OVO

From: THE PRIVATE SECRETARY

eB/

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

CC NO

1) Mr Flesher
2) Prime Minister (2)

1 November 1984

To be aware. Publication will probably be in mid-November. DWB 1/11

Dear Janet,

MS

SHOPS LEGISLATION: COMMITTEE OF INQUIRY INTO PROPOSALS TO AMEND THE SHOPS ACT

The Home Secretary has now received the report of this Committee. He confirmed this in reply to a Parliamentary Question by Michael Grylls, M.P., and also announced that he will publish it as soon as possible. I enclose a duplicated copy with its accompanying review by the Institute of Fiscal Studies.

will request if required.

The Committee recommends the abolition of all restrictions on late night and Sunday opening. It also recommends the abolition of restrictions on the employment of shop workers but urges retention of Wages Councils in the retail trade. It is suggested that there would be a penalty in respect of small shops and employment if the proposals are implemented. This obviously makes the report very sensitive. It will be particularly important that the report is seen in its full context and that premature leaks before publication do not set matters off on the wrong foot.

The Home Secretary proposes, therefore, to limit circulation of copies at this stage to the Lord President and to those colleagues who are most directly concerned, i.e. the Chancellor of the Exchequer, the Secretaries of State for Wales, Employment and Trade & Industry, and the Minister for Agriculture, Fisheries and Food to observe security, and I have written to their Private Secretaries accordingly. Shortly before publication the Home Secretary proposes to circulate the report more widely to colleagues - who will, of course, be consulted on the action it is proposed to take on its recommendations.

Copies of this letter and of the report go to David Barclay (No 10) for information.

Yours ever,

Hugh Taylor

H H TAYLOR

Miss Janet Lewis-Jones

* This was, I assume, a deal to buy off USDAW

Ar.

Covering Letter:-
Home Office to LPC's office 1/11
In Box 2/11

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Return to CF.

THE SHOPS ACTS

LATE-NIGHT AND SUNDAY OPENING

REPORT OF THE COMMITTEE OF INQUIRY INTO
PROPOSALS TO AMEND THE SHOPS ACTS

MEMBERS OF THE COMMITTEE OF INQUIRY

Mr Robin Auld, Q.C.

Mrs Liliana Archibald

Miss Frances Cairncross

Secretary: Mrs Elizabeth J. Grimsey

Assistant Secretary: Mr Ian W. Jardine

To The Rt Hon Leon Brittan QC, Secretary of State for the Home Department

On 11 August 1983 you appointed us to inquire into proposals to amend the Shops Acts, in accordance with the following terms of reference:

> "To consider what changes are needed in the Shops Acts, having regard to the interests of consumers, employers and employees and to the traditional character of Sunday, and to make recommendations as to how these should be achieved."

We have completed our Inquiry and now have ~~to~~ the honour to submit our Report.

ROBIN AULD (Chairman)

LILIANA ARCHIBALD

FRANCES CAIRNCROSS

ELIZABETH GRIMSEY (Secretary)

IAN JARDINE (Assistant Secretary)

23 October 1984

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ACKNOWLEDGEMENTS

We begin this Report by paying tribute to, and thanking, our Secretary, Mrs Elizabeth Grimsey. It is only through her judgment, hard work and flair for organization that we have been able to contain and complete this wide-ranging Inquiry in just over a year. Throughout, Elizabeth Grimsey has worked under great pressure, not only ministering to the Committee, but dealing most efficiently with the large response from the members of the public to our request for assistance. We also owe her a particular debt of gratitude for the many ways in which she assisted us in the preparation of our Report.

Among the Committee's Secretariat, we make particular mention of Mr Ian Jardine, Elizabeth Grimsey's principal assistant. His industry, organizational ability and discretion have also played a vital part in the efficient conduct of the Inquiry and preparation of the Report.

We also acknowledge the great assistance given to us by other members of the Secretariat, among them: Miss Joyce Gondwe, Miss Teresa Rowland, Miss Penny Farmer, Mr John Lewis, Mr Stephen Dunn and the many other secretarial and clerical staff concerned with the work of the Inquiry and the preparation of our Report.

