



Prime Minister 2

The Home Secretary proposes to use the second reading debate on Lady Trimmington's Bill to announce the Government's position on the repeal of restrictions on trading hours.

QUEEN ANNE'S GATE LONDON SW1H 9AT

He also proposes to make a written statement the same day reporting the results of the Home Office review of this subject. The text of this is at A.

CPSR 1/12

Dear George

28 November 1981.

MS

Home Affairs

You will recall that, at the beginning of last year, you wrote to me about the representations made to you by the Convention of Scottish Local Authorities for the repeal of sections 1 and 2 of the Shops Act 1950. You suggested that we should give some thought to dismantling these controls and that, because any legislation in this area is likely to prove controversial, one possibility might be to encourage a Private Member's Bill with Government assistance.

Since then, after review of these, and the more controversial Sunday trading provisions - which do not apply to Scotland - and of social attitudes to them, my officials have prepared a report, a summary of which is attached. (Copies of the full report have been sent to your officials.) The review does not go into the economic implications. The conclusions reached are:

- (a) a Government initiative to repeal the shops legislation - although perhaps in principle the only really defensible course - would be controversial, a burden on resources and unlikely to produce results commensurate with the effort involved;
- (b) legislation to repeal the weekday restrictions might be acceptable (though still a burden on resources) but this is not a major source of complaint and of little benefit in isolation;
- (c) amendment, as opposed to repeal, of the Sunday trading provisions would encounter deep divisions of opinion;
- (d) the only practical course would be to leave the law in its present unsatisfactory state.

Since then, the C.P.R.S., following a discussion in MISC 14, has undertaken a preliminary examination of the economic implications of repealing all the restrictions on trading hours. This suggests that it is possible that some benefits (at present unquantified) would accrue to the national economy. I understand that C.P.R.S. propose to put a paper to MISC 14 suggesting that this subject should be studied further with a view to quantifying the benefits which are likely to be achieved.

Until the result of any study of the kind C.P.R.S. propose is known I can see no case for the Government to set any other work in hand or to undertake to legislate in any way in this very controversial

/field

The Rt. Hon. George Younger, T.D., D.L., M.P.

These
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... field. My officials' review, however, makes clear how unsatisfactory the present position is and how little justification there is for the present law. I also believe that this is a subject on which public opinion is shifting and that there is increasing support for bringing these controls to an end. The introduction by Baroness Trumpington of her Shops Bill (copy enclosed) which seeks to repeal all restrictions on shopping hours, now provides an opportunity to state the Government's opinion and to test Parliamentary attitudes to the only proposal which can most readily be defended.

Now that we have the opportunity, I think the right course will be for us to appear more sympathetic, than we might otherwise have been able to be, to the proposition that the restrictions on trading hours should be abolished, particularly if in due course the economic benefits become more apparent.

... You will see from the enclosed draft of a memorandum I shall be putting to Legislation Committee - which was to have been considered by them before this letter could be sent and will now need some amendments - that I propose

- (a) that the Government should not seek to impede the Bill's progress in either House; and
- (b) that the Government spokesman should announce the conclusions of my Department's review in the course of the debate on Second Reading.

There has also been a good deal of interest in that review in the House of Commons and it seems appropriate that we should announce the conclusions on the same day in that House by means of a written answer to an inspired question.

Accordingly I should be grateful if you and our colleagues to whom I am sending a copy of this letter would:

- (a) confirm that you are in agreement with the line proposed in the preceding paragraph; and
- (b) let me have any comments on the enclosed draft of a question and answer for the Commons statement.

I am sending a copy of this letter to the Prime Minister, our colleagues on H Committee, to Geoffrey Howe, John Biffen, Peter Walker, Sir Robert Armstrong and Mr. Ibbs. If I do not receive any comments by 7th December I shall assume that you and our colleagues are content with what I propose.

Yours truly
William

SUMMARY OF REPORT OF REVIEW OF RESTRICTIONS ON SHOPPING HOURS AND SUNDAY TRADING

Background to Review

At the beginning of 1980, the Secretary of State for Scotland wrote to the Home Secretary proposing that:

- (a) the provisions of the Shops Acts 1950 and 1965 relating to early closing days and fixed terminal hours on weekdays should be repealed;
- (b) consideration should be given to dismantling entirely the controls on shopping hours; and
- (c) any proposals for legislation should be effected by offering Government support to a Private Member willing to sponsor a Bill.

Background to Law and attempts to amend it

2. The Shops Act 1950, which consolidated several pre-war statutes enacted between 1911 and 1936, is divided into 5 parts.

