this position in a Written Answer on 2 December 1991, viz: "I hope to have concluded my current programme of separate discussions with the wide range of interest groups on their proposals or positions on reform of the Shops Act 1950 early next year. When that programme is complete, we shall consider what further consultations may best promote the development and agreement of acceptable proposals for reform."

4. (ii) As the Home Secretary reported to HS last November the discussions have confirmed that there is no evident scope for compromise between two, broad alternatives for reform short of total deregulation, ie: (i) a general prohibition on Sunday trading with exemptions by class (eg type of shop or good), as in the Keep Sunday Special (KSS) Campaign's proposals; or (ii) total deregulation on Sunday afternoons, with limited exemptions from a general morning prohibition, of which the Shopping Hours Reform Council (SHRC) is the main advocate. Mrs Rumbold signalled the continuing divergence in positions in her statement on 27 November ("... discussions are continuing, although I must report that at this stage the common ground is limited"). Appendix I attached outlines the SHRC and KSS proposals respectively. Appendix II lists the groups in Mrs Rumbold's programme, and indicates the approach to reform which each has adopted.

5. (iii) Collectively, Ministers have privately revived the prospect of total deregulation [eg in HS on 19 November, and in Cabinet on 28 November].

6. (iv) Publicly, Ministers' position on proposals for reform short of total deregulation - ie those with which Mrs Rumbold's discussions have been concerned - is that a decision on their merits must await clarification of the compatibility of such provision with the Treaty of Rome by the European Court of Justice. The ECJ may provide this clarification by the summer. In her statement on 27 November, Mrs Rumbold said: "It would not be sensible to settle policy on the merits of proposals for continuing to restrict trading in types or classes of goods until the compatibility of such measures with Community Law has been determined. It is our intention, therefore, to bring forward proposals for reform once the legal position is clear."

7. (v) Collectively, Ministers' current, to some extent conflicting, objectives are: (i) not to commit themselves to a particular model of reform before the next Election whilst (ii) preparing to respond to pressure to say how they propose to resolve the question of reform once the questions of European law are clarified. Pursuit of these objectives needs to take into account the currently shifting position on Sunday trading (eg the pre-Christmas actions of retailers, and public and Parliamentary reaction to them). Home Office Ministers will consider providing further advice to colleagues on

this in coming weeks, including the scope and purpose of any further discussions by Mrs Rumbold.

MODELS FOR REFORM OF THE SUNDAY TRADING PROVISIONS OF THE SHOPS ACT 1950

The main pressure and interest groups are clustered round one or other of two, incompatible models. The main contenders are:

2. For partial deregulation: the Shopping Hours Reform Council, supported by many major retailers (but not all), and by consumer groups, and possibly capable of acceptance by some Churches, and by shop workers representatives if employment protection were provided. The key elements and difficulties of the SHRC model would be:

- (i) complete deregulation on Sunday afternoons. There is argument about the precise hours (eg from noon or 1.00pm, related to the hours of morning service);
- (ii) statutory protection, for current and future retail employees, for dismissal or other discrimination for refusing Sunday work; and statutory entitlement to extra pay for Sunday work. This would conflict with current Department of Employment policy. There is weight in the SHRC's judgement that this statutory provision would be a necessary condition of the model's popular, and possible Parliamentary, acceptability.
- (iii) certain exemptions from a general prohibition on Sunday morning trade. The number and definition of such exemptions (for example, for small convenience stores, ie "corner shops" or for Sunday markets) could cause considerable difficulty;
- (iv) total deregulation for a number of pre-Christmas Sundays;
- (v) local authority power to re-regulate Sunday afternoon trading in designated areas. This recent addition by the SHRC, aimed to de-fuse concern about local concentrations

of trading and associated disruption, would build in potential anomalies.

3. For general prohibition with exemptions: the principal pressure group is the Keep Sunday Special Campaign (KSS), with support either for their general approach or their specific proposals from some major retailers, a range of small traders, some workers' representatives and the non-conformist Churches. The arbitrariness, complexity and probable consumer unpopularity and enforcement difficulties of any system of exemptions (by specified good, type of trade or size of shop) are exemplified by KSS's REST proposals, which KSS keeps fluid on detail, but which in their latest publicity provide for:

- (i) legislative statement of intent to keep Sunday largely free of commercial activity, to safeguard family and community life for employees, retailers and local residents [throughout the United Kingdom];
- (ii) general prohibition on Sunday trading, with exemptions for certain types of shop which, once registered with the local authority, would be allowed to sell all their goods all day. For a shop to qualify for registration, a local authority official would have to be satisfied, on a visual inspection or by consulting the previous year's accounts, that at least 80% of the goods sold in the shop were for the purposes of Recreation, Emergencies, Social Gatherings and Travel, as defined by reference to a list of goods regarded as falling within each category;
- (iii) special provisions for small food and general stores (undefined);
- (iv) statutory protection for new as well as existing employees.

THOSE (SO FAR) INVITED TO DISCUSSIONS WITH MRS RUMBOLD

National Consumer Council ■
USDAW †
Shopping Hours Reform Council (SHRC)
Keep Sunday Special Campaign (KSS)
Sort Out Sunday (SOS) ■
OPEN (Outlets Providing for Everyday Needs) †
Institute of Safety and Public Protection †
Free Church Federal Council †
* General Synod of the C of E's Board for Social Responsibility
Churches Main Committee
Council of Churches for Britain and Ireland †
Lord's Day Observance Society ©
Churches Together in England †
Board of Deputies of British Jews ©
Horticultural Trades Association ■
ADC (Association of District Councils) ©
GMB (General, Municipal, Boilermakers Union) ©
British Tourist Authority/English Tourist Board ■
British Retailers Association †
National Federation of Meat Traders †
Association of Private Market Operators ■
* British Shops and Stores Association

* Still to be seen
■ supports SHRC type approach
† supports KSSC type approach
© uncommitted/no preference

CONFIDENTIAL

NOTE B

SUNDAY TRADING: ENFORCEMENT ISSUES

Enforcement of the Shops Act 1950 is, under the Act itself, primarily a matter for local authorities, who in principle may proceed either by prosecution or injunction.

2. Notable current, recent or imminent developments on enforcement include:

3. (i) Difficulties because of uncertainty about the compatibility of our Sunday trading law with the Treaty of Rome. In brief, (i) local authorities will not now seek interlocutory injunctions to restrain persistent offenders because of the risk to their charge-payers funds; and (ii) magistrates' courts may be unlikely to complete hearings of prosecutions; and (iii) a further inhibition to injunctive action, and the inhibition to convictions, is that references to the European Court are outstanding. These references are designed to clarify an earlier judgement of that Court that our law is compatible with the Treaty of Rome.

4. (ii) On 27 November, the Attorney General - as a Law Officer of the Crown, not on behalf of the Government - announced that, for the present, he did not intend to intervene, ie not himself to seek interim injunctions.

5. (iii) A Mr Edey is seeking leave to apply for judicial review of the Attorney's view that he should not intervene at present. The Home Office is advised by the Law Officers' Department (LOD) that the hearing will take place on Monday 13 January, and that it would not be appropriate for comments on the hearing to be made by Ministers since what is at issue is a view of the Attorney, not a Government decision. The LOD are briefing No 10 as well as the Home Office on this development, including on press and other public handling of it.

6. (iv) Ministers are rejecting calls for them to indemnify local authorities against the costs of enforcement action. For example, on 7 January the Prime Minister replied to this effect to a letter of 5 December in which the Archbishop of Canterbury, with other religious leaders, had proposed that local authorities which decide to seek injunctions should be indemnified from any damages which they might otherwise have to pay as a result of being required to give undertakings to pay damages, if their action fails at the end of the day.

7. (v) Prosecutions of Company Directors by Plymouth City Council. There are press reports (eg Observer 5 January) that Plymouth City Council intend to bring prosecutions against the directors of companies trading contrary to the terms of the Sunday trading laws. The reports themselves acknowledge that such prosecutions are unlikely to be proceeded with by the courts until the position in Community law is clear. It is well-established that local authorities can in principle bring such prosecutions. Section 44 of the Magistrates' Courts Act 1980 provides that a person who aids or abets the commission of a summary offence is guilty of the like offence.

8. (vi) Ministers are opposed to proposals to enhance the sanctions available to magistrates' courts for breaches of the Sunday trading law. Home Office Ministers, in PQ replies, have rejected proposals to give magistrates a power to confiscate the profits of Sunday trading if henceforth they convict of such trading illegally, and are advising colleagues similarly to oppose a Bill, introduced by Viscount Brentford, to increase the maximum fine for the offence (from £1,000 to £50,000).

CONFIDENTIAL

NOTE C

SUNDAY TRADING: POST-CHRISTMAS INTENTIONS OF RETAILERS

The Home Office relies on press reports and - privately - on the Shopping Hours Reform Council (SHRC) for relevant information.

Assessment of the level of trading taking place on Sunday contrary to the terms of the Shops Act 1950

2. A point repeatedly made by the SHRC, and apparently taken into account by those major retailers which first decided to trade on Sundays in the run-up to last Christmas, is that many other retailers, including some big companies, have been trading contrary to the Sunday trading laws for some time. The SHRC estimate is that, in England and Wales as a whole, there are well over 100,000 such long-established trading outlets including notably: Newsagents (47,000); small "convenience" stores (40,000), even excluding "corner" shops, but including such as Spar, Circle K and Mace; Petrol Filling Station Forecourt Shops (15,000) including on BP, Shell and Esso stations; Video Shops (5,000), including the Ritz and Blockbuster chains; Garden Centres (2,000); DIY Stores (1,000), including B and Q, Texas, Do It All, Homebase and Wickes; other Superstores (500) mainly for carpets, furniture, electrical goods and toys, eg Comet, Courts, Dixons and Toys R Us; Food Supermarkets (500) notably Budgens and Gateway.

Post-Christmas plans of major retailers

3. According to press reports, those retailers which first started Sunday trading in 1991 in the run-up to Christmas and plan to continue doing so this year include Tesco, Sainsbury's, Safeway and Kingfisher (Woolworths).

cc B'up
AO

4. A major reported shift is that, pre-Christmas, the stores undertake^{oek} to pay double time to staff volunteering for Sunday work. First Kingfisher, and now Sainsbury's, reportedly plan to withdraw the enhanced pay. This may worsen the retailers' image with the public and Parliament. Many supporters of deregulation of Sunday trading would make it a condition that shopworkers should enjoy both statutory protection from any obligation to work on Sundays and statutory entitlement to enhanced pay for Sunday work. And the SHRC has hitherto been committed to such provision.

Benefits of Sunday trading to major stores

5. The intentions of major retailers, notably supermarket chains, for future Sunday trading may be expected to be affected by the commercial results of the trading. Press assessments of the results so far vary. The Financial Times for 3 January reported prospective future benefit. The Independent of 7 January reports that, including for Tesco, Sainsbury and Safeway, Sunday trading "could prove a costly mistake".



Sunday trading could prove a costly mistake

By Patrick Hosking, Business Correspondent

SUNDAY opening could prove a costly and irreversible mistake for Britain's grocery groups. Early evidence suggests that the supermarkets, already plagued by price skirmishes and new foreign competitors, may not generate enough extra sales to justify the cost of seven-day trading.

Dissatisfaction among some employees, the fury of the Church lobby and the PR brickbat of appearing to condone law-breaking are further headaches for groups like Safeway, Sainsbury and Tesco, which have opted for indefinite seven-day opening in some stores.

Although popular with many customers, Sunday opening has disappointed some. Shoppers at Sainsbury in Fulham, west London, last Sunday complained that the shop had run out of basics like carrots and cottage cheese. And the queues have sometimes been longer than on Saturdays.

Udaw, the shopworkers' union, will tomorrow "expose" a large supermarket group which it says is forcing staff to sign new contracts foregoing their right not to work on Sunday and paying them less than the traditional double time if they do.

According to research compiled

for *Supermarketing* magazine, there is little evidence that seven-day opening has helped increase overall grocery spending in England and Wales.

That means the supermarket multiples need to have taken market share from the independents or from groups staying shut on Sundays, notably Marks & Spencer, Waitrose and Kwik Save.

The British Independent Grocers Association said that from anecdotal evidence, the corner shops had suffered "not more than a 5 per cent fall in overall sales".

That will be painful for them and will put some out of business. But from the point of view of the multiples, it is probably not a big enough swing to pay for the extra costs of Sunday opening.

Nor have M & S and Waitrose seen much of a downturn in trade. Waitrose announced record sales figures for the two weeks to 28 December, well ahead of plan and 10 per cent higher than last year.

The obvious conclusion is that the Sunday openers have partly been taking Monday-to-Saturday business from themselves. They

may not have boosted weekly sales by the 9 per cent which analysts calculate is required to cover the extra wage and other costs.

The supermarkets insist that Sunday trading has been satisfactory. It has worked in Scotland for years. It reduces wastage and in the long run will cut capital costs — future supermarkets will need fewer check-outs and smaller car parks as custom is spread more evenly over seven days.

But the stock market is not fully convinced. The Sunday opening dilemma comes at a bad time for the supermarkets. Fears of a food price war, while good for shoppers, have dented City confidence in the supermarket groups.

Sainsbury's announcement on Friday, that it was cutting prices of about 100 lines by up to one-third, wiped £214m from its stock market value. Other supermarket shares were also marked down.

Sainsbury insists that the price cuts were part of a normal winter promotion. But some analysts believe the fat years are over for the grocery trade. According to Jeremy Alun-Jones, a food retailing analyst with Saloman Broth-

ers, supermarkets were able to widen their margins in the 1980s by distracting shoppers from price and stressing convenience, hygiene and better labelling.

Now, with unemployment rising and consumer spending likely to grow only slowly for the next few years, shoppers are demanding keener prices. Discounters like Kwik Save, Aldi from Germany and Netto from Spain, are growing fast. Gateway is converting its largest stores to Food Giants. Asda is examining launching a no-frills chain.

Any slowdown in profits growth would upset the ambitious store opening programmes of the biggest groups and could destroy the weaker competitors. With a new superstore costing £20m or more, Tesco and Sainsbury each have larger capital spending budgets than British Rail.

Last year the four biggest supermarket groups went to their shareholders for £1.8bn in extra capital.

Sunday opening may prove a zero-sum gain for the groceries industry. But with competition so fierce and some supermarkets frightened of losing business if they reverse their opening decisions, it may also be a one-way street.

CONFIDENTIAL

Sile KW
home/hutcheon



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

7 January 1992

The Prime Minister will be meeting Sir Ian Maclauren (Tesco) and Sir Alistair Grant (Argyll) to discuss Sunday trading, next Monday 13 January.

I would be grateful for a factual note on the latest progress on the discussions Mrs Rumbold has been conducting, a note on the private injunctions that have been taken out against stores trading on Sunday, a note on the latest information concerning the level of trading taking place on Sunday and the stores' plans to continue it, and when Mr Baker will be writing to the European Court of Justice. Could this please reach me by noon on Friday. I would appreciate it if knowledge of this meeting went no further than necessary.

I am copying this note to Juliet Wheldon (Attorney General's Office).

MARK ADAMS

Ms Joy Hutcheon
Home Office

CONFIDENTIAL

12

CONFIDENTIAL

PMG



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 January 1992

Dear Paul,

SUNDAY TRADING: REQUEST TO THE EUROPEAN COURT OF JUSTICE
TO EXPEDITE ITS JUDGMENT

The Prime Minister was grateful for your Secretary of State's minute of 20 December, and for the minute of 23 December from the Attorney General. The Prime Minister agrees that the European Court of Justice should now be invited to expedite its judgment on the question of Sunday trading, referred to it by the House of Lords, as soon as possible.

I am copying this letter to the Private Secretaries to members of Cabinet, to Juliet Wheldon (Law Officers' Department), Alan Maxwell (Lord Advocate's Department), Murdo Maclean (Chief Whip's Office) and to Sonia Phippard (Cabinet Office).

Yours

A handwritten signature in cursive script, appearing to read 'Mark Adams'.

MARK ADAMS

Paul Pugh, Esq.,
Home Office.

CONFIDENTIAL

cu

CONFIDENTIAL

cc PJ



TJS/AG
PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

W.S.P.

6 January 1992

Mark

Dear William,

ffap

SUNDAY TRADING: REQUEST TO THE EUROPEAN COURT OF JUSTICE TO EXPEDITE ITS JUDGEMENT

The Lord President has seen the Home Secretary's minute to the Prime Minister of 20 December and the Attorney General's minute of 23 December.

He has asked me to write to record that he agrees with the Home Secretary's proposal.

I am copying this letter to the Private Secretaries to other members of Cabinet, the Attorney General, the Lord Advocate and the Chief Whips, and to Sir Robin Butler.

Yours sincerely

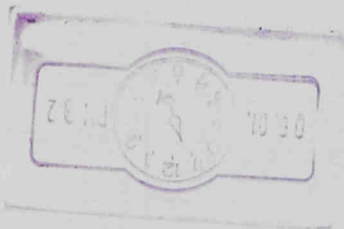
Hilary Paxman

pp. T J SUTTON
Principal Private Secretary

William Chapman Esq
PS/Prime Minister
10 Downing Street
London SW1

CONFIDENTIAL

HOME AFFAIRS. SUNDAY TRADING pr 2





Chancellor of the Duchy of Lancaster

CABINET OFFICE
70 Whitehall, London SW1A 2AS
Telephone 071-270 0400

Colin Walters Esq
Private Secretary to the
Secretary of State for Home Affairs
50 Queen Anne's Gate
London SW1H 9AT

n. S. J. M.

3 January 1992

Dear Colin

SUNDAY TRADING: REQUEST TO THE EUROPEAN COURT OF JUSTICE TO
EXPEDITE ITS JUDGEMENT

The Chancellor of the Duchy has seen the Home Secretary's minute
of 20 December on Sunday Trading and agrees with his proposed
line to take.

I am copying this letter to private secretaries to members of
the Cabinet, Colin Pike (Attorney General's office),
Alan Maxwell (Lord Advocate's office), Murdo Maclean (Chief
Whip's office) and to Sonia Phippard (Sir Robin Butler's office).

yours,

Robert Canniff

R T CANNIFF
Private Secretary

cc 96



CF
Mr 30/12
WCC
24/12

PRIME MINISTER

SUNDAY TRADING: REQUEST TO THE EUROPEAN COURT OF JUSTICE TO EXPEDITE ITS JUDGMENT

has

1. I refer to the Home Secretary's minute to you dated ~~20~~ December.

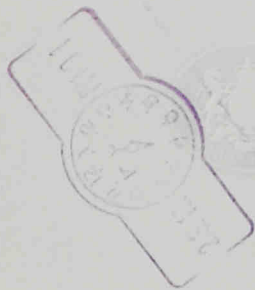
2. There are two comments I should make on the timing of a hearing before the European Court of Justice on the reference by the House of Lords. First, I understand from Treasury Solicitor's Department that an unexpedited judgment is likely to be given between October 1992 and March 1993, although, as the Home Secretary's minute suggests, the most likely date is towards the end of that period. Secondly, Treasury Solicitor's assessment is that it is just about possible, although unlikely, that an expedited judgment would be given before the latest date for a general election.

3. I have copied this to the other members of Cabinet, the Lord Advocate and the Chief Whips, and to Sir Robin Butler.

PM

23 December 1991

HONG KONG AFFAIRS: Sunday Trading Act



CONFIDENTIAL



Prime Minister ^①

cc 90

(X)er

Agree that the E.C.J. should be asked to expedite its hearing? in Patrick Mayhew's comments are attached. No other Mayhew's comments.

Prime Minister

SUNDAY TRADING: REQUEST TO THE EUROPEAN COURT OF JUSTICE TO EXPEDITE ITS JUDGMENT

WHL

attached, see Reference Here 31/12

When Cabinet discussed Sunday trading on 28 November, we concluded that the European Court of Justice (ECJ) should not be invited to expedite its judgment on the questions of the compatibility of the Sunday trading provisions of the Shops Act and Article 30 of the Treaty of Rome referred to it by the House of Lords. This was on the understanding, on the information then available to the Attorney General, that the ECJ's judgment might be available in the summer of 1992. Cabinet considered that an earlier judgment would not greatly advance reform of the Sunday trading law since, although the judgment is likely to clarify the options for reform, a further attempt at that in the final stages of this Parliament was unlikely to be well received.

I understand that the ECJ's judgment is now more likely to be given in March 1993. Furthermore, if the Court were to accept a request to expedite its hearing of the case, its judgment might, at the earliest, be given by June 1992. It would then be for the House of Lords to apply the judgment in domestic law.

I therefore recommend that, as soon as possible, the ECJ be asked via the Treasury Solicitor to expedite its hearing of the case. The sooner a request is made, the more likely it is that the ECJ will agree to it. That expedition can be sought is public knowledge, and whether or not we have requested it will soon become known. For example, Mr Alun Michael has put down a Parliamentary Question for answer on 13 January, asking if we will seek an early hearing of the case. I see no good and publicly defensible reason for failing to ask for expedition. The sense of the statements by the Attorney General and Angela Rumbold on 27 November was that the current uncertainty about Community law is an unavoidable but transient impediment to enforcement of the Shops Act and to our bringing forward proposals for its reform. A decision not to invite expedition by the ECJ would be portrayed as a deliberate act of omission, delaying the opportunity for more effective enforcement of the current law and procrastinating on reform.

By contrast, a decision to invite expedition would be consistent with your public statements, for example in the House on 28 November and in correspondence with the Archbishop of Canterbury and other religious leaders, that we hope that the European Court will make its ruling at the earliest possible moment.

CONFIDENTIAL

I should be grateful to know as soon as possible if you and colleagues agree that we should invite the ECJ to expedite its hearing of the case. Colleagues who wish to comment may care to do so by 6 January at the latest.

I am copying this to the other members of the Cabinet, the Attorney General, the Lord Advocate and the Chief Whips, and to Sir Robin Butler.

A handwritten signature in dark ink, appearing to be 'K. S.', written in a cursive style with a horizontal line underneath the letters.

December 1991



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

20 December 1991

David Alton *WEC*

DAVID ALTON MP: SUNDAY TRADING

I write to warn you about two priority Written Questions to the Lord President which are being answered today. Mr Alton has taken these up on behalf of the "Keep Sunday Special" Campaign. ... I attach copies of the answers.

The obvious implication is that the Lord President's refusal to meet Viscount Brentford and the "Keep Sunday Special" organisation is in some way influenced by his Special Adviser's previous connection with the Shopping Hours Reform Council. This is of course not the case. As one of the Answers makes clear, the Lord President has been scrupulously even-handed in refusing to involve himself in meetings with those on either side of this debate. The Lord President is also clear that it is right to answer the Question about Mrs Laing's previous employment in a neutral, factual way. We consulted on precedents, and the nearest is a recent series of PQs about the previous employment of Heads of Next Steps Agencies; the line here was that it was a matter for the individual concerned whether this sort of information was revealed. The Lord President can see no grounds for refusing to answer the Question.

There is obviously the risk that, over the Christmas period, some mischief will be made on this issue. If any inquiries are made, the Written Answer contains the full reasons for the Lord President's refusal to be involved in meeting delegations etc, and provides the line to take. The Lord President has asked me to say that he will himself be very happy to offer a further comment, if the press show any serious interest in the issue.

I am copying this letter and the enclosures to Gus O'Donnell, Colin Walters, Joy Hutchen in Mrs Rumbold's office, Gillian Kirton, John Neilson, Robert Canniff, and to Sonia Phippard.

T. J. Sutton

T J SUTTON
Principal Private Secretary

Andrew Turnbull Esq
PS/Prime Minister
10 Downing Street
London SW1

FRIDAY 20 DECEMBER 1991

WRITTEN

HOUSE OF COMMONS

109
MR DAVID ALTON: To ask the Lord President of the Council, when his office last scheduled a meeting with Viscount Brentford concerning Sunday trading; when he last met Viscount Brentford; when he next expects to meet Viscount Brentford; and if he will make a statement.

Mr John MacGregor

I have had requests for meetings both from Lord Brentford in his capacity as Chairman of the Keep Sunday Special Campaign and from the Director of the Shopping Hours Reform Council. I have already made clear that the Government sees no prospect for legislation on Sunday Trading in this session of Parliament, and it would be inappropriate for me to enter into any discussions with either organisation as the issues are for my rt hon Friend the Minister of State at the Home Office. I therefore declined both requests at this stage.

LORD PRESIDENT OF THE COUNCIL

FRIDAY 20 DECEMBER 1991

WRITTEN

HOUSE OF COMMONS

110 MR DAVID ALTON: To ask the Lord President of the Council, if he will publish a list of the previous employers of his Special Adviser Mrs Eleanor Laing.

Mr John MacGregor

The information requested is as follows:

Lindsays W S, Solicitors
Herbert Smith and Co, Solicitors
Lane and Partners, Solicitors
George Wimpey PLC
Shopping Hours Reform Council

LORD PRESIDENT OF THE COUNCIL

CONFIDENTIAL



CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 071-270 0189

R J Alderman Esq
The Legal Secretariat to the Law Officers
Attorney General's Chambers
9 Buckingham Gate
London SW1E 6JP

3 December 1991

Dear Richard,

ngm

SUNDAY TRADING

Thank you for your letter of 28 November about the minutes of the meetings of HS on 19 November and Cabinet on 21 November.

The record of these meetings was not intended to imply that the Attorney General had sought the approval of the Government for his decision, and my manuscript notes of the HS discussion confirm that at no stage did members of the Committee seek to influence that decision. The use of the word "agreed" in the record of the Chairman's summing up was intended to do no more than convey that there was in the Committee a positive feeling that the Attorney General was right. In view of his concern that this might be misinterpreted I have, however, arranged to issue a correction, amending the word "agreed" to "noted", with consequential changes.

With the agreement of the Secretary to the Cabinet a corresponding change will be made in the relevant Cabinet minute (CM(91)34.2). The word "agreed" in line 6 of the summary of the Lord Privy Seal's remarks will be replaced by "noted" in the bound volume of Cabinet minutes.

Turning to your second point, the recipients of your letter will have noted the Attorney General's view on the probability of obtaining an injunction. I do not propose to issue a correction to the minutes which, according to my notes and those of my colleague who was present, accurately record what the Attorney General said at the meeting.

I am copying this letter to the Private Secretaries to the Prime Minister and other members of Cabinet, the Parliamentary Secretary, Treasury and the Captain of the Gentlemen-at-Arms; and to Sir Robin Butler.

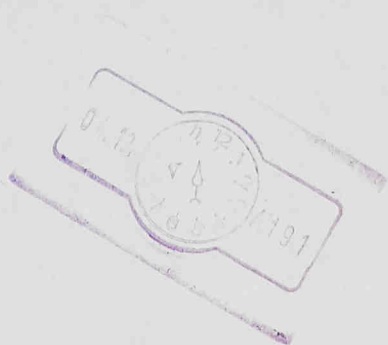
A M Russell
A M RUSSELL

CONFIDENTIAL

Correction to HS minutes, Tuesday 19 November
Page 8, first line of summing up to be replaced by:-

"THE LORD PRIVY SEAL, summing up the discussion, said that the Committee noted that, in view of the present uncertainties about the status of the Shops Act 1950 in Community Law, no action would be taken before this Christmas by the Attorney General to seek to enforce the 1950 Act and agreed that the Home Secretary should take no action to suspend or relax the Act."

Home Affairs: Sunday
Grady R 2





10 DOWNING STREET

From the Principal Private Secretary

Prime Minister

Sunday Trading

The main case - the ECT renewing the House of Lords judgement - is expected to take place between September 1992 and February 1993. A less important case (the Reading case) may be heard about 4 months from now.

The Attorney is not optimistic that the ECT would accelerate but he has no objection to your saying

"The main case is currently expected to be taken by the ECT towards the end of next year. We will be writing to the ECT to request that this be accelerated."

One possibility would be to ask that both cases be heard together on some time between the two current dates.

AT

28/11

A.G. respon. - not at H. of Lords
We are resp. for laws

SUNDAY TRADING

HS Conclusions

HS noted that, pending further clarification from the European Court of Justice, it was not clear that the Shops Act 1950 was compatible with EC law (which takes precedence). HS therefore agreed that no action should be taken by the Attorney General to seek to enforce the 1950 Act, or by the Home Secretary to relax or suspend it. It further agreed that no action should be taken by the Government prior to the election either to indicate their own position or to firm up options for future action. The Attorney General would make the position clear to Parliament and the Home Secretary would say that the Government would come forward with proposals once the legal position was clear.

Possible line

- The House of Lords and the Reading Magistrates Court have referred our Sunday trading laws to the European Court of Justice to clarify whether they are compatible with Community law. We are pressing the European Court to give its judgement at the earliest possible moment.
- As soon as they have done so the Government will set out for Parliament a series of options for future Sunday trading law. As this is a matter of conscience the House will decide on a free vote. X
- The Government will give a clear lead on the option it believes best meets the needs of ^{the country} Britain, of England and Wales. The Government will legislate to give effect to the will of the House. X

* Law uncertain. ^{Government in} ~~need~~

Not evidence at concl. ~~Developed if clarified this act.~~

- Quoted. 'If law clarified.
- (1) Leave as now
 - (2) Ann. exp. judge might divide when legal clear
 - (3) " " " : radical how will deal with it then. Give G. time.

What action in meantime?

- Until the European Court of Justice has given its ruling the fundamental question is not whether local authorities can enforce the law but whether the Shops Act 1950 remains the law.
- My rnf the Attorney General made clear to the House yesterday, in his capacity as an independent law officer of the Crown, the course he proposed to follow.

Enforcement for AG - not G.
Change law is for Court



THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

General enquiries 071-828 7155
Direct line 071-828 1033

28 November 1991

Muir Russell Esq
Cabinet Office
Whitehall
LONDON S W 1

NHAN
MT
29/11

Dear Muir,

SUNDAY TRADING

attached

The Attorney General has seen the minutes of the meetings of HS on 19 November and Cabinet on 21 November and has asked me to write to you about two points.

First, it could be thought from the minutes of these meetings that the Attorney was seeking the approval of HS for his decision. This is not so. The Attorney acts as guardian of the public interest generally and not as a member of the Government when he decides whether proceedings are appropriate in order to protect the public interest in the due administration of justice. He is entitled, but not obliged, to consult ministerial colleagues, but this assistance is confined to informing him of particular considerations which might affect his decision as to where the public interest lies. The responsibility for the Attorney's decision rests with him and not with the Government. This his colleagues have always fully accepted.

The Attorney takes the view, therefore, that the minutes of the meetings of HS and Cabinet should be corrected in order to show that his decision was noted rather than agreed; otherwise, it might be thought in future that, in this case, the Attorney had departed from the consistent practice in the past and had sought the approval of the Government for his decision.

Secondly, the Attorney wishes to clarify one other point. On

CONFIDENTIAL

the second and third pages of the minutes of the meeting of HS, the Attorney is recorded as saying that it was not likely that he would obtain an injunction if he sought one. His view is accurately recorded in his letter to the Home Secretary dated 15 November, namely that it was by no means clear that he would succeed in obtaining interim injunctions, and that a heavy potential liability would result.

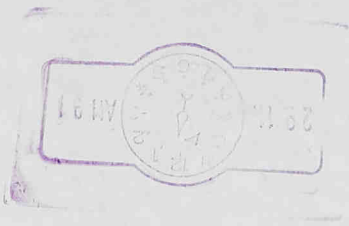
I have copied this letter to the Private Secretaries to the Prime Minister and other members of Cabinet, the Parliamentary Secretary, Treasury, and the Captain of the Gentlemen-at-Arms.

Yours sincerely,

Rickard

R J ALDERMAN

CONFIDENTIAL



CONFIDENTIAL



PRIME MINISTER

SUNDAY TRADING

MP: He PM saw
this as part of his
brief for Cahler
on 21 March.

WCC
4/11

Your Private Secretary's letter of 6 November said that you would find it helpful to have the views of colleagues on HS Committee on the problem of Sunday trading as set out in the Home Secretary's letter of 4 November to the Attorney General. The Committee met to discuss this on Tuesday 19 November in the light of the Attorney General's considered views on the question of enforcement, as set out in his letter of 15 November, and of a further paper from the Home Secretary.

The immediate question to be addressed was what action, if any, should be taken in the run-up to Christmas. It is clear that a number of major retailers, including some large supermarket chains, intend to open on the Sundays preceding Christmas, in addition to the other retail outlets such as do-it-yourself stores and furniture warehouses which already open on Sundays. Prime responsibility for enforcement of the law rests with local authorities, but they face difficulties in this for two reasons. First, there is uncertainty about what the law actually is, pending a judgement from the European Court of Justice which is not expected until well into next year. Secondly, if they seek injunctions requiring stores to close they are required to give cross-undertakings to provide compensation for losses if, at the end of the day, the stores should win. The Attorney General has considered whether it would be appropriate for him to take enforcement action but has concluded that this would not be in the public interest. It is doubtful whether he would be able to obtain an injunction given the uncertainty over the law, but if he were he would have to proceed against all substantial retailers and would be bound to give cross-undertakings which would expose the tax-payer to a huge potential liability. We agreed that the Attorney General should make the position clear by way of a written answer. The timing of this will be sensitive because of the European dimension, and we agreed that this should be settled in discussion with the Business Managers.

We considered what other action might be open to us. We ruled out emergency legislation to suspend or relax the law in the run-up to Christmas on the grounds that precipitate action such as this would cause a strong adverse reaction from those who feel that Sunday should be kept special. It was suggested that it might be possible to persuade one or more key supermarket chains not to open on Sundays, and that if they did so the others would fall in line, but we felt that this was not a course which should be pursued. It would be extremely difficult for the Home Secretary to apply such pressure when the state of the law he would be asking companies to comply with is so uncertain; and a rebuff would be extremely damaging.

(by Mr
Sumner)

CONFIDENTIAL



We then considered what position the Government should take on the issue in the longer term. It was clear that in her discussions with the key interest groups Angela Rumbold had failed to identify a satisfactory basis for agreement. The Keep Sunday Special Campaign would like to see a more restrictive position than we have at present, with a general prohibition on Sunday trading, though with exemptions for goods sold for the purposes of recreation, emergencies, social gatherings and travel and with some special provisions for small food and general stores. The Shopping Hours Reform Council on the other hand have put forward a scheme of total deregulation on Sunday afternoons. There is little logic in either position, and there would be great difficulties in definition and enforcement. We felt that the only logical position was total deregulation, though we recognised that it was not feasible to move to that in the present Parliament. Our conclusion was that there was no advantage for the Government in adopting a firm position on the matter during the remainder of this Parliament or even canvassing the options between which a choice might lie. We felt it was perfectly defensible to argue that the Government could not adopt a policy until the legal position was clear. The Home Secretary will circulate shortly a form of words on these lines for use as necessary.

I am copying this minute to members of the Cabinet and HS Committee, the Attorney General, the Lord Advocate, Angela Rumbold and Sir Robin Butler.

A handwritten signature in blue ink, appearing to be "Waddington".

WADDINGTON

20 November 1991

HOME AFFAIRS : Sunday Trading Pt 2



CONFIDENTIAL

cc PM



h Spm

9 BUCKINGHAM GATE
LONDON SW1E 6JP

071-828 1884

The Rt Hon Kenneth Baker MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

15 November 1991

Dear Kenneth:

SUNDAY TRADING

When we met on Wednesday evening I explained to you why I have decided that it would not at present be appropriate for me to seek injunctions against those retailers who are currently trading or threatening to trade on Sunday in alleged breach of the law. I am writing to record my view so that other colleagues on HS Committee may know why I have reached this decision.

The Shops Act places the primary responsibility for enforcing the law upon local authorities. Authorities are asking me to intervene, however, since it is alleged that it is potentially too costly for them to enforce the Act now that the Kirklees case requires them to give cross-undertakings as to damages if they wish to obtain an interim injunction. I have accordingly been asked to apply for interim injunctions on behalf of the Crown to restrain those retailers who demonstrate a policy of contravening the law about Sunday trading.

My first reason is that the requirement to give cross-undertakings in such circumstances is not in fact new. When the Shops Act was enacted in 1950 local authorities were invariably required to give a cross-undertaking if they applied for an

CONFIDENTIAL



interim injunction. This was because, at that time, authorities could only apply for an injunction by means of a relator action, and the person bringing a relator action has always had to give a cross-undertaking as to damages. It was the Local Government Act 1972 which gave authorities the right to sue in their own names, but there was nothing in the Act that relieved a local authority from the requirement to give a cross-undertaking. It has only been in recent years that there have been cases in which the courts have dispensed with this requirement. The Court of Appeal in Kirklees has now disagreed with those decisions, and restored the position to what it was in 1950 and for many years thereafter. There is, therefore, nothing new in the Kirklees principle.

Local authorities have argued that there is a further new factor that prevents them from taking action. This is the current uncertainty as to Community law. Both Reading Magistrates Court and the House of Lords have referred questions to the European Court of Justice in order to clarify the position in Community law. In the light of this uncertainty, Brooke J has recently granted retailers leave to apply for judicial review of decisions by two Magistrates Courts to list for hearing certain criminal proceedings under the Shops Act.

But the uncertainty about Community law has rather more weight in the context of possible action by me. Properly understood, the question is not whether local authorities can enforce the law, but whether the Shops Act remains the law. English courts have indicated some uncertainty as to whether it does, in the light of some confusing ECJ decisions. Uncertainty as to that means that I, too, would have to give cross-undertakings on behalf of the Crown as to damages. But there is this difference between action by me and action by a local authority. A local authority would have to proceed only against at most a few



retailers in its area: I shall have to proceed against all substantial retailers who demonstrate an intention to break the law, or I shall in any event fail. Cross-undertakings to all these retailers up and down the country would give rise to a heavy potential liability extending to many millions of pounds, and a serious risk of having to pay up in the end. I do not think that this risk should be imposed upon the general body of taxpayers in present circumstances. Because of the uncertainty in the law it is by no means clear that I would succeed in obtaining interim injunctions in any event.

It remains open to a local authority to apply for an interim injunction, offering a cross-undertaking. Alternatively, an authority may decide that criminal proceedings should be commenced in respect of each offence allegedly committed by retailers, but that the cases should not be listed for hearing before Community law has become clear.

It is not for me to offer guidance to local authorities. These and other options will need to be considered by local authorities with their legal advisers.

I also mentioned to you that I was considering the most suitable way in which my decision could be made public. An arranged PQ seems to me at present to be the most appropriate means.

I have copied this letter to the Prime Minister, the Chancellor of the Exchequer, other HS Members, the Minister for Agriculture, and to Sir Robin Butler.

James
Scott

CONFIDENTIAL

ce/ta



9 BUCKINGHAM GATE
LONDON SW1E 6JP

071-828 1884

The Rt.Hon. Kenneth Baker MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
London
SW1

4.8 pm
11.11.91
place
4.11.91

11 November 1991

Dear Kenneth:
at 11.11

SUNDAY TRADING

Thank you for your letter dated 4 November.

Action to enforce the law is beset by extremely difficult questions, in the current state of uncertainty about Community law. I have accordingly asked Treasury Counsel to advise me urgently, and in particular upon whether, if I were to seek interim injunctions, I would be able to obtain them without giving cross-undertakings to compensate the retailers if I failed ultimately to get a permanent injunction. If I gave such undertakings and ultimately had to fulfil them the cost to public funds would be very substantial, and the public interest would not have been well served.

I hope that I shall have received the advice of Counsel before we meet on Wednesday to discuss this intractable topic.

I have copied this letter to the Prime Minister, the Lord Privy Seal, the Chancellor of the Exchequer, the Lord President, the Chancellor of the Duchy of Lancaster, the Secretaries of State for the Environment, Wales, Trade and Industry and Employment, to the Chief Whips in both Houses, and to Sir Robin Butler.

John Smith
ASB

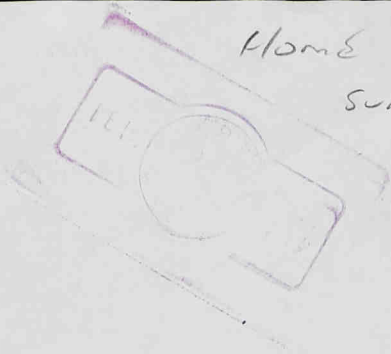
CONFIDENTIAL

Home Address:

Sunday

Friday

1912



CONFIDENTIAL



JD
Le

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 November 1991

Dear Gillian,

SUNDAY TRADING

Further to the Home Secretary's letter of 4 November to the Attorney General, the Prime Minister would find it helpful to have the views of colleagues on the issues raised. I should therefore be grateful if the Lord Privy Seal would consider calling a meeting of HS Committee to discuss this matter.