We have been helped greatly by the Assessors appointed by the Home Secretary to assist us in our task, namely:
Mr Michael Duffell, Chief Legal Officer and Assistant Town Clerk of Wolverhampton Metropolitan Borough Council; Mr John Flood, Deputy General Secretary of the Union of Shop, Distributive and Allied Workers; Lord Gallacher, former Parliamentary Secretary to the Co-operative Union, and former member of the Council of the Retail Consortium; Miss Mildred Head, former President and Chairman of the Board of Management of the National Chamber of Trade; Mr Maurice Healy, Head of the Policy Division of the National Consumer Council; and Mr Bernard Thimont, Secretary of the Churches Main Committee. They have a wealth of knowledge and experience of the interests that they respectively represent. We thank them for their sound guidance throughout.

Another very helpful complement to our work has been the research of the Institute for Fiscal Studies ("the IFS") appointed by the Home Secretary to conduct an economic review of the likely effects of possible changes in the permitted trading hours of shops. The IFS's task, which was essentially one of prediction, was inherently difficult. It was made more so by the lack of comprehensive statistics and other information in this field of study. The IFS has, we believe, produced a well researched and sound assessment of the likely effects of possible changes in the permitted trading hours of shops. We are grateful to them for guiding us through this highly technical part of our Inquiry.

There are many more whom we thank. Among them are all those who responded to our request for information and views, in many cases at what must have been great cost to them in time and money. Appendix 2 contains a list of those to whom we are particularly indebted.

Finally, we acknowledge with thanks the painstaking work of Miss Finola O'Farrell, Barrister-at-Law, for checking the legal content of the Report and for the compilation of Appendix 5 relating to the statutory protection of young persons in employment.

THE SHOPS ACT 1950 AT A GLANCE

The Shops Act 1950 applies to England, Wales and Scotland. It regulates the general closing hours and half-day closing in England, Wales and Scotland, and the trading of shops on Sunday in England and Wales only. It also governs certain conditions of employment of those working in shops.

GENERAL CLOSING HOURS - Part I of the Act requires shops to close by 8 p.m. on every day of the week except one "late day" when it may be 9 p.m. These hours may be varied to not earlier than 7 p.m. on any day of the week by local authority "closing orders". The late day is Saturday unless another day is fixed by the local authority. Part III of, and Schedule 2 to, the Act provide a number of modifications to, and exemptions from, these requirements.

EARLY CLOSING DAY - Part I of the Act also requires shops to close by 1 p.m. on one day each week, originally to be fixed by the local authority after satisfying itself of majority approval by shopkeepers. Since the Shops (Early Closing Days) Act 1965 the day may be chosen by each shopkeeper for himself. Parts I and III of, and Schedule 1 to, the Act also provide modifications to, and exemptions from, these early day closing requirements.

SUNDAY TRADING - Part IV of the Act contains a general prohibition of Sunday trading in England and Wales, but not in Scotland save in the case of hairdressers and barbers. The Act contains a number of modifications to this general restriction, and, in Schedule 5, a large number of exemptions. Special provision is also made for Sunday opening by those who observe the Jewish Sabbath.

CONDITIONS OF EMPLOYMENT - Part II of the Act provides for a statutory weekly half-day holiday and for meal-breaks for shop assistants, a restriction on the number of Sundays in the month that may be worked, and for time off in lieu of Sunday working. It also contains special provisions governing the hours of employment of young persons.

ENFORCEMENT - Shopkeepers, but not shoppers, are subject to criminal penalties for breach of all these restrictions. Since May 1984 the maximum penalty for breach of the Sunday trading restrictions has been £1,000, and for most other offences £100.

CHAPTER ONE

INTRODUCTION

The Scope Of The Inquiry

1. We were appointed on 11 August 1983 -

> "to consider what changes are needed in the Shops Acts, having regard to the interests of consumers, employers and employees and to the traditional character of Sunday, and to make recommendations as to how these should be achieved."

2. At the heart of our Inquiry are the statutory restrictions on the hours for which shops can open to serve customers in England, Wales and Scotland. The position in Northern Ireland, where the law is similar,[1] is outside our terms of reference. Broadly speaking, and subject to a large number of exceptions according to the goods being offered for sale, shops in England, Wales and Scotland may not trade after specified hours in the evening, and shops in England and Wales may not trade on Sundays. Sunday trading is permitted in Scotland.[2]

3. The present statutory restrictions on trading have been the subject of lively controversy since they first appeared on the statute book. There have been no fewer than 19 abortive attempts at legislative change, all, save one in 1956, by Private Member's Bill, and the appointment of two previous departmental committees whose recommendations for change were not implemented. The arguments have gradually shifted. Initially they were about the form that trading restrictions should take, and their extent. More recently and increasingly, they have been about the need for trading restrictions at all.

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1 Contained in the Shops (Northern Ireland) Act, 1946.