PART I HOURS OF CLOSING : This lays down a general closing hour weekdays of 8 pm (9 pm on one late day). It also provides for shops to close on one afternoon each week (under the Shops Act 1965 the shopkeeper may decide for himself which day this shall be);

PART II CONDITIONS OF EMPLOYMENT : This provides for a weekly half-holiday, meal breaks and time off in lieu of Sunday employment for adult shop assistants. There are also sundry provisions to protect the employment of persons under the age of 18;

PART III MODIFICATION OF PARTS I AND II : This provides certain exemptions for holiday resorts, exhibitions, post offices etc;

PART IV SUNDAY TRADING : This provides for the closing of shops on Sundays, with certain exemptions. There are special provisions for Jews and others who observe the Jewish sabbath; provided that they close on Saturday they may trade on Sunday mornings. Except for the trades of barbers and hairdressers, this Part does not to Scotland.

3. For many years it has been recognised, from judicial decisions and its practical operation that the provisions of the shops legislation are anomalous and do not correspond to modern patterns of living. But, on the other hand, many sections of the retail trade and the shop workers union have held strongly to the view that any modification of the legislation would not be in the public interest. This conflict has frustrated all the attempts which have been made to reform this legislation.

4. The first attempt was made in 1957 when the Government introduced a Bill based on the recommendations of the first interim report (published 1947) of the Gowers Committee of Enquiry on the working of the Shops Acts. This 76-clause Bill was designed to eradicate the anomalies of the legislation but maintained a rigid framework of control. The Bill was introduced in the House of Lords but excited so much opposition from the supporters of the retail trade and the Union of Shop, Distributive and Allied Workers (USDAW) that, when it was brought to the House of Commons late in the session the Government decided not to proceed with it.

5. The next attempt was made in 1965 when the Home Office and Scottish Home and Health Department circulated proposals based on consultations with interested bodies and on the recommendations of the Departmental Committee on the law on Sunday Observance (the Crathorne Committee) (Cmnd 2528). The paper proposed to bring under control all forms of retail trading, to maintain and limit further weekday closing hours and to maintain the general prohibition on Sunday trading. However the exemptions proposed were very much broader based and they would confer upon local authorities powers to permit individuals to trade for longer hours and to authorise rota schemes amongst groups of traders.

6. Over 100 organisations responded to this consultation paper. Whilst the local authorities and certain trade organisations gave the proposals their qualified approval, the bulk of the trade and USDAW were resolutely opposed to any extension of Sunday trading and the Government decided that there was insufficient consensus to prepare legislation based on them. At the end of 1967 the Government agreed that a Bill on Sunday trading based on the Crathorne recommendations should be prepared for introduction by a Private Member. This was duly introduced in 1965 by Lord Derwent, the then President of the Institute of Shops, Health and Safety Acts Administration (ISHSAA). The Bill completed all its stages in the House of Lords but failed to make any progress in the Commons.

7. Since 1965 there have been several attempts by Private Members and Peers to amend the law but none has been successful, and successive Governments have taken a neutral line in relation to them. The latest major attempt was earlier this year when Sir Anthony Meyer introduced a Bill sponsored by the Consumers' Association. This sought:

- (a) to empower each local authority to make an order - after consultation with shopkeepers and the representatives of shop assistants and consumers in an area - exempting shops from the restrictions imposed by the 1950 Act on weekday trading hours or Sunday trading (or both);
- (b) to standardise and extend the range of goods which may be sold during the week when shops must be closed, and on Sundays; and
- (c) to limit the hours of work of most persons employed in shops to 40 hours a week.

After a lengthy Second Reading debate on 20 February, where the opposition was led by spokesmen for USDAW and the retail trade, the Bill was talked out although in a division for the closure 48 members voted in favour and only 29 against. The significant feature of the debate was that almost everyone, including those opposed to the Bill, recognised that the law as it stands at present is anomalous, that in many areas it is unenforceable and in need of change. At the same time, the spokesmen for the shop workers and the retail trade provided a strong indication that there is still lacking any kind of agreement on what needs to be done to replace the present statutory provisions.

8. On 20 May the House of Lords debated the shops legislation on a motion tabled by Baroness Trumpington. The views expressed in this debate were generally in favour of change but the speech of Lord Jacques, a member of the Retail Consortium indicated the strong reservations of the retail trade and shopworkers. Lord Mancroft who had (as Minister of State at the Home Office) piloted the abortive 1956 Bill through the House of Lords stressed the difficulties involved in legislating to amend the law.

9. On 7 July, on a motion under the Ten Minute Rule procedure, Mr Nicholas Lyal sought leave successfully to introduce a Bill to permit the sale of garden supplies on Sundays. But this Bill was blocked when it came up for Second Reading on 11 July.

Current Attitudes

10. During the review we have had informal discussions with a number of interested bodies. There would seem to be 7 interest groups, 3 of which are opposed and 4 of which would welcome some changes.