I am copying this letter to the Private Secretaries to the Members of HS and to Sonia Phippard (Cabinet Office).

*Yours ever,
William*

WILLIAM CHAPMAN

Miss Gillian Kirton,
Office of the Lord Privy Seal.

26

CONFIDENTIAL

010
CONFIDENTIAL



QUEEN ANNE'S GATE LONDON SW1H 9AT

4 November 1991

CF

*M. Bu when next set of
Ministerial comments are
received, or when Sir PM replies.*

Mr Paddy,

SUNDAY TRADING

WAC 4/11

I should be grateful for your urgent advice on our response, in Parliament and in public to the widely-publicised threatened intention of a number of major retailers, including some major supermarket chains, to open on Sundays, prior to this Christmas. We need to settle our position on this very quickly. In light of the threats, you, I, Angela Rumbold - and, possible, the Prime Minister - may expect to face increasing pressure on policy on Sunday trading, including that on the enforcement of the current law. It may be that you already have some plans of your own to act on the enforcement point.

The background has essentially three factors.

Following widespread illegal trading in the run up to last Christmas, Angela Rumbold embarked on a programme of discussions with all the major interest groups. Her aim was to identify any scope for reform of the Sunday trading provisions of the Shops Act 1950, short of the total deregulation for which the defeated Shops Bill would have provided, which would be workable, enforceable and command sufficient Parliamentary, and widespread public, support.

This programme of discussions is nearly concluded. The short conclusion is that there is no scope for the groups to agree a compromise between two broad and incompatible positions. The first is that lawful Sunday trading would continue to be confined to the sale of certain classes of goods. The foremost pressure group for this is the Keep Sunday Special Campaign (KSS). The other approach is that all retailing should be lawful on Sunday afternoons, for example, between noon and 6.00 pm, with limited exceptions for the morning. The principal advocate of this solution, of partial deregulation, is the Shopping Hours Reform Council.

The Rt Hon Sir Patrick Mayhew, QC, MP
Attorney General's Chambers
9 Buckingham Gate
London SW1

/2

CONFIDENTIAL

CONFIDENTIAL

2

The second factor is that there is a widespread perception that the Sunday trading provisions of the 1950 Act have effectively become unenforceable. The Act places the enforcement duty on local authorities. Until earlier this year, injunctive action was the more effective means of enforcement against major retailers who persistently traded unlawfully on Sundays. But in April the Court of Appeal decided that for a local authority to be granted such an interim injunction, the local authority must undertake to compensate the retailer if it is subsequently determined in a substantive action that the retailer was entitled, in law, to trade on Sundays. As a result, many such injunctions were lifted, and local authorities generally regard injunctive action by them as a dead letter.

It is equally widely perceived that prosecutions of offending retailers by local authorities are now frustrated, because of the decision of the House of Lords in July to refer back to the European Court of Justice for clarification of that Court's earlier decision that our Sunday trading law is not, in principle, incompatible with the Treaty of Rome.

I understand it is your view that it remains feasible for local authorities to take enforcement action, but that, at Angela Rumbold's request, you have been reviewing your position on this.

The third, and precipitating, factor, is the public announcement by a number of major retailers, notably the Chairman of Tesco, that they intend to open their stores on the Sunday immediately preceding Christmas, ie 22 December, and probably also on 15 December. The motive appears to be variously to attempt to force our hand on announcing a commitment on reform of the law, and to avoid loss of trade to competitors who, without announcing it, are nonetheless known to be planning to open on Sundays in December. This prospect has already stimulated conflicting calls, for determined enforcement of the law, and for its suspension by emergency legislative action.

We appear to have four broad policy options:

- 1) to suspend the law. This has been floated publicly by the British Retailers' Association. On their behalf, Marks and Spencer's lawyers have put proposals to my Department, either (i) for an emergency Bill to provide, or give me power by Order to provide, for the suspension of the relevant law on specified Sundays prior to this Christmas only, or additionally also for future years, or (ii) for the making of regulations, to similar effect, under section 2 of the European

/3

CONFIDENTIAL

CONFIDENTIAL

3

Communities Act 1972. I see no scope for this course in principle. To respond to a threat of law breaking by rendering the intended action lawful would be indefensible. An emergency Bill would encounter severe, and probably overwhelming, Parliamentary Opposition. In addition, the foundation of regulations under the 1972 Act (subject to the affirmative resolution procedure) would be that our Sunday trading law is incompatible with Article 30 of the Treaty of Rome. But it has throughout been our public understanding that the two are compatible; the European Court has previously ruled to this effect, and is expected to do so again in response to the House of Lords' request.

- 2) to warn publicly of effective enforcement action and, if necessary, be able to ensure that it is taken. I believe that you will come under considerable Parliamentary and public pressure on this. I appreciate the difficulties you face in deciding whether to seek injunctions to restrain some or all of the retailers concerned. For injunctions to be obtained only in relation to those retailers who do not ordinarily break the law, but threaten or intend to do so this December, leaving the established law-breakers unrestrained, would seem to me indefensible. But to attempt to curb all illegal Sunday trading prior to Christmas would seem to make it very difficult not to continue injunctions thereafter, so closing down the established pattern of Sunday trading which has secured such considerable popular support. Either course would be widely unpopular with the public - and might lead to retailers continuing to trade despite the injunctions. The latest opinion poll shows 75% support for Sunday shopping. It would be preferable if we could argue convincingly that local authorities can effectively enforce the law, and for at least some of them to do so. You may wish to consider if there is scope for you to make some announcement to that effect.
- 3) to do nothing. Successful defence of that position would enable us to indicate some future reform of the Sunday trading law, in the next Parliament. Such an announcement would require agreement with colleagues. It would require us to acknowledge that there was no scope for compromise, as Angela Rumbold's discussions have established. Politically, it would be undesirable to then commit ourselves to either alternative, be it the "class-of-good-based" scheme as advocated by KSS, or partial deregulation. The

/4

CONFIDENTIAL

CONFIDENTIAL

4

disappointed proponents of the rejected model could mount loud and very effective complaints. But colleagues might wish to consider whether we could, instead, indicate an intention to put both alternatives before the next Parliament, for example arranging separate debates on each, with a free vote. We might also add that whatever else a future Bill to reform the Sunday trading law provided, it would include deregulation on a specified number of pre-Christmas Sundays.

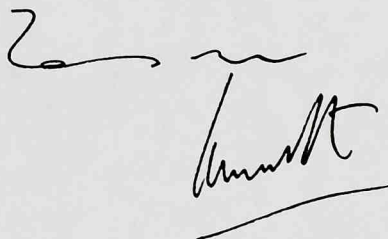
Such an announcement would carry considerable risks for this Parliament and we would face pressure for our views on the alternative approaches once we announced that we saw the choice for reform as lying between them. In particular, the partial deregulation model presupposes statutory protection of the rights of shop workers: a main reason why the model attracts support, but incompatible with current Department of Employment policy. In the next Parliament, we might find ourselves with inconclusive votes or even committed to a KSS type reform.

I don't think that whatever common factor we take will lead to a suspension of Sunday trading pre-Christmas. Many retailers who have had a bad time will use this as an opportunity to pick up trade. In these circumstances we must make the most of the fact that we need to await the European Court's responses to the House of Lords Request for clarification.

I have set out the context and difficulties fully to demonstrate why your urgent advice on the enforcement and enforceability of the current law will be invaluable in settling our policy. That advice is, I believe, needed before we and colleagues can make any decision on Sunday trading.

If you judge that the quickest way forward would be to discuss this, I would be happy to meet this week.

I am copying this to the Prime Minister, the Lord Privy Seal, the Chancellor of the Exchequer, the Lord President, the Chancellor of the Duchy of Lancaster, the Secretaries of State for the Environment, Wales, Trade and Industry and Employment, to the Chief Whips in both Houses, and to Sir Robin Butler.



CONFIDENTIAL



ate
JK

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

7 February 1991

Dear Heather

SUNDAY TRADING

The Prime Minister has seen your letter setting out how the Home Office is updating its approach to the Sunday Trading issue. He has commented that at some stage during the next Parliament the Government will have to legislate.

I am copying this letter to Gillian Kirton (Lord Privy Seal's Office), Jim Gallagher (Scottish Office), Judith Simpson (Welsh Office), Claire Marson (Northern Ireland Office), Martin Stanley (Department of Trade and Industry), Martyn Waring (Department of Employment), Juliet Wheldon (Law Officers' Department) and Sonia Phippard (Cabinet Office).

y
mm

Dominic

Dominic Morris

Miss Heather Wilkinson,
Home Office

M



Prime Minister

2

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

4 February 1991

Dr

Dear Dominic,

SUNDAY TRADING

At some stage we will have
to legislate again.
(immediately post election)

1/62

You may find it helpful to have an update on the Home Office's approach to the Sunday Trading issue.

The Home Secretary has asked Mrs Rumbold to undertake a programme of discussions with each of the major groups with an interest in possible changes in the Sunday trading laws, to try to foster a process of negotiation and, possibly, agreement among them.

This is a difficult field, not least politically. The current regulation of Sunday trading, under the Shops Act 1950, is outdated, full of anomalies and in need of reform. In 1984, the Government appointed the Auld Committee to determine how best the law might be amended. The Committee concluded that the one satisfactory course would be total deregulation. The Government's Shops Bill sought to implement this conclusion. The Bill was defeated, on Second Reading in the Commons, in 1986.

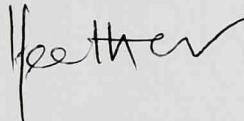
Since the last General Election, the Government's position has been that, whilst the approach in the Shops Bill was correct, it would be prepared to consider legislating for a compromise, short of total deregulation, if one could be found which would be practicable, enforceable, and command widespread support both in the country at large and in Parliament. Whilst Home Office Ministers saw, at their request, numerous deputations and lobby groups representative of the interests involved, the onus of identifying a compromise solution which satisfied the Government's criteria has been placed squarely on the interests themselves. This position was generally effective in deflecting criticism of the Government for not introducing a further Shops Bill (with whatever provisions). But it has not led to an acceptable compromise.

The Home Secretary considers that the widespread opening of major stores on the Sundays before Christmas and the attendant controversy, to which the Prime Minister's remarks in the House on 18 December responded, make it important to be seen to be taking some action. Equally, the Home Office will continue to emphasise that the responsibility for seeking a satisfactory compromise rests with the various interested groups. In inviting them in for discussion, Mrs Rumbold will remind them that this initiative is seen as part of a process of identifying the degree of support for compromise solutions. She will also underline that unless and until a practicable, enforceable and widely supported solution is found, there is no prospect of a further Government attempt at legislation on Sunday trading.

The programme of discussions will, at least initially, be confined to the 10 most influential bodies and organisations and the aim is to see them all before the summer recess. Mrs Rumbold will report to the Home Secretary at the conclusion of these discussions and, in the light of this report, the Home Secretary will consider what further action might be taken.

I am copying this letter, for information, to Private Secretaries to the Lord Privy Seal, the Secretaries of State for Scotland, Wales, Northern Ireland, Trade & Industry and Employment, the Attorney General and to Sir Robin Butler.

Yours,



MISS H J WILKINSON

Dominic Morris, Esq.
No 10 Downing Street
LONDON, S.W.1.



The Rt. Hon. Tony Newton OBE, MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Douglas Hurd CBE MP
Secretary of State for
the Home Department
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

**Department of
Trade and Industry**

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147

Our ref

Your ref

Date 13 February 1989

Jan Douglas

SUNDAY SPORTS BILL

WILL REQUEST IF REQUIRED

Thank you for copying to me your letter of 2 February to John Wakeham about Andrew MacKay's Sunday Sports Bill. I agree that a measure of support for the Bill would be justified, which would significantly increase the choice of Sunday leisure activity.

You and colleagues will be aware that my Department is generally a strong proponent of a relaxation in Sunday trading restrictions. Expressing support for the present Bill would provide an opportunity of reiterating the case for this.

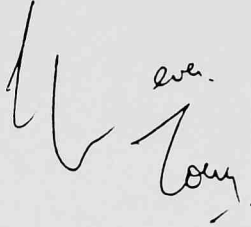
I do, however, think we need to take a cautious approach in this case. The attempt to limit, to a maximum of twelve, the number of Sundays on which horseracing may take place is novel and, as you point out, gives rise to drafting difficulties. It would be a pity if it were to result in yet more anomalies in this difficult area. More generally, I think we should be careful that more parliamentary time is not taken up with an unsatisfactorily drafted bill. This might in fact reduce support for the sort of relaxation we would wish to see. I hope you will take this into account before reaching a final view.

ROSAAG

dti

the department for Enterprise

I am sending copies of this letter to members of H and L Committees, Sir Patrick Mayhew and Colin Moynihan and to Sir Robin Butler and First Parliamentary Counsel.

A handwritten signature in black ink, appearing to read 'Tony Newton'. The signature is written in a cursive style with a large initial 'T' and 'N'. There is a small 'ew.' written above the 'y'.

TONY NEWTON

ROSAAG



cell

The Rt. Hon. Tony Newton OBE, MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Malcolm Rifkind QC MP
Secretary of State for Scotland
Scottish Office
Whitehall
LONDON
SW1A 2AU

**Department of
Trade and Industry**

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

NBM

Rec 6

14/12

Direct line 215 5147

Our ref

Your ref

Date

16 December 1988

John Malcolm

LICENSING (SCOTLAND) ACT 1976: PROPOSED AMENDMENT BILL

WILL REQUEST IF REQUIRED P

Thank you for copying to me your letter of 7 December to John Wakeham, seeking colleagues' approval for a package of changes to liquor licensing law in Scotland. Whilst the package is a balanced one, it has a number of proposals which will significantly reduce unnecessary burdens on business. Subject only to the preparation of a satisfactory Compliance Cost Assessment for the proposal to increase controls on off-sales to reduce sales to persons under age, I welcome the package and would be happy to support it.

I am sending a copy of this letter to the members of H Committee, and to colleagues in other Departments represented on the Ministerial Group on Alcohol Issues.

Newton

TONY NETON

EM8ABQ

1958





cc PUK

QUEEN ANNE'S GATE LONDON SW1H 9AT

16 December 1988

NBPM

RAG
16/12

Dear Tom,

As

I am grateful to colleagues for their responses to my letter of 7 December about John Browne's interest in a Sunday Trading Bill. I spoke to him on Monday night, when he made it quite clear that he did not want after all to take up such a Bill but was keen to take up an amended version of Bill Cash's Right to Privacy Bill.

We shall not now push a Private Member towards a Sunday Trading Bill. There must be, however, a possibility that another Member highly placed in the ballot may take up the issue (though there has been no indication so far that any others are interested), and if so I would, of course, inform colleagues.

I am copying this letter to the Prime Minister, other members of H Committee, the Attorney General and Sir Robin Butler.

Yours,
Douglas

The Rt Hon John Wakeham, MP.

HONGKONG: Sundaan Tradys

PT2





10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

13 December, 1988.

Dear Catherine

The Prime Minister has seen the Home Secretary's letter to the Lord President of the Council of 7 December concerning Private Members' Bills. She has commented that the Sunday Trading Bill will inevitably be divisive, and the timing would need careful consideration. Her view is that any initiative at present on this front should be a genuinely private one.

I am sending copies of this letter to the Private Secretaries to the Members of H Committee, and to Trevor Woolley (Cabinet Office).

Z ~

Andy

(P.A. Bearpark)

Miss Catherine Bannister,
Home Office.



DEPARTMENT OF HEALTH AND SOCIAL SECURITY

Richmond House, 79 Whitehall, London SW1A 2NS

Telephone 01-210 3000

sbpm

From the Secretary of State for ~~Social Services~~ Health

The Rt Hon Douglas Hurd CBE MP
 Secretary of State for the Home Department
 Home Office
 Queen Anne's Gate
 LONDON
 SW1H 9A7

13 December 1988

Dear Douglas,

with PAB

Thank you for your letter of 7 December suggesting that John Browne be invited to promote a Private Member's Bill to deregulate Sunday trading.

I am content in principle to support your proposal and I would support as much deregulation as we could achieve. However, the issue of Sunday trading is one which arouses great controversy and I have to say that I doubt whether much can be achieved through a Private Member's Bill which is bound to fail for lack of parliamentary time.

I am copying this letter to the Prime Minister, other members of H and Sir Robin Butler.

KENNETH CLARKE



MSB
12



nbpm cc P.U.
SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

13 December 1988

Dear Douglas,

**SUNDAY TRADING
PROPOSED PRIVATE MEMBERS BILL - JOHN BROWNE**

Thank you for your letter of 7 December to John Wakeham about your proposal to encourage John Browne to consider promoting a Sunday Trading Bill during this session.

As explained in my letter of 10 May there is opposition only from the Churches and Trades Union interests to the present absence of general restrictions such as apply in England and Wales. Nevertheless these can be vocal minorities, and I do not relish the prospect of stirring up this hornets' nest for such an uncertain result as you envisage. Indeed I need to avoid any question of introducing new restrictions on Sunday trading in Scotland, which seems to me all too possible an outcome of a private members Bill towards which we can be only benevolently neutral. It may be possible to eliminate this risk by confining the Bill to amending the Shops Act 1950; and this is a point on which I would want to be reassured.

My own preference would therefore be to avoid this subject. If you feel that you should nevertheless go ahead it is of course most important that you do not open up any prospect of introducing new restrictions on Sunday trading in Scotland.

Copies of this go to the Prime Minister, members of H Committee and Sir Robin Butler.

Yours ever,
Malcolm Rifkind

MALCOLM RIFKIND





Minister for Local Government

nbpm
Department of the Environment
2 Marsham Street
London SW1P 3EB

Telephone

01-276 3190

John

will PAB

13 December 1988

I have seen a copy of Douglas Hurd's letter to you of 7 December about John Browne's success in the ballot for Private Members' Bills this Session.

I agree that we should not encourage John Browne to promote a Privacy Bill. On Sunday Trading you know Nick's view is that partial deregulation is far from satisfactory. I do however take Douglas's point that a Private Bill along the lines envisaged, especially if it has a limited lifespan, could be a useful way of testing the water.

While we were considering Sunday Trading proposals earlier this year Nick wrote to you on 10 May to draw attention to the potential resource implications which deregulation would have for local authority functions. The 'benevolent neutrality' you are proposing still requires us to ensure that the impact on local government is seen to be properly assessed and that the local authority Associations have an opportunity to put forward their views on the resource implications.

I am copying this letter to the Prime Minister, other members of H Committee and to Sir Robin Butler.

John Selwyn Gummer

JOHN SELWYN GUMMER



SWYDDFA GYMREIG
GWYDYR HOUSE

WHITEHALL LONDON SW1A 2ER

Tel. 01-270 3000 (Switfwrdd)
01-270 (Llinell Union)

Oddi wrth Ysgrifennydd Gwladol Cymru



WELSH OFFICE

GWYDYR HOUSE

WHITEHALL LONDON SW1A 2ER

Tel. 01-270 3000 (Switchboard)
01-270 (Direct Line)

From The Secretary of State for Wales

THE RT HON PETER WALKER MBE MP

13 December 1988

Dear Lord President

I have seen a copy of Douglas Hurd's letter of 7 December and I am content with his proposal to ask John Browne to introduce a Sunday Trading Bill as a Private Members Bill this Session.

I am slightly uneasy about Douglas' suggestion that the Bill, if enacted, could lapse after 5 years if not renewed or amended. This could create unnecessary uncertainty. Five years is a very long experimental period; and by way of comparison, for example, the current pilot project to assess the feasibility of bye-laws prohibiting drinking in public places lasts for only 2 years. You may wish to consider omitting the "lapse" provisions from the Bill or alternatively reducing the experimental period to 2 or 3 years. I appreciate this is an issue which can be looked at in more detail at draft stage.

I am copying this letter to the Prime Minister, other members of H and to Sir Robin Butler.

Yours sincerely
Keith Davis

Approved by the Secretary of State
and signed in his absence

Rt Hon John Wakeham MP
Lord President of the Council

14. XII
P
1957



Department of Employment
Caxton House, Tothill Street, London SW1H 9NF

Telephone 01-273 . . 5803 .
Telex 915564 Fax 01-273 5821

Secretary of State

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

Dear John *December 11*

I have seen Douglas Hurd's letter of 7 December suggesting Government support for John Browne, if he uses his place in the ballot for Private Members' Bills to introduce a Bill on Sunday trading.

I support Douglas's proposal. It would, as he says, provide an opportunity to test opinion, without being too closely associated with it. If it were successful, it would provide a substantial boost to the tourism sector. A 1986 survey of overseas visitors in particular shows that almost two-thirds of those surveyed found restriction on Sunday trading a problem. The tourism and retail interests have also now begun to organise more effectively to promote change. It would be helpful to give them an early focus for their activity. It would also enable small shops to open on Sunday to compete with those larger shops that do not do so. I agree that we should avoid exemptions for particular sizes of shops.

I note that Douglas proposes to include the same worker protection provisions that were included in the 1986 Shops Bill. I agree that this is probably the right approach.

I am copying this letter to the Prime Minister, Members of H and Sir Robin Butler.

J. Wakeham

NORMAN FOWLER



010

nbpm

cc/b.



HOUSE OF LORDS,
LONDON SW1A 0PW

12 December 1988

Dear John,

PRIVATE MEMBERS' BILLS
RIGHT OF PRIVACY BILL
SHOPS BILL

Douglas Hurd has ^{WITH PAB} kindly copied to me his letter to you dated 7 December, in which he sets out his reasons for suggesting a Shops Bill package to John Browne.

Mr Browne has provided me with an outline of the Right of Privacy Bill, which was his immediate preference, and I agree with Douglas that it is unworkable and should not be supported. As you know, my personal conviction is in favour of Sunday Observance. It may be that if the existing restrictions had not been introduced, Christians would have considered that the individual's conscience alone should determine his actions on Sundays. Deregulation which relaxes or removes existing restrictions, may however be seen as reducing standards.

The Rt Hon John Wakeham MP
Lord President of the Council and
Leader of the House of Commons
House of Commons
London SW1A 0AA

- 2 -

I agree that the package which has been suggested may provide a useful way of testing the mood of Parliament, and am content that John Browne should be offered help, as proposed, on a Shops Bill. I am persuaded that it would not be a good idea to encourage him to promote a Privacy Bill.

I am copying this letter to the Prime Minister, other Members of H and Sir Robin Butler.

Yours ever,

James.

010



Prime Minister² *cellu.*

QUEEN ANNE'S GATE LONDON SW1H 9AT

*I'm afraid this would be
division within the* 7 December 1988

*party. That is the last-thing
we need & prefer. Any initiative ~*

*Dear John, this point should I feel be a generally
principle or not*

As you know, John Browne came first in the ballot for Private Members' Bills this Session. His first preference would be to introduce an amended version of Bill Cash's Right to Privacy Bill, but he is also interested in a Sunday trading Bill. Both are Home Office subjects, but I am bound to say that the Cash Bill is unworkable, and I could not support it. John Browne's luck and choice, however, give us an opportunity to make legislative progress on shops, making the law clearer and more enforceable, something which is almost universally thought necessary. If we do not grasp the chance, we may find in early 1989, when we have to make legislative proposals for the 1989/1990 Session, that we still have no agreement on the form deregulation should take but will be under increasing pressure from many lobbying groups to produce a Government Bill which may again fail. There are no signs of a clear Parliamentary majority for total deregulation.

I do not need to go into the details of our discussions on a compromise on Sunday trading. Suffice it to say that Tim Renton has had many meetings with interested groups, but no clear proposal has emerged. The retailing groups, knowing that complete deregulation is impossible, seem to favour deregulation of Sunday afternoon, but cannot agree on what should happen to Sunday morning. Many think 'small' shops should be allowed to open on Sunday mornings but, again, there seems to be no coherent view on whether large shops (if there were a small shops exemption) or shops in general should be able to sell exempt goods in the morning.

The groups opposed to deregulation, most of whom nonetheless accept that the law must be reformed, have produced no proposals apart from the 'REST' proposals of the Keep Sunday Special Group. These would entail a new list of somewhat arbitrary exemptions and a system to register exempt shops which would not, I think, satisfy consumers and retailers and would be unwelcome to the

/local authorities

The Rt Hon John Wakeham, MP
Lord President of the Council

local authorities charged with enforcing the law. The unions have not put forward proposals but we may be sure that they wish to see the position of employees who do not wish to work on Sundays protected. Some leaders of the Church, for example the Bishop of Gloucester, who heads the Board of Social Responsibility, are in favour of a compromise, but have not yet said so publicly.

I realise that the lack of agreement outside Parliament could be an argument for us marking time, but I feel that there is advantage in now testing the mood of Parliament, suggesting ideas to John Browne and giving him drafting help. Though his Bill might be seen as coming from the Government, we would not be too closely associated with it. If it fell, we would have a better idea of the prospects for any Government Bill and the form it should take, but we would be under a good deal less pressure to introduce another Government Bill in this Parliament; if it succeeded, we could take some credit for helping John Browne, thereby introducing sense and consistency to the law as our Manifesto promised. Furthermore, if the practical working of partial deregulation allayed the fears of the churches and unions there would be a good prospect of Government legislation to deregulate all of Sunday eventually succeeding.

My proposal is that we should suggest to John Browne a package which includes the complete deregulation of Sunday afternoon from 12 noon to 6 pm (or perhaps 1 pm to 7 pm) with protection for existing shop workers as in our 1986 Shops Bill but possibly with a voluntary code of conduct added. We would leave weekday restrictions (as there is little pressure for change then). We would also, I fear, have to leave the Schedule of Exemptions as it is, because some articles (like newspapers, petrol and medical supplies) will have to remain freely available on Sunday mornings and to tinker with the other, anomalous, items in the Schedule could cause endless argument in Committee.

I am also not keen specifically to exempt small shops on Sunday mornings because a 'small' shop has to be defined by floor space or possibly number of employees, and this would no doubt lead to a series of amendments in Committee and claims from representatives of larger shops that the distinction was unfair. Our supporters, too, might say that a small shops exemption runs counter to Government policy of encouraging enterprise and expansion.

We could also suggest that the new Act would automatically lapse five years after Commencement unless amended or renewed. It would then clearly be seen as an experiment.

/I therefore

I therefore seek colleagues' agreement that we should not encourage John Browne to promote a Privacy Bill but should ask him to consider a Shops Bill, offering the ideas outlined above, drafting help and benevolent neutrality in Parliament. As he is under pressure to show his hand, I would be grateful for a decision from H as soon as possible, at the latest by Monday 12 December.

I am copying this letter to the Prime Minister, other Members of H and Sir Robin Butler.

Yours,

Douglas.

12. XII 12. XII 8 1918



NB/RM

CCP/6

FCS/88/126

HOME SECRETARY

Sunday Trading - European Court of Justice

1. You wrote on ^{14th} ~~30~~ June about companies prosecuted by district councils for unlawful Sunday trading which have succeeded in obtaining a reference to the European Court of Justice.
2. I agree that we should accept the invitation from the European Court to submit observations in defence of our law; that district councils should be discouraged from acting separately; that we should rely on the argument of non-discrimination and not seek any support from Article 36; and that junior counsel should represent us at the oral hearing.
3. I am copying this minute to the Prime Minister, members of OD(E) and H Committees and Sir Robin Butler.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
7 July 1988



010

CC/BG



Prime Minister
Seem sensible in
1/2

QUEEN ANNE'S GATE LONDON SW1H 9AT

30 June 1988

Dear Geoffrey,

SUNDAY TRADING - EUROPEAN COURT OF JUSTICE

In three cases recently, companies prosecuted by District Councils for trading unlawfully on Sundays have succeeded in obtaining a reference to the European Court of Justice on the grounds that the Shops Act 1950 is incompatible in its restrictions on Sunday with Articles 30-36 of the Treaty of Rome. The references have been based on contentions by the companies that closure on Sundays would result in fewer sales, that many of the goods are imported from other EC countries and hence that closure results in a quantitative restriction on imports. It seems likely there will be further references.

While a decision supporting the contentions of these companies might provide a solution to our difficulties on Sunday trading, they seem unlikely to succeed and it would appear strange if the UK did not respond to the request from the European Court for memoranda defending its law. There is moreover a potential embarrassment were we to leave it to respective District Councils to pursue their cases at Luxembourg. Article 30 is qualified by Article 36 which provides exceptions on grounds of public morality, public policy or public security. If our law was defended by others on any of these grounds when we may well be proposing further legislation to deregulate Sunday trading it would be awkward.

I have taken the view, therefore, which is recommended by EQO(L), that we should respond to the invitation from the European Court to submit memoranda in defence of our law; that we should discourage district councils from acting independently; that we should rely on a defence of non-discrimination and avoid any support from Article 36; and that we should employ (junior) Counsel to represent us at the oral hearing.

I am copying this letter to the Prime Minister, members of O(E) and H Committees and Sir Robin Butler.

Yours,
Douglas

The Rt Hon Sir Geoffrey Howe, QC, MP



30 YL

PM 88



Prime Minister² CEB/ST
 QUEEN ANNE'S GATE LONDON SW1H 9AT

20 May 1988

Dear John,

SUNDAY TRADING

As you know, in discussion with the Prime Minister, we accepted her view that the time was not yet right for a Green Paper on Sunday trading.

I am grateful to colleagues for their views and am glad to have had an opportunity to air the subject, as it will remain with us. I think the line to take is that the Government's position is clear - we favour complete deregulation - but in the absence of sufficient Parliamentary support are willing to consider any practicable compromise that carries support and agreement from the main interests. This puts the ball in the court of retailers and others to reach consensus on a compromise; and we shall continue to meet with interested parties including the churches to promote this in line with our Manifesto statement. All the indications are that the only likely solution on which there might be agreement is for deregulation of part of Sunday - probably the afternoon - with the existing law continuing to apply to the remainder of the day.

I should add that we understand Baroness Phillips of Fulham is thinking of presenting a Private Members Bill on Sunday trading. We are pursuing this as it may provide a good opportunity for us to test the water on a compromise.

I am copying this to the Prime Minister, members of H Committee, Sir Robin Butler and the Chief Whips in both Houses.

The Rt Hon John Wakeham, MP

Yours,
 John

~~ccs~~
nbpm



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

13th May 1988

Dear Douglas

SUNDAY TRADING

at flap

I have seen a copy of your letter of 15 April to John Wakeham.

I agree that the legislation regarding Sunday observance and Sunday trading is in need of radical reviews. I note what James Mackay says about the B&Q case before the ECJ, but I welcome your proposed Green Paper and the opportunity of discussing the various options at "H" Committee. Sunday trading legislation, in particular, has become increasingly anomalous and difficult to enforce. My own view is that there is a case for complete deregulation of Sunday observance and trading, thus allowing the individual to choose freely how he, or she, wishes to spend Sunday.

However, I note your concern that complete deregulation might not receive sufficient support in the House. Under the circumstances, I agree that your proposed option to allow Sunday trading for part of Sunday only is much more favourable than your second compromise option which is, I feel, potentially discriminatory and anti-competitive.

I am copying this letter to the Prime Minister, Members of H Committee, Sir Robin Butler, and the Chief Whips in both Houses.

Norman Lamont

NORMAN LAMONT

HOME AFFAIRS: Sunday
Trading Rt 2





cc BG
nbpm

DEPARTMENT OF HEALTH AND SOCIAL SECURITY

Richmond House, 79 Whitehall, London SW1A 2NS

Telephone 01-210 3000

From the Secretary of State for Social Services

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the
Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

16 May 1988

SUNDAY TRADING ETC.

16/10/88

Thank you for sending me a copy of your letter of 15 April to John Wakeham.

I fully support the need to generate momentum for deregulation of trading on Sundays and agree with your proposal to issue a Green Paper to further that objective.

You invite views on two possible compromises. Neither looks attractive as an alternative to full deregulation, but I should not object to their being opened up for discussion through the Green Paper. Like some other colleagues who have commented, I am also cautious about your proposal to open up issues other than trading, because of the risk that to do so could make it more difficult to make progress on trading. If non-trading issues were to be raised at all in the Green Paper, my instinct would be to raise them in a relatively non-committal way, although I can see the force of the argument for regularising the position on sport.

From my departmental standpoint, I think it would be important for the Green Paper to acknowledge arguments about the possible effects of deregulation on families and children. These are likely to cut both ways, and not to be a central consideration when reaching conclusions, but feelings are sufficiently strong for it to be prudent to recognise them.

In particular, we should have to decide what effect we wished to have on children's employment, which as you know is currently restricted to 2 hours on Sunday for children under 16, within an

E.R.

overall weekend restriction of 7 hours for 13-15 year olds and 10 hours for 15-16 year olds. I should be willing to contemplate removing the special Sunday restriction, while retaining the weekend limits. It may be difficult to avoid exposing this issue in the Green Paper, although I have no particular desire to raise it.

Deregulation of Sunday trading would be a welcome removal of current restrictions on our programme of income generation within the NHS, for example through shops in hospitals.

The implication of deregulation for local authorities would need spelling out: I had hoped that the effect might be a reduction, rather than any increase, in their workload, and was disappointed to see from Nicholas Ridley's letter of 10 May that the reverse will be the case. I should not want them to be offset by cuts in personal social services.

In the text of the Green Paper I suggest that it might be unwise to rest too heavily on the arguments about the wishes of a "minority" and a "majority" of public opinion. Although it will be important to recognise public opinion in all its forms, we must also preserve the constitutional principle that Parliament is free to decide the matter according to its own judgement of the issues.

A copy of this letter goes to the Prime Minister, other members of H, the Chief Whips in both Houses and to Sir Robin Butler.

JOHN MOORE

HONG KONG AFFAIRS : Sunday Trading

PT2



✓ CCB



Y SŵD DDA GYMREIG

GWYDYR HOUSE

WHITEHALL LONDON SW1A 2ER

Tel. 01-270 3000 (Switsfwrdd)
01-270 0538 (Llinell Union)

Oddi wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE

GWYDYR HOUSE

WHITEHALL LONDON SW1A 2ER

Tel. 01-270 03380 (Switchboard)
01-270 03380 (Direct Line)

From The Secretary of State for Wales

The Rt Hon Peter Walker MBE MP

13 May 1988

CT/4245/88

sbpm

Prop.

SUNDAY TRADING

Thank you for copying to me your letter of 15 April to John Wakeham proposing a Green Paper on the question of Sunday observance. I agree that it would be desirable for the anomalies surrounding Sunday trading and other related issues to be resolved if possible, and I am content with the course of action you propose.

You are of course aware of one particular feature of Sunday Licensing Law which applies in Wales and not in England - under the Licensing Act 1954 and amended there is provision that at seven year intervals on the requisition of 500 or more electors in any district a poll shall be held to decide whether or not public houses may open on Sundays. The Welsh manifesto indicated that we intended to consult the people of Wales on the question of whether these referenda should continue or be brought to an end, and to take enabling powers.

The next poll is due to be held in 1989 and I believe that it would be right to make some reference to this question if any Green Paper published covers the Sunday liquor licensing position. I am asking officials here to liaise with yours on the point.

/ I am copying this letter to the Prime Minister, Members of H Committee, Sir Robin Butler and the Chief Whips in both Houses.

The Rt Hon Douglas Hurd CBE MP
The Secretary of State for the Home Department

HOME AFF: Sunday Trading Pt. 2

KMS





cc BG
2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:
Your ref:

nbpm

The Rt Hon John Wakeham MP
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

10 May 1988

Dear John

SUNDAY TRADING

I have seen a copy of Douglas Hurd's letter to you of 15 April on new Sunday trading proposals.

I myself cannot see the option of a part of Sunday being freed for trading, let alone of local options for which part, being very satisfactory or popular. In my view we should go the whole way in allowing Sunday trading; or if we do not think we can carry the proposal, make no move at all.

Incidentally, I must also draw attention to the potential resource implications which deregulation (either full or partial) would have for local authority functions. In particular, there would undoubtedly be additional work for Environmental Health and Trading Standards Departments and possibly some need for additional refuse disposal arrangements. It could also be necessary to increase the number of police and traffic wardens involved in public order and traffic control duties. Consequently, in considering which option to adopt, it will be necessary to ensure that the impact on local government is properly quantified and agreed with the local authority associations, in accordance with the new burdens procedure.

With regard to sport, including racing, on Sundays, I welcome the opportunity which the Green Paper offers to put forward proposals to regularise the present unsatisfactory position.

I am copying this letter to the Prime Minister, members of E Committee, the Chief Whips in both Houses and to Sir Robin Butler.

Nicolas Ridley

NICOLAS RIDLEY



RECYCLED PAPER



17





ST. ANDREW'S HOUSE
EDINBURGH EH1 3DG

cc BG

nbpm

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

10 May 1988

Dear Douglas,

SUNDAY TRADING

AT READ

Thank you for your letter of 15 April to John Wakeham about your proposals for making progress on Sunday trading and other Sunday issues.

As regards Sunday trading in Scotland, there is little evidence, apart from the Churches and Trades Union interests, of any widespread dissatisfaction with the present absence of general restrictions such as apply in England and Wales. We doubt whether either of the two possible compromises which you mention - trading for part of Sunday only or de-regulation but with provision for local variation - would be likely to command much support in Scotland given the long absence of any general restrictions here. I therefore propose to retain the status quo here, subject to the removal at some suitable legislative opportunity of the sole restriction on hairdressers and barbers operating on Sundays. Any Green Paper which relates to Scotland should make these points.

As to widening the debate to include other Sunday issues I am in complete agreement with Kenneth Clarke about the risk in that course of uniting the opposition to the various relaxations that we should like to see; and with Tom King. Such a course of action would entirely change the nature of the debate in Scotland. Here we were able to maintain a comparatively low profile in 1985-86 because of the almost complete absence of statutory restrictions on Sunday trading. Nevertheless the Churches were uneasy about the effect on chain stores of the enactment of the Shops Bill: we would face concerted opposition from them and from other groups if they were presented with a package of proposals with specific effects in Scotland on Sunday racing, Sunday licensing hours, etc, as well as Sunday trading. I see no advantage and great disadvantage in taking these issues together, and feel very strongly that we should take separate action on each of these issues as the opportunity arises, rather than to include them in a Green Paper on Sunday trading.

I am copying this letter to the Prime Minister, members of H Committee,
Sir Robin Butler and the Chief Whips in both Houses.

Yours ever,



MALCOLM RIFKIND



cc JBG

sbpm

Caxton House Tothill Street London SW1H 9NF
5803

Telephone Direct Line 01-273
Switchboard 01-273 3000 Telex 915564
GTN Code 273 Facsimile 01-273 5124

The Rt Hon Douglas Hurd CBE MP
Home Secretary
The Home Office
50 Queen Anne's Gate
London SW1H 9AT

Douglas Hurd

1 May 8

SUNDAY TRADING

at 11.00

I am writing in response to your letter of 15 April, which proposes a Green Paper to take soundings on the whole question of activities on Sundays which are currently governed by legislation.

I agree with you that the best solution would be complete deregulation, particularly of trading hours, which is obviously the major issue here. Deregulation would encourage employment growth, and could contribute substantially to economic growth. Sunday trading is also particularly important for tourism, and the increasing success of specialist retail developments - for example the Albert dock complex in Liverpool, which attracted something like 3 million visitors last year. A large proportion of them were tourists rather than shoppers in the strict sense, and were thus more likely to come at weekends.

Bearing in mind that we are agreed that we should achieve as much liberalisation as possible on trading hours, I wonder about the wisdom of including other items in the Green Paper which might bring in responses from other interested organisations to coalesce with those we know to be opposed to an extension of Sunday trading. But, as long as the point in your letter is made clear - that we would not be introducing omnibus legislation, nor indeed legislation at the same time - I am content with what you propose in principle.

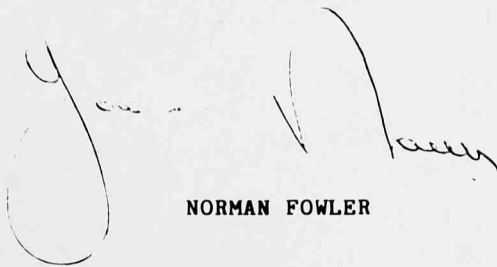
On the text of your paper as it stands in outline, I think we need to make the most of the experience in Scotland, where the evidence seems fairly clear-cut that the removal of legislation does not of necessity mean a change in the pattern



of activity on Sunday, nor the special character of that day being destroyed.