2 With one exception in the case of barbers and hairdressers.

4. As the years have worn on, the debate has been accompanied by a growing recognition that the present law is unsatisfactory, full of anomalies and inconsistencies, and difficult to enforce. Most criticism has been about the restriction on Sunday trading, but there is also much dissatisfaction with the way that the Act limits general closing hours.

5. Our appointment followed shortly on the failure in February 1983 of Mr Ray Whitney's Private Member's Bill, proposing abolition of all trading restrictions. The debate in and out of the House of Commons during the proceedings on the Bill showed that there was still a sharp divide on what has now become the principal issue, whether there should be any trading restrictions at all. And among those advocating retention of trading restrictions no general agreement had emerged as to what form they should take. The only measure of agreement continued to be that the law is so unsatisfactory that something must be done about it.

6. Thus it was, in announcing our appointment, that the Home Secretary, the Right Honourable Leon Brittan, QC, said -

> "There is widespread agreement that the restrictions on trading laws during the week and on Sundays are in need of reform, but there are strong and conflicting opinions as to the way in which this should be achieved ..."

7. The evidence submitted to us reflects this unhappy pairing of agreement on the need for reform and sharp division as to what the changes should be.

8. In our view, the most important question is whether there is any and, if so, what justifiable purpose in maintaining statutory regulation of trading hours. If there is such a purpose, a second question arises, namely, whether readily enforceable legislation commanding widespread support can be devised to achieve it.

The Law And Its Origins

9. Most of the law regulating retail trading is to be found in the Shops Act 1950. But that Statute merely consolidated previous legislation. In particular, as to general closing hours, it reproduced the provisions of the Shops (Hours of Closing) Act, 1928, and as to Sunday trading, the Shops (Sunday Trading Restriction) Act, 1936 and the Retail Meat Dealers' Shops (Sunday Closing) Act, 1936.

10. Statutory restrictions on evening closing had their origin in the late nineteenth century concern to protect shopworkers from exploitation and to protect small shopkeepers from excessive competition. The 1928 Act, which represents the culmination of those restrictions, resulted from the recommendations of a departmental committee chaired by Sir William McKenzie (later Lord Amulree). The Act soon gave rise to many problems of interpretation, particularly in the application of the large number of exemptions to the general restrictions. Absurdities and inconsistencies quickly became apparent.

11. Restrictions on Sunday trading have an earlier and different origin. They stem from the general Sunday observance legislation in England and Wales which began before the Reformation and was to have its principal expression in the Sunday Observance Act 1677. That Act was repealed in 1969, but long before the beginning of this century it had become hopelessly inadequate as a means of enforcement. The position in Scotland was similar, save that its ancient legislation was deemed to have lapsed in accordance with the Scottish doctrine of desuetude. The 1936 Acts resulted from private bills promoted by the Early Closing Association and the National Federation of Meat Traders. They reflected the concern of their promoters to ensure a day of rest for shopworkers, to protect the interests of small traders, and to maintain the separate and traditional character of Sunday. This legislation applied only to England and Wales. The only modern prohibition of Sunday trading applicable to Scotland had reached the statute book six years before in the form of the Hairdressers and Barbers (Sunday Closing) Act 1930,

which made it unlawful for any person in England, Wales or Scotland to carry on the business of a hairdresser or barber on Sunday. That prohibition was a direct response to the pressure from the hairdressing trade itself. As with the restrictions on general closing hours, the new Sunday prohibition quickly caused difficulties, and attracted scathing judicial comment within three years of reaching the statute book.[3]

12. The Second World War produced its own restraints on trading activity. At the end of the war the Departmental Committee under the Chairmanship of Sir Ernest Gowers was appointed by the Home Office and the Scottish Home Department to consider, among other things, whether the Shops Acts should be amended. The Gowers Committee produced an interim Report, called "Closing Hours of Shops", at the beginning of 1947.[4] It is worth reproducing here the Committee's summary of its principal conclusions.

> "1. We accept as settled policy the principles of compulsory evening closing and compulsory half-day closing once a week...
>
> 2. In the past these have been of the greatest benefit in protecting the shop assistant from exploitation. But we are now approaching the point where they will have done all they can for him; and further limitation of his working hours that may be thought desirable can only be secured by other means. It is now the public's turn for consideration...
>
> 3. Existing shops legislation exemplifies the maxim that hard cases make bad laws. There are too many exemptions; the law tries over much to combine the incompatibles of compelling shops to shut and allowing people to buy. This has had disastrous consequences, especially in mixed shops; in certain respects the law is neither observed nor enforceable, and has been brought into contempt. The only practicable remedy is to cut down exemptions...