OPPOSED

These are the bulk of the retail trade, USDAW and the Lord's Day Observance Society. Their opposition is directed mainly against an extension of Sunday trading and may be summarised as follows:

- (a) Any extension of Sunday trading is likely to lead to increased overheads for the retailer and, as the sale of goods is unlikely to increase, to higher prices for the consumer;
- (b) By depriving many people, shopkeepers, sales assistants and others of a common day's relaxation, it would be injurious to family and social life;
- (c) People living in the immediate vicinity of shopping areas would be deprived of their one day's peace.

FOR CHANGE

This group comprises sections of the retail trade, (especially proprietors of garden centres, do-it-yourself shops and other shopkeepers who open for long hours - mainly from the Asian and other ethnic minorities), the consumer lobby, the tourist authorities and local authorities who argue:

- (a) The law does not correspond to changes which have taken place in the pattern of society, it is anomalous, difficult to understand and to enforce;
- (b) Shopkeepers who at present open in contravention of the law perform a useful service to the community and they should be able to do so without continual threat of prosecution, and
- (c) Sunday trading would give many families an opportunity to participate in the choice of larger consumer purchases, eg cars, furniture;
- (d) The shops legislation on trading hours was originally introduced to protect shop assistants from exploitation and shopkeepers from being compelled by competition to keep their shops open for excessively long hours - at a time when assistants were

working up to 70 or even 100 hours a week and shops were staying open until 11 pm or later. Social conditions are now vastly different and with the assistance of wage councils and joint negotiating councils for different retail trades, it is no longer necessary to provide this kind of statutory protection.

11. In addition to the trade and other representations which have been received there have been a dozen or so parliamentary questions during 1980 and 1981 and a steady stream of correspondence from MPs almost all of whom advocate reform of the law on Sunday trading.

Conclusions and Recommendations

12. All concerned with the shops legislation are agreed that it is unsatisfactory. The anomalies it contains have become a figure of fun and because it is not strictly enforced the law is generally discredited. If it were strictly enforced, the clamour for reform would undoubtedly be even greater than it is at present. The question to be resolved is whether the Government should continue to adopt a neutral attitude to the subject, or whether a further attempt should be made to reform the law.

13. There would appear to be four options open to the Government:

- (a) repeal of the 1950 Act;
- (b) to confine amendment to the weekday trading provisions;
- (c) to "rationalise" the Sunday trading provisions so as to eliminate the more obvious anomalies (in addition to (b)); or
- (d) to do nothing.

14. The wholesale repeal of the Act would seem to be too controversial unless it were preceded by full public examination and discussion, and it might well lead to a demand for a Royal Commission or Departmental Committee of Enquiry. There are no ready resources to undertake any of these commitments.

15. There are reasonable grounds to suppose that a Bill to repeal the weekday trading restrictions would stand a good chance of success. But these restrictions are not generally a cause for complaint and it is arguable whether the effort could be justified unless it were linked with some rationalisation of the Sunday trading restrictions.

16. With regard to the rationalisation of the Sunday trading restrictions, the question which needs to be answered is whether there is a reasonable prospect of achieving sufficient agreement among the local authorities, the consumers, the retail trade and USDAW to ensure that a substantial Bill would stand a good chance of making progress. The present evidence suggests that although both the retail trade and USDAW would be prepared to participate in formal discussions, it is unlikely that they would be prepared to agree to proposals other than those of a limited nature aimed at eliminating the more glaring anomalies in the present restrictions. It is doubtful whether this would satisfy those who advocate major reforms and whether, at the end of the day, it would provide a revision which would command public support and be enforceable by the local authorities. This lesser undertaking would also be time-consuming and make demands on resources not presently available or easily found.

17. Given the objections to the options for the repeal or the amendment of the legislation, it would seem there is a case for leaving it in its present form. An announcement to this effect would undoubtedly be criticised widely by the advocates for change and by the local authorities who have the statutory task of enforcing the law, but it could be justified on the grounds that the recent parliamentary discussion of the law has demonstrated amply that there are no signs of consensus on how the law should be reformed.

18. To summarise the conclusions, total repeal of the shops legislation would seem to be too controversial unless it were preceded by full public examination and discussion - and the resources are not available. The abolition of the restrictions on weekday trading would seem to be achievable - again given the resources - but since these do not give rise to complaint, it does not seem worthwhile in isolation from the proposal to rationalise the Sunday trading restrictions and there is little prospect - on the current assessment of the attitudes of the retail trade and USDAW - of securing sufficient agreement for a substantial amendment of the law. In all the circumstances, it is recommended that no action should be taken at this stage to amend the legislation.

REVIEW OF SHOPS LEGISLATIONDraft Question

To ask the Secretary of State for the Home Department whether he has any proposals to relax the restraints which the Shops Act 1950 imposes upon shopping hours, including Sunday trading, and whether he will now make a statement.