I agree with you that a meeting of H Committee would be helpful to discuss the issues which your paper raises. I would hope that that could take place when we have had a chance to see the full draft of the proposed Paper.

I am copying this letter to the Prime Minister, other members of H Committee, Chief Whips in both Houses and to Sir Robin Butler.



NORMAN FOWLER

cc PS/MoS
PS/Mo Bee
PS/Mo Nicholls
Mr Mackay
~~Mr Turner~~
Mr Bower
Mr. G. G. G.
Mr. G. G. G.
Mr. Stoker

Home Affairs

Sunday Trading *MR*



~~14~~ SUBJECT
CC MASTER

CONFIDENTIAL

file MJ



10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

28 April 1988

Dear Philip,

SUNDAY TRADING

The Prime Minister had a short discussion this morning with the Home Secretary about his letter of 15 April to the Lord President regarding Sunday Trading in which he suggested that the Government should publish a Green Paper on this issue. The Lord President was present.

The Prime Minister, summing up the discussion, said that the time was not ripe for the issue of a Green Paper on Sunday Trading. The Government should not publish a Green Paper until they were fairly clear how matters could be progressed satisfactorily. The next step should be for the Home Secretary to seek the advice of, for example, the Lord Chancellor, Mr Michael Alison, M.P., and appropriate figures on the Bench of Bishops about a possible way forward. The aim should be to find a way which recognised the clear wish to "keep Sunday special" at the same time as tidying up existing anomalies in the legislation and permitting an acceptable level of Sunday trading. The option of giving local authorities the discretion to determine Sunday trading practices in their localities was unsatisfactory. One possibility for consideration was to permit shops to open, for a limited period, after, say, 1130 with existing legislation applying before then.

The Home Secretary undertook to carry out further soundings and to report in due course.

I am sending a copy of this letter to Alison Smith (Lord President's Office).

L. W.
Nigel W. B.

N. L. WICKS

Philip Mawer, Esq.
Home Office

CONFIDENTIAL

cc 2/29



rb pm

HOUSE OF LORDS,
LONDON SW1A 0PW

26 April 1988

The Rt Hon John Wakeham MP
Lord President of the Council
and Leader of the House of Commons
House of Commons
LONDON SW1A 0AA

Dear John,

SUNDAY TRADING

As per -

Douglas Hurd has kindly copied to me his letter to you dated 15 April 1988.

I entirely agree with Patrick Mayhew that the present situation is very unsatisfactory and difficult from the point of view of enforcement.

Since Douglas Hurd wrote there has been a new development in the reference in the B & Q case to the European Court of Justice for a preliminary ruling. I think it would be difficult for us to go ahead at this stage, in advance of our knowing the outcome of the decision, and in any event it is possible that the European Court may give a ruling which will have the effect of deciding the issue.

As you know my personal conviction is in favour of Sunday Observance. I belong to a tradition which sees Sunday Observance not as a restriction on activity but as a relief from ordinary activity for the purposes of divine worship and other matters of the spirit. Many who are of this view see Sunday Observance as an integral part of Christian morality. If there never had been any Sunday Trading laws many of such people might be content to leave it to the individual to decide what he did on Sunday. However, since there have been Sunday Trading laws which restrict the full burden of working on Sundays, they see any attempt to alter this situation by removing these laws as an attack on Christian morality in general and therefore inconsistent with our view that the churches, for example, have a duty clearly to proclaim moral values as fundamental to all we value in our society. Many of those in this tradition are strong supporters

of the Government on other matters and they feel great difficulty in accepting the attempt at complete deregulation as consistent with the fundamental philosophy.

In Scotland the position has developed historically in such a way as to obviate any general action by the Government.

My view, therefore, is that we should await the outcome of the ruling of the European Court and, should we be asked what action we are taking on this matter, I should say so. As Douglas Hurd says, there can be no question of legislation next Session, so there is no inherent urgency over this.

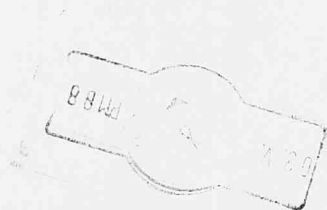
I am copying this to the Prime Minister, members of H Committee, Sir Robin Butler and the Chief Whips in both Houses.

Yours ever,

Jaw.

Home Affairs

Sunday Times Part 2 Feb 86



dti

the department for Enterprise

cc Bg

The Rt. Hon. Kenneth Clarke QC MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147
Our ref
Your ref
Date 25 April 1988

16pm jeb

Dear Secretary of State,

SUNDAY TRADING

Thank you for copying to me your letter of 15 April to John Wakeham. I see some attraction in the idea of a complete and systematic review of the Sunday observance legislation by means of a Green Paper, and I welcome the helpful and positive approach of the outline. On all aspects of the problem, I think our approach must be on the basis that much of the legislation is so anomalous as to be quite absurd, as well as being largely unenforceable. I would also like to see clearly set out the central principles that it is up to the citizen, within the law, to decide how to spend his time and money; and that we are committed to reducing anachronistic and unnecessary barriers to enterprise.

But, in my opinion, there is a clear risk that a systematic approach will unite the opposition to the various relaxations that we should like to see. I would much prefer the alternative of separate action - perhaps in successive years - on trading, licensing and sports. I therefore very much welcome your suggestion of a discussion in H Committee.

AP3AAY

Clearly, the most important single issue will have to be Sunday trading. As you will know, I very strongly favour pressing for complete deregulation. I have not yet seen an alternative which was fully defensible in principle, or which did not produce at least some anomalies. But against the background of the Shops Bill, that will need the most careful presentation and a lot of work before the paper is issued, to bring out the wide support which I think it would command.

Of the possible compromises you suggest, it would seem likely that restricted general hours of opening would have much support. A recent survey conducted for the National Consumer Council has even suggested that less than 10% of respondents would be opposed. But it would be difficult to introduce such restrictions without reducing the hours during which at least some shops are now open on Sundays, and I would favour some exceptions to reflect established trading needs or patterns. I am very doubtful about your suggestion that we might deregulate generally, but allow local authorities to impose partial closure thereafter. I would have strong reservations if we allowed that to be done on grounds of noise and nuisance, which would be likely to be burdensome to individual traders, and would turn out to be discriminatory and anti-competitive.

I am sending a copy of this letter to the Prime Minister, members of H Committee, the Chief Whips in both Houses and to Sir Robin Butler.

Yours sincerely,



APKENNETH CLARKE

(Approved by the Chancellor of the Duchy
and signed in his absence)

AP3AAY

HONG AFFAIRS : Sunda Trading PTB .



dti

the department for Enterprise

CEB

The Rt. Hon. Kenneth Clarke QC MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home
Department
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

**Department of
Trade and Industry**

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147
Our ref
Your ref
Date 25 April 1988

*NBPM
R266
2014*

Dear Douglas,

LICENSING BILL : SALE OF ALCOHOL FROM GARAGES; SUNDAY LICENSING
HOURS; AND OFF-LICENCE HOURS *WILL REAGUST IF REAGUCCO*

Thank you for copying to me your letter of 21 April to John Wakeham seeking approval for the proposed handling of amendments to the Licensing Bill made in the House of Lords.

My concern here is the amendment which would prohibit the granting of licences for the sale of alcohol from garages. In view of our commitment to enterprise and the reduction of unnecessary barriers to business, as well as to the regeneration of the rural economy, it seems to be difficult to support an amendment which would make it impossible for businesses to diversify and grow through selling alcohol from garage outlets. Obviously, the situation would be very different if there were established links between these sales and drink-driving problems, or if there were no adequate mechanisms for controlling businesses which wished to start up in unsuitable locations, or were conducted unsatisfactorily. But no such links have been found, and the control exercised by licensing justices over new licences and on renewal, when decisions will be taken in the light of whatever objections the local police and community wished to put forward, provides a tried method of detailed, individual control.

IS9AAQ

I would therefore wish to see the amendment removed completely. In my view, the saving clause for existing licences is difficult to justify. We do not think it would be right to ban the activity completely but to prohibit only new licences must cast doubt on our commitment to that, and weaken the chance of any successful amendment. I wonder, however, whether it would be possible to offer some additional safeguards against abuse through strengthened scrutiny of licence applications. This might include guidance to the police on which applications they might seek to oppose, or perhaps some guidance might be issued to the courts themselves. You may wish to consider the scope for that.

For the rest, you will know that I welcome the progressive reduction on restrictions on Sunday licensing hours, and am glad to know of the support which our efforts in that direction have now been receiving. I am therefore happy to agree to your proposals on that and on vineyards. And I think that the business community will welcome the recognition of the difficulties they face in an 8.30am start to licensing hours by allowing the sale of alcohol from 8.00am. I am therefore happy to agree to that.

I am copying this letter to members of H Committee, to colleagues in other departments which are represented on the Ministerial Group on Alcohol Abuse, to David Waddington, and to Sir Robin Butler.

A handwritten signature in black ink, appearing to be 'K. Clarke', written in a cursive style.

KENNETH CLARKE

8 8 1 1 2
11 11 5 2

✓ fixed for 1000 on
Thursday 28th April.

PRIME MINISTER

The Home Secretary and the Lord President
have asked if they could have half an
hour ~~each~~ with you to talk through the
issues involved in the handling of Sunday
trading.

Content for me to find a slot next week?

POS

Yes not

P. A. BEARPARK

20 April 1988



01-936 6201

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

cc/BG

nbpm

The Rt. Hon. Douglas Hurd, CBE, MP,
Home Secretary,
50 Queen Anne's Gate,
London,
SW1H 9AT.

K2014

April 1988

Douglas Hurd

SUNDAY TRADING

Thank you for sending me a copy of your letter to John Wakeham dated 15 April.

✓ Alan

I welcome your proposal to issue a Green Paper to prompt and focus discussion of this difficult area of law. Since the Paper will have to comment on the current state of enforcement of, in particular, the Shops Act, I should be glad to have the opportunity to see it in draft.

I am copying this letter to the recipients of yours.

Douglas Hurd

A-K.22

HONG AFFAIRS: Sunday Trading PTZ



18 April 1988

SUNDAY TRADING

The Prime Minister has seen the Home Secretary's letter of 15 April to the Lord President on the above subject. She has commented that we should leave the topic alone for the time being, as it will open up the same divisions as before. Her view is that the opponents of the Bill should first come up with some acceptable compromise.

The Home Secretary may wish to come to discuss this with the Prime Minister at his next bilateral. Meanwhile I am only copying this letter to the Lord President's office.

(P. A. BEARPARK)

Philip Mawer, Esq.,
Home Office.

GCBA

110



QUEEN ANNE'S GATE LONDON SW1H 9AT

*I should leave this
 alone for the time
 being. It will open
 up the same divisions
 as the Shops Bill
 should first come
 up with some form
 compromise. not*

15 April 1988

Dear John,

SUNDAY TRADING

As you will know, we have not so far found a solution to our Manifesto pledge to try to bring sense and consistency to the law governing Sunday trading. After much consultation, I still believe that the best solution is to deregulate Sunday trading hours completely as proposed in the defeated Shops Bill. Unfortunately, it seems that at present we cannot be sure of sufficient support in the new House to guarantee success in re-introducing such a Bill. At the very least we would need to find a device to help those Government supporters who abstained or voted against the Shops Bill or who gave commitments during the last election campaign.

There are two possible compromises. The first is to allow Sunday trading for part of the day only; but opinions are divided as to which part. Some favour the morning, some the afternoons, and some a period from, say, 10 a.m. to 4 p.m. Conceivably the shopkeeper could exercise an option (displayed by notice) and choose his own five or six hours for Sunday trading. Provision would still need to be made for the present exemptions outside the deregulated period.

The second possibility is to deregulate Sunday hours but with a provision for a local variation. Under this, complete deregulation would be enforced for a specific period but, thereafter, local authorities would be empowered to close shops on specific grounds (e.g. noise and nuisance) and after undergoing specific consultative procedures. This idea was not well received by some of our supporters when it was floated for the first time at the Party Conference. I think that was because it was assumed to be a straight local authority option rather than a reform heavily weighted towards deregulation. Its main attraction is that once deregulation had taken place, it is unlikely that many councils would later find much enthusiasm or support for closure orders - especially when they would have to bear all the costs of enforcement.

Clearly we cannot contemplate legislation next Session. There is no room in the timetable and we have not yet tested Parliamentary and public support for the three options. But we need to show that we have not forgotten the issue and to generate fresh momentum for a change. Although I am somewhat reluctant to publish another discussion paper on this issue, I think a Green Paper in, say, June is necessary. In it we can state our continuing preference for complete deregulation but offer the compromises set out above. This would pave the way for legislation in the 1989/90 Session. (The following Session would probably be too near the election for this issue).

and most issues?
2nd ed of vol
1st ed of vol
2nd ed of vol

We also have to weigh our attitude on other Sunday issues. Sunday racing would be popular but unless it were accompanied by a controversial provision to allow betting shops to open, illegal betting would probably occur on an unacceptable scale - with repercussions going beyond betting on Sundays. We need also to bear in mind that other public sporting events are only lawful if admission charges are not made. A blind eye is turned to the various devices adopted to overcome this, but it is an unsatisfactory situation.

Sunday licensing hours have been discussed during the passage of the Licensing Bill but with a minor exception we have not relaxed them. Some colleagues wish to do. Certainly relaxation in Scotland and Northern Ireland has been welcomed and does not seem to have caused problems.

Restrictions on dancing on Sundays are also an unnecessary and anachronistic inhibition but I recognise there can be ancilliary problems of noise and nuisance. Nevertheless I see no reason why the issue should not be opened up to public debate.

My conclusion, subject to the views of colleagues, is that a Green Paper should not be confined just to Sunday trading but should open up the other Sunday issues as well. I think this would set our policy into a broader philosophical context - people should be free to choose how they wish to spend their Sunday. This is not an area where Government should be seeking to regulate. The Green Paper would not, of course, commit us to legislating on all these matters at the same time.

I attach an outline of the Green Paper which I have in mind and seek the agreement of colleagues to circulate a full draft with a view to publication in June. I am copying this to the Prime Minister, members of H Committee, Sir Robin Butler and the Chief Whips in both Houses. You may think that H Committee should meet to discuss.

Yours,
Douglas.

OUTLINE OF GREEN PAPER

THE LAW AND SUNDAY

1. History of Restrictions on Sunday Activities

Pre-Reformation, little restriction on Sunday activities but widespread attendance at Church.

Sunday Observance Acts in early 17th century to secure "the better observation and keeping holy of the Lord's Day".

Sunday Observance Act 1870, remaining in force today, passed to restrict Sunday entertainments.

More relaxed attitude in early 19th century towards Sunday trading, which flourished despite Acts of 15th and 17th century which were still in force. Sabbatarianism grew from mid-19th century but Sunday trading continued because of six day working week.

Controls on Sunday trading re-imposed in 1930s following legislation around the turn of the century to regulate hours and conditions of workers. Consolidation in Shops Act 1950.

By 1975, 3.5 million people working regularly on Sundays, 4.3 million working occasionally.

History demonstrates different attitudes towards non-religious activities on Sundays. Freedom for worship not challenged but freedom for recreation, trading and other non-religious activities challenged by State and Church at times when religious zeal at its highest.

2. 20th Century Changes in Social Patterns

From the 1960s onwards working conditions improved leading to progressive growth in leisure activities. Accelerated by economic prosperity for all classes. Crawthorne Report 1964 on the Law on

/Sunday Observance

Sunday Observance. (Remove restrictions on cinemas, theatres, dancing, sporting events, gaming (but not betting on horseracing); relax laws on Sunday trading.)

Family car becomes the norm, as does family Sunday outing. Traders respond in disregard of the law. Supermarkets develop, sport becomes big business in response to public demand. Scotland relaxes licensing laws. Explosion in foreign travel. Mature women take up work. Single person households commonplace. Many more tourists come to UK. Dramatic surge in DIY activity in homes and in gardening.

3. Legislation Under Pressure

(a) Law on Sunday Observance

- (i) Sport. Public demand for sporting events such that law cannot be enforced. Devices used to overcome restrictions on charging. Major sporting events held using avoidance devices (Racing can't ignore restrictions because law prohibits on court betting.) Public demand still not satisfied.
- (ii) Racing. Very substantial pressure for prohibition on Sunday to be removed.
- (iii) Dancing. Weekend entertainment forced into Friday evenings and Saturday until midnight (or up to 2 am on Sundays in licensed premises with extensions).
- (iv) Gaming. Prohibition from 4 am to 2 pm on Sundays.
- (v) Liquor Licensing. Restrictions in England and Wales seen as unnecessary by public and irritant by tourists.

- (vi) Sunday Trading. Law a mockery. Disregarded by most of population. Enforcement increasingly arbitrary and ineffective.

4. Case for Keeping Sunday Special

Tradition. Day of worship. Market in working week. Day of rest and quiet. Protection of workers.

5. Government philosophy to remove unnecessary restrictions, to give freedom of choice, to allow people to do what they like, when they like. But only within limits required by society as a whole. This demands recognition of demands of conscience, avoidance of nuisance and harm and retention of recognised day of rest or leisure. Compromise necessary to achieve balance. No one group has monopoly of Sunday.

6. Experience Elsewhere

Apart from hairdressers and barbers, no restrictions on Sunday trading in Scotland. Ancient law fell into misuse; deemed to have lapsed by Scottish doctrine of desuetude. Hairdressers and Barbers (Sunday Closing) Act 1930 enacted in response to pressure from the trade. MORI survey in 1985 found only 16% of shops open on Sundays. Other countries in the European Community all have restrictions of varying kinds on Sunday trading but Sweden has deregulated and Norway following.

7. Case for Change

- (i) Sport. Regulation on admission charges not effective in preventing sporting events. No case for preventing them. Public want them; only small minority in vicinity of events opposed.

/(ii)

- (ii) Racing. Large public demand. Nothing inherently objectionable. But betting integral part of racing. Betting itself not necessarily objectionable if regulated by licence but this requires betting offices to be open. If not, illegal betting would be a problem.
- (iii) Dancing. No longer seen as sinful. But associated noise and late night disturbance. Could perhaps be left to local authority licence.
- (iv) Gaming. Restrictions not unduly onerous.
- (v) Liquor Licensing. No one would seriously suggest prohibition of drinking on Sundays. Why then more restrictive hours than other days? Day when tourists and day trippers most need a drink in afternoon. But may be prudent first to see effect of new Licensing Act on weekdays.
- (vi) Sunday Trading. Auld Committee, Government Shops Bill. Present situation a disgrace for a law-abiding country. Not fault of local authorities - or even traders. Clear evidence that public does not accept present restrictions. Complete deregulation in our view only satisfactory answer but did not command Parliamentary majority in 1986. Proposals for amending list of permitted goods, regulating by size of shop or number of employees etc impracticable. Could perhaps, as somewhat unsatisfactory compromise, deregulate in morning or afternoon or, say, 10 am to 4 pm. Or could deregulate completely and allow local authorities perhaps after a moratorium to impose partial closure.

8. Conclusion

Clear that Sunday Observance Act 1870 not appropriate in today's circumstances and that Shops Act 1950 is confusing, anomalous and outdated. But no doubt that a significant proportion of the population wish to see Sunday remain as a special day set apart from the other days of the week. Nevertheless, can it be right that a minority, however, substantial, should prevent others from taking part in activities which are neither sinful or harmful to others. Compromise is necessary whereby people granted freedom to pursue activities of choice whilst at the same time recognising Sunday as a different day to week-days. Can be achieved by sensible reforms. Remove restrictions on sporting events; permit Sunday racing (? limited to minor events with family interest) and allow betting shops to open; relax prohibition on dancing; debate further reform of liquor licensing; and deregulate Sunday trading or, as second best, deregulate part of the day or deregulate with limited local authority clawback.

JA/A/55



cc BG

Caxton House Tothill Street London SW1H 9NF

15pm

Telephone Direct Line 01-243.....5803.....

Switchboard 01-243 3000 GTN Code 243

Facsimile 01-243 5465 Telex 915564

The Rt Hon Douglas Hurd CBE MP
Home Secretary
50 Queen Anne's Gate
London
SW1H 9AT

Murder 11

Yes Douglas

LICENSING BILL

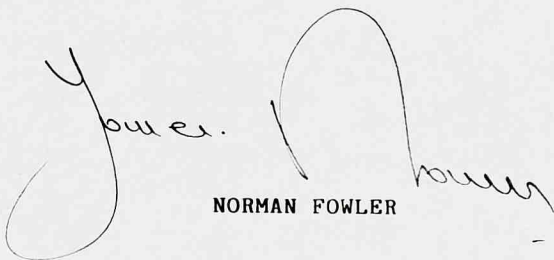
will request 5 required

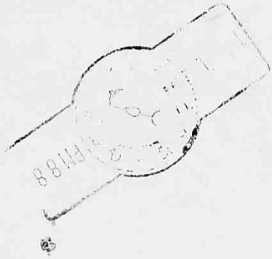
I note your letter to John Wakeham about the proposed amendment concerning vineyards, and the line to take should an amendment be tabled to extend Sunday opening by one hour.

I am glad you have considered and accepted the amendment for vineyards. These are increasingly attracting visitors, and this amendment will clearly help to encourage further visitors.

I also agree with your view on the Sunday opening extension. Any movement will be widely welcomed by the tourism industry, and I think flexibility here will, as you say, defuse much of the criticism that we have not gone far enough in the Bill's proposals.

I am copying my letter to members of H and L Committees, to colleagues in other Departments which are represented on the Ministerial Group on Alcohol Misuse, to Lord Denham, David Waddington and Sir Robin Butler.

Yours

NORMAN FOWLER



010
dti

the department for Enterprise

cc B/G

The Rt. Hon. Kenneth Clarke QC MP
Chancellor of the Duchy of Lancaster and
Minister of Trade and Industry

Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Switchboard
01-215 7877

Telex 8811074/5 DTHQ G
Fax 01-222 2629

Direct line 215 5147

Our ref

Your ref

Date 10 March 1988

Mr B/G

PRCC

1013

Mr Douglas

LICENSING BILL

Will REAUGUST IF
REARRANGED.

Thank you for copying to me your letter of 8 March to John Wakeham asking for agreement to an amendment to the Licensing Bill to enable more flexible licensing arrangements for vineyard sales, and to your proposed handling of a proposed amendment to Sunday licensing hours.

On the question of vineyards, your proposals represent the sort of flexible use of permitted hours that I would want to see generally applied, and I would therefore strongly support the proposed amendment. I agree too that we should be prepared to leave to Parliament any amendment to allow similarly flexible arrangements on Sundays.

On the general question of Sunday licensing hours, I am, as you know, in favour of wider deregulation here as on Sunday trading in general. I would want us to preserve the greatest possible room for manoeuvre, and certainly not say anything that reduced the prospect for reform of Sunday hours if Parliamentary support could be found. This I think was our agreed line. I therefore have considerable reservations about the Government resisting

MA5ABS



the department for Enterprise

either of the wider amendments which Lord Montgomery has tabled, and would only be happy to do so if it was clear that there was sufficient opposition certain to make both the complete removal of the afternoon closure and its reduction to two hours quite hopeless, and that mobilising it would run the risk of losing the most minor reform. Assessment of that is of course more difficult, because the issue has not been tested as much as I would have wished during the passage of the Bill to this stage.

In any event I would want our line to indicate that although we had chosen to separate it from the current changes we are not opposed to reform of Sunday licensing hours if it was judged generally acceptable. That is perhaps best linked to our commitment to bring greater sense to Sunday trading in general. For that reason, I would prefer to omit the reference in your proposed line to accepting a reduction of one hour in the afternoon closure as reducing pressure for wider reform.

I am sending copies of this letter to members of H and L Committees, to other colleagues on the Ministerial Group on Alcohol Misuse, to Bertie Denham, David Waddington and Sir Robin Butler.

KENNETH CLARKE

MA5ABS

cc BG



QUEEN ANNE'S GATE
LONDON SW1H 9AT

n bpu

31 July 1987

Dear Willie,

LICENSING REFORM

WILL REQUEST IF REQUIRED

In my letter of 24 June I set out our proposals for legislation to extend the present permitted licensing hours and I said that, in order to prepare the ground in advance of the Bill's introduction, I intended to consult widely with various outside interest groups. I now attach a copy of the paper we have prepared outlining our proposals for reform and you may find it helpful to know that I propose to launch it at a press conference on 4 August.

I am sending copies of this letter and the document to the Prime Minister, members of H Committee, David Young, John MacGregor, David Waddington and Sir Robert Armstrong.

Yours,
Douglas

The Rt Hon The Viscount Whitelaw, CH., MC.



THE LICENSING ACT 1964

**GOVERNMENT PROPOSALS
FOR REFORM**

HOME OFFICE

AUGUST 1987

T H E L I C E N S I N G A C T 1 9 6 4
G O V E R N M E N T P R O P O S A L S F O R R E F O R M

HOME OFFICE

AUGUST 1987

INTRODUCTION

In the House of Commons on 19 May 1986, the Home Secretary explained that "after carefully studying all the relevant facts, and in particular the evidence to emerge from the Scottish experience of longer opening hours, the Government believe that there is a strong case for considering some relaxation of the restrictions on licensing hours in England and Wales".* In the Queen's Speech following the election, the Government announced its intention to introduce legislation in this Session of Parliament to give greater flexibility in licensing hours.

The Government's proposals are outlined in this document. They fall into two parts. The first deals with the restrictions on the hours during which alcohol may be sold, supplied and consumed in licensed premises and private members' registered clubs and the proposals for reform. The second explains the Government's proposals for some technical amendments to the licensing legislation with a view to streamlining certain procedures and removing certain constraints on the operation of licensing committees. The aim is to remove unnecessary burdens on the courts, the police and licensees. The Government recognises the need to reform and update the licensing system as a whole but sees this as a longer term measure. Accordingly it proposes to limit the scope of legislation in the present Session to relaxing some of the controls on licensing hours and streamlining measures. Nevertheless, the Government is willing to consider further proposals for change which have broad-based support and which can be accommodated within the scope of the Bill.

The Government does not envisage any change to the controls which exist over the admission of children to licensed premises. There is general agreement that controls are necessary to protect children. The Government is aware that some would wish to see the present restrictions relaxed on the grounds that allowing children under the age of 14 to be present in bars when accompanied by responsible adults would be a means of promoting a family atmosphere in public

* Written Answer: Hansard, 19 May 1986, col 16

houses. There is, however, widespread concern about the consumption of alcohol by young people, a concern shared by the Government, and some evidence to suggest that the present controls are not always strictly observed. The Government takes the view, therefore, that it would not be appropriate for the present restrictions applying to young people to be changed; and it will consider carefully what steps might be taken to ensure that the law in this respect is more rigorously enforced.

Comments on the proposals outlined in this document should be sent to the Home Office, A Division (Room 717), 50 Queen Anne's Gate, London SW1H 9AT by 21 September 1987. Requests for additional copies of this paper should be sent to the same address.

LICENSING HOURS

The present law

1 The licensing hours for the sale and supply of alcohol in England and Wales are governed by the Licensing Act 1964. They are as follows:

(i) On-licences

From Mondays to Saturdays (other than Good Friday and Christmas Day) the permitted hours are 11.00 am - 3.00 pm and 5.30 pm - 10.30 pm (or 11 pm in parts of Central London and any other parts of the country if the justices so decide). Alternatively, the justices may, by order, authorise a variation of these hours, within defined limits. One of the effects of such a variation is that premises may open before 11 am, but not before 10 am.

On Sundays, Good Friday and Christmas Day the permitted hours are 12 noon to 2 pm and 7.00 pm - 10.30 pm.

(ii) Off-licences

In the case of off-licences, the permitted hours from Mondays to Saturdays are 8.30 am - 10.30 pm (or 11 pm) with no obligatory breaks. On Sundays, Good Friday and Christmas Day their permitted hours are the same as those for on-licensed premises.

(iii) Private Members' Clubs

Private members' clubs with registration certificates authorising the supply of alcohol (registered clubs) may fix their permitted hours within specified limits but they may not total more than the permitted hours of on-licensed premises in the district.

2 Extensions to or exceptions from the permitted hours can only be obtained in certain specified circumstances. Justices may make a general order of exemption authorising additional hours for on-licensed premises or for registered clubs situated near a public market or place where people follow a specific trade. For special occasions, justices may make a special order of exemption extending the number of hours permitted in a public house or registered club. As a general rule, however, (the provisions on markets etc apart) extensions of permitted hours are only available on a regular basis in circumstances where the consumption of drink is ancillary to another specified purpose. There are basically only three ways in which the permitted hours can be extended on such a regular basis. These are as follows:

- (i) a supper-hour certificate which enables restaurants and public houses with rooms set apart exclusively for the service of meals to serve drinks throughout the afternoon and/or for an additional hour in the evening provided that alcohol is served as an ancillary to a meal;
- (ii) an extended hours order which extends the permitted hours to 1 am in premises offering both meals and musical entertainment; and
- (iii) a special hours certificate which substitutes permitted hours of 12.30 pm - 3 pm and 6.30 pm - 2 am (3 am in the metropolis) for premises in respect of which there is a public music and dancing licence in force and where the sale of liquor is ancillary to the music and dancing and to the provision of substantial refreshments.

3 The law specifically provides that licensees are not obliged to open for the whole of the permitted hours.

The Government's approach

4 The present pattern of licensing hours stems from the First World War when strict controls were introduced to prevent drunkenness among munition workers. Although effective at the time, this cannot today be sensibly argued as a basis for a policy to control the times when alcoholic drink may be sold and consumed on licensed premises. Yet there is general agreement that some control over licensing hours is necessary even though reasons for this belief may vary widely.

5 Certainly there is wide agreement that controls are necessary to limit the potential nuisance caused by people leaving licensed premises and registered clubs, particularly in residential areas, very late at night. There is not the same measure of agreement, however, as to the time at which controls should be imposed for this purpose. Some argue that people should be permitted to drink until midnight, others maintain that noise and nuisance become unacceptable after 10.30 pm. The Government has taken the view that 11 pm is a reasonable compromise on Mondays to Saturdays. In many areas of the country this has been accepted already; in other areas 11 pm closing may apply on certain days of the week or during the summer period. The existing provisions whereby the justices may grant extensions on special occasions or to midnight, 1 am or 2 am in particular circumstances cater for those who may wish to drink longer and it is not proposed to change these provisions.

6 There is general agreement that there is little logic in the controls over the hours during which on-licensed premises and registered clubs may open during the day. Why should a person be prevented from purchasing a drink in a bar at 4 pm but not 2 pm when no such restrictions apply to the purchase of alcohol at off-licences? It makes little sense to a frustrated tourist to explain that a measure introduced to help us to victory during the First World War has been only partially relaxed; but there is no other reasonable explanation for distinguishing between one part of the afternoon and another. The controls inhibit freedom of choice; and the coming into force of the Licensing (Restaurant Meals) Act 1987, enabling restaurants to serve drinks with meals throughout the afternoon, only serves to reinforce the illogicality of the present position.

7 The main argument for maintaining the present restrictions during the afternoon is that their removal would only serve to increase the overall consumption of alcohol, that the misuse of alcohol is a widespread and increasing danger in our society, and one to which insufficient attention is devoted. While the Government accepts that steps should be taken to prevent alcohol misuse, it does not believe that this is a problem on which the limited changes they propose - involving mainly the controls on licensing hours during the afternoon - would have a noticeable effect.

8 Moreover, the Government believes that to rely on the control of licensing hours as a principal means of preventing alcohol misuse would represent a blanket approach which is more likely to inhibit the responsible drinker than the irresponsible drinker. Unless the controls are very stringent indeed, they will not prevent a determined drinker from drinking; and very stringent controls are not likely to be acceptable to our society in which social drinking in moderation is an acceptable and enjoyable adjunct to people's lives. An exception to this are the controls which apply throughout the night. These are stringent and are applied over a substantial period, but they do not impinge significantly on those who drink in moderation. Such a regime would not be acceptable during the day. The majority of the population would not accept prohibition nor would it be reasonable to expect them to do so in the interests of a small minority. The present controls during the afternoon are neither one thing nor the other. They are no more than an irritation to the problem drinker and in no way prevent him from obtaining alcohol; but they are an irritation to the tourist and responsible drinker and prevent him enjoying the freedom to purchase a drink in the afternoon.

9 Experience from Scotland since 1977, when the licensing law was relaxed to enable licensed premises to remain open in the afternoon and late at night, has not shown an overall increase in consumption as a result but rather a more leisurely style of drinking without the need to rush rounds

before closing time. There is no evidence that the longer licensing hours have led to an increase in the incidence of alcohol related health problems. Drink driving offences have increased less than in England and Wales.

10 The Government is considering separately what further steps could be taken to prevent alcohol misuse and to respond to the problems which it creates. Sensible drinking can be encouraged in promoting healthier lifestyles. Alcohol misuse may be due to drinking too much or to drinking when it is likely to lead to undesirable results, for example, drinking before driving, or during pregnancy. Action is more likely to be effective if it focuses on particular problems and if it is co-ordinated across a range of policies, including health education, crime prevention and road safety. Successful implementation will call for co-operation by local services, voluntary agencies and commercial interests. The Government will be giving further thought to these issues in the next few months.

11 However, although the use of controls on licensing hours in the afternoons is not an appropriate or effective means to reduce alcohol misuse, the Government nevertheless recognises that licensing controls have a significant role to play in preventing nuisance - and to this must be added considerations of public safety and public order. This is discussed in paragraph 14 below. The Government does not intend to change the general licensing hours either for public houses or off-licences on Sundays, Christmas Day and Good Friday where the present hours already coincide.

The Government's proposals

12 The Bill will contain provisions whereby the general licensing hours for Monday to Saturday inclusive will be from 11 am to 11 pm. The changes in hours will apply to premises for which a justices' on-licence, a club registration certificate, a Part IV licence (for restaurants and hotels) or a seamen's canteen licence is in force as well as to theatres.

13 Relaxing the restrictions on licensing hours during the afternoons does not carry with it any obligation for premises to open. It is not proposed that the opening hours of individual premises, within the limits of 11 am and 11 pm, should be notified to the police or to the courts, but there may be a case for requiring the selected hours of licensed and registered club premises to be displayed, for the benefit of the public, the police and of the operators of the premises. The existing statutory provision which requires a registered club to notify the clerk to the justices of its permitted hours on Sundays, Christmas Day and Good Friday will be retained, along with the right of such a club to fix its hours on those days in accordance with present arrangements.

14 The Government recognises that licensing controls have a significant part to play in preventing nuisance and in the maintenance of public order and safety at or near individual premises. It is proposed therefore to couple the revised licensing hours with a new power to enable the police and local residents to seek an order requiring premises to close during the afternoon on any of these three grounds. Such an order (a restriction order) would be intended to counter such problems as could arise due to noise, inconsiderate parking, obstruction of pavements, or other forms of nuisance or disturbance; disorderly conduct in or associated with the premises; or the interests of public order and public safety, but falling short of requiring premises to close altogether. A restriction order will have effect for such period determined by the licensing justices (magistrates' court in the case of registered clubs) up to a period of 12 months. There will be a right of appeal to the Crown Court against the grant of a restriction order or its terms and a right to apply for the revocation or modification of an order six months after its operative date.

15 Within this overall framework the following provisions will apply:

- (i) it will continue to be possible for the licensing justices of a licensing district to vary the licensing hours on weekdays, if they are satisfied that it is desirable to do so, so that the opening hour is at a time before 11 am but not before 10 am;
- (ii) the facility, provided by the Licensing (Restaurant Meals) Act 1987, for certain premises to serve alcoholic drinks with meals throughout the afternoon, seven days a week, will be retained; and
- (iii) the statutory closing hour of off-licences, which at present is 10.30 pm or 11 pm, depending on the licensing hours of the district, will become 11 pm from Mondays to Saturdays in all areas.

16 The existing provisions for extensions of hours, on a regular or occasional basis, will not be altered, but it is proposed to correct some anomalies. For example:

- (i) the Commissioner of Police for the Metropolis and the Commissioner of Police for the City of London will be empowered to charge a fee for the grant of general orders of exemption and special orders of exemption. (Elsewhere in England and Wales these orders are granted by the justices and a fee is chargeable);
- (ii) the need for the annual renewal of extended hours orders will be removed (see paragraph 20 below);
- (iii) local authorities will be empowered to charge a fee for the grant, renewal and variation of 'certificates of suitability' relating to the suitability of registered club premises for music and dancing. (In the case of licensed premises providing public music and dancing a public entertainment licence, for which a local authority fee will be charged, must be in force); and

(iv) with the introduction of new licensing hours for on-licensed premises and registered clubs, the need arises to revise the permitted hours of premises operating a special hours certificate (see paragraph 2 (iii) above). It is proposed that, under the new arrangements, the criteria for the grant of a special hours certificate shall remain but that the effect of the certificate will be to add specified hours, up to 2 am (3 am in parts of Central London), to the general licensing hours. In addition, the licensing justices or the magistrates' court (in the case of registered clubs) will be given discretion to grant or refuse a certificate or to impose restrictions on it even though the criteria for its grant may be met.

LICENSING PROCEDURES

17 In 1986, the Home Office invited comments from a range of organisations and agencies on proposals to streamline certain licensing procedures. There was widespread agreement on some of the proposals and it is envisaged that these will form part of the Government's licensing Bill. These are outlined below.

Duration and renewal of licences

18 Justices' licences are now valid for a year and renewal, at the general annual licensing meeting, is usually little more than a formality. Nevertheless, annual renewal provides an opportunity for objections to the continuation of the licence to be heard, on grounds of, for example, disorderly conduct, breaches of the licensing law, and noise and nuisance. It is open to anyone to oppose the annual renewal, and the licensing justices are required to consider the objections raised. In practice, a very small proportion of licences is opposed each year. The vast majority are renewed 'on the nod'.

19 It is, therefore, proposed to extend the duration of a licence from one to three years. All licences will expire on a common date, every third year. In the case of applications for the renewal of licences which are unopposed, which are made by the due date and which do not involve variation to the licence, the clerks to the licensing justices will be empowered to grant the renewal. In other cases, renewals will be considered by the licensing justices.

20 With the move to a three-year licence, the Government has considered how best to cater for objections to licences in force. It is not the intention that the opportunity for objections to be raised should be limited to the renewal of the licence every three years. At the same time it would not be appropriate to retain the present system whereby representations can be made annually at the Brewster Sessions. The significance of those sessions will largely be lost in the mind of the public once renewals become less frequent. It is proposed therefore that there should be a right for objections to be heard at any licensing session.

21 An objection to a licence in force will be, in effect, an application for the licence to be revoked, and there will therefore need to be a new power for the justices to revoke the licence if satisfied that there are grounds for doing so. It is proposed that an application for revocation should be dealt with in the same way as an objection to renewal of the licence, with due notice of the application given to the licensee and to the clerk to the licensing justices, and that there should be a right of appeal for a person aggrieved by a decision to revoke a licence.

Extended hours orders

22 As explained in paragraph 2, the evening licensing hours may be extended on a regular basis by one of three ways. Both the supper-hour certificate and the special hours certificate once granted run indefinitely, subject only to their revocation. The extended hours order, however, requires annual renewal and the grant of a new order if the licence is transferred. In the

Government's view these are unnecessary requirements. Sufficient safeguards exist, by way of curtailment of the extra hours or the revocation of the order, to ensure that the terms of the order are complied with. It is proposed therefore to bring extended hours orders into line with other regular extensions and to allow them to remain in force subject to the present provisions for curtailment or revocation.

Licensing committees

23 The licensing law regulates the composition of licensing committees and restricts the number of licensing sessions that may be held in a year. A committee must consist of not less than five nor more than 15 justices. It must hold licensing sessions not less than five times during the year (including the general annual licensing meeting) and not more than nine times.

24 The Government accepts the case for a licensing committee comprised of justices with experience of and expertise in the licensing law. It recognises, however, that the operation of licensing sessions has, in some parts of the country, been hampered by the limitations imposed on the committee. It is proposed to increase the maximum membership of committees from 15 to 20 to enable their greater flexibility without diminishing their specialised knowledge. The minimum composition will remain at five, and the quorum of a licensing committee will continue to be three.