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3. e.g. London County Council v Lees [1939] I ALL E.R. 191, at 194 per Hewart L.C.J.

4. Cmnd. 7105, April 1947.

4. The Shops (Sunday Trading Restriction) Act, 1936 is in a class by itself for more than one reason. In particular, it has not yet been properly tested by experience. Although, therefore, it exhibits certain prima facie shortcomings, we have not thought it right to recommend any amendment of it except to meet one or two defects that have already actually disclosed themselves in its practical working ...

5. Legislation that affects the daily lives of so many people should be simple and intelligible. It is in fact obscure and complicated. This is largely because it is contained in so many different Acts of Parliament ..."

13. The Gowers Committee, therefore, concentrated on the ways in which the law on general closing hours could be simplified by the reduction and rationalization of the exemptions to trading restrictions. It made detailed recommendations, but did not suggest any change of substance in the law on Sunday trading.

14. The Government's first response to the Gowers Committee Report was to introduce the stop-gap and purely consolidating measure which became the Shops Act 1950. Whilst this Act gave effect to the Gowers Committee's recommendation to present the law in more convenient form, it did nothing to cure the obscurity, the anomalies, and the problems of enforcement identified in the Report. Subject to certain limited modifications subsequently made by statute, the 1950 Act remains the law today.

Attempts At Reform

15. The restrictions in the 1950 Act have been modified in a number of minor respects, and the penalties have been increased. The Shops (Early Closing Days) Act 1965 gave to shopkeepers the right to select their own early closing day. The Shops (Airports) Act 1962 exempted shops at designated airports from the provisions of Part I, relating to general closing hours and the early closing day. Airport shops continue to be subject to the general restrictions on Sunday trading. There are also special exemptions in the Tyne and Wear Act 1976 for the Quayside Market in Newcastle; in the West Midlands County Council Act 1980 for the National Exhibition Centre in

Birmingham; and in the Greater London Council (General Powers) Acts 1981 and 1983 for exhibitions, trade fairs and conferences at certain premises in Greater London.

16. All other attempts to change the law since 1950 have failed. Such has been the division of opinion both inside and outside the Houses of Parliament that successive Governments have left it to Private Members to introduce reforming legislation. The last direct attempt at reform made by the Government itself was in 1956 when it introduced a Bill in the House of Lords to give effect to the detailed recommendations of the Gowers Committee. The Bill did not have an easy passage in the Lords, and it failed in the Commons for want of time.

17. The law relating to Sunday trading received detailed consideration by the Departmental Committee appointed by the Home Office in 1961 under the Chairmanship of Lord Crathorne to review the law on Sunday observance relating to entertainments, sports, pastimes and trading. The Crathorne Committee reported[5] in 1964 that Sunday trading should continue to be regulated by statute. It started from the general position that -

> "... the special character of Sunday ought to be preserved as far as practicable 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."

The Committee added -

> "This special character of Sunday would be seriously impaired if the majority of shops were open as on weekdays and most shop assistants were required to work on that day."

On the speculative question whether removal of Sunday trading restrictions would have those effects, the Crathorne Committee found that it was faced with two opposing points of view and that there was something to be said for each. In the end it concluded:

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5 "Report of the Departmental Committee on the Law on Sunday Observance", Cmnd. 2528, December 1964.

"... that it would be best to follow the course that called for the less radical alteration in the present situation."

The Committee contented itself with calling for clarification of the law and an extension of the exemptions, on which it made many detailed recommendations.

18. The Government, encouraged by the Crathorne Report and the results of a questionnaire sent to interested organizations in 1964, published in 1965 proposals for reform in a discussion paper entitled, "Retail Trading Hours". The reforms proposed maintained the principle of regulation of closing hours in the week and the general prohibition on trading on Sundays, but sought to simplify and broaden the basis of exemptions from those restrictions. The proposals, particularly those broadening the Sunday exemptions, were opposed by many sections of the trade and the Union of Shop, Distributive and Allied Workers ("USDAW"). As a result, the Government abandoned its attempt to introduce legislation.

19. Since then there have been six attempts by Private Members in the Lords, and 12 in the Commons, to amend the Shops Act 1950. All have failed. The proposals have been various, including revision of the present Schedules of exemption, making special provision for certain types or size of shop, fundamental changes in the form of exemptions from the general restrictions, and, more recently, complete abolition of the restrictions. Nearly every proposal for reform put to us in the course of our Inquiry has already been canvassed before, frequently several times, in these previous attempts at reforming legislation.