Draft Answer

The Government accepts that the shops legislation is unsatisfactory and does not correspond to modern patterns of living. I have accordingly sought to assess whether, in the light of the past unsuccessful attempts to amend the law and of present attitudes, sufficient agreement exists on which to base proposals for new legislation. Having studied the history of unsuccessful attempts, including the debate on 20 February on the second reading of the Bill presented by my hon. Friend the Member for West Flint, to amend the legislation in the light of the Gowers Report of 1947 and the Report in 1964 of the Crathorne Committee on the Law on Sunday Observance, I am of the opinion that there is not at present a sufficient basis of agreement between the various interests concerned for the Government to seek to introduce legislation on this subject at the present time. By⁵ my noble Friend, the Baroness Trumpington has introduced a Bill in another Place which seeks to repeal the legislative restrictions on shopping hours. The Government can find no ground of principle for opposing such a measure and proposes to maintain an attitude of benevolent neutrality during the proceedings on this Bill which will provide a further opportunity for Parliament to express its views on this subject.



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L(81)
December 1981

Copy No.

CABINET
LEGISLATION COMMITTEE
SHOPS BILL

Memorandum by the Secretary of State for the Home Department.

1. This Bill, which has been introduced by Baroness Trumpington, seeks to remove the restrictions on the opening hours of shops.

What the Bill does

2. The Bill seeks the repeal of the Shops Acts 1950-1965 other than the provisions which relate to the conditions of employment of shop assistants. If the Bill is enacted shop keepers will be able to choose for themselves when to open, both on weekdays and on Sundays. The Bill applies to Great Britain; the Sunday trading provisions of the Shops Act 1950 do not however apply to Scotland (except in relation to the trades of barber and hairdresser). Some minor technical amendments would be needed before the Bill could be allowed to become law.

Background

3. During the past two years, following a request made to me by the Secretary of State for Scotland, officials of my Department have conducted an examination of the restrictions which the Shops Act place on the opening hours of shops. The review has produced no reason why the Government should oppose this Bill and some arguments in favour of supporting it.

4. Since completion of my officials' review the CPRS has conducted a preliminary examination of the economic implications of removing the restrictions on trading hours. This has revealed that it is likely that some benefits (at present unquantified) would accrue to the national economy. I understand that CPRS propose to put a paper to MISC 14 suggesting that this subject should be studied further with a view to quantifying the benefits which are likely to be achieved.

Attitudes to the Bill

5. The Bill is likely to receive support from peers representing the interests of the consumer associations and tourism, and opposition from those representing the retail trade and the shop workers' unions. The local authority associations have lobbied in favour of reform of the law but not for outright repeal.

Financial and manpower effects

6. The Bill would have negligible financial and manpower effects for Central Government, but there would be a marginal saving in local authority manpower and costs in enforcing the shops legislation.

EC Implications

7. There are no EC implications in the Bill.

The Government's attitude

8. [The reform of the shops legislation has not been considered by Ministers collectively during the present administration.]

An undertaking has however been given to announce the Government's intentions on reform of the law following the

completion of my Department's review. [I am circulating
the Report to H Committee ^{of the review} and subject to the views of that
Committee, the Second Reading debate will provide an opportunity
to announce the conclusions of ^{the review} ~~my Department's~~ review.]

9. The Bill goes further than the Government could itself reasonably propose on the basis of the Home Office review, but there is no reason for the Government to impede its progress in the House of Lords. It is however likely that it will be blocked by a back bencher in the House of Commons.

Conclusions

10. Accordingly, I invite the Committee to agree that no obstacle should be placed in the way of this Bill in either House.

A
B I L L

INTITULED

An Act to give freedom to shops to open at such time as A.D. 1981 they think fit by repealing certain parts of the Shops Act 1950 and for purposes connected therewith.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

5 **1.**—(1) Parts I, III and IV of the Shops Act 1950 and section 70 Repeals. of that Act are hereby repealed.

(2) The Shops (Airports) Act 1962 and the Shops (Early 1962 c.35. Closing Days) Act 1965 are hereby repealed. 1965 c.35.

10 **2.**—(1) This Act may be cited as the Shops Act 1981 and this Short title, Act and the Shops Act 1950 (as amended by this Act) may be commence- cited together as the Shops Acts 1950 and 1981. ment and extent.

(2) This Act shall come into operation at the expiration of a period of one month beginning with the date on which it is passed.

15 **(3)** This Act shall not extend to Northern Ireland.

(11)

48/3

Shops [H.L.]

A
B I L L

INTITULED

An Act to give freedom to shops to open at such time as they think fit by repealing certain parts of the Shops Act 1950 and for purposes connected therewith.

The Baroness Trumpington

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