25 It is further proposed to remove the limit on the number of licensing sessions in a year. The requirement of a minimum of five sessions a year will remain, but it will be for licensing committees to determine the frequency of their meetings in excess of that number. It is unlikely that this relaxation will result in a substantial increase in the number of licensing sessions, given the existing demands on the justices and the pattern of licensing work, but the present restrictions are unnecessary and serve no helpful purpose either for the courts or for the trade.

26 In addition it is proposed to remove the uncertainty that exists over the legality of the division of business of any licensing session between different benches sitting simultaneously. The power of licensing justices to deal with the business of any licensing session in more than one "division" of those justices if the members of the committee present at the session so decide will be put beyond doubt. It is proposed that each such division should have quorum of three.

CONCLUSION

27 The present licensing laws are complex and cumbersome. They have their origin in a different era and their effect today is in certain respects to cause irritation with no reasonable justification. The legislation proposed in this paper is intended to remove the irritant of afternoon closing. The Government does not see the Bill as a vehicle for major reform of licensing practice and procedures, which would require detailed consultation and consideration.

28 The dangers of alcohol misuse have become increasingly apparent over the years. The Government is satisfied that removing the restrictions on afternoon opening will not have any significant effect on overall alcohol consumption but, while relaxing controls in this way, it intends to look again at steps which could be taken to reduce alcohol misuse.



From the Chancellor of the Duchy of Lancaster
and Minister of Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY

1-19 VICTORIA STREET

LONDON SW1H 0ET

Telephone (Direct dialling) 01-215

GTN 215 5147

(Switchboard) 01-215 7877

THE RT HON KENNETH CLARKE QC MP

Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

27 July 1987

WJH

Dear Douglas,

LICENSING HOURS AND ALCOHOL CONSUMPTION

Thank you for your letter of 10 July. I have also seen John Major's letter of 13 July to you, and yours of 6 July to John Moore. *will request if required*

I recognise of course that H Committee agreed that our proposals for flexible licensing hours should be limited to weekdays, and that for the present we should refer only to this. However, it was also agreed, as you say, that it might be right in some situations to indicate that if Parliament wished the reforms to go further, the Government would consider that. Since then, we have had an election on the basis of a manifesto which not only promised liberalisation of liquor licensing hours, but reform to the law on Sunday trading. It is therefore I think important that, as far as possible, we should avoid ruling out future changes to the Sunday licensing hours, even if we do not propose them now. This would then leave us the flexibility to look again at the issue once we have Parliament's reactions to the Bill, and perhaps even consider bringing forward an amendment in Committee.

I am grateful for your assurance that there will be an opportunity to take my concerns about new restrictions on advertising or on wholesalers into account before decisions are reached. I assume that this is among the issues to be looked at in the Ministerial group on alcohol abuse that you propose in your letter to John Moore. My Department's interest in the implications for competition and deregulation of these and other issues which that group might consider, as well as our responsibility for the

EC5BBS



advertising industry, for industries supplying the brewers and distillers, and for consumer safety, and our interest in health and safety at work, mean that we should wish to be represented on this group, probably by Francis Maude who is responsible for competition and deregulation.

I am sending copies of this letter to members of H Committee, John MacGregor and Sir Robert Armstrong.

A handwritten signature in black ink, appearing to read 'J. Clarke'.

KENNETH CLARKE

EC5BBS





10 DOWNING STREET

From the Private Secretary

19 May 1986

LIQUOR LICENSING REFORM

The Prime Minister has seen a copy of the Lord President's letter of 13 May to the Home Secretary, and a copy of the Home Secretary's earlier letter of 29 April to the Lord President. She has noted these without comment.

I am copying this letter to Stephen Boys Smith (Home Office) and Michael Stark (Cabinet Office).

(Mark Addison)

Miss Joan MacNaughton,
Lord President's Office.

010



Prime Minister. ②

The Home Secretary proposes to make an announcement next week (probably by an arranged PQ) to say that while the Govt is in favour of relaxing the licensing laws, there is no early prospect of legislation to do so. There seems no

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

13 May 1986

Dear Douglas

alternative to the course, after shops.

MEAT 14/5

LIQUOR LICENSING REFORM

You wrote to me on 29 April with your proposals for an announcement of the Government's stance on liquor licensing reform. I understand that you wish to make the announcement on Wednesday 21 May.

You will have seen Kenneth Clarke's letter of 6 May recording his and David Young's strong support for liquor licensing reform and Norman Tebbit's letter of 7 May supporting your proposals but making the point that the idea should be trailed only gradually that a place for legislation would not be found in the 1986/87 legislative programme. You will also have seen Malcolm Rifkind's letter pointing out that he is committed to issuing a consultation paper on possible amendments to Scottish licensing laws which he is likely to issue within the next six to eight weeks. I agree with Norman's point that this needs to be managed carefully so that our decision not to legislate in 1986/87 is not misrepresented as a panic reaction to the loss of the Shops Bill. Subject to that, as no other members of the Committee have commented on your letter, you may take it that you have the Committee's approval to proceed with an announcement along the lines set out in your letter of 29 April.

I am sending a copy of this letter to the members of H Committee and to Sir Robert Armstrong; and I am also sending one - together with a copy of your letter - to the Prime Minister.

The Rt Hon Douglas Hurd MP

Prime Minister ⁽²⁾
To note that H agreed that
airport shops should be exempted.

9 May 1986

MEA 9/5

PRIME MINISTER

AIRPORT SHOPS

mt

H Committee decided on Thursday that a member of the
House of Lords (a Crossbencher) should move an amendment to
the Airports Bill to permit airport shops to open on Sunday.
It is clear that local authorities are likely to enforce
closure of these shops if we do not act. Hillingdon had
threatened Heathrow with this. Norman Tebbit makes the point
that "if the opposition to Sunday Trading were to mobilise
against the amendment to the Airports Bill at least the
foolishness of their argument would be exposed".



HARTLEY BOOTH



SCOTTISH OFFICE
NEW ST. ANDREW'S HOUSE
ST. JAMES CENTRE
EDINBURGH EH1 3SX

CONFIDENTIAL

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport
Department of Transport
2 Marsham Street
LONDON
SW1P 3EB

NRM
7 May 1986

Dear Nicholas.

AIRPORT SHOPS

I hesitate to intervene in this debate since, as you say in your letter of 23 April, there is no problem in Scotland. But I think the important points are, first that airport shops are an identifiable special case, and opening them on Sundays can surely cause no general affront, and second that their enforced closure on Sundays could materially affect the sale proceeds from BAA privatisation.

I would therefore favour going ahead with the amendment.

I am sending a copy of this letter to the Prime Minister, The Lord President, The Lord Privy Seal, The Chancellor of the Duchy of Lancaster, the Secretary of State for Employment, the Secretary of State for Wales, the Financial Secretary, the Chief Whip, and Sir Robert Armstrong.

Yours
Michael

MICHAEL ANCRAM

HONG AFFAIRS Sunday Trading PT 2



LFBG



Caxton House Tothill Street London SW1 9NF

Telephone Direct Line 01-213.....

Switchboard 01-213 3000

NBPW

The Rt Hon Nicholas Ridley MP
 Secretary of State
 Department of Transport
 2 Marsham Street
 LONDON SW1

7 May 1986

AIRPORT SHOPS

with DRN

I have seen Douglas Hurd's letter to you of 130 April. As I indicated in my letter to you of 29 April, I hope that a way might be found to use the Airports Bill to exclude airport shops from the scope of the Shops Act. However, a "conscience" clause would be a high price to pay. It was worth conceding in the Shops Bill in an attempt to secure the complete deregulation of Sunday trading; but the arguments for a concession are much weaker if the prize to be won is confined to Sunday trading in airports.

A "conscience" clause, giving existing workers special rights, on the lines of that included in the Shops Bill, would create an important precedent in the field of employment legislation, involving the industrial tribunals, which would be used against us. We have already suffered a defeat in the Lords on an analagous clause, injected by the Opposition into the Sex Discrimination Bill, which we shall need to try to reverse in the Commons; and that task will be the harder if we make a concession in the context of your Bill. I suggest that if the issue were to be raised we should argue firmly that a "conscience" concession for airport shops is not necessary.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, The Chancellor of the Duchy of Lancaster, the Home Secretary, the Secretaries of State for Wales and Scotland, the Financial Secretary, the Chief Whip and Sir Robert Armstrong.

HOME AFFAIRS Sunday Trading: PER



CCBB



Y SWYDDFA GYMREIG

GWYDYR HOUSE

WHITEHALL LONDON SW1A 2ER

Tel: 01-233 3000 (Switsfwrdd)
01-233 (Llinell Union)

7448

Oddi wrth yr Is-Ysgrifennydd Saneddol

WELSH OFFICE

GWYDYR HOUSE

WHITEHALL LONDON SW1A 2ER

Tel: 01-233 3000 (Switchboard)
01-233 (Direct Line)

7448

From The Parliamentary Under-Secretary

WOM

30 April 1986

Dear Nick Rus,

AIRPORT SHOPS

In Nick's absence I am responding to your letter of 23 April to Douglas Hurd.

I agree with you that we need to look at the implications for airport shops of our defeat on the Shops Bill.

There is and will continue to be a demand for shopping facilities at the major airports particularly for such things as flight insurances etc. It would be damaging if enforcement of Sunday trading restrictions forced shops at the airports to close and to stay closed on Sundays until such time - possibly several years hence - as we feel able to reintroduce Shops Legislation. For that reason I would support the inclusion of a new clause in the Airports Bill exempting shops in airport terminals from Sunday trading restrictions even though there is a danger of the whole Sunday trading debate being re-opened.

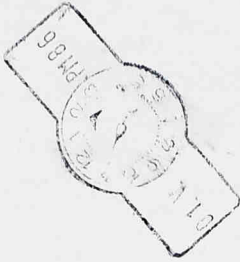
I am copying this letter to the Prime Minister, The Lord President, The Lord Privy Seal, The Chancellor of the Duchy of Lancaster, the Home Secretary, the Secretary of State for Employment, the Secretary of State for Scotland, the Financial Secretary, the Chief Whip and Sir Robert Armstrong.

James ...
Wyn ...

WYN ROBERTS

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport

HOME AFFAIRS, Sunday Trading Pt 2



CONFIDENTIAL

CP39



QUEEN ANNE'S GATE LONDON SW1H 9AT

30 April 1986

Prime Minister.

For information. It looks as if this will go to H Committee. MEA 30/4

Dear Nicholas,

AIRPORT SHOPS

Thank you for your letter of 23 April.

In the aftermath of the defeat of the Shops Bill I have been entertained by the efforts of the opponents to make known that they are not against reform of the present law and that they are actively seeking ways of achieving this. I believe that they are worried about the possible consequences of their actions if local authorities start to tighten up enforcement; and I suspect they may support an amendment to your Bill to show that they are reasonable men.

They will certainly have difficulty opposing it. Keeping closed shops in airports, without closing the airports themselves, will hardly affect the nature of Sundays; and neither small shopkeepers, nor the Unions assuming most shops are now open), will have grounds for opposition.

Although an amendment to allow shops in airports to open without restriction on hours on Sundays would ease your problems, aid tourism and make a modest step towards deregulation in general, I am not sure that we should appear to be picking up the pieces after our defeat. On the other hand, if you were to prompt a Private Member to propose such an amendment, we should clearly wish to support it.

There is one matter which we would need to consider. Our Bill contained a "conscience" clause to prevent dismissal or other action against shopworkers who did not wish to work on Sundays on the basis that existing workers would not have been aware of a change in the law when they sought employment. I am inclined to think that in the special context of airports, which operate for seven days a week, shopworkers must recognise the possibility of Sunday working when they apply for jobs there and hence a conscience clause is not necessary. But it is possible you might have to concede this.

In conclusion, I would in principle favour an amendment and think it might best be achieved by prompting a Private Member to table it. But this must depend on your and the business managers' assessment as to whether the debate thus reopened would be manageable within your timetable, and I certainly would not press the case of an amendment in the face of Willie Whitelaw's analysis of this point in his letter of April 24.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster, the Secretaries of State for employment, Wales and Scotland, the Financial Secretary, the Chief Whip and Sir Robert Armstrong.

Yours,
Douglas

The Rt Hon Nicholas Ridley, M.P.

CONFIDENTIAL

Sunday Trading! HOME AFFAIRS

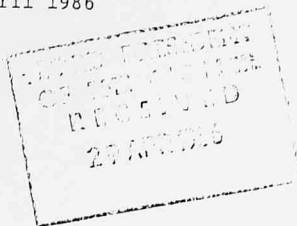
P42.



CONFIDENTIAL

QUEEN ANNE'S GATE LONDON SW1H 9AT

29 April 1986



LIQUOR LICENSING REFORM

When the question of licensing law reform was discussed in H Committee on 3 December (H(85)24th), the general feeling was that there were sound reasons in principle for relaxing the restrictions on permitted opening hours. But we were painfully conscious of the link with the Shops Bill. It was therefore agreed that I would report back to the Committee once the Bill's prospects were clearer.

We are now faced with a very different situation. If we were starting from scratch liquor licensing reform might well have had an easier passage than Sunday trading. But with the defeat of the Shops Bill it is unrealistic to expect that any early Government initiative to liberalise licensing hours will be successful. It will be the more controversial and its opponents will be more obstreperous and self-confident. The issue, however, will not go away and we will be pressed for some indication of our future intentions. We need, therefore, to agree on the public stance we should take on this.

Since the publication in February of the Office of Population Censuses and Surveys' report on drinking and attitudes to licensing in Scotland, I have been able to take the line that that report needed careful study and that we wanted to be sure that there was solid support for change; but I cannot delay much longer announcing some conclusion to our review of licensing hours.

Subject to the agreement of colleagues, I should like to announce that the Government accepts that there is a strong case, based on the Scottish experience, for considering some relaxation of the restrictions on licensing hours in England and Wales and that we support the case for reform in principle. I would add that there is no obvious consensus on the precise nature of any reform but that we believe it important that any change should maintain adequate and effective controls on licensed outlets, given the genuine concern expressed about the incidence of alcohol misuse and the worries of the public about added noise and nuisance. We therefore favour a measured relaxation. In terms of the timing of legislation, I should need to add that licensing reform must compete with other claims for legislative time and make it clear that it does not command a high priority in the immediate future. As colleagues will know, my own preferred approach to a reform package was set out in my original paper to H; but we may, of course, have to look again at the detail of this nearer the time when legislation becomes more likely.

The position is complicated, however, by the possibility of Private Member's legislation. An announcement on these lines will disappoint those hoping for early Government action. Some 200 Members have signed Roger Gale's Early Day Motion calling for the introduction of longer and flexible opening hours. I am not persuaded that the time is now ripe for a change by means of either a programme Bill or a Private Member's handout; but clearly we cannot discount the possibility of a Private Member sponsoring a Bill. Indeed it would be unrealistic to think that in the course of the next Session one or more such Bills will not appear. Depending on the nature and scope of any such legislation we might feel able to offer some support, particularly if it looked like attracting general support in the House. Given the variety of options for change and the difficulty of forecasting the reaction to any Private Member's initiative, there is no point at this stage in trying to anticipate this situation. Colleagues may wish to note, however, that it may prove necessary for us to address our minds early next Session to whether we should offer support, including drafting assistance, to a specific Private Member's Bill.

X Copies of this letter go to other members of H Committee and to Sir Robert Armstrong. I should be grateful for comments by 9 May.

Yours,
Doyl.

CONFIDENTIAL

CCBG

Caxton House Tothill Street London SW1 9NF

Telephone Direct Line 01-213.....6460.....

Switchboard 01-213 3000

The Rt Hon Nicholas Ridley MP
 Secretary of State
 Department of Transport
 2 Marsham Street
 LONDON
 SW1

1. This Plester - to see.
 // *2. Ascertain the Ice response.*

29 April 1986

Nick Nick.

AIRPORT SHOPS

In your letter of 23 April to Douglas Hurd you sought the views of colleagues about the opening of airport shops on Sundays.

You are naturally concerned about the effect that any attempt to close airport shops on a Sunday will have on the profitability of BAA and the prospects for their privatisation. I am also concerned about the effects this would have on our tourist industry. The market for international tourism is highly competitive and if airport shops are forced to close on a Sunday this will harm the image of Britain for overseas visitors.

I believe that the only way we can end this uncertainty is by seeking to add to the Airports Bill a new clause which would allow airport shops to open on a Sunday. If we don't do this now, and the local authorities subsequently decide to enforce the 1950 Act, then we may not have another suitable opportunity to make special provision for airport shops.

In the light of our recent defeat in the House of Commons on the Shops Bill I do not believe it would be politically advisable for Ministers to put down an amendment, but there should be no difficulty in obtaining the agreement of one of our supporters to move a suitable amendment.

CONFIDENTIAL



I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, The Chancellor of the Duchy of Lancaster, the Home Secretary, the Secretaries of State for Wales and Scotland, the Financial Secretary, the Chief Whip and Sir Robert Armstrong.

Yours,
David

After all, this will not alter the traditional
nature of an English Sunday (whatever that might be!)

4

Home Affairs;
Sunday Trading.
PEZ



PRIME MINISTER

28 April 1986

AIRPORT SHOPS

Nicholas Ridley should not pass up the opportunity to add a new clause to the Airports Bill, exempting designated airports from Sunday restrictions on their terminal shops.

The UK civil aviation industry is a thriving sector of the economy. Our major international hub airports - notably Heathrow, Gatwick and, increasingly, Manchester - are the envy of our Continental rivals. Yet our leading position is increasingly threatened by airports such as Amsterdam and Paris which have considerable scope for additional traffic and are competing strongly for interlining and long-haul business. Risking the closure of airport shops on Sundays would not only deprive consumers of a valued service, but would also impair the competitiveness of our international airports.

No-one can seriously argue that airport shops are a threat to the traditional character of Sundays. Like Norman Tebbit, we would robustly return to the fray on this issue. Indeed, the Government would be neglecting its duty to miss a straightforward chance to give BAA a clear prospectus.



JOHN WYBREW

CUBP



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Douglas Hurd CBE MP
 Secretary of State for the Home Department
 Home Office
 50 Queen Anne's Gate
 LONDON
 SW1H 9AT

NMM

25 April 1986

Dear Douglas,

I have seen Nicholas Ridley's letter of 23 April to you.

at Has

The needs of air passengers do not change according to the day of the week. In my view there is a clear case on its merits for giving specific exemption for airport shops by amending the Airports Bill.

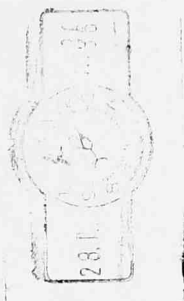
Although it is not an argument on which we could rely in the House, I am also concerned at the large loss of sale proceeds from the BAA privatisation if the anomaly is not corrected. I understand that Department of Transport officials have mentioned a figure of £100m. A loss of this order would occur even if we took no action before the sale to stop illegal trading at airports, because the prospectus for the sale would have to make clear that a material proportion of profits were at risk from action by local authorities. In such circumstances potential investors would discount that portion of the profits.

I am sending a copy of this letter to the recipients of Nicholas Ridley's.

John Moore

JOHN MOORE

HOME AFFAIRS, Sunday Trading Pt 2



PRIME MINISTER

AIRPORT SHOPS

Attached is Ministerial correspondence on the implications for shops in airports of the debate on the Shops Bill. This will mean that unless the law is amended, shops in airports will have to trade illegally if they are to meet the needs of passengers for such services as flight insurance and currency exchange. Nicholas Ridley thinks that this may be an impediment to the privatisation of British Airports Authority which derives a substantial part of its income from shops of this kind. He canvasses the idea of an amendment to the Airports Bill which is in the Lords to exempt designated airports from the provisions of the existing law. He considers, however, that this will cause so much trouble that it is not worth the fuss, and that shops in airports should be subject to the same daft laws and hence the same risks of closure as everywhere else. Norman Tebbit takes a more robust line. He thinks that the opposition to Sunday trading is unlikely to be able to mobilise action about such exceptional circumstances as trading in airports. The Lord President, however, is flatly against amendment on Lords business management grounds.

I understand that the Chief Whip would propose a free vote if there were such an amendment and is pretty confident about securing a Commons passage for it since the opponents of Sunday trading are evidently feeling a bit sheepish about their failure to produce an alternative to the present law.

All this is yet another example of the mess which has been left by the opponents of Sunday trading. I do not, however, suggest that you should weigh in at this stage unless you have particularly strong views, at least until we have seen the Home Secretary's response.

Timothy Flesher

25 April 1986

RAMAFW

010
CONFIDENTIAL



Cancellor of the Duchy of Lancaster

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Tel No: 233 3299
7471

25th April 1986

The Rt Hon Nicholas Ridley AMICE MP
Secretary of State for Transport
Department of Transport
2 Marsham Street
LONDON
SW1P 3EB

D. Nicholas.

AIRPORT SHOPS

Thank you for sending me a copy of your letter of 23 April to Douglas Hurd. *will request a response*

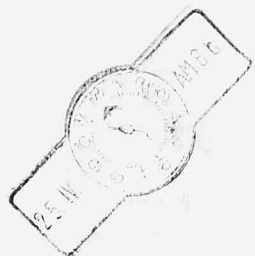
In practical terms, it is anomalous and potentially very difficult for airports to continue to be subject to legal restrictions on Sunday opening of shops in the terminal buildings. In the current climate, the likelihood of active enforcement of the restrictions must be enhanced.

Douglas must, of course, be the best judge of temperament on Sunday trading, but it seems to me that here is a particularly clear example of the absurdity of these restrictions; there really can be no prospect of perverting the character of the traditional Sunday by allowing trading within airport terminals. If the opposition to Sunday trading were to mobilise against an amendment to the Airports Bill, I would hope that, at the very least, the foolishness of their argument would be exposed.

I would urge you to proceed with the amendment.

I am sending a copy of this letter to the Prime Minister, Willie Whitelaw, Douglas Hurd, John Biffen, Nick Edwards, David Young, Malcolm Rifkind, John Wakeham, John Moore, and to Sir Robert Armstrong.

Norman Tebbit
NORMAN TEBBIT



010.

CC/B9



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

24 April 1986

Dear Nicholas

- in PM Box.

I have seen a copy of your letter of 23 April to Douglas Hurd about the fact that shops in international airports remain constrained by the present Sunday trading provisions.

I have consulted Bertie Denham about the business management implications. We have no doubt that many members of this House who feel badly served by developments on the Shops Bill will wish to speak. We therefore take the view that, while it might well be possible to get such an amendment into this Bill in the Lords, the attempt to do so would almost certainly entail an extra day in Committee. This would have implications for the date of Royal Assent which, in view of what you have said on this earlier, I imagine would be unwelcome to you. I am bound to say also that it would cause considerable difficulties for the management of the rest of our programme: we can ill afford extra time for anything at this stage. My inclination therefore, subject to any further points which colleagues may raise, would be to leave this controversial topic well enough alone for the present, though I do appreciate the policy considerations which prompted you to write.

I am sending a copy of this letter to the Prime Minister, the Home Secretary, the Secretary of State for Wales, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster, the Secretary of State for Employment, the Secretary of State for Scotland, the Parliamentary Secretary, Treasury, the Chief Whip in the Lords, the Financial Secretary, Treasury and Sir Robert Armstrong.

Yours
W. M. M.

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport

CONFIDENTIAL

010
239



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

2

The Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

23 April 1986

Prime Minister:

Dear Douglas

A further example
of the absurdity of the
present situation on
Sunday Trading N 23/4

AIRPORT SHOPS

Our defeat on the Shops Bill means we cannot remove the anomaly whereby shops in international airports, though exempt from the closing hour restrictions of the 1950 Act, are caught by the Sunday trading provisions.

The impending privatisation of the British Airports Authority (BAA) makes it difficult for the Government to go on turning a blind eye to the fact that major airports must perforce continue to trade unlawfully if they are to meet the needs of passengers, including providing such essential services as flight insurance and currency exchange facilities. In any event the Local Authorities, including those with major airports within their boundaries, are likely to be challenged to enforce the Shops Act. It would be extremely difficult to write a prospectus for the flotation of the BAA in these circumstances.

A possible way to remove the anomaly would be to add a new clause to the Airports Bill, which is now in the Lords, so that the Shops (Airports) Act 1962 is amended to exempt designated airports from Sunday restrictions. (Perhaps we could get one of the Bishops to propose such an amendment!) Apart from providing this additional exemption, I would not propose to make any other change to the provisions of the 1962 Act. The Act would, therefore, continue to apply as it does now, that is to shops which are ordinarily used by persons travelling by air to or from the designated airports. In effect, only shops in the terminal buildings would be exempt. Airport companies would not, therefore, gain any unfair advantage if they developed hypermarkets etc around the fringes of their airports.

I fear, however, that an amendment on these lines would provoke much opposition and cause the whole argument to be reopened, and all the obvious questions asked.

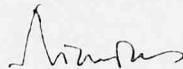
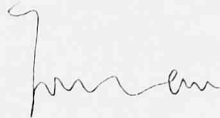
CONFIDENTIAL

C O N F I D E N T I A L

It may be more sensible just to let events take their course, and if the shops at Heathrow, Gatwick or Manchester are closed on Sunday (this could not happen at Scottish Airports, of course!) for us just to rest our case on the need for liberalisation of Sunday Trading.

That is my preferred course, but since any amendment would have to be introduced in Committee in the Lords on 15 or 20 May or on Report, there is very little time at our disposal. I should be grateful for your views and those of colleagues as soon as possible.

I am sending a copy of this letter to the Prime Minister, The Lord President, The Lord Privy Seal, The Chancellor of the Duchy of Lancaster, the Secretary of State for Employment, the Secretaries of State for Wales and Scotland, the Financial Secretary, the Chief Whip, and Sir Robert Armstrong.



NICHOLAS RIDLEY

PRIME MINISTER

SHOPS BILL

Thursday's Cabinet is the last Cabinet before the Second Reading of the Shops Bill on Monday 14 April. On Thursday the Home Secretary will inform Cabinet of his line in the Second Reading debate. This will be that agreed at your meeting with him on 19 March (note attached), i.e. that the Government believes that no approach can be sustained in logic other than complete deregulation, but the Government's ears will be open in committee to any suggestions for alternative ways forward.

The Chief Whip will report before Thursday whether there will be difficulties with Ministers' votes at Second Reading.

and PPS's

mb

N.L.W.

N.L. WICKS
7 April 1986

EL3BAN

SUBJECT
cc Master



OF MS2 BX

file

10 DOWNING STREET

From the Private Secretary

20 March 1986

SUNDAY TRADING

The Prime Minister held a short meeting with Mrs Ann Winterton, M.P., today about Sunday trading.

Mrs Winterton said that the Government seemed to be under-estimating the strength of opposition to the Shops Bill, which was coming from all quarters of the community. She accepted that the Auld Report had some logical force, but believed that the Government's measures did not provide the mixture of logic and commonsense which the Party was renowned for. She believed that it was possible to amend the Bill in such a way as to obtain widespread support for it. She understood that the retail trade was soon to put to your Secretary of State a proposal which she hoped the Government would consider sympathetically.

Mrs Winterton herself identified three possible such amendments:

- (i) Allow shops of three employees or under to open Sundays
- (ii) Allow shops to open until 1 pm only
- (iii) Provide local authorities with discretion to determine the hours which shops could open for on Sundays.

On the first, Mrs Winterton noted, in response to a remark by the Prime Minister, that there would probably need to be exemptions for e.g. garden centres. On the second, the Prime Minister expressed some surprise that opening should be allowed up to 1 pm rather than after it. On the third, the Prime Minister remarked that the Government should not generally ask local authorities to make choices it was unable to make for itself.

Mrs Winterton went on to refer to alleged unwelcome economic and domestic implications of the Bill. She did not see what the Government stood to gain by proceeding with it.

BW

The Prime Minister listened to Mrs Winterton's points. She understood Mrs Winterton's concerns, but noted that the amendments which had come before the Lords proposing partial deregulation had not under scrutiny proved workable. It was most important to avoid needing an army of inspectors to monitor a new regime.

bf | I think the Prime Minister would be interested to see the proposal which the retailers put to your Secretary of State when it arrives.

Mark Addison

Stephen Boys Smith Esq
Home Office

MF288L
E

SUBJECT
CC Master.

file



10 DOWNING STREET

From the Principal Private Secretary

19 March 1986

The Prime Minister discussed with the Home Secretary and the Chief Whip this afternoon the handling of the Shops Bill in the House of Commons.

The Home Secretary suggested the Government's approach to the handling of the Shops Bill should rest on the following three considerations:-

- (i) For the next few weeks, the Government should maintain a strong public stance in defence of the Bill, putting out all the arguments which supported its approach and drawing attention to the inconsistencies of all the alternatives.
- (ii) At Second Reading Ministers should say that their ears would be open in Committee to any suggestions for alternative ways forward.
- (iii) Meanwhile, the Home Office should consider how the Government might respond to any suggestions which might come forward in committee.

In discussion, it was agreed that no approach could be sustained in logic other than complete deregulation. All the alternatives had serious defects. Many involved turning a blind eye to breaches of the law or the creation of a great army of inspectors to enforce the law.

In discussion of alternatives, it was suggested that one possibility, following the analogy of the Seat Belts Bill, was complete deregulation now with an undertaking for a review after three years. Sunday trading legislation was not analogous to seat belts legislation and it was unlikely whether this would satisfy the Bill's opponents. There was perhaps more to be said for restricting deregulation on Sundays to a limited number of hours. One course here was complete deregulation after say 1130 a.m. each Sunday with trading before that time continuing to be governed by the arrangements in the present shops legislation. Yet another course was blanket deregulation with an option for local authorities to apply existing legislation to trading before 1130 a.m. This could, however, result in local confusion. This was one reason why the local authorities were unwilling to shoulder responsibilities for decisions on local opening

085

hours. It was stressed that in no circumstances should local authorities be given power, through any local option scheme, to penalise individual shopkeepers by restricting their hours.

Summing up the discussion, the Prime Minister said that the Government should stick to the present policy in the Shops Bill and only moving from it when it was perfectly clear that a move was unavoidable. With that in mind, the three-fold strategy suggested by the Home Secretary (referred to in paragraph 2 above) should be followed. As part of that strategy the Whips could make clear that the Government was still unconvinced that there was any viable alternative to complete deregulation, but doors had not been completely closed and Ministers were ready to listen to all the arguments. The tactical handling of the Second Reading debate and votes on the Bill in the House of Commons needed further consideration but the Government could not acquiesce in a situation where Ministers (and PPSs) were clearly not supporting Government policy. The Bill's Second Reading should take place fairly soon after Easter, but after the Fulham by-election and before the local elections. The Home Secretary should consider further, in the light of the discussion, the various options short of complete deregulation and advise her about the appropriate forum for any necessary collective Ministerial consideration of these options and for the Bill's handling generally.

I am copying this letter to Murdo Maclean (Chief Whip's Office). I should be grateful if you could both, in view of this subject's extreme sensitivity, keep the circulation of this letter on a strictly need-to-know basis.

(N. L. WICKS)

Stephen Boys Smith, Esq.,
Home Office

PRIME MINISTER

Since time is short, I suggest
you concentrate on Shops - and we
will try to find time for the other
2 items. N.L.W.

18.32

MEETING WITH THE HOME SECRETARY AND THE CHIEF WHIP

Main item for the agenda is the Parliamentary handling of the Shops Bill (on which there are two new papers below at flag A).

Two other items which the Home Secretary will wish to raise if there is time:

- (i) Controlling Arab scandal sheets in London (papers at flag B); and
- (ii) Chairmanship of the Scottish Teachers' Inquiry.

The Home Secretary is still extremely concerned about the possible appointment of Lord Fraser of Tullybelton. It is not so much that he will not have time to combine his duties as Chairman of the Teachers' Inquiry with those of the Presidency of the Interceptions Tribunal. Of more concern, in the Home Secretary's view, is that the success of the Tribunal, so important if the present interception arrangements are to be maintained, could be prejudiced if Lord Fraser's Chairmanship of the Teachers' Inquiry derogate from his present judicial independence and brought him into the arena of political controversy. The Home Secretary therefore hopes that another name can be found.

N.L.W.

N.L. WICKS

18 March 1986

EL3AYZ



CIBS
A
HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

PERSONAL & CONFIDENTIAL

18 March 1985

Dear Nigel,

SHOPS BILL

I wrote to you yesterday enclosing a note about the Shops Bill and recording the Home Secretary's preliminary reaction to it.

The Home Secretary has asked me to add the following points:

- (i) Restricted deregulation on Sundays to limited number of hours.

If the Government is obliged to make a move and does so in this area, the Home Secretary thinks that a period of four hours would be unacceptable to traders, and one of six probably not regarded as enough by opponents of the Bill. Five hours might therefore strike the best balance. The main disadvantage to this option - though the Home Secretary remains of the view that it is the least unattractive - is that it would create a two-tier system and perpetuate existing enforcement problems.

- (ii) Limited hours and local options.

There may be some possibility for linking the "limited hours" and "local" options by allowing district councils to limit deregulation (which would otherwise be total, as in the Bill) within the whole or part of their areas to the core hours referred to above. Thus the district councils would start with total deregulation. The onus would be on them to decide if they wanted to impose restrictions, for example in town centres.

- (iii) Deregulation but for a limited period only unless made permanent.

The Home Secretary would add that this approach has the disadvantage of prolonging debate about deregulation through the next general election.

A copy of this letter goes to Murdo Maclean in the Chief Whip's Office.

Sam.
Stephens
S W BOYS SMITH

Nigel Wickes, Esq.

HOME AFFAIRS
SUNDAY TRADING



From: THE PRIVATE SECRETARY

PERSONAL AND CONFIDENTIAL



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

17 March 1986

Dear Nigel.

SHOPS BILL

The Prime Minister will be speaking to the Home Secretary and Chief Whip tomorrow about the Shops Bill.

The Home Secretary thought it would be helpful if the Prime Minister had sight of the attached note before the meeting. He commissioned it to examine some options short of complete deregulation. The Home Secretary considered the paper over the weekend and made the following comments:

- (i) first option: restricting deregulation on Sundays to limited number of hours. If the Government is obliged by circumstances to make a move, it is in this area that the Home Secretary would favour change;
- (ii) second option: deregulation, but for a limited period only unless made permanent. The Home Secretary wonders if this would be as difficult as the paper suggests. In his view it might be possible to suspend the 1950 Act for five years and provide that after that period the suspension would become absolute and permanent unless the Secretary of State revoked it by order requiring affirmative resolution, or some comparable procedure. The presumption would thus be permanent deregulation but there would be a five year let out for Government and Parliament.
- (iii) third option: local regulation. In the Home Secretary's view the only local option worth considering is one where Parliament enacts deregulation subject to the provision that district councils should be able to require shops to close on Sundays or for half of Sunday throughout their district, or possibly in a parish or ward. He does not think district councils should be allowed to close individual shops. If this procedure were adopted he does not think there need be a right of appeal.

A copy of this letter and its enclosure goes to Murdo Maclean in the Chief Whip's Office.

Max. S. Smith

S W BOYS SMITH

Nigel Wicks, Esq

FURTHER OPTIONS SHORT OF THE COMPLETE DEREGULATION OF SHOP HOURS ON SUNDAYS

It is generally agreed that a number of options which have been canvassed and considered have such obvious disadvantages that they can now be disregarded. These include amending the Schedule of goods permitted to be sold on Sundays; providing for restrictions on Sunday opening to be applied according to the size of shops, the type of shop or the number of employees; and regulating the number of Sundays in a year, or the number of hours in a week, that shops may open.

The three main outstanding other options (where the disadvantages are not so telling, or so obvious) include the following.

① Restricting deregulation on Sundays to a limited number of hours

The limiting factors here are that shops would need to be able to open for long enough to justify overheads and attract employees; outside deregulated hours it would not be practicable to require all shops to close; and shops would need to be open to meet the requirements of the public so that the law was not disregarded.

These factors suggest that the deregulated period should be for at least five or six hours, that outside this period the present law should apply and the period of deregulation should span a period either side of Sunday lunch. A deregulated period of from, say, 11 am to 5 pm would allow people to purchase items found necessary to complete the morning's work on the house, car, etc, or provide for unforeseen guests to lunch, while permitting families in the afternoon to visit garden centres, antique fairs, etc. Papers could still be purchased early in the morning and petrol in the evening. A refinement would be to provide that the hours of deregulation could be extended by Order of S of S by up to two hours (or more).

The advantage of such an option is that it offers a substantial measure of deregulation; does not add to the difficulties of enforcement outside the deregulated period; and may be attractive as a compromise to a significant number of concerned MPs.

The main disadvantage to such an option is the lack of principle to underpin it. Why should it be an offence to offer a pot of paint for sale at 10.30 am but not half an hour later? A further disadvantage is that outside the deregulated period, the present anomalous situation would continue with its attendant enforcement problems. A potential problem is that to ease restrictions in this way might encourage them to be disregarded even more widely than now. And would it satisfy all those who wish to keep Sunday special?

② Deregulation of shop hours, but with the law expiring after a permanent period of, say, two-five years with provision for an affirmative resolution of both Houses

This option has been suggested as a compromise measure to allow for deregulation of hours to be brought to an end after a period of time if it appears to be unpopular.

The potential advantage of such an option to supporters of deregulation is that after a period of deregulation, opposition will have faded and renewal will be reasonably easy. This is far from obviously the case; and it offers to opponents of deregulation the prospect of a further round.

Such an option would adopt a procedure normally reserved for emergency legislation but would merely defer, and be seen to defer, the basic issue. The presumption is that, unless 'renewed', deregulation would lapse after a period and the present law would re-apply. We should then be faced with the present situation of how to deal with an outdated, anomalous law; but the enforcement problem would be exacerbated as the present trend would have been accelerated by the period of deregulation. How would the issue be determined after two-five years? An amendment to this effect in the House of Lords suggested Government monitoring during this period of all socio-economic effects. But a time period of much less than the five years would be too short for effects to be monitored and reported upon. Short of a referendum, it seems likely that the present debate would be merely deferred.

Local regulation

A number of options have been canvassed that have as their theme the control of shop hours by local authorities. An advantage that might be attached to a local authority option is that it could take account of specific local problems created by deregulation and take action in respect of them. This would really apply to nuisance or disturbance problems of one kind or another and has a precedent in that under the Late Night Refreshment Houses Act 1969, district councils may impose a condition on licences that premises be closed between 11pm and 5am; and under the Local Government (Miscellaneous Provisions) Act 1982, a district council may make a closing order in respect of a takeaway food shop between midnight and 5 am to prevent disturbance to residents. (A suggestion that bye-laws might have a role to play is difficult to envisage. There is no precedent for this in Scotland, it would involve a cumbersome procedure (involving confirmation by the Secretary of State) that seems inappropriate for shop hours and any desired effect could no doubt be better achieved by giving local authorities any desired powers under primary legislation).

All local options are subject to the criticism that it would be an abdication of responsibility by Parliament; all suffer from the disadvantage that anomalies would be created and that the market might be unfairly distorted to the advantage or disadvantage of specific retailers; many are linked to the options mentioned at the beginning of the paper and carry their disadvantages; and all would carry resource implications for local authorities and are likely to be resisted by them.

A possible option might be as follows.

Giving local authorities a licensing power in respect of shop hours (on Sundays only ?) or giving local authorities power to make closing orders for shops (on Sundays only ?)

To provide for individual shops to be licensed would be a retrograde step as far as deregulation is concerned and place an intolerable burden on local authorities (7,000 shops in Manchester); and it would be impossible to envisage giving local authorities powers to prescribe what goods should be sold or when and where. A more practicable proposition would be to enable local authorities to make closing orders in respect of individual shops or parts of their areas to apply within specified times to prevent disturbance to residents in the area, breach of which would be punishable under the criminal law.

The advantage of such an option is that it has an underlying principle and gives some discretion to local authorities in an area in which they have a legitimate interest.

There are specific difficulties with this approach. Thus small shops in residential areas may be more vulnerable to such orders than out of town supermarket complexes and even larger retailers in towns (with no residents in premises above). The small corner paper shop could be a target for complaints on Sunday morning. Competition could be distorted if there were complaints about one shop and not a similar one nearby and there would need to be an appeal procedure, presumably to magistrates or the S of S. More fundamentally, it is arguable that such an option would merely reinforce the uncertainty currently facing the retail sector, create fresh problems of enforcement and impose a burdensome (or bureaucratic) regulatory function on local authorities which would have significant resource implications. The district councils themselves have said that they do not want to have such a function.

From: THE PRIVATE SECRETARY

Handwritten initials



*One Minute
You wanted
these papers
the weekend.*

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

14 March 1986

*Dear Nigel, N.L.W
14-3*

ms

SHOPS BILL

You asked for a schedule briefly setting out the main amendments which had been proposed to the Shops Bill in the House of Lords and the arguments adduced in favour and against them. I attach a note which I hope meets the case.

In summary, the Churches' preferred option would appear to be small shops and a revised schedule of what might be sold elsewhere. The local option appeared to find favour with the Opposition.

I must, of course, emphasise that this is simply a record of what happened in the House of Lords. The Prime Minister will be discussing with the Home Secretary and Chief Whip on 18 March how things move forward from here.

*Yours,
Stephen*

S W BOYS SMITH

Nigel Wicks, Esq.

PROPOSAL

1. Local Option : Decisions to be made by local authorities
Lord Denning

a) By planning permission procedures

or

b) By issuing consent orders to individual shops.

ARGUMENTS IN FAVOUR

a) Responsive to local feeling - local authorities could consult shopkeepers, consumers, unions etc in their areas.

b) Would protect local residents.

ARGUMENTS AGAINST

a) Bureaucratic -time-consuming and expensive. All shops wishing to open even for a few Sundays have to apply. Appeals mechanism (to Home Secretary?) would be necessary.

b) Local authorities (ADC) are strongly opposed to this type of solution.

c) It is wrong to expect each local authority to find the compromise where Parliament failed and how would this reflect public opinion?

d) Some system of exemptions would have to exist within each authority area - with the same anomalies and unfairnesses as at present and as difficult to enforce.

e) Unfair restraint of trade.

PROPOSAL

2. Small shops

1. Bishop of London

Shops with fewer than five employees free to open between 9am and 5pm, otherwise present Shops Act to apply with Schedules widened to include garden centres and DIY shops.

2.2 (Lord Graham)

The present Shops Act to apply to larger shops but small shops may trade at any time.

Four different ways of suggested of defining a small shop

- a) Maximum area of public access (25sq metres, 250sq metres - two separate amendments)
- b) Maximum of 3 employees
- c) Maximum monthly receipts (£20,000)
- d) Maximum rateable value (£1500)

ARGUMENTS IN FAVOUR

- a) Would meet demand
- b) Enforcement simplified in that small shops could sell their full range of goods.
- c) Staff records already compiled for NI - could be copied to local authorities for check on staffing levels.
- d) Protects small traders.
- e) Would limit the amount of Sunday working required.

ARGUMENTS AGAINST

- a) It is arbitrary and unfair - any goods may be sold throughout the day, but only at small shops
- b) To comply with this shopkeepers may wish to reduce the number of employees by dismissing staff or working harder themselves.
- c) A single large shop or small retailer with a lot of staff would be forced to close, whereas a small shop in a chain or a self service shop could not.
- d) The Schedule is illogical and will produce just as many anomalies as at present.
- e) Burden on local authority. It would produce artificial constraints on retailing
- f) Small retailers elsewhere do not appear to have been damaged by deregulation.

Allowing only small shops to open would not meet demand - notably for garden centres, DIY stores and furniture showrooms.

Each definition of small shops would provide difficulties in enforcement and anomalies.

PROPOSAL

3. Limited Hours

a) Lord Jacques

Shops to open only prior to 1pm except that after 1pm shops may open for sale of essential goods specified in an order by the Home Secretary and approved by both Houses of Parliament.

b) Lord Graham (not moved)

Maximum of 4 hours between 6am to 6pm subject to local authority licensing individual shops

4. Three Year Trial Period

(Lord Lloyd of Kilgerran)

Shops Bill to be in force for 3 years only

ARGUMENTS IN FAVOUR

a) Gives freedom to shop for any goods in any shop - in the morning

b) Preserves nature of Sunday

c) Limits Sunday working

a) Differing views of what deregulation may bring - trial period would allow experience to be evaluated.

b) Precedent-seat belt legislation.

c) Effects on church attendance, employment, wages, costs, crime, transport and environment could be measured.

ARGUMENTS AGAINST

a) Ignores public demand for afternoon opening and existing enforcement problems would continue in the afternoon.

b) Parliament will have to decide what is acceptable for afternoon trade for the purposes of the order - all the old arguments would begin again and enforcement problems would remain.

a) What happens outside permitted hours?
Problems of enforcement remain. b) Are shops now permitted to open for the full day to be forced to close except for four hours?

c) Different types of whom will want different opening hours. Local authorities will have to check opening and closing time of each shop.

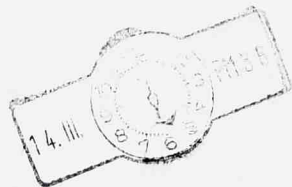
d) Licensing is bureaucratic time consuming and expensive.

a) The principle of deregulation has already been accepted by large majorities.

b) Would create uncertainty in retailing.

c) At the end of 3 years could be forced back on to generally accepted bad law. What then?

d) The Government constantly reviews and monitors trends in the country - better the Government take specific action to deal with a specific ill rather than simply revert to the old law.



March 1986

PUBLIC ATTITUDES TO
SUNDAY TRADING

Prepared for: The Pro-Sunday Coalition
Prepared by : Harris Research Centre
Holbrooke House
Holbrooke Place
34-38 Hill Rise
Richmond
Surrey TW10 6UA

Tel: 01-948 5011

Telex: 24403

CF

Wally keep out the Anne White
meeting page please? She looked at
me yesterday

JN: 98612

INTRODUCTION

Parliament is currently considering legislation which would remove existing restrictions on Sunday trading. The Harris Research Centre was commissioned to conduct an opinion poll to assess peoples attitudes to Sunday generally and Sunday trading in particular. This document summarises the findings of the poll and provides a detailed computer analysis of the results. The results of the poll are based on a representative quota sample of 1038 adults aged 18 or over. Interviewing was conducted in 50 sampling points spread throughout mainland Britain between 24 and 27 February 1986. Further technical details and a copy of the questionnaire used are appended to this report.

SUMMARY OF THE FINDINGS

- o A majority (59%) of respondents to the survey agreed with the statement that "Sunday is a special day of the week". Exactly one-third (33%) of the sample disagreed (see Table 1).
- o A similar majority (61%) of the sample agreed with the proposition that "It is nice to have one day a week when the streets are quiet". Exactly a quarter (25%) disagreed (see Table 2).
- o Just under half (49%) of those interviewed said they would dislike it if Sundays were to become like a normal shopping day. 31% were in favour of such a change and one in five (20%) had no preference either way (see Table 3).
- o If all shops were open on Sundays as they are on Saturdays more respondents would consider this 'to be a bad thing (41%) than consider it to be good (24%). However, substantial numbers (34%) said they were indifferent to widespread Sunday trading (see Table 4).
- o Two-thirds (67%) of the sample said they weren't inconvenienced at all by most shops being closed on Sundays. Only 14% said they were inconvenienced 'a lot' or 'a fair amount' by the current arrangements (see Table 5).
- o Three-fifths (60%) of those interviewed thought they would be able to buy most of what they wanted if Sunday opening was extended to corner shops and DIY/Garden Centres. 17% said they never shopped on Sundays anyway (see Table 6).

- o The vast majority (93%) agreed with the statement that "All shopworkers should have the right not to work on Sundays if they do not want to" (see Table 7).
- o Seven out of ten (70%) of those polled also agreed with the proposition that Sunday working in shops should be kept to a minimum (see Table 8).
- o Most respondents, 53%, thought that the character of Sunday would be changed for the worse if all shops were to open on a Sunday. Just under a quarter (24%) thought there wouldn't be any change and a further 20% said the character of Sundays would be improved (see Table 9).
- o A small majority (51) of respondents agreed with the proposal that "Parliament should continue to maintain the traditional character of Sunday". 42% disagreed (see Table 10).
- o 91% of the sample thought that MP's should be allowed a free vote when the Bill on Sunday trading comes before the House. Only 7% thought they should be obliged follow the party line (see Table 11).

USE BLOCK CAPITALS

RESPONDENT NAME: Mr/Mrs/Miss _____ OFFICE USE ONLY
 Job No. 98612 (1-5)
 ADDRESS: _____ Serial (6-9)

Interviewer Name: _____ Tel No _____
 Social Grade _____ Constituency No (10-12)

AGE (13) Sex (14) Social Grade
 18-24 1 Male 1 Write in occupation of
 ----- 2 Female 2 ROH and also code below:
 25-34 2
 35-44 3

 45-59 4 Write in age last
 60-64 5 birthday:
 65+ 6 DEI 4

INTRODUCTION: Good afternoon/evening, I'm calling from the Harris Research Centre in London. We are conducting an opinion poll about people's attitudes to trading on Sundays. As you may know, the Government are shortly to introduce a Bill in the House of Commons which would abolish existing restrictions to Sunday trading laws. May I ask you first of all.....

Q1. Some people say that Sunday is a special day of the week. Do you agree or disagree with them?	%	
	Agree	51
	Disagree	33
	Neither	3
	Don't know	*
Q2. And some people say that it's nice to have one day a week when the streets are quiet. Do you agree or disagree with them?	%	
	Agree	61
	Disagree	25
	Neither	13
	Don't know	1
Q3. Would you like it or dislike it if Sunday were to become a normal shopping day?	%	
	Like	31
	Dislike	49
	Neither	20
	Don't know	*
Q4. If all shops were open on Sundays as they are on Saturdays, would you consider this to be a good thing, a bad thing or would you not mind?	%	
	Good	24
	Bad	41
	Don't mind	34
	Don't know	1

Q5. Are you inconvenienced by most shops being closed on Sundays? Would you say....

(READ OUT)

- A lot
- A fair amount
- A little bit
- or - Not at all
- Don't know

Q6. If small corner shops and DIY and Garden Centres were open on Sundays, do you think you would be able to buy most of what you wanted or not?

- Yes
- No
- Never shop on Sundays
- Don't know

Q7. Some people say that all shopworkers should have the right not to work on Sundays if they do not want to. Do you agree or disagree with them?

- Agree
- Disagree
- Don't know

Q8. Do you agree or disagree that Sunday working in shops should be kept to a minimum?

- Agree
- Disagree
- Don't know

Q9. Do you think the character of Sundays would be changed for the better or for the worse if all shops opened on a Sunday?

- Better
- Worse
- Would not change
- Don't know

Q10. Some people say that Parliament should continue to maintain the traditional character of Sunday. Do you agree or disagree?

- Agree
- Disagree
- Don't know

Q11. Do you think that when the Sunday Trading Bill comes before the House of Commons, MPs should be obliged to support their party's policy on this issue or should they be allowed a free vote so that they don't necessarily have to support their own party?

- Obligated to support party
- Free vote
- Don't know

J98612 - Attitudes to Sunday Trading

Table 1

Q.1 Some people say that Sunday is a special day of the week.
Do you agree or disagree with them?

Base -All respondents

	Age				Sex		Class			Region				
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	South		
											Mid-	lands		
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Agree	610	71	193	202	143	273	337	125	164	179	141	220	151	239
	59x	40x	56x	63x	72x	53x	65x	73x	63x	55x	50x	54x	65x	60x
Disagree	339	88	122	88	41	201	138	37	80	117	105	140	58	141
	33x	50x	35x	28x	21x	39x	26x	22x	31x	36x	37x	34x	25x	36x
Neither	84	15	28	27	14	38	46	8	14	29	33	45	24	15
	8x	9x	8x	8x	7x	7x	9x	5x	5x	9x	12x	11x	10x	4x
DK/NS	5	2	1	2	-	5	-	2	1	-	2	3	1	1
	xx	1x	xx	1x	-x	1x	-x	1x	xx	-x	1x	1x	xx	xx

J98612 - Attitudes to Sunday Trading

Table 2

Q.2 And some people say that its nice to have one day a week when the streets are quiet. Do you agree or disagree with them?

Base -All respondents

Absolutes
/Col x

	Age					Sex		Class				Region		
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	Mid-	South	
												lands		
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Agree	634 61%	85 48%	197 57%	202 63%	149 75%	299 58%	335 64%	115 67%	160 62%	198 61%	161 57%	238 58%	150 64%	246 62%
Disagree	256 25%	65 37%	96 28%	73 23%	22 11%	142 27%	114 22%	38 22%	70 27%	79 24%	69 25%	102 25%	41 18%	113 29%
Neither	138 13%	25 14%	46 13%	42 13%	25 13%	70 14%	68 13%	18 10%	25 10%	46 14%	47 17%	61 15%	43 18%	34 9%
DK/NS	10 1%	1 1%	5 1%	2 1%	2 1%	6 1%	4 1%	1 1%	3 1%	2 1%	4 1%	7 2%	- -	3 1%

Table 3

Q.3 Would you like it or dislike it if Sunday were to become a normal shopping day?

Base -All respondents

Absolutes
/Col %

	Age					Sex		Class				Region				
	18-24		25-44		45-64	65+		Male	Female	AB	C1	C2	DE	North	Mid-lands	South
	176	344	319	198	517	521	172	259	325	281	408	234	396			
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396		
Like	31%	86	121	85	27	189	130	48	81	102	87	131	56	132		
		49%	35%	27%	14%	37%	25%	28%	31%	31%	31%	32%	24%	33%		
Dislike	49%	50	164	163	134	220	291	94	132	154	131	183	113	215		
		28%	48%	51%	68%	43%	56%	55%	51%	47%	47%	45%	48%	54%		
Neither	20%	37	58	71	37	106	98	30	44	69	61	92	65	47		
		21%	17%	22%	19%	21%	19%	17%	17%	21%	22%	23%	28%	12%		
DK/NS	4	3	1	-	2	2	2	-	2	-	2	2	-	2		
	%	2%	%	-	%	%	%	-	1%	-	1%	%	-	1%		

Table 4

Q.4 If all shops were open on Sundays as they are on Saturdays, would you consider this to be a good thing, a bad thing or would you not mind?

Base -All respondents

Absolutes
/Col X

	Age				Sex		Class				Region			
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	Mid-lands	South	
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Good	251	70	91	70	20	149	102	34	63	81	72	104	45	102
	24X	40X	26X	22X	10X	29X	20X	20X	24X	25X	26X	25X	19X	26X
Bad	430	38	125	140	127	197	233	86	112	124	108	146	101	183
	41X	22X	36X	44X	64X	38X	45X	50X	43X	38X	38X	36X	43X	46X
Don't mind	350	66	126	106	51	170	180	50	83	117	100	157	88	105
	34X	38X	37X	33X	26X	33X	35X	29X	32X	36X	36X	38X	38X	27X
DK/NS	7	2	2	3	-	1	6	2	1	3	1	1	-	6
	1X	1X	1X	1X	-X	X	1X	1X	X	1X	X	X	-X	2X

Absolutes
/Col X

J98612 - Attitudes to Sunday Trading

Table 5

Q.5 Are you inconvenienced by most shops being closed on Sundays?
would you say

Base -All respondents

	Age						Sex			Class				Region			
	18-24		25-44		45-64		65+		Male	Female	AB	CI	C2	DE	North	South	Mid-lands
	18-24	25-44	45-64	65+	Male	Female	AB	CI	C2	DE	North	South	Mid-lands				
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396			
A lot	57 5%	17 10%	27 8%	10 3%	3 2%	41 8%	16 3%	10 6%	11 4%	18 6%	18 6%	22 5%	9 4%	26 7%			
A fair amount	93 9%	26 15%	38 11%	25 8%	4 2%	51 10%	42 8%	10 6%	25 10%	35 11%	23 8%	39 10%	10 4%	44 11%			
A little bit	192 18%	47 27%	85 25%	49 15%	11 6%	110 21%	82 16%	34 20%	59 23%	55 17%	43 15%	62 15%	55 24%	75 19%			
Not at all	694 67%	86 49%	193 55%	234 73%	180 91%	314 61%	380 73%	116 67%	164 63%	217 67%	197 70%	285 70%	159 68%	250 63%			
DK/NS	2 *	-X	1 **	1 **	-X	1 **	1 **	2 1x	-X	-X	-X	-X	1 **	1 **			

J98612 - Attitudes to Sunday Trading

Table 6

0.6 If small corner shops and DIY and Garden Centres were open on Sundays, do you think you would be able to buy most of what you wanted or not?

Base -All respondents

	Age				Sex		Class			Region				
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	South		
	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Mid-Lands	Total		
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Yes	624	90	240	200	94	321	303	112	159	205	148	243	152	229
	60%	51%	70%	63%	47%	62%	58%	65%	61%	63%	53%	60%	65%	58%
No	218	71	68	54	24	109	109	30	52	68	68	91	36	91
	21%	40%	20%	17%	12%	21%	21%	17%	20%	21%	24%	22%	15%	23%
Never shop on Sundays	172	10	32	54	76	77	95	27	43	48	54	64	42	66
	17%	6%	9%	17%	38%	15%	18%	16%	17%	15%	19%	16%	18%	17%
DK/NS	24	5	4	11	4	10	14	3	5	4	11	10	4	10
	2%	3%	1%	3%	2%	2%	3%	2%	2%	1%	4%	2%	2%	3%

J98612 - Attitudes to Sunday Trading

Table 7

Q.7 Some people say that all shopworkers should have the right not to work on Sundays if they do not want to. Do you agree or disagree with them?

Base -All respondents

	Age				Sex		Class			Region				
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	Mid-lands	South	
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Agree	964	157	320	296	190	475	489	157	243	304	259	374	215	375
	93x	89x	93x	93x	96x	92x	94x	91x	94x	94x	92x	92x	92x	95x
Disagree	53	14	19	14	6	31	22	14	11	12	16	27	12	14
	5x	8x	6x	4x	3x	6x	4x	8x	4x	4x	6x	7x	5x	4x
DK/NS	21	5	5	9	2	11	10	1	5	9	6	7	7	7
	2x	3x	1x	3x	1x	2x	2x	1x	2x	3x	2x	2x	3x	2x

J98612 - Attitudes to Sunday Trading

Table 8

3.8 Do you agree or disagree that Sunday working in shops should be kept to a minimum?

Base -All respondents

	Age				Sex		Class			Region			
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	South	
											Mid-		
Total	176	344	319	198	517	521	172	259	325	281	408	234	396
Agree	97 55%	231 67%	234 73%	165 83%	351 68%	377 72%	130 76%	182 70%	227 70%	188 67%	280 69%	175 75%	273 69%
Disagree	58 33%	72 21%	53 17%	18 9%	118 23%	83 16%	26 15%	53 20%	59 18%	63 22%	80 20%	38 16%	83 21%
DK/NS	21 11%	41 12%	32 10%	15 8%	48 9%	61 12%	16 9%	24 9%	39 12%	30 11%	48 12%	21 9%	40 10%

J98612 - Attitudes to Sunday Trading

Table 9

Q.9 Do you think the character of Sundays would be changed for the better or for the worse if all shops were opened on a Sunday?

Base -All respondents

	Age				Sex		Class				Region			
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	Mid-lands	South	
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Better	204	62	175	53	14	138	66	32	45	66	61	76	36	92
	20%	35%	22%	17%	7%	27%	13%	19%	17%	20%	22%	19%	15%	23%
Worse	545	60	176	173	135	235	310	110	148	161	126	195	134	216
	53%	34%	51%	54%	68%	45%	60%	64%	57%	50%	45%	48%	57%	55%
Would not change	249	42	81	83	43	128	121	24	56	88	80	120	59	70
	24%	24%	24%	26%	22%	25%	23%	14%	22%	27%	28%	29%	25%	18%
DK/NS	40	12	12	10	6	16	24	6	10	10	14	17	5	18
	4%	7%	3%	3%	3%	3%	5%	3%	4%	3%	5%	4%	2%	5%

J98612 - Attitudes to Sunday Trading

Table 10

Q.10 Some people say that Parliament should continue to maintain the traditional character of Sunday. Do you agree or disagree?

Base -All respondents

	Age					Sex		Class				Region		
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	South	Mid- Lands	
	Total													
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Agree	527 51%	63 36%	162 47%	163 51%	138 70%	225 44%	302 58%	98 57%	133 51%	166 51%	130 46%	190 47%	129 55%	208 53%
Disagree	438 42%	97 55%	152 44%	138 43%	51 26%	238 50%	180 35%	65 38%	115 44%	134 41%	123 44%	180 44%	92 39%	166 42%
DK/NS	73 7%	16 9%	30 9%	18 6%	9 5%	34 7%	39 7%	9 5%	11 4%	25 8%	28 10%	38 9%	13 6%	6%

J98612 - Attitudes to Sunday Trading

Table 11

Q. 11 Do you think that when the Sunday Trading Bill comes before the House of Commons, MPs should be obliged to support their party's policy on this issue or should they be allowed a free vote so that they don't necessarily have to support their own party?

Base - All respondents

Absolutes
/Col %

	Age				Sex		Class				Region			
	18-24	25-44	45-64	65+	Male	Female	AB	C1	C2	DE	North	lands	South	
												Mid-		
Total	1038	176	344	319	198	517	521	172	259	325	281	408	234	396
Obligated to support party	70	3	19	25	23	30	40	7	18	19	26	29	19	22
	7%	2%	6%	8%	12%	6%	8%	4%	7%	6%	9%	7%	8%	6%
Free vote	942	170	317	285	189	478	464	165	237	298	241	365	207	370
	91%	97%	92%	89%	85%	92%	89%	96%	92%	92%	86%	89%	88%	93%
DK/NS	26	3	8	9	6	9	17	-	4	8	14	14	8	4
	3%	2%	2%	3%	3%	2%	3%	-	2%	2%	5%	3%	3%	1%

TECHNICAL NOTE

The universe for the survey was the civilian population aged 18+ resident in England, Scotland and Wales. A two-stage sample design was used. At the first stage, 50 parliamentary constituencies were selected with probability proportionate to size, after stratification by region, conurbation/urban/rural, and social grade. Stratification ensures that the sample of constituencies is balanced in terms of region, 'urbanness', and social grade. At the second stage, an equal sized quota sample of individuals aged 18+ resident in each constituency was set according to the demographic characteristics of that constituency. All interviews were conducted in respondents homes in person by trained interviewers from the Harris Research Centre between 24th and 27th February 1986.

KEY TO ANALYSIS GROUPS

Class (based on the occupation of the head of the household)

- AB - Professional and managerial
- C1 - Clerical, supervisory, junior administrative
- C2 - Skilled manual workers
- DE - Semi/un-skilled workers and state pensioners

Region (based on the Registrar General's Standard Regions)

- North - Scotland, North of England, North West, Yorkshire and Humberside
- Midlands - Wales, West Midlands, East Midlands, East Anglia
- South - London, South East, South West

ATTITUDES TO SUNDAY TRADING

USE BLOCK CAPITALS

OFFICE USE ONLY

RESPONDENT NAME: Mr/Mrs/Miss _____

Job No. 98612 (1-5)

ADDRESS: _____

Serial (6-9)

Tel No _____

Interviewer Name: _____ Constituency No _____ (10-12)

Age	(13)	Sex	(14)	Social Grade
18-24	1	Male	1	Write in occupation of
-----	-----	Female	2	HOH and also code below:
25-34	2			
35-44	3			
-----	-----			
45-59	4	Write in age last		AB 1 (15)
		birthday: _____		C1 2
60-64	5	-----		C2 3
65+	6			DE 4

INTRODUCTION: Good afternoon/evening, I'm calling from the Harris Research Centre in London. We are conducting an opinion poll about people's attitude to trading on Sundays. As you may know, the Government are shortly to introduce a Bill in the House of Commons which would abolish existing restrictions to Sunday trading laws. May I ask you first of all.....

- | | | |
|--|------|----|
| Q1. Some people say that Sunday is a special day of the week. Do you agree or disagree with them? | (16) | |
| Agree | 1 | |
| Disagree | 2 | |
| Neither | 3 | |
| Don't know | 4 | Q2 |
| Q2. And some people say that its nice to have one day a week when the streets are quiet. Do you agree or disagree with them? | (17) | |
| Agree | 1 | |
| Disagree | 2 | |
| Neither | 3 | |
| Don't know | 4 | Q3 |
| Q3. Would you like it or dislike it if Sunday were to become a normal shopping day? | (18) | |
| Like | 1 | |
| Dislike | 2 | |
| Neither | 3 | |
| Don't know | 4 | Q4 |
| Q4. If all shops were open on Sundays as they are on Saturdays, would you consider this to be a good thing, a bad thing or would you not mind? | (19) | |
| Good | 1 | |
| Bad | 2 | |
| Don't mind | 3 | |
| Don't know | 4 | Q5 |

Q5.	Are you inconvenienced by most shops being closed on Sundays? Would you say....	(20)	Q6
	(READ OUT)		
	- A lot - A fair amount - A little bit or - Not at all Don't know	1 2 3 4 5	
Q6.	If small corner shops and DIY and Garden Centres were open on Sundays, do you think you would be able to buy most of what you wanted or not?	(21)	Q7
	Yes - No Never shop on Sundays Don't know	1 2 3 4	
Q7.	Some people say that all shopworkers should have the right not to work on Sundays if they do not want to. Do you agree or disagree with them?	(22)	Q8
	Agree Disagree Don't know	1 2 3	
Q8.	Do you agree or disagree that Sunday working in shops should be kept to a minimum?	(23)	Q9
	Agree Disagree Don't know	1 2 3	
Q9.	Do you think the character of Sundays would be changed for the better or for the worse if all shops opened on a Sunday?	(24)	Q10
	Better Worse Would not change Don't know	1 2 3 4	
Q10.	Some people say that Parliament should continue to maintain the traditional character of Sunday. Do you agree or disagree?	(25)	Q11
	Agree Disagree Don't know	1 2 3	
Q11.	Do you think that when the Sunday Trading Bill comes before the House of Commons, MP's should be obliged to support their party's policy on this issue or should they be allowed a free vote so that they don't necessarily have to support their own party?	(26)	Q10
	Obligated to support party Free vote Don't know	1 2 3	

PRIME MINISTER

I attach a note from Hartley Booth about Sunday trading. Hartley puts a strong case, but it is a completely partial one. I think it is a bit disingenuous too. Hartley seems to be saying that the difficulties with the Shops Bill are not matters of logic or reason, but of "signals". In that case we should be shouting for reason and logic to win the day, rather than throwing in the sponge. But I suspect that Hartley really feels that it is not just the presentation, nor the ignorant public, which is wrong, but the policy.

No one doubts the sincerity of many of those opposed to the Bill, and Hartley's note sets out some of the arguments they have on their side. But it ignores

(i) the extent to which much of the press is fully behind the Bill, examples attached;

(ii) the fact that the churches have a ready organisation with which to mobilise a campaign of opposition and letters, and which they have not hesitated to use;

(iii) the self-evident truth that it is the objectors who write in, not the supporters, and the polls ($\frac{2}{3}$ in favour) confirm that;

(iv) the present position is indefensible, and the compromises proposed do not stand up.

The issue of Sunday trading is not the most important that this Government is facing or has faced. It undoubtedly arouses strong passions in those who are opposed to the Government's policy which those who are in favour cannot match. But many people do feel strongly about the issues of freedom of choice which are central to the argument. No-one is stopping those who want to "Keep Sunday Special" from doing so; but they would prevent others from spending Sunday as they wish. [Christianity is surely not incompatible with

choice].

The Parliamentary arithmetic is for the Chief Whip to look after. I do not see how there could be a free vote on a Government Bill, though the Chief Whip has been sympathetic to dissenters throughout. It may be that the Bill will run into difficulty after the Second Reading, and the Government will have to take a fresh look at it. So be it. But I do not think it would be helpful or right to run up the white flag yet.

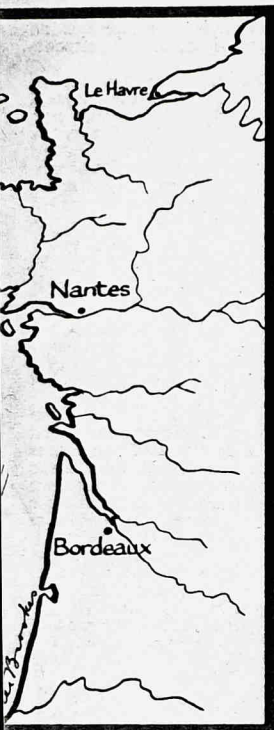
Mark Addison

Mark Addison

4 March 1986

and prime minister if
French general election

ing on ower e can



of him only by forcing him to offer his resignation and that of his government. In the past, when the prime minister depended on the president's patronage, that was a relatively simple matter. But it will not be so easy if the prime minister derives his authority from a parliamentary majority opposed to the president.

Some opposition leaders, including ex-president Giscard d'Estaing, maintain that in such circumstances the president would be deprived of all decision-making and executive power, save that of dissolving parliament and pressing the nuclear button. But since the elected president is traditionally seen as the embodiment of the will of the people, Mitterrand will retain a certain power and influence.

He will naturally play on the prestige of his office to the fullest possible extent. He has no intention of turning himself into a constitutional monarch, passing his time in "inaugurating chrysanthemum shows", as de Gaulle said

would agree to become prime minister.

As for foreign policy issues, which have been regarded under the Fifth Republic as the president's special preserve, Chirac has said these would be a matter for the new right-wing prime minister to decide "because he will have both the means and the control". He saw no reason why both the prime minister and the president should not represent France at international summits. Mitterrand once said it would be the equivalent of a coup d'état if the opposition sought to take foreign policy from him, though more recently he has accepted that "it is a divided responsibility."

Given the apparently contradictory positions of Mitterrand and the opposition on a division of power, it is difficult to see how "cohabitation" could be peaceful.

However, Mitterrand and Chirac — if he is the next prime minister — will both have a vested interest in making cohabitation at least appear to work. Mitterrand has no desire to go down in history as the first Fifth Republic president to be forced to resign (de Gaulle went voluntarily) and Chirac wants to use the power and prestige of the prime minister's office to enhance his own standing in the contest against Raymond Barre, his chief rival on the right, for the 1988 presidential election.

Neither wants to give Barre the credit and satisfaction of having his own predictions of political chaos and paralysis under "cohabitation" proved right. So there will have to be more give and take than either is now willing to admit.

"We shall not give our fellow citizens the spectacle of a France which has suddenly become ungovernable," Chirac said in a little-noticed campaign speech in Bourg-en-Bresse a month ago. "We shall not give the nations abroad the spectacle of a country which does not know how to accept a change of government."

But how could Mitterrand ever agree to sign some of the legislation likely to be passed by a new right-wing majority in parliament, it is asked? Well, what, precisely? There is little in the opposition's remarkably moderate election manifesto that Mitterrand should have too much trouble swallowing. He has already said he does not regard nationalization as a panacea. He is unlikely to object too strongly to the right's promise to return to a majority-voting electoral system — he has always said he considers a regular change of voting system good for a country. Something like the reintroduction of the death penalty would be a sticking point, but that is unlikely because Chirac and a number of other opposition leaders are opposed to it.

So there does not need to be a head-on clash, provided neither side wants one. "Mitterrand does not want a cohabitation of conflict," a Gaullist friend said. "He is flexible; he will be willing to accept many things. But he must not be humiliated, otherwise he is liable to turn nasty." So Mitterrand must be left with at least the semblance of power.

In a television interview on

Digby Anderson

Give the law a day off too

Sunday shop-opening is a straightforward matter for two groups. Illiberal Christians are against permitting consenting adults to buy and sell what they wish on Sundays and want them punished with the full force of the law. Non-Christian liberals, who would minimize government regulation, wholeheartedly support the Shops Bill. But what should Christians who are also of a liberal disposition do?

Their conclusions will turn on their view not so much of Sunday trading as of the law. But first they will listen carefully to the arguments of their church leaders. These are not (and I am concerned throughout with the Church of England) in general derived from sabbatarianism. They are not about church attendance: few fear that committed Christians will be unable to attend a church. Nor is the main issue shopworkers' "rights": the bishops were criticized by the Labour Party for not supporting such "rights".

Anyway, the well-informed liberal knows that the rights of those who wish not to work have to be weighed against the rights of those who do and consumers who pay both. He also knows that Sunday shops often employ a separate labour force, and that stores report a queue of applicants wanting to escape the "rights" which the unrepresentative Union of Shop, Distributive and Allied Workers would have imposed.

No, the church leaders have two points. The minor one is that, as the petitions show, activist church members are strongly against Sunday shopping. The Christian liberal will balance that against the polls which persistently show the larger non-church population for it. The major point is that Sunday ought to remain "special".

If "special" means "not like the other six days of the week", he will be reassured to learn that freer Sunday shopping elsewhere, in Scotland or Sweden, has not turned Sunday into "another Saturday". But it is not clear what "special" means. The Bishop of Birmingham talks of the "rhythm" of work and rest, which sounds nice enough but contains the questionable notion that all the population should be commanded by the state to have the same rhythm and, if off-beat enough to choose their own, be punished by fine or imprisonment.

And is the present British Sunday a "day of rest"? "Rest", like rhythm, sounds nice. It has biblical associations and suggests deserved tranquility, requiem. But might not "lounging in bed", "sleeping off last night's excesses", "dozing fitfully after too much beef and yellow sprouts both even more over-cooked than intended because of father's late return from the Red Lion", "watching pornographic videos" or "rowing

with the children, who are bored" be more accurate descriptions of many Sundays?

Another word used like "rest" rhetorically to sanctify a largely secular argument, and thus make it the church's concern, is "family". Sunday is a family day. But it will not have escaped the liberal's Christian notice that buying or even selling, for example, tinned baby food on Sunday is not the main threat to the family.

For 25 years, it has been subverted by more permissive attitudes to and tax-funded subsidies for abortion, divorce, sex outside marriage and its consequences and perversion. Against none of these has the Church of England mounted the same unanimous attack as it has on the comparatively trivial issue of Sunday shopping.

And what Sunday are the church leaders for? They admit the present legislation is muddled and then propose new muddles for old. A bishop for whom I have had total respect actually proposed that while ordinary shops be restricted, shops on religious premises be free to sell whatsoever they wish.

Others propose this be sold and not that, this size shop open but not that, "small" shops with turnover below £x be open but not those above. How would officers enforce such Byzantine regulations? Such unenforceable law is not only bad itself: it brings the law generally into disrepute and erodes law-abiding habits.

For in the end the controversy is about the proper and discriminate use of law. Modern society relies too much on more and more laws to solve its problems: there are now 3,100 general public acts in force plus 13,000 general statutory instruments.

Yet old, even archaic laws are rarely repealed, though many would never now be passed as new laws. Would any of those pleading for the retention of the Sunday laws be rash enough to advocate them as new laws? How many would support them if they did?

We might learn here from the humble university librarian. Faced with reduced budgets, he makes any order for a new journal conditional on the proposer indicating an existing journal for discontinuation. Had such a system operated for politicians proposing legislation, the laws prohibiting Sunday shopping would have gone long ago.

Even if the Christian liberal prefers his Sunday to remain as it is, and other people's to remain as he wistfully imagines them to be, he will understand that in this case it is inappropriate, even harmful, to use the full majesty of the law to impose his preference. But then, how many other Christian liberals are there today?

The author is director of the Social Affairs Unit.

Keep calm about Sunday shopping

JUDGING by the experience of other countries, legalising Sunday shopping does not make as much difference to the Lord's Day as traditionalists fear. Sunday, for example, in New York is still Sunday in spite of the stores there being open. The likelihood is, therefore, that in a year or two's time — assuming the Government gets its way — people will wonder what all the fuss was about. It could even be that church-going will increase rather than decrease, since the one thing certain in life is that the consequences of any new development are never as good or as bad as were expected. Our advice to perturbed bishops and antique earls is to refrain from prophesying the end of civilisation as they know it, if only to save themselves the inconvenience later of having to eat their own clichés.

Nevertheless, morality apart, Sunday opening obviously raises many problems affecting residential amenities, and the case for these to be solved by local authorities is very strong. There is no good reason why the whole country should follow the same pattern. Where majority opinion in a particular area is against, for whatever reason, then the local authority should have the power to make whatever restrictions seem desirable. In national terms, Sunday opening is a majority demand. But this does not mean that local majorities should not have their say, too. Doubtless such local options will complicate matters. But out of such complications grow the kinds of variety which suit the British character.

For the Government it is probably unfortunate that it should be thought to be laying sacrilegious hands on the British Sunday at a time when it is under comparable fire on so many other fronts. Hands off Kent, say the anti-Channel tunnellers. Even British Leyland seems to have become some form of sacred cow which must remain for ever British, along with Windsor Castle and the Tower of London. Westland Ho, the land is bright, etc. A few years ago Mrs Thatcher's iconoclasm seemed to catch the national mood; today it is less fashionable.

But it probably will not be long before commonsense once again resumes its sway as the changes proposed are seen to be far from revolutionary. This will almost certainly prove true about Sunday shopping. It will not be the end of our island story; nor will the Channel tunnel. Such fears have more to do with hysteria than history. As for the Americans owning BL, that too can be taken with equanimity. Carry on Britain, as if nothing has happened. For nothing much has.

S/Te 23/2/86 P 19

SUNDAY PEOPLE, February 23, 1986

END THIS SUNDAY SHOPPING SIMMER

ON one side are ranged the bishops, the unions, many small shopkeepers and some large stores.

On the other are most ordinary people — in other words, the shops' flocks, the unions' members and the shops' customers.

What has divided them is the Government's plan to allow shops to open on Sundays. The bishops want Sunday to remain a

VOICE OF THE PEOPLE

day of rest. But it hasn't been that for decades. Keeping shops closed will not drive people back to Church.

The shopworkers' union, USDAW, wants to protect its members. Yet every member of every union is also a shopper.

Those who own and run shops seem more concerned with their own comfort than making life easier for customers. Already these powerful pressure groups

are trying to alter the Government's Bill.

If they succeed, the present crazy Sunday-trading laws will be replaced with something just as irrational.

They have suggested jettisoning councils' decide if shops in their areas should open. Or that only those places enjoying five or less people should have the right to open. Or let shops that sell mainly goods that can already be sold on

Sundays — like newspapers and medicine — sell anything else.

Anyone who is confused by the present state of the law would be utterly baffled by any of those.

The Government is right to try to change the Sunday-trading law. We want the freedom to shop when we like.

Anything less would be a victory for the pressure groups and a defeat for the ordinary shopper.

27 FEB 1986

Sunday closing Open your eyes

POOR Solomon Grundy. Born on Monday, he certainly wouldn't get buried on Sunday if the anti-Sunday trading lobby have their way.

There's a lot of hypocrisy about the Save The Sabbath campaign launched by 50 MPs and a dozen churchmen. Where have these people been living for the last 50 years?

How do they think the electricity works when they turn the lights and heating on in church on Sundays? Who do they think drives the buses that take worshippers to church on Sundays? Or operates the petrol pumps for those who drive themselves?

These aren't miracles. They're man-made examples of Sunday trading.

Entertain

What about the sick and house-bound who can't get to church on Sundays but enjoy watching a service on TV? How do these MPs think it happens?

What about the newspapers which arrive on news-stands and through the letterbox on Monday morning or the hotels and restaurants, cinemas and theatres which entertain people, help them relax and mix with their friends on Sundays? What about the swimming pools and zoos which

WE ALREADY
DEPEND ON
SABBATH
TRADING

open on Sundays and provide so much enjoyment?

The truth is that we depend on Sunday trading. Without the hundreds of thousands of people who work, the remainder of our society wouldn't rest on Sundays.

No, we would be in a state of panic, frightened to go out in case we had an accident and needed a doctor, or in case the house caught fire and we needed the fire brigade.

For the life of me, I can't see the difference between expecting emergency services to work on Sundays, and relying on others to feed and entertain us or sell us something.

The Government's plans to let shops open at the weekends are overdue. The present law is already a mess and Sunday shop opening will be a blessing for most working people.

I'll bet, like me, you can't stand shopping in Saturday crushes



when you're pushed, buffeted and frustrated in packed, over-crowded High Street stores. One of my great hates is shopping for shoes on a Saturday when 40 people sit in their socks or stockings waiting for a harassed assistant to find a box with the right size and colour.

Then there's do-it-yourself shops. Every time I go in one on a Saturday there's a never-ending queue. Instead of getting on with the household jobs, I have to hang around while an assistant spends ages looking up the price of some obscure item.

And then when you finally get home and start the job, you discover a problem. You need something urgently. But you can't get it for another six days because the DIY shop isn't allowed to open on Sunday and once again you have to wait to join the Saturday queue.

I believe in Sunday trading because I think shoppers should have a free choice. And so should shopkeepers. No one should be forced to open or close. There should be one law for everyone. Either we all keep the Sabbath absolutely free or we don't. Selective Sabbaths are not my idea of principle.

5/3/86

Mine Host

12
M
P
M

The Shop Bill is causing much soul searching in the Church of England. While St Albans' Cathedral has continued to sell knick-knacks at its gift shop on Sundays, Bishop John Taylor said that if Sunday trading was permitted "We shall be admitting that the only God to be acknowledged in our midst is Mammon." Canterbury Cathedral took a lead by closing its gift shop two weeks ago. The recent General Synod was shocked to hear that a good pub guide to Kent was for sale there on Sundays. The Archbishop of Canterbury was said to have been taken aback, and the shutters were duly brought down.

House of Commons

Handwritten signature

13 FREEDOM ON A SUNDAY

The Government's attempt to end restrictions on Sunday trading has run into a greater degree of political resistance than ministers expected. This measure is being swamped by the backwash of unease on the Tory benches. In today's political climate MPs seem readier to listen to the Sabbatarian objections of their constituents than to the free-market principles of their leaders.

The bill's troubles have been exacerbated by the difficulty of demonstrating precise and immediate benefit. Complex (and inevitably artificial) calculations by the committee set up under Mr Robin Auld suggested that the freedom to open all shops on Sunday would marginally reduce retail employment. It would increase the efficiency of the retail sector by accelerating the disappearance of outlets which are already vulnerable. Many MPs - particularly but not exclusively in rural areas - have such outlets in their constituencies which they

would rather not see closed. Such calculations, however, miss the central point of the reform.

As the Auld committee concisely stated, "the law should not interfere in the conduct of human affairs unless it serves a justifiable purpose". The objectors are clinging to a legal restriction which serves none. The existing law is anomalous, complicated and hard to enforce. And, for all its determined search for compromise, the Auld committee could frame no alternative set of restrictions which did not suffer from the same defects.

The alternatives are again being trotted out. Since some of them may be adopted it is useful to rank them in order of preference. The Lords' amendment, under which employees may refuse Sunday work, might create more part-time jobs but bristles with difficulties of religious discrimination in contracts of employment. Timing restrictions - allowing a limited

number of hours of opening on a Sunday - raises the problem of shops which open under the present law, as well as enforcement difficulties. These lead to probably the least objectionable compromise (though one which would sit uneasily alongside the Government's concern with local government's abuse of power): allowing councils to make their own decisions on Sunday trading in their areas.

It is important to be clear what is implied by any of these continued restrictions. However free the law, shops will not open on Sunday unless there is a real demand for their services. It is this demand that the objectors are determined to frustrate, and the strength of their opposition itself implies that they believe this demand to be substantial. The construction of an anomalous law whose chief purpose is the denial of free choice is no proper cause for Parliament; still less for a Parliament of the present political complexion.

21/2/80

THE SUN SAYS

The Sunday spoilsports

IT was Oliver Cromwell and his Puritans who took the joy out of Sunday.

Three hundred years later, we are near to destroying the final barrier to freedom of choice.

The Government intends at last to give shopkeepers the right to open their doors when they—and the customers—want them open.

Yet what happens? A tattered army of some 70 Tory MPs threaten a rebellion under the banner "Keep Sunday Special."

Special for whom? We respect those who, for religious reasons, object to Sunday shopping.

But no one wants to force them even to buy a Mars bar against their wishes.

They can still keep the Sabbath exactly as they always have done.

Tinkering

We have no sympathy with Tories like Ivor Stanbrook, who wants to tinker about with the hours that shops would be allowed to open.

Would Sunday be any more special if, say, there was a curfew for shoppers during the hours of afternoon tea?

Already around 8,000,000 work on Sunday.

What difference would it make even if all 500,000 shop workers had to do a stint?

The popularity of do-it-yourself shops shows the demand for Sunday trading.

Tories, of all parties, should be in favour of giving the people what they want.

NOT what busybodies think they SHOULD want.

QUESTIONS: What do the following workers in trade, industry and professions have in common?

Doctors, nurses, ambulance-men and hospital cleaners and kitchen staff.

Postmen, bus conductors and cooking school clerks, dog-walkers, gardeners, and hairdressers.

Farmers, shepherds, postmen.

Sunday

... 186 (a majority of 109).

Shops Bill: no retreat

By Colin Brown

The Leader of the House, Mr John Biffen, rejected Tory demands yesterday for the Shops Bill allowing Sunday trading to be dropped.

He faced sustained Tory criticism of the bill in the Commons during business questions and was asked by Mr John Wilkinson (C. Ruislip-Northwood) to consider dropping the measure.

Last week in the Lords, an amendment to the bill was carried by a majority of one maintaining workers' rights on

the number of Sundays they can work.

Mr Biffen said he took account of the Tory backbench views but there was no intention to drop the legislation. He refused to be drawn about whether the Government would apply a whip to the bill when it arrived in the Commons.

The Government has received about 100 representations in favour of its Sunday trading proposals and about 34,000 against since May last year, the Prime Minister said in a written reply yesterday.

n
to
n-
ne

MIRROR 2

MIRROR COMMENT

Always on Sunday . .

QUESTION: What do the following workers in trade, industry and the professions have in common?

Doctors, nurses, midwives, ambulancemen and hospital porters, cleaners and kitchen staff.

Train drivers, signalmen, porters, ticket collectors and booking office clerks, taxi-drivers, pilots, stewards, air hostesses.

Farmers, shepherds, police, telephonists, chefs, waiters, waitresses, chambermaids and hotel receptionists.

Gas, electricity and water workers. Nannies. Bakers. Newsagents and newspaper boys and girls.

Soldiers, sailors and airmen.

Radio and TV announcers, technicians, commentators and studio staff.

Campaign

Footballers, cricketers, racing drivers, tennis and snooker pros. and golfers.

Archbishops, bishops, canons, vicars, curates, deacons of the Anglican church. Cardinals, bishops, priests, nuns of the Roman Catholic Church. All Nonconformist ministers.

Politicians, journalists, print workers, trade union leaders, and employers.

ANSWER: They all work regularly on a Sunday.

So why do the Keep Sunday Special campaigners, the Church, the unions and some MPs declare that the British Sunday will be destroyed if 500,000 shop assistants are asked to work on the Sabbath?

WOULD THEY WANT EVERYONE ELSE TO STOP WORKING, TOO?

SUNDAY TRADING

The Political Scene

The debate over Sunday Trading has moved from being a theological issue within the Church to a political issue within the nation. Quite apart from my own personal views on the subject, I believe that the perceived inflexibility of the Government is now damaging your political reputation. There are at least five causes for concern.

(a) Parliament

In the Commons, voting intentions are evenly divided on our side. Care Trust report that 38 of our MPs currently intend to vote against the Government, that 42 will probably vote against or abstain and that a further 27 may well vote against or abstain. 24 junior Ministers and Whips are said to dislike the Bill and that 7 might abstain. Over one hundred Conservatives are therefore likely to oppose the Bill.

On the other side, 5 Labour MPs are likely to vote with the Government and 182 against. 30 miscellaneous Liberals and others are also likely to vote against the Government.

According to the Home Office, this tends to confirm the allegations of the "Keep Sunday Special" group. John Cope,

when he read this list, remarked "Members are moving against the Government and want a compromise amendment". Politicians see the Government stirring up a hornet's nest with no bankable result.

(b) Fleet Street

Until recently, with the exception of Peter Utley, Fleet Street supported the Government. Yesterday The Times leading front page news item pointed out the Government's wobbly base. Today the Telegraph leader throws cold water over the Home Secretary's bull point - namely that polls support the Government.

"It may well be true that the majority of the electorate, if asked, would say with a yawn that if people want to shop on Sundays they should be allowed to do so. But there is a large and strident proportion of the electorate . . . who bitterly oppose the Bill."

(Text appears at **Appendix 1**)

(c) Your mail: the ordinary voter's view

Taking a few letters from the pile (a foot high every day) quickly provides the feeling that it is not all orchestrated, not all bigoted, and frequently loyal to you. A handful of the 32,543 is attached (**Appendix 2**). The message is that you are putting your finger on a raw nerve by touching Sunday. Two themes recur. Firstly, that this Government is

sending up a signal that it is finally abandoning the ideal of Britain as a Christian country. In this sense, the Bill has become more an issue of "signals" than "reason". Secondly, it is perceived as an attack on (or lack of defence of) the "family day". A letter from Sheffield says "my family would be affected because as two members work in shops, it would totally disrupt the one day we have together". The Home Office reply is that one Sunday in four would be "off" and so concede most of this correspondent's point. Another letter from Essex says simply "I do not think Sunday Trading will improve either the standard of life nor the spiritual wellbeing of the British people".

(d) The Evolving Arguments

Since the debate started in the late Autumn, the arguments which have been deployed for the Bill have been severely challenged.

1. Employment: An important advantage of the Bill was that it would create more jobs. Now even the Home Office concede there is no evidence of more jobs being created.
2. Scotland: This was an example of successful Sunday trading with which the Church was quite content. However, the Church in Scotland has come out strongly in favour of changing the law to restrict trading.

They would wouldn't they?

3. The Church is hypocritical: It has its own shops open at Cathedrals. The Church has now decided to close these shops!

4. Deregulation: The Bill was seen as relieving the burden of regulation. It is now clear that town centre parking rules will offset this advantage.

(e) Three Compromises

At present, three compromises are being discussed:

1. 4 hours closed by law on Sunday

If the morning is chosen, then can newsagents remain open? If the afternoon, then the Churches will still complain. The morning is better.

2. Local Authorities to decide

Some churches see this as a capitulation. "Local democracy" would be able to cope with all our local variations.

3. Shops to open for only six days

They choose which. Yes, but seaside towns want only 5 days a week in Winter and 7 days a week in July and August.

(f) Conclusion: "A Matter of Conscience"

Although your argument on criminality remains virtually unchallenged and while some of the Bill's opponents appear unreasonable, this is an issue that is about more than "reason". Sunday Trading is an issue perceived by MPs and a significant number of the electorate to be akin to capital punishment, and as such inappropriate to a Three-Line Whip in the Commons. We believe that despite the enormous difficulty in doing so, the Bill could and should be made a matter of conscience, not least because the Government could lose the vote.



HARTLEY BOOTH

A P P E N D I X 1

(Daily Telegraph, 4 March 1986)

SABBATH SNARES

SUNDAY TRADING is not the kind of issue on which the Government is likely to fall. But it is the kind of issue which, mishandled, could do the Government irreparable damage.

The plain truth is that there is no overwhelming (or even strongly discernible) demand for the proposed change. It may well be true that the majority of the electorate, if asked, would say with a yawn that if people want to shop on Sundays they should be allowed to do so. But there is a large and strident proportion of the electorate consisting in part of churchgoers and in part of those who wish they were the sort of people that did go to church, who bitterly oppose the Bill. There are also the small shopkeepers and the shop assistants who feel themselves threatened by it. Generally speaking, measures which outrage the deep feelings of large sections of the community and command the enthusiastic support only of doctrinaires and a few large commercial institutions do not make good politics.

The Bill is not likely to fare particularly well in the House of Commons either: Labour will oppose such parts of it as seem to diminish the protection of shopworkers; the Alliance will maintain a judicious neutrality, ostentatiously priding itself on not imposing a whip, and preparing itself to derive full benefit from whatever the result of the controversy may prove to be. Some Tory backbenchers (like some Opposition Members) will have Sabbatarian consciences; other backbenchers will develop an increasingly acute regard for the views of their constituents.

The Bill, unamended, can certainly be forced through; but maybe at the cost of some memorable moral defeats. It would be prudent for the Government at least to consider the possibility of making some concessions and the political cost of refusing any. This subject presents pitfalls into which it could easily step. There is nothing cynical in this advice: democracy is ill-served by inflexible politicians who are insensitive to public feeling.

APPENDIX 2

TEMPORARILY RETAINED

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4) ^{22nd} February 1986.
OF THE PUBLIC RECORDS ACT.

Dear Mrs. Thatcher,

I have voted Conservative since leaving school in 1968 and have until recently thought that your Government was good for this country. I can understand the politics of Westlands and British Leyland stroke Austin Rover but I cannot understand the need to totally deregulate Sunday trading. In my opinion this can only further undermine the backbone of our Society, the family. There will obviously be no more money to spend, just more time to spend it in. Despite the supposed safeguards people will be forced to work on Sundays, no one gambles with unemployment today. With no extra spending power but more competition what will happen to the corner shop owner and his business. No! all that will be achieved will be a further erosion of our society and the local community.

I urge you to rethink this proposal and even if you cannot

oppose the bill yourself allow Conservatives a free vote
that they may truly represent their constituents.
I look forward to receiving your reply to the points I have
raised.

Yours sincerely.

R.J. Lee

TEMPORARILY RETAINED

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT.

Dear Mrs. Thatcher.

R3/3/86

I am writing to say that I disagree with the governments proposal to remove all legal restrictions on Sunday trading. First of all because I am a Christian and believe that Sunday is a day of rest. Second because my family would be affected as 2 members work in shops. it would totally disrupt the one day we have together.

Yours faithfully,

B.M. Brownhill

Feb. 25th. 1986.

13/3

For the Attention of Rt. Hon. Margaret Thatcher M.P., Prime Minister.

Dear Madam,

As a lifelong supporter of Toryism, I was especially delighted when you came to office in 1979 and your subsequent re-election. You and your Government have done wonders for Britain; for years we have needed a good firm hand at the top after years of decay and I feel that under your guidance we can look forward to a better life in many areas.

You must not however disenchant your millions of 'silent' and faithful supporters by lending your Government's and Cabinet's time to the forthcoming Sunday Trading Bill. I have written to our local Member, Mr. Eric Forth and to Mr. Douglas Hurd on this matter at greater length in an effort to get them to see that this Bill is un-necessary and unfair.

The lifting of restrictions on Sunday trading is a further erosion of family life since more women who are married will be tempted to work on a Sunday, just the day that they are needed to be with their families. Surely we still need, today more than ever, a special day which is different from the others. A day when we can unwind.

This Bill will legalise trading at present being carried out against the law by multinational combines. The smaller traders will suffer as they will have to open ever if they don't want to. The present comparative quietness on a Sunday will be destroyed by traffic, police, etc. just like any other day. Churchgoing is only a small part of it; Christians will still attend church regardless, but I totally support the clergy who are campaigning against it.

Once again, Mrs Thatcher, please stop this before it gets into the statute book, you have the power to do so and allow your ministers to concentrate on thematters which really do matter.

Yours Faithfully,

Michael Swan

M.J.Wall.

TEMPORARILY RETAINED

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3(4)
OF THE PUBLIC RECORDS ACT.

TEMPORARILY RETAINED

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT.

253

24th February 1986

Dear Mrs. Thatcher,

It has been on my conscience for some time that I ought to write to you on the matter of the proposed bill which, if passed will allow Sunday trading.

I do not think that Sunday trading will improve either the standard of life nor the spiritual well being of the British people.

The cost of living will increase, wages for Sunday working being higher than week-days. Shops will incur higher running costs, eg. heating. There will be no increase in spending.

God commanded that the seventh day

Should be set aside as a special day of rest. We need a day when we can switch off from our normal daily work. Our physical bodies and minds being allowed to be strengthened and revitalized for the week to come. Sunday is also a day when we can be allowed to reach for a higher plane, that is, worship God.

Family life would suffer a great deal. I really do cherish Sundays with my family; a time when I can be with children and wife. Being together at home or visiting as a unit is a time when children can learn from their parents and hopefully will stand them in good stead when they have a family of their own.

Family life is being attacked by
the pressures of today's society and
the lack of Christian moral teaching.
Please do not allow the situation
to worsen by introducing Sunday trading.
There are six days when we can
shop, from 9 a.m. to 8 p.m. (for some shops)
— isn't that enough!

So again I implore you to stop
the Bill from going any further, by
so doing you will be serving God
and the people.

Will you please reply to my letter.

Yours sincerely,

Michael de Georgio.

TEMPORARILY RETAINED

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3(4)
OF THE PUBLIC RECORDS ACT.

Mrs M. Thatcher, M.P.,
Prime Minister,
The House of Commons,
LONDON S.W.

23/3
27th February 1986

Dear Mrs Thatcher,

Sunday Trading

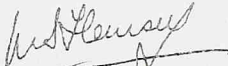
I write to you to protest about the Government's apparent determination to press ahead with its Bill on the above subject, despite the opposition of large numbers of ordinary people.

As a committed Christian, it seems to me quite clear from the Bible that God requires us to set one day aside for Him, which we in this country have long accepted as Sunday. I am not a bigot, and I accept that in today's society it is necessary for some people to work in certain service industries. It is also clear that the current situation on Sunday trading is full of anomalies, and needs sorting out. However, this is a far cry from the sort of situation which will materialise in the free-for-all on Sundays caused by the passing of the Sunday Trading Act, as it is presently drafted.

I cannot believe it is necessary for people to be able to shop on seven days: it is sheer laziness or bad management if they are unable to complete their purchases in the six days already available. It will also disrupt the family lives of the shop-workers involved, many of whom will, no doubt, have to work on Saturday as well. The concept of the family is already terribly under attack in this country, without the Government making it worse with this ill-conceived Bill. People will also have no more money to spend over seven days than they already spend in six, so firms' unit costs must go up, which they will inevitably pass on to the consumer. Hence the cost of living will go up. The rhythm of life for everybody, non-Christian and Christian, will also suffer adversely and irreparably if the day of quiet and rest is lost.

For all the above reasons, I would urge you to think again about this Bill. I should be grateful for the courtesy of a reply.

Yours sincerely,


M. S. Hursey

TEMPORARILY RETAINED

THIS IS A COPY. THE ORIGINAL IS §4
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT.

96.2.86.

DEAR MRS THATCHER,

I WISH TO REGISTER
MY OBJECTION TO THE
DE-REGULATION OF
SUNDAY TRADING ON
ETHICAL HUMANIST GROUNDS.

THE VAST DIFFERENCE
IN THE POPULATION OF
SCOTLAND AND THE REST
OF UK. MAKE REFERENCE
TO SCOTLAND ON THE
SUBJECT, IRRELEVANT

Yours,
John R. R. R. R.

MK. O. S. DAVIES,

MRS. M. THATCHER,
PRIME MINISTER,
10, DOWNING STREET,
LONDON.

21-02-86.

DEAR MRS. THATCHER,

I appeal to you to raise objection to the proposed legislation regarding the lifting of restrictions of trading on Sundays.

This Bill, if passed, would bring more deprivation to our Country.

1. It would bring hardship to many who are employed compelling the majority, sooner or later, to give up what would normally be a day of rest - a multitude not directly linked to "shop" people.
2. Rates would be increased to pay for police, transport staff and public services staff having to cover the longer hours.
3. It is bound to effect the economic situation, there will be more unemployment in the smaller businesses, e.g. corner shops.
4. It would affect all peoples' day of rest. the peace of many would be disrupted by the increase in noise, pollution and traffic on a hitherto quiet day.
5. Family life, which is already under stress, could be further affected by separation from one or both parents having to work.
6. The traveller will have no day free from commercial hustle and bustle.
7. The most dreadful of all for Christians is that our Lord's Day will be transgressed. Everyone who wishes to, should be allowed the opportunity to attend their places of worship on the Lord's Day. No employed Christian would be able to follow his or her teachings.

Please listen to our pleas - to stop this madness.

TEMPORARILY RETAINED

Yours sincerely,

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT.

O. S. Davies

From: THE PRIVATE SECRETARY



ceblh
cc. ~~MA~~
PM
HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

21 February 1986

Prime Minister ⁽²⁾

Dear Mark,

This is very useful material from
the Home Office. The Home Sec's letter is
particularly good. MKA 21/2
SHOPS BILL

The Home Secretary said at Cabinet yesterday that he would circulate to colleagues some further briefing material on the Shops Bill.

I attach:

- .. (i) a list of points to make in favour of the Bill based on one sent to Conservative MPs last week;
- .. (ii) a copy of a letter the Home Secretary has just sent the Archbishop of York; and
- .. (iii) a suggested 'line to take' in response to the point that the Scottish Churches have recently expressed their opposition to the Shops Bill (even though there is no statutory restriction on the Sunday opening of shops in Scotland).

The Home Secretary would be grateful for any help colleagues were able to give in promoting the case for this Bill at a time when the opposition is being particularly vociferous.

I am copying this to Private Secretaries to members of the Cabinet.

Yours ever

Clare

MS CLARE PELHAM

Mark Addison, Esq

REASONS IN FAVOUR OF THE SHOPS BILL

1. The present law is absurd. How can it be all right to buy a packet of sweets or a bottle of gin on a Sunday but all wrong to buy a plant pot or a can of beans?
2. It is absurd that the law should be used to try and prevent shops from opening when almost every other activity can in law be pursued. It is absurd that the law should be invoked, ostensibly to protect shop workers, when nearly 9 million people already work at least occasionally on Sundays and 4 million work regularly. People work not just in essential services but in hotels, pubs and cafes, in newspaper offices and TV stations, in cinemas, art galleries and museums, in factories, petrol stations, airports and on the railways.
3. This is a Bill about Freedom of Choice. We are giving people the freedom to choose whether to shop or not. We are giving shopkeepers freedom to choose whether to open or not. Nobody will be compelled to shop. No shopkeeper will be compelled to open. He will make up his mind as to whether it is worth his while to open - just as now he makes up his mind whether it is worthwhile to stay open on a weeknight until 8.00 pm rather than 6.00 pm.
4. Poll after poll has shown that a majority of people think that restrictions on opening should be removed. More significantly people have already voted with their feet. A majority of people do shop on Sunday. The latest poll, carried out for the Co-operative Union, showed that 69% of their customers regularly do some shopping on Sunday. 34% of these questioned admitted they shopped illegally.
5. Retailers with experience of Sunday trading say that they have no difficulty in finding sufficient volunteers for Sunday working. Many women find it convenient for family reasons to work on Sundays. Others prefer to work the whole of one weekend and get the whole of the next weekend off rather than have to work every Saturday. Nevertheless, the Government has recognised that many retail workers, not now contracted to work on Sunday, may not want to work on Sundays. The Bill gives them protection against being forced to work on Sundays.

6. All of us want to keep Sunday special. But there are no restrictions on Sunday trading in Scotland and Sunday remains a special quiet day with more people going to church than in England and with only 16% of the shops choosing to open. We want to keep Sunday special but few adopt the extreme Sabbatarian argument and nobody is entitled to say that the law should close shops in order to enforce observance of the 4th Commandment without also calling for the shutting down of TV and Radio and an end to Sunday papers (and of the Monday papers too).

7. The Institute for Fiscal Studies examined the possible economic effects of Sunday opening and concluded that there are no economic grounds which justify regulation of trading hours. They say that the effects of Sunday opening on jobs, prices and costs will be very small and indistinguishable from other trends in retailing already under way.

8. Small shops need not fear deregulation. Many small shopkeepers now open on Sunday and benefit from the wish of people to shop on that day: and small shops can open or shut in accordance with local demand far more easily than big stores. Deregulation will mean the likelihood of more competition: but experience overseas, notably the USA and Sweden, has shown that the small shopkeeper can benefit from liberalisation of the law by playing to their strengths such as flexibility and quality of service.

9. Those who oppose the Bill acknowledge the present law is a mess but will not say clearly what they want in its place. None of the various proposals suggested during the debates in the House of Lords attracted substantial support. This is not surprising since the independent Auld Committee looked closely at all the compromise proposals and concluded that none would form the basis of a fair, simple and enforceable system of regulation.

Douglas Hurd said recently in the Church Times: "As a Christian I believe it (the Bill) is right".

The Article is attached.



Mr. Hurd succeeded Mr. Leon Brittan as Home Secretary last September. He was previously Secretary of State for Northern Ireland

'AS A CHRISTIAN I BELIEVE IT IS RIGHT' Sunday trading: the case for the Bill

By the Right Hon. DOUGLAS HURD, MP

NO constituency MP could be in doubt about the concern felt by many active Christians over the Government's legislation to reform the law on Sunday trading. With the exception of strict Sabbatarians, whose consistency is to be admired even if one disagrees with their views, the principal worry expressed by Church groups concerns the impact of the measure on our social and community life. I am glad of the opportunity of explaining why the Government has decided to introduce the Bill and why, as a Christian, I believe that it is the right thing to do.

The charges against the Bill are, first, that deregulation is unnecessary and that a middle way for reforming the law can be found; and, second, that it will destroy the traditional Sunday with unacceptable social consequences. I should like to take these points in order.

The present law is anomalous, in disrepute and in need of reform. I think there is broad agreement on that—for a law which has clearly decayed to remain on the statute-book to be ignored and defied must be unacceptable in a responsible society.

The Government has, however, not rushed into legislation. There have been thirteen Private Members' Bills in this area in the past decade, and a careful study was undertaken of the options by an independent committee under the chairmanship of Mr. Robin Auld. One of the factors which the Committee was asked to consider in its deliberations was the traditional character of Sunday.

New anomalies

The Committee looked at a number of forms of regulation and found that each of them was liable to put new anomalies in place of the existing muddle. The option of leaving the decision to local councils is essentially a fudge; district councils do not want the responsibility for policing Sunday opening. In many areas it could lead to unfairness as shops within a few hundred yards of each other and selling the same goods were either allowed to open or prohibited from so doing on a fairly random basis.

There is, also, the suggestion that opening should only be allowed on Sunday after, say, 2.00 p.m. I hardly think that it would be popular to close all newspaper or chemist's shops which are allowed to open on Sunday mornings at present, or to stop people from buying items on their way back from church. In addition, what difference of principle is there to justify a prohibition of opening on Sunday morning but not on Sunday afternoon?

An alternative suggestion, which builds on the present basis for the law, is that there should be a revised list of products which it is legal to sell on Sundays. With the rise of mixed retailing, such distinctions are difficult to enforce. In truth, I also find it difficult to

think of a rational basis which can act as a guide as between those goods which it is right and those goods which it is wrong to sell on a Sunday.

The Auld Committee decided that they could find no workable alternative system of regulation. Looking at the options with a fresh mind, as I have done since becoming Home Secretary, I have come to the same conclusion.

This perhaps brings us to the crux of the question. Is there really a justification for employing the criminal law to prevent shops from opening on a Sunday if the shopkeeper wishes to open and if people wish to buy goods from him? The Auld Committee looked at whether the need to protect any particular concept or group justified the continuation of such intervention and decided that it did not.

It is difficult to justify using the criminal law to prohibit an activity which is neither harmful nor wicked. I know that there are some people in the Church who say that, even though the majority of people favour working in shops and shopping on Sundays, they should be protected from themselves by law. I recognise the good

intentions which motivate them, but in this instance I think it is a rather misplaced paternalism.

If you are going to stop shops from opening by law on Sunday because it reduces the difference

NEXT WEEK

Mr. Hurd's arguments in favour of the Bill will be challenged in an article by the Right Rev. Hugh Montefiore, Bishop of Birmingham and one of the Bill's leading opponents.

between it and other days of the week, why stop there? To be consistent there should be new prohibitions on many other legal leisure activities on Sundays; garages and restaurants should close, and only working in essential services would be allowed. I think it unlikely that Parliament would approve such measures, but that seems to be the logic of the General Synod's position.

I was struck by a comment in a recent Jubilee Centre pamphlet

which emphasised the Christian duty to persuade others to their view, not to coerce them. I wholeheartedly agree, but I found it strange that the pamphlet then proceeded to advocate continued use of the criminal law for coercion. The Government's Bill is based upon the assumption that it is right to leave decisions in this area to individual shopkeepers and consumers. No one will be forced to open their shop, and they certainly will not do so unless there is consumer demand for it.

For myself, I regard Sunday as a special day, as do very many other people in Britain. As a Christian I believe there are more rewarding things to do on Sunday than go shopping. But I do not think it right that the law should be employed to impose my preferences in this matter upon the rest of the population, who should be allowed to make their own judgement and choice.

Finally, I turn to the question of whether the changes proposed will destroy the traditional British Sunday. The evidence from Scotland suggests that it will not. There are no regulations in Scotland, but north of the Border the Presbyterian Sabbath has not been

trampled underfoot by shoppers eager to take advantage of the lack of prohibition on Sunday opening.

A recent survey has found that, for the greater part of the year, rather less than twenty per cent. of shops open on Sunday. A survey conducted by MORI in England suggests that only about the same proportion of shops south of the Border are likely to trade regularly on Sunday. We cannot, of course, be sure about this, because by liberalising we will leave it to the people to choose.

I think it is necessary, too, for us to look clearly at how Sunday is actually spent by a significant number of people. Four million work regularly on Sunday already; a further four million do so occasionally—by no means all of them running essential services. It is possible, too, to have an idealised view of Sunday as a day of rest and regeneration, but for many people living alone, it can be an oppressive and lonely day.

Free to choose

Furthermore, a substantial number of people already visit the shops on Sundays; many buy goods illegally. I do not think the Church truly wants us to close down by edict all those garden centres and do-it-yourself shops which give so much harmless pleasure to so many people. In accepting that there will be some changes resulting from removing restrictions on Sunday opening, we should at least be clear about the point from which change starts.

The Government and Parliament have a duty to listen carefully to the conscientious objections of those who think our proposals are wrong. We also have a duty to the country to propose legislation which will have the support of the majority and be enforceable. I respect the misgivings of those

who believe it is wrong for the shops to open on Sundays, but I cannot accept that this view should be reflected in a prohibition on Sunday opening.

I believe that many Christians support this view and that, if they do not themselves shop on a Sunday, they would not object to others being allowed to do so, provided that there are proper safeguards to prevent coercion to work. We are, indeed, proposing protection for young workers regarding their overall hours of work, and existing retail workers will not be forced to undertake Sunday working.

If Sunday is to remain special, as I believe it should and will, it will be so because society wants it to be, and not because Parliament and the courts say so. Surely that is the way in which we should order our affairs in a mature and civilised society?

SCOTTISH CHURCHES OBJECTING TO THE BILL

Some of the Scottish churches have expressed their concern that the relaxation of restrictions in England and Wales will have a knock on effect in Scotland. It is not clear whether they are just opposed to Sunday opening in England and Wales, or whether they wish to see the introduction of restrictions in Scotland.

LINE TO TAKE

We respect the stance of the Scottish churches in respect of Sunday opening of shops in Scotland. But this Bill provides generally for the Sunday opening of shops in England and Wales and it is surely for the English and Welsh to make up their minds on this issue.



CCBA
QUEEN ANNE'S GATE LONDON SW1H 9AT

21st February 1986

Dear John,

Thank you for your letter of 11 February enclosing a copy of an article you have written for publication on the Shops Bill.

I read your letter and your article with a great deal of interest. I certainly would not underestimate the strength of feeling in opposition to the Shops Bill among those who have expressed a view. Those who have taken the trouble to write or attend meetings are, of course, a small minority of the population and all the evidence available shows that when the question for or against deregulation of Sunday trading is plainly put in opinion polls then the answer is that a clear majority of the people as a whole favour deregulation. Nevertheless, those who do object certainly put forward their views with genuine and strong feeling.

I myself came to this subject with no particularly strong feelings, but I must say that as the argument has developed I have come to the conclusion that the Churches, and in particular the Church to which I belong, have forced themselves into a position which is intellectually and morally very hard to defend when tested in debate.

Intellectually, because the Church seems to argue as if only essential services should be performed on a Sunday. I could understand that position if it were consistently held. But it would, of course, mean closing garages, restaurants, stately homes and the shops which now trade legally on Sunday, as well as those which trade illegally like garden centres or Do-It-Yourself shops. I do not suppose the Church wants to see all this happen, yet unless these activities are included in the argument the argument lacks any foundation in principle. I cannot understand the logic of a position which argues that all these inessential but popular facilities should remain available, so that about nine million people would continue to work at least occasionally on Sundays, but that the same freedom should not be available for shops even though the law which has hitherto imperfectly regulated shop hours on Sunday is now clearly in decay.

Morally, because it seems to me that the Church is seeking to maintain a landmark on territory which should not belong to it. It is entirely open to the Church to persuade people to order their lives in accordance with the Fourth Commandment, or with the now famous adaptation of it which talks about a marker in the rhythm of our lives. If Sunday were to remain exactly as it is today, or even if it were to be more strictly observed as a special day, as a result of the Church's effective persuasion, then personally I would not only see no objection to this but would in some ways welcome it. But I do not understand the moral basis of

The Most Reverend and Right Hon. the Lord Archbishop of York

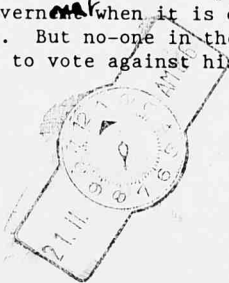
/over

the claim that the criminal law should be wheeled in by the State to achieve an object which the Churches do not trust themselves to achieve by persuasion.

The Auld Committee was of course set up to examine these matters with an unbiased eye, and it reached the conclusion to which the Churches object. It is the job of Parliament to scrutinise all the possible different ways of meeting the problem, and that is what the House of Lords has done. The process will start again in the Commons. Obviously we cannot rule out the possibility of finding a way forward which has hitherto escaped the attention of the Auld Committee, or the Government, or the House of Lords. But I believe we need to discuss the question with rather more moral and intellectual rigour than is apparent in much of the material now going around. My own experience in my constituency has been that when those who object to the Bill are actually exposed for the first time to the arguments in its favour they are not on the whole brought round, but the nature of the argument is completely altered in their minds.

If, for example, one considers the actual situation in Scotland where about one fifth of the shops open on Sundays, where those who shop in them do so because they need or want to shop at that time, where those who staff the shops do so voluntarily because they then get the whole of the next weekend off, I simply cannot see the wickedness or social deprivation in this situation. It is certainly not for a Home Secretary to quote scripture to an Archbishop, but the phrase about the Sabbath being made for man and not man for the Sabbath has been often in my mind in recent weeks.

There remains the question of whipping in Parliament. I do not know what effect you or others believe that a three line whip would have on Bill Van Straubenzee or those who think like him. There seems to be an idea that the Whips have a power to coerce people to vote against their consciences. This was not so when the Auld Committee report was voted on last Spring and it will not be so again next time. It is the Government's job to do what it can to keep the law in good repair and it is reasonable for the Government when it is doing this job to ask for support from its supporters. But no-one in the Government would expect a Member of Parliament to vote against his or her conscience.



Yours,
Douglas

P.S. I hope you do not mind, but as the above conveniently summarises my views I am sending it to one or two of my Ministerial colleagues, but without your personal letter.



Press & Public Relations
Department.

Phone: 01-222 0151/8
01-222 9000

Conservative Central
Office,
32 Smith Square,
London SW1P 3HH

Paul Martin

N 21/2

RT HON LORD YOUNG OF GRAFFHAM

Release Time: ~~19.30 hrs Friday 21~~
February 1986 86/86

Extract from a speech by the Rt Hon Lord Young of Graffham,
Secretary of State for Employment to the Bath Conservative Association
on Friday 21st February 1986.

LORD YOUNG SUPPORTS SUNDAY TRADING

"I do not believe that Sunday trading will alter the character of our traditional Sunday. I believe that the vast majority of people enjoy Sunday as a family day - a day in which they can undertake leisure and recreational activities together. Included in these activities is shopping. I have travelled all over the world and the enjoyment that families derive from a leisurely Sunday including the opportunity to browse around the shops is considerable."

"We must not allow emotional arguments to cloud our judgement on this issue. We are not making either the opening of shops nor the working in them compulsory. Indeed in Scotland, where no restrictions to Sunday trading have applied for many years, there has been no change in the nature of a Sunday. The current law is a total hotch-potch and we owe it to shoppers and shopkeepers to clarify the situation. If we don't, shall we have to close every Garden Centre, food shop, and dare I say, Cathedral Shop merely to obey the existing law."

END



CF

Re Nps Bill file
Met 18/3

WITH
THE COMPLIMENTS OF THE
PRIVATE SECRETARY

HOME OFFICE
50 QUEEN ANNE'S GATE
LONDON SW1H 9AT

Love
(over fault - wrong date!)

Mr. Giles Shaw: The total amount paid in 1985 by the Metropolitan police in settlement of claims arising from allegations of misconduct by police officers (whether or not formal proceedings were instituted) was £193,588. The total amount paid by the force under awards made by the courts in similar cases during 1985 was £13,949. The number of civil actions initiated against the force in 1985 was 175, and the number disposed of was 68.

Firearms

28. **Mr. Boyes** asked the Secretary of State for the Home Department what has been the increase since 1978 in the number of crimes involving the use of firearms.

Mr. Mellor: I would refer the hon. Member to the reply given to a question from the hon. Member for Southend, East (Mr. Taylor) on 23 January, at column 257.

Crimes (Clearing-up Rate)

29. **Mr. Chris Smith** asked the Secretary of State for the Home Department what is the average number of crimes cleared up in a year by a Metropolitan police officer.

Mr. Giles Shaw: The number of crimes cleared up by the Metropolitan police during 1984 was 122,841. The strength of the force was 26,766 on 31 December 1984. The ratio of offences cleared up to police strength was 4.58, but this figure has very little meaning because crime detection represents only a part of total police effort and because many officers may be involved in clearing up a single offence.

Racial Attacks

30. **Ms. Clare Short** asked the Secretary of State for the Home Department if he has any proposals to increase the information available to his Department on the incidence of racial attacks.

Mr. Giles Shaw: The guidance which the Association of Chief Police Officers issued in October on the handling of racial attacks drew attention to the importance of obtaining reliable local information about the incidence of racial attacks, in order that police forces should be responsive to such incidents in each area. There are no present plans to collate these records nationally, but the Department regularly seeks information about the nature and extent of racial attacks, and measures being taken to combat them.

Heroin

31. **Mr. Allan Roberts** asked the Secretary of State for the Home Department if he will meet the members of the Merseyside police authority to discuss heroin sales on Merseyside.

Mr. Mellor: We have received no such request for a meeting, but we should be willing to consider any representations from the police authority about this problem.

57. **Mr. Merchant** asked the Secretary of State for the Home Department if he will give the latest figures on heroin addiction in the north-east; and what was the comparable figure in 1983.

Mr. Mellor: The available information relates to addicts notified to the Home Office as addicted to heroin and is given for police force areas in the north-east in the following table. Corresponding figures for 1985 will not be available before the late summer.

Drug addicts notified to the Home Office as addicted to heroin (alone or in combination with other drugs)

Police force area	Number of persons			
	New addicts		Former addicts	
	1983	1984	1983	1984
Cleveland	6	2	—	1
Durham	5	5	—	3
Northumbria	9	36	2	6
Total	20	43	2	10

67. **Mr. Patrick Thompson** asked the Secretary of State for the Home Department if he will give figures for the known cases of cocaine and heroin addiction for the last six months of 1985.

Mr. Mellor: The latest available information on addicts notified to the Home Office relates to 1984. The numbers reported as addicted to heroin and cocaine are given in the following table; corresponding figures for 1985 will not be available before the late summer.

Drug addicts notified to the Home Office in 1984 as addicted to heroin or cocaine

United Kingdom	Number of persons	
	New addicts	Former addicts
Heroin alone or with other drugs but not with cocaine	4,547	1,499
Cocaine alone or with other drugs but not with heroin	92	9
Heroin and cocaine together, with or without other drugs	379	186

Sentences (Right of Appeal)

33. **Mr. Spencer** asked the Secretary of State for the Home Department whether he intends to take steps to seek to give the prosecution a right of appeal against sentences.

Mr. Mellor: We have been considering whether there is an acceptable means of meeting public concern about over-lenient sentences. A number of options will be discussed in a White Paper on criminal justice matters which we intend to publish before long.

Sunday Trading

35. **Mr. Nellist** asked the Secretary of State for the Home Department what are the latest numbers of representations, for and against, he has received on the Shops Bill [Lords].

Mr. Waddington: Since the publication of the Shops Bill I have received 58 representations in favour, and 25,282 representations opposed to the Government's proposals.

Mr. Wheeler asked the Secretary of State for the Home Department whether he will make a statement on the nature of representations received to date on the Shops Bill [Lords].

Mr. Hurd: I have received representations against the Bill from 0.05 per cent. of the electorate. Although

tion polls always need to be treated with care, it is worth noting that they have consistently shown that about two thirds of the electorate support the Bill.

Prison Discipline

36. **Miss Fookes** asked the Secretary of State for the Home Department if he will introduce a new prison disciplinary action of the kind recommended by the Prior committee on the prison disciplinary system.

60. **Mr. Haynes** asked the Secretary of State for the Home Department if he will introduce a new prison disciplinary tribunal to carry out the adjudicating functions now carried out by prison boards of visitors.

Mr. Mellor: I would refer the hon. Members to the reply given to a question from the hon. Member for Caithness and Sutherland (Mr. MacLennan) on Thursday 13 February at column 156.

Visiting Forces Act

37. **Mr. Ashdown** asked the Secretary of State for the Home Department if he will estimate the number of people in Britain who are currently able, in appropriate circumstances, to claim primary jurisdiction under the Visiting Forces Act.

Mr. Mellor: No information is currently available on the number of service authorities in the United Kingdom able to exercise powers under section 2 of the Visiting Forces Act 1952.

Victim Support Schemes

38. **Mr. Barron** asked the Secretary of State for the Home Department if he will make additional funds available to the victim support scheme.

Mr. Mellor: I would refer the hon. Member to the reply given to a question from the hon. Member for Beaconsfield (Mr. Smith) on 14 January, at column 545.

44. **Mr. Chapman** asked the Secretary of State for the Home Department what response he has had to his statement on 15 January about financial support for individual victims' support schemes.

Mr. Mellor: We have received only one or two representations referring specifically to the statement made on 14 January, at column 545. Since the beginning of December we, however, have had some 85 letters about the general question of funding for victims support schemes.

Peacock Inquiry

39. **Mr. Holt** asked the Secretary of State for the Home Department if his Department has given its full evidence to the Peacock inquiry.

Mr. Giles Shaw: The Home Office submitted written evidence, largely of a factual nature, to the committee on financing the BBC in July 1985, and has since responded to a number of specific requests for further information. In November four officials gave oral evidence at the committee's request. There are no present plans to offer further evidence though, if the committee requests further information, the Department will of course seek to help.

Grievous Bodily Harm

46. **Mr. Campbell-Savours** asked the Secretary of State for the Home Department whether he has any plans to seek to amend legislation relating to the offence of grievous bodily harm.

Mr. Mellor: My right hon. Friend has no such plans at present.

Penal Establishments (Standards)

47. **Mr. Freeson** asked the Secretary of State for the Home Department if he will introduce a code of minimum standards for penal establishments.

Mr. Mellor: My right hon. Friend has no plans to do so.

Group Squatting

50. **Mr. Hannam** asked the Secretary of State for the Home Department what action he proposes to take to strengthen the law against organised group squatting in commercial and residential properties.

Mr. Mellor: We have no plans to amend the criminal law relating to trespass on premises, but my right hon. Friend would be prepared to consider giving support to a measure making it an offence, without reasonable excuse, to enter residential premises as a trespasser.

Prison Building

52. **Sir John Farr** asked the Secretary of State for the Home Department if he will make a statement on the progress of the new prison building programme.

Mr. Mellor: The current building programme includes 16 new prisons, of which three have now been completed, five are under construction, and the remaining eight are at various stages of planning and design. Together these new establishments will provide some 7,800 new places by the early 1990s. As a result of the public expenditure decisions announced in January, design work is now also planned to start on two further establishments. In addition, we are undertaking an extensive programme of modernisation and redevelopment of the existing prison estate, with major capital work in progress or planned at about 100 establishments including almost all of the Victorian local prisons. This part of the programme includes a number of place producing schemes which will provide overall a further 5,400 new places by the same date, making a total of 13,200 in all.

Family Courts

53. **Mr. McCrindle** asked the Secretary of State for the Home Department if he will make a statement on the implications for juvenile crime policy of the proposals for a family court system.

Mr. Mellor: The Family Court review which my right hon. and learned Friend, the Lord Chancellor, and the Home Secretary have set up will be examining the extent to which the jurisdiction of the juvenile court might be included in that of any future family court. The Government will await the outcome of the review before reaching any conclusions on the implications for the criminal jurisdiction of the juvenile court.

(2) Flashed

F

MR ALISON

cc Mr Wicks

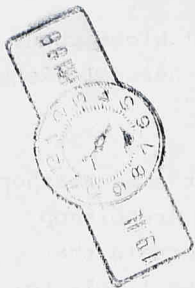
Thank you for copying to me your note to Nigel Wicks about Mr McNair-Wilson's suggestion for a delegation of church leaders to see the Prime Minister about Sunday trading.

From the letter it seems fairly evident that the Archbishop has not been asked. My on-going contacts with the Archbishop (now in India) and his staff make me feel pretty certain that he would not welcome this venture if the outcome was likely to be as predicted in Nigel Wicks' response to you. He is enough of a realist - and is sufficiently anxious to preserve good church/state relations (also my concern in the matter) - to want to stand back from any moves which promise to hamper rather than help.

If the Archbishop himself had sought a meeting with the Prime Minister that would be one thing: and if he returned from India to find something half way to being set up he would no doubt have to accept leadership of the delegation (though he could well feel that he had been bounced into it). But as I read the situation, and since you have already persuaded Mr McNair-Wilson to make this indirect approach, I feel it would be in everyone's interests to follow through and try to kill the idea at this stage.

ROBIN CATFORD

19 February 1986



dcblup

CONFIDENTIAL

Conservative Research Department Brief

SHOPS BILL

KEY POINTS AND SUMMARY OF THE ARGUMENTS

Prepared For:

the information of Members of Parliament

on Thursday, 13th February

Contents Page

THIS BRIEF SHOULD BE USED IN CONJUNCTION WITH
OUR BRIEF ENTITLED 'SHOPS BILL' REF. HA (86) 9R

Enquiries to: Miss Elizabeth Buchanan Ref: HA (86) 10
32, Smith Square, London SW1
01-222 9511

10 REASONS IN FAVOUR OF THE SHOPS BILL

1. The present law is absurd. Why should it be right to buy a packet of sweets or a bottle of gin on a Sunday but wrong to buy a plant pot or a can of beans? How can it be wrong to buy goods on a Sunday which can happily be bought during the week?
2. The Bill will give shopkeepers the freedom to choose when to open their shops in response to the demand from their customers and according to their judgement. It will not force Sunday opening or Sunday shopping on anyone.
3. Poll after poll has shown that a majority of people think that restrictions on opening should be removed. A majority of people do shop on Sunday. The latest poll, carried out for the Co-operative Union, showed that 69% of their customers regularly do some shopping on Sunday.
4. The law does not prevent pubs, restaurants, swimming pools, cinemas, banks and leisure centres from opening on Sundays in an attempt to protect Sunday or to protect employees. Why should it prevent shops from doing so?
5. Nearly 9 million people already work at least occasionally on Sundays, and 4 million work regularly. Why should people be prohibited from working in shops if they can work in pubs or cafes?
6. Retailers with experience of Sunday trading say that they have no difficulty in finding sufficient volunteers for Sunday working. Many women find it convenient for family reasons to work on Sundays. Others prefer to work the whole of one weekend and get the whole of the next weekend off rather than have to work every Saturday. Nevertheless, the Government has recognised that many retail workers, not currently contracted to work on Sunday, may not want to work on Sundays. The Bill gives them protection against being forced to work on Sundays.
7. There are no restrictions on Sunday trading in Scotland but Sunday remains special, with more people going to church than in England. If it is Parliament's job to keep Sunday Special and not the job of individuals to make up their own minds how to spend their Sundays, why are the Churches not calling for Parliament to close public houses?

8. The Institute for Fiscal Studies examined the possible economic effects of Sunday opening and concluded that there are no economic grounds which justify regulation of trading hours. They say that the effects of Sunday opening on jobs, prices and costs will be very small and indistinguishable from other trends in retailing already under way.

9. Many small shopkeepers now open on Sunday and benefit from the wish of people to shop on that day. Deregulation will mean the likelihood of more competition: but experience overseas, notably the USA and Sweden, has shown that the small shopkeeper can benefit from liberalisation of the law by playing to their strengths such as flexibility and quality of service.

10. Those who oppose the Bill acknowledge the present law is a mess but cannot agree about what should take its place. None of the various proposals suggested during the debates in the House of Lords attracted substantial support. This is not surprising since the independent Auld Committee looked closely at all the compromise proposals and concluded that none would form the basis of a fair, simple and enforceable system of regulation.

Douglas Hurd said recently in the Church Times: "As a Christian I believe it (the Bill) is right"

The Article is attached.

Conservative Research Department,
32, Smith Square,
LONDON SW1

13th February, 1986

'AS A CHRISTIAN I BELIEVE IT IS RIGHT'

Sunday trading: the case for the Bill

By the Right Hon. DOUGLAS HURD, MP



Mr. Hurd succeeded Mr. Leon Brittan as Home Secretary last September. He was previously Secretary of State for Northern Ireland.

NO constituency MP could be in doubt about the concern felt by many active Christians over the Government's legislation to reform the law on Sunday trading. With the exception of strict Sabbatarian, whose consistency is to be admired even if one disagrees with their views, the principal worry expressed by Church groups concerns the impact of the measure on our social and community life. I am glad of the opportunity of explaining why the Government has decided to introduce the Bill and why, as a Christian, I believe that it is the right thing to do.

The charges against the Bill are, first, that deregulation is unnecessary and that a middle way for reforming the law can be found, and second, that it will destroy the traditional Sunday with unacceptable social consequences. I should like to take these points in order.

The present law is anomalous, in disrepute and in need of reform. I think there is broad agreement on that—for a law which has clearly decayed to remain on the statute-book to be ignored and defied must be unacceptable in a responsible society.

The Government has, however, not rushed into legislation. There have been thirteen Private Members' Bills in this area in the past decade, and a careful study was undertaken of the options by an independent committee under the chairmanship of Mr. Robin Auld. One of the factors which the Committee was asked to consider in its deliberations was the traditional character of Sunday.

New anomalies

The Committee looked at a number of forms of regulation and found that each of them was liable to put new anomalies in place of the existing muddle. The option of leaving the decision to local councils is essentially a fudge; district councils do not want the responsibility for policing Sunday opening. In many areas it could lead to unfairness as shops within a few hundred yards of each other and selling the same goods were either allowed to open or prohibited from so doing on a fairly random basis.

There is also, the suggestion that opening should only be allowed on Sunday after, say, 2.00 p.m. I hardly think that it would be popular to close all newspaper or chemist's shops which are allowed to open on Sunday mornings at present, or to stop people from buying items on their way back from church. In addition, what difference of principle is there to justify a prohibition of opening on Sunday morning but not on Sunday afternoon?

An alternative suggestion, which builds on the present basis for the law, is that there should be a revised list of products which it is legal to sell on Sundays. With the rise of mixed retailing, such distinctions are difficult to enforce. In truth, I also find it difficult to

think of a rational basis which can act as a guide as between those goods which it is right and those goods which it is wrong to sell on a Sunday.

The Auld Committee decided that they could find no workable alternative system of regulation. Looking at the options with a fresh mind, as I have done since becoming Home Secretary, I have come to the same conclusion.

This perhaps brings us to the crux of the question. Is there really a justification for employing the criminal law to prevent shops from opening on a Sunday if the shopkeeper wishes to open and if people wish to buy goods from him? The Auld Committee looked at whether the need to protect any particular concept or group justified the continuation of such intervention and decided that it did not.

It is difficult to justify using the criminal law to prohibit an activity which is neither harmful nor wicked. I know that there are some people in the Church who say that, even though the majority of people favour working in shops and shopping on Sundays, they should be protected from themselves by law. I recognise the good

intentions which motivate them, but in this instance I think it is a rather misplaced paternalism.

If you are going to stop shops from opening by law on Sunday because it reduces the difference

which emphasised the Christian duty to persuade others to their view, not to coerce them, I wholeheartedly agree, but I found it strange that the pamphlet then proceeded to advocate continued use of the criminal law for coercion. The Government's Bill is based upon the assumption that it is a right to leave decisions in this area to individual shopkeepers and consumers. No one will be forced to open their shop, and they certainly will not do so unless there is consumer demand for it.

For myself, I regard Sunday as a special day, as do very many other people in Britain. As a Christian I believe there are more rewarding things to do on Sunday than shopping. But I do not think it right that the law should be employed to impose my preferences in this matter upon the rest of the population, who should be allowed to make their own judgement and choice.

Finally, I turn to the question of whether the changes proposed will destroy the traditional British Sunday. The evidence from Scotland suggests that it will not. There are no regulations in Scotland, but north of the Border the Presbyterian Sabbath has not been

trampled, underfoot by shoppers eager to take advantage of the lack of prohibition on Sunday opening.

A recent survey has found that, for the greater part of the year, rather less than twenty per cent of shops open on Sunday. A survey conducted by MORI in England suggests that only about the same proportion of shops south of the Border are likely to trade regularly on Sundays. We cannot, of course, be sure about this because by liberalising we will leave it to the people to choose.

I think it is necessary, too, for us to look clearly at how Sunday is actually spent by a significant number of people. Four million work regularly on Sunday already, a further four million do so occasionally—by no means all of them running essential services. It is possible, too, to have an idealised view of Sunday as a day of rest and regeneration, but for many people living alone it can be an oppressive and lonely day.

Free to choose

Furthermore, a substantial number of people already visit the shops. On Sundays, many buy goods illegally. I do not think the Church truly wants us to close down by edict all those garden centres and do-it-yourself shops which give so much harmless pleasure to so many people. In accepting that there will be some changes resulting from removing restrictions on Sunday opening, we should at least be clear about the point from which change starts.

The Government and Parliament have a duty to listen carefully to the conscientious objections of those who think our proposals are wrong. We also have a duty to the country to propose legislation which will have the support of the majority and be enforceable. I respect the misgivings of those

who believe it is wrong for the shops to open on Sundays, but I cannot accept that this view should be reflected in a prohibition on Sunday opening.

I believe that many Christians support this view and that, if they do not themselves shop on a Sunday, they would not object to others being allowed to do so, provided that there are proper safeguards to prevent coercion to work. We are, indeed, proposing protection for young workers regarding their overall hours of work, and existing retail workers will not be forced to undertake Sunday working.

If Sunday is to remain special, as I believe it should and will, it will be so because society wants it to be, and not because Parliament and the courts say so. Surely that is the way in which we should order our affairs in a mature and civilised society?

NEXT WEEK

Mr. Hard's arguments in favour of the Bill will be challenged in an article by the Right Rev. Hugh Montefiore, Bishop of Birmingham and one of the Bill's leading opponents.

between it and other days of the week, why stop there? To be consistent there should be new prohibitions on many other legal leisure activities on Sundays, garages and restaurants should close, and only working in essential services would be allowed. I think it unlikely that Parliament would approve such measures, but that seems to be the logic of the General Synod's position.

I was struck by a comment in a recent Jubilee Centre pamphlet

Note says
with lab board
chair H.S.

Parliamentary Issues of Conscience:

THE SUNDAY TRADING DISPUTE

By Martin B. Graham

GIVEN TO PM
BY ANNE
WINTERTON
MP.



Jubilee Centre Paper No. 6

PARLIAMENTARY ISSUES
OF CONSCIENCE:
THE SUNDAY TRADING
DISPUTE

BY
MARTIN B. GRAHAM

Foreword
by
Donald Shell

Jubilee Centre Publications Ltd.
19A Sturton Street, Cambridge CB1 2QB

ISBN 0 948476 03 6

Copyright © 1986 Jubilee Centre Publications Ltd

All Rights Reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of Jubilee Centre Publications Ltd.

Martin B. Graham holds a degree in Political Theory and Government from the University College of Swansea, and an M.Litt. in Political Philosophy from the University of Cambridge. He is currently working as a research consultant to the Jubilee Centre, Cambridge. He is married with two children.

Published by Jubilee Centre Publications, Ltd, 19A Sturton Street,
Cambridge, CB1 2QB.

Printed by Pempgate Printing Co. Ltd, 50 Kingston Street, Cambridge.

Contents

Foreword	iv
Summary	v
1. Issues of Conscience	1
2. The Free Vote Tradition	4
3. The Shops Bill: the three-line Whip	7
4. Sunday Trading as a Moral Issue	11

Foreword

One of the hallmarks of the liberal-democratic tradition has been respect for conscience. Individuals have been released from obligations as varied as fighting for their country or joining a trade union on the grounds of deeply held personal conviction. And a wide variety of social institutions have embodied a respect for the voice of conscience. Chief among these has been Parliament itself. In earlier days parliamentarians were seen as representatives who exercised their judgment as best they could on behalf of their constituents. With the rise of modern parties and the development of strict party discipline, the right of MPs to refuse obedience to a party whip on conscientious grounds was acknowledged. The corollary has been that issues where conscience may be said to have a high profile have usually been accorded a 'free,' i.e. unwhipped, vote.

Is such a tradition now under threat? Martin Graham believes it is, and states why in this lucid study. When an issue that has hitherto been almost universally recognised as an issue of conscience, to be dealt with by a free vote, is suddenly made the subject of a three-line Whip, then the time has certainly come for some rethinking to take place. What is the proper relationship between party Whips and personal conscience? Such a question requires attention. This thoughtful booklet provides an excellent start for such discussion. It deserves a wide readership and a considered response, not least from those within government who recognise the vital role conscience plays in decision making throughout a healthy democratic society.

Donald Shell,
Lecturer in Politics,
University of Bristol

Summary

Issues of conscience traditionally have been handled in Parliament in the form of Private Members' legislation. When necessary, governments have given such bills extra time to ensure their passage through Parliament (e.g. Abortion, 1967). These moral issues have on each occasion been decided on a free vote, without the use of party Whips, and this free voting principle has been extended even to those situations where the bill in question was a Government one (e.g. seat belts' introduction, 1981).

It is understandable that the present Government resorted to tackling the Sunday trading problem with a government bill, since the trading laws were generally agreed to be in need of attention, and Private Members' bills are notoriously liable to fail for lack of parliamentary time. What is not excusable is for MPs to be denied – as they look like being denied – their customary free vote, not least because of the unhappy precedent this could create for the handling of future conscience issues such as euthanasia. Sunday trading has always been treated as an issue of conscience. The use of Sundays is not primarily an economic issue and it is separable from the mainstream of government policy and expenditure. As recently as 1983, a Government spokesman at the Home Office said: 'the decision (on Sunday trading) must be for the individual conscience of Hon. Members'.

The pressures on MPs of a three-line Whip are immense. Since a Whip gives a bill the status of strict party policy, any dissenter is thereby made a 'rebel' whose success would cause his own party to 'lose face'. The MP's loyalties are divided. He will probably have to explain his conduct to the Whips, which may be difficult when 'conscience' is an intuitive disquiet rather than a clearly articulated argument. Furthermore, he depends entirely on his party leadership for promotion. He will not wish to offend them.

Can the use of Sunday still be regarded as a question of conscience? From the directly Christian point of view, there is complete agreement in all Christian denominations that one day of rest in seven is part of God's intended rhythm of life. This must, as nearly as possible, be a universal day of rest so as to enable collective worship, family and community activity.

Sunday is also of importance as a symbol of our Christian tradition. Those without Christian convictions can also appreciate that society needs values, since values underpin many of the institutions on which our national life is built. The marriage bond, for instance, or law and order, owe much of their continuing force to the values enshrined in Christianity. These aspects of our lives are currently under threat as it is. Emasculate Christianity by demoting Sunday, and you cut further into the roots that hold society together.

From a social point of view, these concerns combine with the belief that one day of peace and quiet is a prerequisite of sane living in a modern society. There is no clear benefit to be derived from Sunday trading in terms of prices, jobs or economic growth. What is at issue, however, are various levels of deeply-held

conviction concerning the nation's values, the provision of basic human needs and attentiveness to divine command. If this is not an issue of conscience, then what is?

1. *Issues of Conscience*

Not all issues of government and legislation can be taken in the normal run of decision-making. Whilst most disagreements can be set in the context of competing priorities for social action, or alternative 'means' to the same end (such as full employment, a high standard of living, etc), some are generally agreed to be on a different level. These are what we call moral issues, or issues of conscience.

In general terms, the idea seems to be that human beings (whether religious, humanist or non-aligned) tend to reach out for something higher, something given, when they handle an issue such as the sanctity of human life. We do not feel competent to judge upon the appropriateness of capital punishment, embryo experimentation or abortion without having regard for something that goes beyond convenience, economics, or even democratic choice. Thus when, as in traditional, a 'free vote' is allowed in the House of Commons on such matters, this is not simply to reflect public opinion. It is rather that MPs are supposed as human beings to have access to some kind of a moral law within them or above them, that organisations such as political parties of necessity will lack. Political parties, here, are out of their depth. Human beings are in their element.

We shall return to the complex issues of parliamentary procedure and 'free voting' later, but let us for the moment stay with this specifically human element. The problem lies in the fact that, while in recent decades there has been no discernable decrease in moralising, there has come to be a considerable confusion of grounds. In contemporary discussion, there is wide separation between morality, on the one hand, and religion, on the other. In former times, of course, the two were inextricably linked.

Probably the leading contender today for the western imagination is 'liberal morality'. The central tenet of this (disorganised) view-point seems to be that man's morality, or his sense of moral imperatives, is autonomous. That means, for example, that "'this is right' cannot be reduced to 'this is commanded by God'".¹ There is in everybody, we are told, a 'sovereign sense', or 'intuition', of the 'rightness' of something. Thus, any man of good will must appreciate that Britain '*ought*', for example, to impose economic sanctions upon South Africa and, furthermore, anyone who disagrees will really only be pursuing his own or his class interest, and must be fundamentally unwilling to 'follow his heart'.

The example of South Africa conveniently points up various characteristics of the liberal case. There is deemed to be a 'flavour' to true morality, which rapidly 'goes sour' in the mouth of one who tries to avoid it. It is 'heartfelt' and,

1. W. H. Walsh, 'Open and Closed Morality', in Bhikhu Parekh and R. N. Berki (ed). *The Morality of Politics*, Allen and Unwin, London, 1972, p. 29.

as such, unambiguous.² Secondly, morality is taken to be universal, in the sense of applying to all men, whatever their background or their personal level of involvement with the issue in question. Thirdly, in its pure form it is oblivious, when weighing the merits of a case, to the practical consequences of any course of action. The moral law commands for its own sake and not for the sake of any good its observance produces or might be expected to produce, whether private or public.³ Thus, to return to our example, sanctions are *right* whether they 'work' or not. Of course, the clarity of liberal conscience is severely tested when it comes up against the *specifics* of an issue such as abortion.⁴

Next to the liberal, or open, morality, we find the more conservative, or 'closed' variety. Here, the emphasis is upon the common good within society. Society itself is conceived as an organic whole, a concrete reality with forms and traditions, rather than as an abstract idea. That society, rather like one's own family, must be loved and nurtured, emphasising always the communal virtues and those actions which *in their effect* will bring benefit. Concern for others has a tendency to be more localised, concentrating more upon the attributes of citizenship than on those of humanity. Thus, the conservative mind would oppose South African sanctions on two main counts: the hardship caused in Britain through economic repercussions (which it would be 'immoral' to allow) and the empirical observation that economic sanctions 'tend not to work'.

However, most important in conservative morality is the authority that comes from tradition.⁵ When making political decisions, we must preserve the heritage that the centuries have passed down to us. We are, indeed, custodians

2. This approach finds its most forceful statement in Kantian metaphysics. Man, according to Kant, experiences not only the 'phenomenal' world of the physical senses, but also the 'noumenal' world of moral intuition. As Kant puts it (in *Fundamentals of the Metaphysics of Morals*), to say that 'the moral law within us might deceive us would give rise to the disgusting wish to dispense with reason altogether and to conceive of ourselves and our principles as thrown together with all other species of animals under the same mechanism of nature'. For a fuller account, see Martin Graham, 'The Moral Case for Peace: Principle versus Pragmatism' in *International Relations* Vol. V, No 4, November 1976.

3. Walsh, *loc. cit.*, p. 20.

4. The R. v. Bourne Case, 1938, for instance. Alex Bourne, a consultant obstetrician, openly performed an (illegal) operation to abort the pregnancy of a fourteen year old girl, who had been raped by four soldiers. Can one's 'intuition' adequately weigh the 'sanctity of life' of the unborn child against, for instance, the doctor's equally natural desire to protect the young (and innocent) girl from further hardship?

5. This is one of three sorts of authority, according to Max Weber, the other two being 'charismatic' authority and that drawn from 'rational-legal' sources. (See Max Weber: *The Theory of Social and Economic Organisation*, tr A. M. Henderson and T. Parsons, ed. 1947, p. 56 ff).

of that heritage which continues to furnish our political life with depth, wisdom and identity, and which is not to be frittered away in pursuit of lesser objectives. As Burke once said,

'I feel an insuperable reluctance in giving my hand to destroy an established institution of Government, upon a theory, however plausible it may be'.⁶

Lastly, in this briefest of sketches, we come to Christian morality. (These categories of moral thinking are not supposed to be exhaustive or mutually exclusive. The Labour Movement, for example, in an apparently liberal frame of mind, seeks universal justice, but at the same time demands *class* (i.e. closed) solidarity and reserves its most fearsome moral condemnation for 'scabs' and 'blacklegs'.) Christian morality is unique in that it pays homage to a fully *external* authority, i.e. God's will. Indeed, it is in a sense doubtful whether it should be seen as a system of morality at all since the sovereign will of God is quite obviously not itself tied to the service of certain principles, universal or otherwise. Christianity teaches that God has ultimate authority and ultimate discretion.

"For who has known the mind of the Lord, that he may instruct him?"
But we have the mind of Christ'. (1 Corinthians 2:16 NIV).

And how is it that we have this mind, that we can understand the 'things of God'? Because

'God has revealed it to us by his Spirit. The Spirit searches all things, even the deep things of God'. (1 Corinthians 2:10 NIV).

So the Christian has access to the heart and the wishes of his God and is motivated to search the Scriptures and to pray when confronted with a major decision.

6. Quoted in C. J. Friedrich, *Tradition and Authority*, London, Pall Mall, 1972, p. 28.

2. The Free Vote Tradition

Clearly, when the Whips are taken off and political parties allow their members a free vote in the House of Commons because they are grappling with an issue of conscience, heed is being paid to a number of different considerations simultaneously. The liberal is being pacified by the acceptance of his autonomy as a moral being, and of his right to a sphere of conscience which is not influenced by 'foreign' bodies, be they Cabinet, church or public opinion. The conservative is placated by the recognition that a Government whose social or economic engineering is threatening to trespass into the most vital areas of national identity and tradition, is going beyond its immediate brief. Parliamentary sovereignty, in such cases, must be real and not merely nominal.⁷ The Christian, meanwhile, is determined both to

'Render therefore unto Caesar the things which are Caesar's, and unto God the things that are God's'. (Matthew 22:21 AV)

There are, however, two sides to every coin, (sic), and the genuine heed paid to these principled stances is accompanied by a rather more practical appraisal of the advantages and limits of free voting. Party Whips⁸ are well aware that they will not always be able to carry their colleagues with them when conscience is involved. In such cases, a free vote is infinitely preferable to the embarrassment of a large-scale rebellion.⁹ Secondly, a government may wish to see legislation passed without being specifically associated with it. The idea would seem to be that more votes are lost than won over conscience issues and that the government would be better off sympathising from a distance with the personal efforts of a backbencher in the form of a Private Member's Bill. Thus, Government time was found for debating the abolition of capital punishment (1965, a bill introduced by Sidney Silverman) and time was created by the Government for measures with which it sympathised dealing with homosexuality, abortion and divorce, by holding special morning sessions or all-night sessions. Indeed, between 1964 and 1970, the Labour Government gave some

7. It is interesting to note in this context that a free vote was allowed by the Heath Government in October 1971 on the principle of entry into the EEC. The Opposition retained their Whips, but there was a great deal of cross voting on both sides, no doubt encouraged by the Conservative stance. The Government majority was 112.
8. Or 'whippers-in' as they were originally known. The term is apparently derived from fox hunting parlance. (See Philip Norton, 'The Organisation of Parliamentary Parties', in Walkland, *The House of Commons in the Twentieth Century*, Oxford, 1979, p. 10).
9. This can extend beyond issues of conscience. Faced with a potentially damaging split over a United States loan in December 1945, Churchill neatly side-stepped the possibility of rebellion by calling for a free-vote. (See R. J. Jackson, *Whips and Rebels*, 1968, pp. 77-8.)

assistance to no fewer than 23 of the Private Members' Bills which became law.¹⁰

Private Members traditionally restrict themselves to matters which do not imply a direct financial commitment such as the raising of a particular social benefit level because of the consequent impact this would have on the whole basis of the Government's financial equilibrium. As Richards puts it, 'the Government cannot abdicate its responsibility for our national finances'.¹¹ By extension, this principle has helped to define what, in parliamentary terms, may be called an issue of conscience. The issue must be separable from major aspects of a Government's economic strategy. While a question of policy on house building or child benefit may well be seen ultimately to relate to matters of a moral enough nature, such issues are too enmeshed in spending priorities and party dogma to be given 'purist' treatment. They are the very 'meat' of party politics, the issues with which political (and party) identities are forged. Thus, there is a divide between 'political' issues which are *party* matters, and those moral questions which are cross-party issues, so long as nothing vastly important in the 'political' sphere hangs on them.

The tradition of backbench initiative in matters of conscience to be taken on a free vote, seems to be a child of this century, probably reflecting the new social freedom to examine matters formerly taboo. Previously forbidden types of marriages were declared to be acceptable and the marriage laws were further liberalised in a spate of Private Members' legislation starting in 1907.¹² In 1938, a motion urging the abolition of the death penalty was carried on a free vote, by 114 votes to 89. The numbers of MPs actually voting was too small for such a motion to claim to be representative of Commons' opinion, but crucially, 'the vote gave encouragement to the reformers and established a precedent that the issue was one to be decided without party whipping'.¹³ Thus, when in 1945 the Government were planning a bill to make a number of changes in the criminal law, they were ready to agree that

'a clause proposing abolition might be moved at the report stage, when all members could participate, and that as the issue was a matter of conscience a free vote would be permitted'.¹⁴

In the event, it was announced that the free vote was not to be extended to members of the Government (i.e. Ministers, senior and junior; Whips; PPSs). Forty-six ministers failed to vote, including Cripps, Bevan and Wilson! The

10. Peter G. Richards, 'Private Members' Legislation', in Walkland *op. cit.*, p. 307.
11. Peter G. Richards, *Parliament and Conscience*, Allen and Unwin, London, 1970, p. 213.
12. The Deceased Wife's Sister Act, 1907; The Deceased Brother's Widow's Marriage Act, 1921; and, most importantly, Sir Alan Herbert's Marriage Act, 1937.
13. Richards, 1970, p. 39.
14. *Ibid.*, p. 40.

amendment in question (moved by Sidney Silverman) was in fact carried but later came to grief in the Lords. The will of the House of Commons had been expressed, however, and this eventually led to the nomination of a Royal Commission. By the time of Silverman's next attempt, in 1956, the Government, itself opposed the Bill, felt bound to provide for discussion from its own time and agreed a free vote. Such was the familiarity with free voting by this point that the Conservatives on both sides of the debate managed to organise 'unofficial whips' amongst their supporters. One year before the final success of the abolitionists, Harold Wilson told the Society of Lawyers (April 1964) that

'It is generally agreed that the [Homicide] Act has neither a rational nor a moral basis, and few can be found to defend the present law. We feel that, as this is an issue on which people have strong views and is to some an issue of conscience, it should be left to a free vote of the House, and we are prepared to find Government time for it. On this sort of issue the House of Commons is at its best when each Member is expressing his own individual view'.

The capital punishment question has been treated here as a sort of brief case study, partly because it was the most influential issue in the establishment of the free voting norm. During the heyday of such legislation in the 1960s, all the questions of abortion, homosexuality, divorce, theatre censorship and Sunday observance were treated in the same manner. Since 1970, the only difference has been that governments of both parties have been unwilling to use government time to help along Private Members' Bills. But the free vote principle remains and there have been free votes, for example, on the move to restore capital punishment in July 1983, on Ray Whitney's Shops Bill on the repeal of Sunday, and other restrictions (1982), on Graham Bright's video Bill (currently going through the House), on the compulsory wearing of seat belts (January 1983) and on Timothy Sainsbury's Indecent Displays Act, (1981). This last piece of legislation is notable through being, in Sainsbury's own words,

'... the first recent step *back* from the legislation which flowed through in the sixties, of which the 1967 Abortion Act was perhaps almost the culmination, which now with the benefit of hindsight we all recognise – I hope we all recognise – went very much too far in liberalising the state of the law'.¹⁵

15. The London Institute for Contemporary Christianity, tape series, B2/13, 'Morals, Law and Social Change', 1984. Tape 4, 'The Sunday Trading Bill', a talk by Timothy Sainsbury, M.P.

3. *The Shops Bill: The Three-Line Whip*

It will be evident, then, that there is 'a strong tradition that some subjects, issues of conscience, are not fit matters for party decisions'.¹⁶ To quote Richards again (the undoubted authority on the subject),

'It is widely accepted that issues of conscience which involve moral or religious attitudes are peculiarly suitable for Private Members' Legislation because they arouse differences of opinion which transgress the normal patterns of party allegiance. From the point of view of whips, these matters should either be avoided or put on a free vote basis. Temperance and Sunday observance were natural conscience issues'.¹⁷

The present Conservative Government might have been expected to treat the current Sunday trading dispute in the same manner. More especially so after the unambiguous statement in the House in 1983 by David Mellor, the Under-Secretary of State for the Home Department, explicitly committing the Government to the traditional course.

'There are important fears', Mr Mellor stated, 'about the character of Sunday . . . These fears are held in many parts of the House and I agree that they are an important factor. That is why the Government adhere to the view, which successive Governments have adhered to, that the decision must be for the individual conscience of Hon. Members'.¹⁸

In the event, of course, the Government imposed a three-line whip on Conservative MPs during the debate on the principle of the Auld Report, and look like doing the same again for the various stages of the actual Shops Bill. Why exactly this has been done is a matter for some speculation. There are really two questions. Why have MPs been deprived of the customary free vote, and why has the issue been tackled through Government, rather than Private Members' legislation? The two questions are genuinely separate since, as Richards' writes,

'... the traditional conscience issues normally enjoy a free vote *even when they arise from Government legislation*: thus the Commons rejected the clause in the 1968 Finance Bill to authorise a national lottery by 166 votes to 76'.¹⁹

The second question (Government rather than Private Members' legislation) is easier to answer than the first. The pitfalls that surrounded Private Members' legislation are notorious. There are only twelve Fridays per

16. Richards, 1970, p. 28.

17. 'Private Members' Legislation', in Walkland, *op. cit.*, p. 315.

18. House of Commons, Official Report, 4 February 1983, Vol. 36, Col. 557.

19. *Op. cit.* p. 27, my emphasis.

session when Private Members' Bills take precedence. For each session, a ballot is held and MPs are allocated a particular place in the order of precedence. Only those that take the first six, or perhaps eight, places in the ballot can expect a share of those twelve available days, since the last few days are reserved for the report stage (after consideration in Standing Committee 'C' – another 'bottleneck') and any bill considered on a particular Friday is most likely to take up all the available time, leaving no space for those with a lower order of precedence. The six, or so, lucky ones should be set against the number of entries in the ballot – 435, for example, in a 1981 ballot.

Even those MPs lucky enough to be chosen can find that the time available is not enough, since one hundred supporters have to be found at the time of Second Reading to support the motion that 'the question be now put' – in other words, that the matter has been sufficiently debated. On a Friday (when many MPs are going back to their constituencies) and with no Whips to help, finding one hundred supporters and having them at the right place at the right time is quite a feat of organisation for a backbencher. Similar problems crop up in the report stage, where the simple ruse of suggesting many amendments can kill a bill for lack of time. And if the process for balloted bills seems fraught, the chances of an unballoted bill succeeding, or one introduced on a Tuesday or Wednesday under the 'Ten minute rule', are even slimmer. Once introduced, they are 'available' for further consideration, but lack of time normally means that this will never come about.

Normally, then, Private Members' Bills will sink without trace unless they are either so uncontroversial as to need little or no debate, or else they receive Government help in the provision of time. Governments can, however, claim to be justifiably reticent about the idea of showing favour to one bill while ignoring the others. One could avoid this problem, as Richards suggests, by establishing that a bill that has survived its second reading and committee stage in much its original form will be given such further time as it needs to complete its journey.²⁰ But, from the Government's point of view, 'their policies can be translated into law most effectively by Ministerial legislation. To use the ballot procedure for party purposes is frustrating and unproductive'.²¹ Especially since the present law on Sunday trading is almost universally agreed to need tidying up, it seems to be fair enough, and certainly in keeping with the present Government's style, for ministers to take the matter in hand.

However, denying MPs a free vote is quite a different matter. There is no procedural reason why the House of Commons should not be able to appraise and amend the Minister's suggestions at it sees fit. It may be that the Government under-estimated the extent to which the Sunday trading issue is still regarded as a matter of conscience and that they were more inclined to see

it as primarily an economic matter. But the statement from David Mellor makes curious reading in this light, and the economic 'separability' of this issue from other economic issues again leaves the Government with precious little justification for demoting the traditionally-recognised conscience content of the issue from its appropriately central position. The question of why and how Sunday trading remains a crucial moral issue is considered below. For the moment, though, what is the impact of a three-line Whip upon those for whom it is intended?

Historically speaking, treatment of rebels has been lenient, especially in terms of direct sanctions. Between 1945 and 1964, only five Labour MPs were subjected to expulsion, and not a single Conservative.²² But, then again, since 1945 up until 1978 Governments have managed to secure an average of 97 per cent of all the legislation they have introduced during a full parliament. In eight parliamentary sessions, 100 per cent of Government Bills succeeded. The overall average was lowered by the 1974–6 period of minority Government. Again, between 1967 and 1971, of the 1,772 amendments moved by Government in the committee and report stages of legislation, no less than 1,770 were approved by Parliament.²³ In the circumstances, one has to be more impressed by the sheer scale of disciplined achievement, than by the relative generosity towards those who have, on occasion, stepped out of line. Perhaps one should qualify this however, by admitting that the behind the scenes, i.e. the pre-voting, influence on legislation can be considerable.

Rebellions do happen, of course, but they happen – and are tolerated – almost exclusively in situations where the government is in no real danger of defeat. Whips are old hands at calculating numbers. On the Shops Bill in question, for example, they will without doubt have paid careful attention to the numbers voting on either side in the debate in May 1985 on the principle of the Auld Report's recommendations on Sunday trading. Still further consideration will be paid to the individual Conservative Member's advance warning as a matter of courtesy to his Whip that he will not, on this occasion, be able to support the Government. So far, undue pressure seems largely to have been avoided, although one MP claims to have 'landed himself in a lot of bother' over the issue. A genuine plea of 'conscience' is apparently being readily accepted, and the Chief Whip, John Wakeham, has made it quite clear, 'publicly and privately', that this will continue to be the case. Persuasion seems to be the order of the day; David Waddington, the Bill's Government sponsor, has been inviting groups of 15 or so Conservative MPs at a time to come and see him 'for a drink' and discuss Sunday trading. Nothing ominous about this;

20. *Op. cit.* p. 211.

21. Richards, in Walkland, *op. cit.* p. 209–310.

22. Robert J. Jackson, *Parliamentary Discipline in Britain since 1945*, an unpublished thesis presented to the Faculty of Social Studies, Oxford University, December 1965.

23. Figures quoted in Richard Rose, *Politics in England: An Interpretation for the 1980s*, Faber and Faber, London, 1980, pp. 86–87.

merely an attempt to air matters of concern and to put across the Government's point of view. The real question, however, is what will happen if the Whips' calculations show the Government to be in danger?

All the while, there are hidden pressures to conform. Frequent rebellion will not endear an MP to the party leader, on whom he relies entirely for his chances of promotion. 'Conscience' may amount to a vague moral feeling, enough to guide a preference but not necessarily enough to make an MP look forward confidently to defending his position during a difficult interview with the Chief Whip. Furthermore, an MP may be genuinely torn between the rival demands of conscience and party loyalty. And the minute the Government looks to be in even slight danger, all these pressures are vastly telescoped and others are added. The problem is, as one MP put it, that, while the reform of Sunday trading laws was never a manifesto commitment, someone at some point decided to get the matter settled once and for all. So, once it became a Government proposal, Whips and all, the present situation came about; that the Government must get it through *or lose face*.

More than a conscience matter, then, it becomes a *Party matter* and, at the very least, the social pressures that come to bear because of this are enormously magnified. Those with a less consolidated position will come under pressure the moment things start to get 'heavy'; especially those who voted in favour of the Auld Report last year and have since been 'got at'. The question: 'What are you doing putting the Government in jeopardy?', whether from Whips or from constituency party organisations, would in itself carry enough sting for many a Member.²⁴ The point is that, with or without direct attempts to enforce party discipline, the imposition of a three-line Whip has a powerful pull upon the loyalty of ordinary MPs, to say nothing of the 120 or so members of the Government (Ministers, Whips etc) in Parliament who have not, it seems, been accorded the luxury of an appeal to conscience and for whom, on some accounts, voting against the Government would be a resignation matter.

24. Needless to say, losing the Shops Bill would not in fact cause the Government to fall. There would be an immediate motion of 'no confidence in Her Majesty's Government', which the Government would win handsomely.

4. Sunday Trading as a Moral Issue

What remains for us to do now is examine the various ways in which Sunday trading, as a specific issue, can justifiably be argued to be a matter of conscience. The moral case must not be left on the level of 'intuition'. In the face of a three-line Whip, intuition is not enough.

There are two advantages at the outset in making our case. Firstly, of all the great parliamentary moral controversies that we have had cause to mention (divorce, abortion, homosexuality, and so on) this is the first reform to be proposed which has the united *opposition* of all the Christian churches. Literally all the main Christian denominations object, and in the House of Lords the Bishops and Archbishops speak with one voice. Contrast this with clerical opinion on, say, divorce law reform, where (in 1969) five bishops in the House of Lords voted in favour and three against (the Archbishop of Canterbury abstaining). Or capital punishment, where, already in 1956, two Archbishops and eight Bishops voted in favour of abolition, with only one Bishop dissenting.

Or again, if any be disposed to suggest that Christian practice these days, and over the Shops Bill in particular, is to seek to impose a minority belief on a not-quite-so-believing population, then the Church's position on some of these other matters hardly bears this view out. On homosexuality, for example, the Church of England Moral Welfare Council's submission to the Committee of Inquiry on the matter (1954) came to the clear and influential conclusion that, whilst the Church continued to regard homosexuality as sinful, the State should not seek to regulate *private* morality, but concern itself only with crime and offences against public morality.²⁵ Similarly, over divorce, the group appointed by the Archbishop of Canterbury to review the law reported in the document, 'Putting Asunder' (July 1966), that people who do not accept the Christian message must be allowed to divorce.²⁶ In other words, if the churches oppose the particular piece of 'liberalisation' proposed in the Shops Bill, then it is not likely to proceed from a partiality for some kind of 'Christian tyranny'.

The second 'advantage' lies in the fact that the *moral* considerations over Sunday trading appear to be utterly one-sided. Save for an ultra-libertarian stance against any form of coercion (but this cuts both ways),²⁷ nobody is *proposing* Sunday trading on moral grounds. Again, this is vastly different to

25. Richards, 1970, p. 70.

26. *Ibid.*, p. 141.

27. The 1961 Departmental Committee under the Chairmanship of Lord Crathorne, appointed to review the law concerning Sunday trading and entertainments, was adamant that 'the special character of Sunday ought to be preserved as far as possible as a day of leisure in which a person is not required to pursue his weekday work and is free to do as he chooses'. (Report, December 1964, Cmnd 2528, HMSO). A propos 'coercion', the so-called 'conscience clauses' to prevent, say,

the atmosphere of deep moral dilemma that surrounded the other 'conscience issues'. All we have to prove here is that the moral arguments are strong enough; we do not have to weigh them against the moral claims of the other side!

Leaving aside the Sabbatarian controversy,²⁸ Christians agree that a universal day of rest, one in seven, is part of God's intended 'rhythm of life'; that Sunday should be a day on which worship is encouraged, avoiding additional stumbling blocks in the way of weaker Christians; that work, with allowance for essential services, should be kept to a minimum; and that Sunday remains a precious signpost or pointer to our need to serve God and one another.

Let us take 'family life', as an example of how these Christian concerns come to merge with secular ones. On what is family life based except the concept of 'service', 'faithfulness' and 'love'? And what has sustained and nurtured these concepts, except for our Christian heritage? It is no accident that Sunday is traditionally both the Lord's day and the 'family day'. The two go together, for the family – and the sacrament of marriage – are the most fundamental planks of God's 'arrangement' for mankind. I suppose that it is possible these day even to forget that marriage – 'Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh (Genesis 2 : 24 AV) – is a Judeo-Christian institution in its entirety. We tend to regard it as so obvious and civilised a practice that we are able to forget whence it comes. But the point is not just that marriage is historically bound up with the Christian tradition, but that, now more than ever, the institution of marriage is crying out for those very values which once made it so secure. Sunday is probably the major symbol of our day of the continuing presence within our society of the Christian 'underpinning' of all that we hold dear. People may not flock to the churches as they used to (though fully 20 per cent of those questioned in a recent MORI poll had been to church in the previous month),²⁹ but the fact remains that the vast majority, something like 84 per cent, regard themselves as being

shop workers from being forced to work on Sundays, are notoriously optimistic. It is widely known, for example, that, in spite of the amendment accepted unanimously in Standing Committee that doctors should not be forced against their conscience to assist with abortion operations, obstetricians applying for jobs in most hospitals are nowadays specifically asked in interview whether they are prepared to carry out abortions.

28. For a full and excellent study of the theological issues involved, see Christopher Townsend and Michael Schluter, *Why Keep Sunday Special* (Jubilee Centre Paper No. 5, 87 pages) Cambridge, 1985. ch. 3, passim.
29. Poll cited in the *Financial Times*, 9 April 1985, 'Gardening Tops Sunday Survey'. Furthermore, 'Social Trends' estimates that there are 7.3 million adult members of Christian churches in 1985 (HMSO, 'Social Trends' No. 15, 1985, Table 11.8, p. 163.)

Christians,³⁰ and would certainly look to the Christian faith to provide some measure of understanding, some point of reference, to their busy, apparently haphazard, lives.

It is not only a question of whether one truly wants to deprive society of such a crucial marker of our Christian values and orientation (a great issue of conscience in itself). It is quite as much a matter of preserving one of the *physical* mainstays of family togetherness: the shared day. And here, of course, it is not just the nuclear family that is involved, but also the customary involvement with the extended family group on that day, when *everyone* is free. Needless to say, whether separation (and busyness) is due to shopping or working, there will be repercussions upon children, marital commitment and family relationships of every kind – repercussions that we are all equally qualified to guess at.

The family issue was recently admitted to be a matter of conscience in relation to the Shops Bill, by David Waddington, the Government Minister in charge of the Bill. He

'expressed the personal view that the Party Whips should recognise as valid issues of conscience the sincere beliefs that the effect of the Bill would be harmful to family life and detrimental to the overall quality of national life. He added that it should not be necessary to prove previously held Sabbatarian beliefs, nor to represent a constituency with a majority of electors holding such beliefs, to be counted among Members who oppose the Bill on sincerely held grounds of conscience'.³¹

This may provide a crumb of comfort for some embattled Conservative dissident!

Mr Waddington spoke of things 'detrimental to the overall quality of national life'. Of what, then, does that 'quality' consist? Obviously the family element that we have been considering is part of it, but it goes much further than that. Take 'law and order', for example – something that we are perhaps learning to value more, the less easily we can take it for granted. The powers of penal sanction can only serve to back up something that is already there – ingrained upon the minds and hearts of the majority of the population. Such moral instincts towards law-abidingness, honesty, and so on, that we still have owe their continued strength to Christianity, both in terms of individual

30. According to a poll conducted in 1983 (under the auspices of the Bible Society) 84 per cent of people in England consider themselves to be affiliated to a Christian church. (See Jan Harrison, 'Attitudes to Bible, God, Church' Research Report, The Bible Society, June 1983 p. 9.)

31. Memo: To Pro-Sunday Coalition Members from Alan F. Gibson, General Secretary of the British Evangelical Council, 18 December 1985.

commitment and in terms of the moral norms of society as a whole. As Lord Devlin has put it,

'It seems to me . . . that the free-thinker and non-Christian can accept, without offence to his conviction, the fact that Christian morals are the basis of the criminal law and that he can recognise, also without taking offence, that without the support of the churches the moral order, which has its origin in and takes its strength from Christian beliefs, would collapse'.³²

Such insights have been propounded for centuries. St Augustine once said of the City of God on earth, 'faith once lost, safety cannot possibly but perish also'.³³ In 1675, Chief Justice Hale said: 'To say that religion is a cheat is to dissolve all those obligations whereby civil society is preserved'.³⁴

Legislation cannot produce taboos, but it can surely destroy them or accelerate their destruction at a time when they should be bolstered. Our legal system depends for its very operation on the existence of a common moral allegiance. The oath in the witness box, for example; or the judge passing sentence, conveying society's moral abhorrence towards the deed in question. And if Lord Devlin's warning of moral 'collapse' rings at all true in our present time, then we should surely be all the more careful before deciding to cut into the foundations of any part of that moral order that we so depend on. In other words this is hardly the time to threaten the place of Christianity in our society. And it is hardly 'conservatism'.

Likewise, one of the greatest sources of pride in Britain is our political tradition, and justifiably so. Balfour once wrote that

'Our whole political machinery presupposes a people so fundamentally at one that they can safely afford to bicker; and so sure of their own moderation that they are not dangerously disturbed by the never-ending din of political conflict'.³⁵

If that political machinery seems at times to be under strain, then that must surely be in proportion to the correlative strains upon that 'oneness'. Do we, then, really want further to sacrifice that precious homogeneity (and, make no mistake, the 'British Sunday' is a genuine part of that) and follow other countries down a road which our better instincts should tell us to avoid?

Our political tradition is quite steeped in the nation's religious heritage. The

House of Commons starts with prayers each morning; newly elected MPs make a Christian oath of allegiance although some sort of an 'agnostic statement' is a little-used available alternative; there is a chaplain available and the Commons has its own Parish Church (St Margaret's). Indeed, it is a quaint fact that the chamber is based on the site of St Stephen's Chapel, and that the whole arrangement of benches in the Commons is as it is to represent the original choir stalls. The Speaker sits on the alter steps and *that* is why Members bow towards him on entering the Chamber! There is a great sense of continuity there, with our political manoeuvrings set against the time-honoured authority of the monarch, and all – the monarch included – set in turn under universal values and God. All of which gives an underlying humility to our political proceedings. Not that politicians are unable to be arrogant, but the overall conception of the State is not an arrogant one. The State is there to serve. It has not, in Britain, tended to receive the excessive adulation accorded it by the German Idealists (Hegel *et al.*) and then later by the Facists. And this not least, it would be fair to say, because of that quiet over-arching of our political life by our (quietly) Christian heritage. For if, from time to time, people have needed to turn to a sense of 'otherness', of mystery and depth in our nationhood, it has been there to be found. It did not need to be created or, still less, focused on the State itself.

So we are faced with a question of priorities; the demands of commercial 'progress' (little real prospect though there is for any benefit to be derived for jobs, prices or growth), versus the desire, or should I say 'duty', to preserve that which is good in our social and national life. There is certainly nothing shameful or old-fashioned about legislating in such a way as to preserve a good tradition. We do it constantly, placing preservation orders on historic buildings, safeguarding open spaces such as the great parks from the danger of 'development'. The free exercise of capitalistic enterprise is rightly and necessarily controlled by anti-pollution legislation, the health inspection procedures for food products, medical supervision of pharmaceuticals, monopoly controls, and so on. Even while we have been taking the law out of abortion, censorship and private sexual conduct, we have been bringing it into race discrimination, sex discrimination, drug abuse – and who knows what legislation the Warnock controversy, or even, for that matter, the current AIDS scare, might bring.

There certainly appears to be an element of fashion here. But, more than that, we are faced with a profound question of priorities as we compare commercial considerations with aspects of our national life which touch on our deepest values. It is surely where 'deepest values' emerge that conscience has to be central. Regard for the fundamentals of life and of society takes the place of the endless discussion of *means* to ends. We are obliged to make a demarcation between what is to be changed and what (if anything) is to be preserved, between the freedom of the individual and the requirements of the individual within the social group.

32. Lord Patrick Devlin, 'Morals and the Criminal Law', reprinted in Richard A. Wasserstrom (ed) *Morality and the Law*, Wandsworth Publishing Company, California, 1971, p. 46.

33. Quoted in Friedrich, *op. cit.*, p. 114.

34. Taylor's Case. 1 Vent 293, Quoted in Devlin, *loc. cit.*, p. 34.

35. Earl of Balfour, Introduction to Walter Bagehot, *The English Constitution*, p. xxiv.

Clearly, the Sunday trading issue is one that has to be decided upon on a national level. One cannot dodge the issue by leaving people free to choose for themselves what kind of Sunday they want – working, shopping or resting. For it is the general scale of activity on a Sunday, and the loss of the universal day of rest that would be so pernicious to the 'quality of national life'. If Sunday is to continue by and large to be the free day and the quiet day – the one day that is different – then the requisite legislation, hopefully in a 'tidier' form, will have to continue as well, as indeed it does in almost every European country. Most especially at a time of rapid social and economic change and at a time when many old practices are having to be stripped away in the name of progress we must take care to preserve those things which people rightly value and which are, in the deepest sense, valuable to them. Take care, in other words, not to 'throw away the baby with the bathwater'. And take care, most of all, (to use Sir Bernard's Braine's words)³⁶ not to try to weigh commercial gain with social benefit on the same scales.

36. Spoken, 20 May 1985, during the Commons debate on the Auld Report.



The Jubilee Centre

Basis

To carry out research into contemporary economic and social issues in the light of biblical norms of politics and economics. The Centre is founded on the belief that the Bible is inspired in its entirety by God's Spirit through the human authors, and that it is the revelation of God.

The name Jubilee Centre is derived from the Year of Release proclaimed every fiftieth year in Old Testament Israel, which was one of the main foundations on which Israel's social system was based. The aims are to propose policy alternatives to central government, the business community and the church on the basis of the research findings.

Jubilee Trust is a charitable trust (Reg. No. 288783) and carries out research into biblical teaching on politics and economics.

Jubilee Centre is a non-profit making trust and carries out research into areas of contemporary social policy, and encourages practical action by the Christian community on the basis of its research findings.

Jubilee Centre Publications Ltd. handles the publication and distribution of materials.

The Keep Sunday Special Campaign

The Jubilee Centre has recently been heavily involved in the fight to preserve the special character of Sunday. It has acted as the secretariat of the national campaign.

Council of Reference

The Rt. Hon. Viscount Brentford, Solicitor in London and Member of the House of Lords.
Sir Frederick Catherwood, European M.P. for Cambridgeshire.
Dr. Roy Clements, Pastor of Eden Baptist Church in Cambridge
Dr. Anthony Cramp, Director of Studies in Economics, Emmanuel College, Cambridge

Director: Michael Schluter, Ph.D.

Ways You Can Help

1. To read, discuss and comment on publications from the Centre.
2. To provide financial support for the research and projects the Centre undertakes.
3. If you are doing research yourself, to consider linking in your work in some way with the Jubilee Centre research projects.

Jubilee Centre Papers

1. *Reactivating the Extended Family: From Biblical Norms to Public Policy in Britain.*

The central theme of this paper is the importance and relevance of Old Testament teaching on socio-economic issues to contemporary western societies. A careful examination of the social structure of Old Testament Israel is followed by a discussion of the applicability of these institutions and values to our own society. The conclusions are then considered in specific relation to several areas of British economic and social policy in the 1980s.

2. *Roots and Community: God's Design and Government Policy*

The biblical teaching on land, roots and community is examined, and used to critique the contemporary emphasis on mobility in economic policy. Policies which might reduce levels of mobility are then discussed.

3. *The Christian Case for Family Associations*

This paper describes the mechanisms by which families disintegrate as economic development occurs. It then examines how family associations can help extended families stay together in the Third World, and help to strengthen what remains of them in the West. In the last section, the practical steps to setting up a family association are discussed.

4. *Israel: A Model for Church or Nation?*

Christians today spend little time studying Old Testament teaching. This paper seeks to answer the common objection that Israel's experience is only applicable to the church, and explores principles for applying Old Testament law and historical experience to contemporary nation-states.

5. *Why Keep Sunday Special*

The Government has announced its intention to introduce legislation which removes all restrictions from trading hours, thereby permitting Sunday trading. Is Sunday trading an issue which matters? This booklet argues that it matters profoundly, not just for Christians but for society as a whole. It examines first the biblical case of special interest to Christians. It then puts forward the economic, social, legal and ideological arguments against unrestricted Sunday trading.

6. *Parliamentary Issues of Conscience: the Sunday Trading Dispute*

A new study on the treatment of issues of conscience in Parliament, and on the present Conservative Government's handling of the Sunday trading question. Is the Government justified in placing a 'three-line Whip' on Conservative MPs and can Sunday trading still be regarded as an issue of conscience?

ALSO AVAILABLE.

1. *Why Keep Sunday Special - Summary of Case.*

A concise statement of the case against total deregulation of Sunday trading. Extracted from 'Why Keep Sunday Special', this publication is suitable for more general distribution.

2. *The Case For Maintaining Certain Restrictions on Sunday Trading.*

A detailed, factual and up to date discussion of the various aspects of the argument.

3. *Sunday Trading; How to Tidy up the Law*

Proposals for new legislation, prepared in conjunction with the Keep Sunday Coalition which consists of major retailing, church and union organisations who have combined to endorse this 12 page document.

4. *Fight for Scotland's Sunday*

A publication of 19 pages pinpointing the current and increasing threat to Scotland's Sunday. It coincides with the vital initiative in Scotland to obtain legal protection for Scotland's Sunday.

5. *Video Pack*

An exciting video on the issue of Sunday trading, for use in churches, schools, and other groups. It examines the social and economic consequences of Sunday trading, with reference to Biblical principles, and includes interviews with politicians, churchmen, retailers and shop-workers. The video lasts 20 minutes, and is available in both VHS and Betamax formats. The pack includes notes for the leading of discussion arising out of the video, and examples of materials contained in our 'Media Pack'. It is envisaged that purchasers will hire out their copies, or resell them, in order to recoup some of the cost.

Please write for details, specifying titles you are interested in and giving your name and address, to:

Jubilee Centre Publications Ltd.,
19A Sturton Street,
Cambridge, CB1 2QB.
England.
Tel. Cambridge (0223) 311596

NOTE: Any profits made on publications sold by Jubilee Centre Publications Ltd. are used to finance further research projects by the Jubilee Centre.

"The issue of conscience has always been at the heart of political decision-making. This paper presents the issues as a challenge to the politicians of 1986 at a time when the clash between government policy and individual conscience has never been so clear. Martin Graham's words will, I hope, be taken to heart by many and cause those in power to act according to their own consciences. This booklet should be quickly and widely circulated."

Simon Hughes, M.P.

Member for Southwark and Bermondsey

"A very useful contribution to a major debate raging both inside and outside Parliament, and a timely opinion on the genuinely difficult area of conscience and government."

Alistair Burt, M.P.

Member for Bury North (Conservative)

"Martin Graham in this booklet establishes clearly and cogently that the Government have made a massive misjudgement on the Shops Bill, by challenging deeply held traditional values, and instincts and indeed the consciences of the decent majority. The majority can be persuaded of the need for reform but do not want a free-for-all, nor would MPs if only Parliament were allowed a free vote."

Donald Anderson, M.P.

Member for Swansea East (Labour)

"Sunday is a fundamental issue of conscience and not a matter for party politics, a fact which both the Liberal Party and our SDP partners have recognised. No Member of Parliament, even if he holds Government or Party Office, must allow party considerations to decide on a policy which goes to the heart of our Christian tradition and our national heritage."

Alan Beith, M.P.

Member for Berwick-upon-Tweed (Liberal)

"To legalise free-for-all Sunday trading simply because the *existing* law is in chaos is to do far more than throw out the baby with the bath water. It is to outrage the feelings of millions who want to Keep Sunday a day different from the rest, a quiet day, a day for 'recreation' and family togetherness, a day for corporate worship.

"Such feelings have nothing to do with party politics but everything to do with moral values – the quality of life. For our legislation the issue is essentially one of conscience. As such – in accordance with precedents; it shall be determined by a *free* vote. The Government should think again about imposing a three-line whip."

Rt. Hon. Sir Bernard Braine, D.L., M.P.

Member for Castle Point (Conservative)

One Minute

See page 6 for

"Alternative Forms of Regulation"

g/B/ur

CONFIDENTIAL

Conservative Research Department Brief

*N.C.D.
1.3*

THE SHOPS BILL

hnb

Prepared For:

**information for Members of Parliament
12th February 1986**

<u>Contents</u>	<u>Page</u>
1. Summary of the Argument	1 - 2
2. The Auld Committee Report	2 - 4
a) Social Trends	3
b) Is regulation necessary?	3
c) Types of Regulation	4
3. Enforcement	4 - 5
4. Traditional Character of Sunday	5 - 6
5. Alternative Forms of Regulation	6 - 7
6. Economic Effects of Sunday Opening	7 - 8
7. Protection for Shopworkers	8 - 9
8. Experience Elsewhere	9
9. Conclusion	10
ANNEX	10

Enquiries to: Elizabeth Buchanan

Ref: HA (86) 5R

32, Smith Square, London SW1
01-222 9511

THE SHOPS BILL

1. Summary of the Argument

The law on shop trading hours is in disrepute and is widely defied. It is riddled with anomalies: within retailing as between those items which can and cannot be sold on Sundays; and as between retailing and other commercial activities whose operation on Sundays is not subject to regulation (eg bingo, factories, estate and travel agents and cinemas). There have been 13 Private Member Bills in the past 9 years seeking to reform the law.

In August 1983 a committee under the chairmanship of Mr Robin Auld was asked by the Home Secretary to recommend ways of reforming the Shops Acts. The Committee was set up following the debate on the Private Members' Bill introduced by Mr Ray Whitney in February 1983 to examine the detail of the case made by the proponents of reform and the concerns and criticisms made of their case by opponents of his Bill. The Auld Committee recommended the deregulation of shop trading hours. The present law was manifestly in disrepute and they could find no new, consistent and acceptable form of regulation. They also questioned whether this was a proper area for the intervention of the criminal law. The House of Commons endorsed the broad thrust of the Report in May 1985 by 304 votes to 184.

The Shops Bill follows the main lines of the Auld Committee recommendations. Special provisions are included for the protection of young workers and for existing employees in the retail sector. The proposal is in the mainstream of the Government's programme for increasing individual choice and removing unnecessary State intervention and sits well with Lord Young's initiative 'Lifting the Burden'.

The main arguments for reform are:

- i) **there is no credible alternative form of regulation** which would not put new anomalies in place of the present ones. By way of example of the anomalies in the current law: it is legal to sell gin but not dried milk, a razor blade for cutting corns but not for shaving, cooked or partly cooked but not raw tripe, a leather jacket but only to motorcyclists, fish and chips from any sort of take away other than a fish and chip shop, and a pornographic magazine but not a bible. The recent Jubilee Centre pamphlet on Sunday Trading made clear that it would not be possible to claw back on the right to sell goods which are presently usual. It is simply not possible to find a consistent and generally acceptable principle to underpin a new list of exempted products - thus the list put forward by the Jubilee Centre itself would merely create a new set of anomalies.

-) **The present law is out-dated and unpopular.** There must either be a drive for tougher enforcement which will be difficult given the reluctance of most district councils to enforce such an unpopular measure and with the likelihood of job losses, or the law must be replaced.
- iii) **The demand for flexible hours is already apparent** through the amount of illegal opening which goes on. People are voting with their feet and a recent MORI poll found that 61% of people already do some shopping on Sundays - of these legally open off-licences and newsagents attract 26% of trade but 35% go to 'other' shops most of whom are selling goods illegally.
- iv) **The traditional nature of Sunday is not threatened.** Sunday trading has not been prohibited in Scotland for many years and yet the great majority of Scots continue to enjoy a fairly quiet Sabbath. Less than a fifth of shops in Scotland open regularly on a Sunday.
- v) **The proposals will not force people to do things which they do not wish to do** on Sunday, rather it gives them a choice about how they spend their Sundays;
- vi) **8 million people already work at least occasionally on Sundays, 4 million of them regularly.** Many commercial activities are already largely unregulated on Sundays. Restaurants, factories, garages and travel and estate agents are allowed to open while the criminal law is employed to prevent shops from doing so.
- vii) **Evidence from Sweden and those parts of the United States which have deregulated suggests that small shops need not fear deregulation.** In Sweden which deregulated in 1972 it is estimated by their trade association that deregulation has resulted in there being 1,100 more neighbourhood shops than there would otherwise have been.
- viii) **The growth in the number of single people, working women, and single parent families** since the Shops Act became law means that there are now many more people who find the possibility of doing their shopping outside normal working hours invaluable.
- ix) **Reform of the law commands considerable support from the 'silent majority'.** In December 1984 a MORI poll found 64% in favour of the Auld Committee's recommendations, including 68% of Conservative supporters. In November 1985 60% favoured changing the law including 71% of those under 35 and 71% of full-time workers.

2. The Auld Committee Report

The Auld Committee was appointed to consider changes in the Shops Act: 'having regard to the interests of consumers, employers, and employees and to the traditional character of Sunday'. The Committee received over 300 submissions of evidence and some 7,000 letters from the public.

It undertook its inquiry in two stages: first it considered the inadequacies of the present law and how, if at all, they could be rectified; second it focussed on the wider issue of whether trading hours should be the subject of legal restraint and what the consequences might be of sweeping such restrictions aside.

a) **Social Trends:** The Committee noted the major changes which have occurred in retailing since the Shops Act became law in 1950 against a background of residual rationing. There has been a vast increase in the range of goods available in most shops; mixed retailing is much more common than 30 years ago (making it more difficult to operate a law based on lists of items which it is legal or illegal to sell on Sundays); chain stores have become more important so as to account for 49% of retail employment; and shopping has become much more leisure orientated as evidenced by the growth of DIY stores and garden centres. With regard to the retail workforce, 40% now work part-time, and some two-thirds are women.

Customers needs have changed too: in 1951 only 24% of all married women below pensionable age worked full or part-time, by 1981 this figure had risen to 57%. In households where both partners work the restrictions on shop hours can be highly inconvenient. The same problem arises for a single, separated, divorced or widowed person who works full time. 8% of all households now consist of single people below pensionable age - double the number of 20 years ago.

b) **Is regulation necessary?** The Committee considered whether the need to protect any particular concept or group justified the continuation of regulation:

i) Traditional Character of Sunday: The special character of Sunday varies according to the family circumstances and tastes of each individual. Some people find Sundays to be oppressive and lonely. The Committee concluded that it is wrong to legislate to impose the views of some people on how Sunday should be spent on all their fellow citizens;

ii) Retailers: The Committee accepted that some small shops and the weaker units among the multiples might lose out from sharpened competition, but felt that many of these shops were under threat anyway through market trends. Such extra risk as attached to these shops from deregulation was not such as to justify special protection against competition or to prevent an extension of Sunday Trading;

iii) Shopworkers: Those retailers who presently trade on Sundays in England or Scotland seem to have little difficulty in finding staff willing to work. The Committee accepted that a risk existed of reluctant shopworkers being pressured into working on Sunday.

Nevertheless this was not thought an adequate reason to retain the full panoply of controls and restrictions on opening: some might welcome the opportunity of Sunday working.

iv) Shoppers: The Committee concluded that the present laws were not in the interests of consumer choice. They also noted the Institute for Fiscal Studies' estimate that deregulation would result in sharper competition and probably a fall of 0.4% overtime in the RPI through increased efficiency;

c) Types of Regulation: Notwithstanding their conclusion that no group's need, or perceived need, for protection was sufficient to justify the continuing intervention of the criminal law, the Committee also considered less stringent forms of regulation. These included revision of the schedules of exempt goods, exemptions by type or size of shop, by area, or for periods of the year. They considered too proposals to limit the number of hours for which a shop might open in total in the week or on Sundays, or for making shop hours a matter for local decision. But the Committee concluded that 'none of the suggestions for reform, short of the complete abolition of restrictions would work. None of them would work because they would not form the basis of a fair, simple and readily enforceable system of regulation'.

The Committee's judgement would seem to have been vindicated by the Jubilee Centre's recent pamphlet which proposes that the present lists of permitted and prohibited goods should be updated. Sweets would be legal but fruit and fresh vegetables would be illegal unless sold by a shop employing less than 5 people; the sale of books would still be banned; and while it would be alright to buy bulbs and seeds gardeners would be prohibited from buying compost or fertiliser.

Alternative forms of regulation are considered in greater detail below (see section 5).

3. Enforcement

The present law is inconsistent and unpopular. It is widely flouted. The DIY trade federation, for example, estimate that some 17-20% of their sales are made on Sundays. Because of its unpopularity local authorities are reluctant to enforce the law. Nevertheless 720 defendants were successfully prosecuted for illegal Sunday Trading in 1984 - up by 330% since 1980. The present situation cannot continue, either the law must be fully enforced - unpopular though that may be - or new, consistent and widely-supported legislation must be put in its place.

Enforcement of the law falls to district councils. The Association of District Councils originally supported reform of the law by the elimination of anomalies. It has since reconsidered, and has come to the conclusion that the

removal of existing anomalies could easily lead to new ones. Since the Association recognised that imposing a full ban on Sunday trading would not find favour, the only satisfactory solution is to remove the restrictions. Thus those responsible for enforcing the law have reached a conclusion similar to the one in the Auld Report.

4. Traditional Character of Sunday

In their evidence to the Auld Committee the Churches made clear that their objection to liberalisation lay in their desire to ensure that Sunday remains a special day which breaks up the rhythm of life - rather than in theology. Only 10% of the population go to church regularly. Apart from strict Sabbatarians, the Churches do not object to the general extension of leisure activities which has taken place on Sundays. However, as the Auld Committee noted: 'the Churches do not flinch from saying that even if most people are in favour of working in shops and of shopping on Sundays they should be protected against themselves by law'.

The experience of Sunday trading in Scotland, shows that a liberal regime has not had an adverse effect on the quality of Sundays. Surveys in England suggest that for most of the year only some 20% of shops seem likely to take advantage of a relaxation in the law. In a survey in May 1981 MORI found that 84% of the respondents they interviewed in Scotland were opposed to any new and restrictive legislation.

Many people already work on Sundays. A recent study by professional economists has shown that 8.8 million people work at least occasionally on Sundays - 4.1 million of them regularly. Why should shopkeepers and shopworkers be denied the opportunity to do as many other sections of the community do on Sundays? The logic of the argument against Sunday trading would lead to new legislation to close restaurants and garages on Sundays.

The debate about preserving the 'traditional Sunday' has tended to be based on a rather idealised view of the way in which many people spend their Sundays. Some, particularly those living alone, find Sundays cheerless and lonely. Can it really be right for the full weight of the law to be deployed to say: first, that it is wrong for shopkeepers to open on a Sunday if they want to and there is a demand for them to do so, and second that those who want occasionally to shop on Sunday must not be allowed that opportunity?

It is argued that Sunday shopping will split up families on Sundays. Certainly more people are likely to undertake Sunday work but some of these may be single and in other cases it will offer the opportunity for a spouse to undertake some part-time work if they so wish while their partner looks after the family - if that is how families wish to order their affairs is it really right for the law to intervene? On the other hand Sunday opening may bring some families together. Because of the crush in the shops on Saturdays important purchases, in which the whole family

may have an interest, are often rushed and are less fun than they might be; shopping is an important leisure activity and the whole family may occasionally wish to go out together in a more relaxed atmosphere on a Sunday.

5. Alternative Forms of Regulation

There is now a consensus that the present law is in need of reform. Many people accept the logic of the Government's case but look for a middle way between the present position and substantial deregulation. This is an area (as noted above) which was closely studied by the Auld Committee but they could find no consistent principle on which to base a new form of regulation that would avoid putting a new muddle in place of the existing anomalies. The major drawbacks of the various 'compromise' proposals are listed below:

i) The Local Option would leave the decision to each district council. This has a number of weaknesses:

- What principle would councils use to govern their interventions; is it reasonable to expect them to discover a consistent and enforceable basis for regulation when this has eluded the Auld Committee and the Government?
- How would each district council weigh up the conflicting views of various local interest groups, would the anti-competitive instincts of some local traders prevail over the consumer interest?
- Many district councils do not want this responsibility because of the difficulties of enforcement and because of the substantial costs which a new structure for regulation could involve.
- It would be highly unfair to a local trader in a council area which prohibited Sunday Trading when his competitor just over the local authority boundary could open unhampered and poach his business.

ii) Regulation by size of shop: This could be done on the basis of the number of people employed by a shop or on the basis of floor-space or even on the basis of turnover with only smaller shops being allowed to open.

- Any cut-off levels would be arbitrary - why should a difference in floor-space of 10", or between having 5 and 6 employees make the world of difference?
- Would it be right to penalise a shop for being more successful and taking on more staff or to give it an incentive to sack staff in order to open on a Sunday?

- The burden of enforcement would be considerable with regular checks having to be made on staff numbers and on whether partitions had been moved so as to change the floor-space.
- Garden centres and do-it-yourself shops are amongst the trading activities for which there is the greatest demand on Sunday, but most of these would fall foul of such discriminatory restrictions.

iii) Regulation based on new lists of goods which may be sold on Sundays

- What principle decrees that selling one type of good on a Sunday is right while selling another type of produce is so wrong as to be prohibited by the criminal law?
- The enforcement difficulties are considerable where the shops which are open on a Sunday sell a mixture of goods, some prohibited and others allowed, or in self-service stores.
- Anomalies would emerge very quickly.

iv) Shops should be allowed to open for only part of Sunday

- why would it be right to open in the afternoon and wrong in the morning or vice versa when many other activities are not so restricted?
- if opening were restricted to mornings then it might adversely affect church attendance; if it were confined to afternoons then Sunday newspapers would have to wait until afternoon to be sold and read. If a special concession were made for newsagents only, would they also be able to sell the other goods which they stock - which leads once again into problems of anomalies and enforceability?

6. Economic Effects of Sunday Opening

The Institute for Fiscal Studies were commissioned to produce a study on the likely economic effects of reforming the law for the Auld Committee. They reached two conclusions:

- the sharpening of competition arising from deregulation should yield efficiency gains equivalent to an overall 0.4% reduction in the RPI overtime.
- there would be a slight initial increase in the numbers employed in retailing of some 5,000, but while there would be an increase in the number of part-timers the overall effect would be equivalent to a reduction

of 5,000 full-time jobs. In the longer term the IFS predicted that a further 15,000 full-time job equivalents would be lost. This compares with the 2.2 million people currently employed in retailing.

While the economic effects are unlikely to be sufficiently dramatic as to determine the issue there are good reasons to believe that the IFS's predictions on employment are over-pessimistic in that their model was predicated on the assumption of no overall increase in retail sales - ie six days business spaced over seven days. It was also based, for want of information, on the erroneous assumption that no trading was already going on on Sundays. As 'The Economist' of 24 November 1984 pointed out, the IFS estimated that 12,000 of the 20,000 lost jobs would be in the do-it-yourself sector and yet DIY is one of the sectors where Sunday trading is already highly developed. The IFS ignored possible diversion from other leisure activities into retailing and the potential for increased trade from tourists and for increased employment in related fields such as catering and transport.

Opponents of the Bill have suggested that increased Sunday trading will cost local authorities considerable sums to pay for more trading inspectors and street cleansing services. However this suggestion was considered by the Auld Committee who took the view that the amounts concerned were unlikely to be large. The amounts involved are impossible to estimate exactly because the amount of Sunday trading which will spring up is unknown. However, if a new form of regulation were to be introduced or the present law were to be adequately enforced this too would involve a burden on local councils.

7. Protection for Shopworkers

A number of groups have stressed the need to ensure that deregulation does not lead to undue pressure upon shopworkers to work on Sundays against their will. The Government naturally shares this concern. Accordingly, the new Bill contains proposals which will guarantee that existing shop workers cannot be obliged to work on a Sunday. This protection is not subject to their having a religious objection to so doing. In addition protection will be retained for employers governing their hours of work, permitted over-time and meal breaks.

Following the Auld Committee's recommendations the Government has accepted that Wages Councils should be retained, albeit in a simplified form, for the retail sector. The Government has concluded, after consultation, that the present system imposes unacceptable burdens on employers and inhibits the growth of employment. Accordingly, legislation will be introduced to limit Wages Council's powers to the setting of a minimum hourly rate and a single over-time rate for those aged 21 and over. It is not intended that they should continue to set premium rates.

In fact evidence from those stores which open illegally on Sunday in England and legally in Scotland suggests that in the great majority of cases retailers do not encounter difficulties in finding volunteers for Sunday work. The following accounts of their experience have been submitted to the Home Office.

B and Q - DIY Retailers - ration Sunday working because there are more than enough volunteers from full-time workers. One Sunday in three is worked. 29 stores in Scotland employ 524 Sunday-only workers.

Sharpe and Fisher all Sunday working is on a voluntary basis and needs to be rationed because of the numbers of people wanting to work on that day.

Homebase (Sainsbury House and Garden) have no problem in obtaining staff to work on Sunday: full-time staff work one Sunday in three as part of a five day rota.

Habitat/Mothercare in Scotland pay premium rates and offer staff a 9 day fortnight including a 3 day break every second weekend. This system guarantees full-time shopworkers a full weekend with their family every fortnight - at present their counterparts in England do not enjoy such a concession because they are expected to work every Saturday.

8. Experience Elsewhere

It would be wrong to put too much weight upon the experience of deregulation in other countries. Differing traditions and the different distribution of population may make such comparisons inapplicable. However, there is now 7 day trading in the majority of states in the United States. In Sweden there has been minimal or no control on business hours since 1972. Mr Nils Naslund of the Swedish Food Retailers Association believes that 'free hours have proved a competitive tool for the small retailer'. From the Swedish Retail Federation, Mr Ernst Holm has commented 'if it were not for Sunday trading, 1,100 small shops would not be open today'.

In Scotland, as previously noted, there has been no statutory prohibition on Sunday opening for many years. This has not led to substantial Sunday opening - outside of the Christmas period only about 15-20% of shops choose to open regularly.

There is pressure building up in Canada, Australia and in other European countries for the law to be relaxed. In Norway where the Government moved to change the law but was diverted into a fudge, the new law is regarded as unsatisfactory by traders, consumers and the Government alike and some illegal trading is continuing.

Conclusion

To save the law from abuse, to reduce unnecessary State intervention, to extend individual choice and to meet public opinion, the Government is bringing legislation for the deregulation of shop hours before Parliament. The Auld Committee considered the issues and the practicality of alternative forms of regulation but made clear that deregulation is the only sensible way forward. The Prime Minister has written: 'The Government believes that shopkeepers should be free to choose when to open their shops. We recognise that many people on grounds of conscience will not want to shop or to open their shops on Sundays and believe firmly that they, too, should be free to choose in this way'. (12 December 1985, letter to the Bishop of Worcester).

The Home Secretary has written: 'The Government and Parliament have a duty to listen carefully to the conscientious objections of those who think that our proposals are wrong. We also have a duty to the country to propose legislation which will have the support of the majority and be enforceable. I respect the misgivings of those who believe it is wrong for the shops to open on Sundays, but I cannot accept that this view should be reflected in a prohibition on Sunday opening. If Sunday is to remain special, as I believe it should and will, it will be because society wants it to be and not because Parliament and the courts say it has to be'. ('The Church Times', 9 January 1986.

ESCB/LCH

ANNEX I

If the law were being properly enforced it should generally be impossible to buy the following goods on a Sunday:

- a. Any unprepared or uncooked food (except fruit and vegetables), confectionary, partly-cooked tripe and after 10 a.m. bread, flour, fish and groceries;
- b. DIY goods;
- c. plants, material and equipment for the garden;
- d. electrical goods and video hire;
- e. furniture, carpets and antiques;
- f. books, stationery and records (except at airports and stations);
- g. clothes;
- h. toiletries and cosmetics.

There are exceptions to this for up to 18 Sundays in the year for holidays and tourist centres for a limited range of goods and for traders who observe the Jewish Sabbath.

PART 1 ends:-

SS(DT) to PG 16.12.86.

PART 2 begins:-

Conservative Research Dept Brief 12.2.86.