The Need For Reform

20. There are three major criticisms of the Shops Act 1950: first its anomalies; secondly, its complications; and thirdly, the difficulty of enforcing it.

21. The Act was out-of-date when it was enacted, and it has become increasingly so with the rapid and far-reaching changes in the structure and pattern of retailing in the last 30 years. The problem lies mainly with the exemptions, which primarily comprise lists of goods that may be sold outside the generally permitted trading hours. They were all drawn from exemptions in earlier legislation, some of them on the statute book before the First World War. Whatever the justification for their original inclusion, many of them are now hopelessly out of touch with modern conditions, and the anomalies and the inconsistencies that they produce are legion.

22. The anomalies have been widely canvassed. Some of the more bizarre ones in relation to Sunday trading are that it is legal to sell -

gin, but not dried milk;

fresh vegetables, but not tinned ones;

spares for a car or an aircraft, but not shoes;

a razor blade, if sold for the purpose of cutting corns, but not for shaving;

a pornographic magazine, but not a Bible unless the Bible is sold from a book stall at a designated airport or railway station;

fish and chips from any take-away food shop except a fish and chip shop, although fish and chip shops are permitted to sell any other form of take-away meal on a Sunday.

23. Secondly, the statute is a complicated piece of legislation, not easy for a lawyer to understand and interpret, let alone the average shopkeeper. For shops selling a mixed range of goods, some falling within the exemptions and others not, compliance by shopkeepers and understanding by shoppers are severely tested; effective enforcement is impossible. To add to the problems, the Act abounds with inconsistencies. Judicial comment on the scheme of exemptions has been scathing.

24. Thirdly, the penalties for breaches of the Act have also not kept pace with the times. Originally, the heaviest penalty was £20 for a second or subsequent offence of infringing the Sunday trading restrictions. In 1972 it was increased to £200 and in 1982 to £500. Now the maximum penalties are £1000 for breach of the Sunday trading restrictions, but only £100 for breach of the general closing hours requirement. There is provision for increase of this figure and other penalties by order of the Home Secretary if justified by inflation. Even with the recent increases the level of fines commonly imposed by magistrates is little deterrent to large traders whose business makes it worth their while to break the law in this way. Frustration with the inadequacy of these penalties has prompted some of the few local authorities that try to enforce the law to do so by way of civil proceedings for an injunction to restrain infringement of the law.[6] But that is expensive and cumbrous. Moreover, it is an uncertain means of enforcement since the remedy is discretionary, and in any event requires proof, not just of "an infringement of the law but of an intention deliberately and flagrantly to flout it".[7]

25. The result of the many flaws in the 1950 Act is that it is not generally enforced. The duty of enforcement has rested, since the reorganization of local government in 1974, with district councils, or in London, with borough councils. Some authorities have adopted a policy of not enforcing the law at all. Many others act only in response to complaints. Others select certain traders for prosecution, frequently branches of the major national multiples. Very few local authorities prosecute as a matter of policy all traders who open outside the

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6 See e.g. Leicester County Council v. Mabey 14 July 1976, unreported; Stafford Borough Council v. Elkenford Ltd [1977] 1 W.L.R. 324, CA; Stoke-on-Trent Council v. B&Q (Retail) Ltd [1984] 2 W.L.R. 929 HL.

7 per Bridge L. J., as he then was, in Stafford Borough Council v. Elkenford Ltd, supra, at 330; approved in Stoke-on-Trent Council v. B&Q (Retail) Ltd., supra, per Lord Fraser at 932 and per Lord Templeman at 941.

permitted hours. The reasons for such patchy enforcement of the law are obvious. Many local authorities are out of sympathy with it. It is being widely disregarded by shopkeepers all over the country, to the evident satisfaction of Sunday shoppers. And the costs of enforcement at a time of severe financial constraint could be prohibitive. Even if a local authority does prosecute to conviction it knows that, in many cases, the small fines commonly imposed by magistrates will act as no deterrent at all to further breaches of the law by the shopkeepers concerned. Moreover, the full costs of the prosecution will rarely be recovered.

26. Inconsistency in enforcement makes almost everyone feel aggrieved. In the few cases where a local authority enforces the law vigorously, both traders and shoppers in its area look with some puzzlement and resentment at the position in neighbouring local authority areas where shopping outside permitted hours is tolerated. A sense of injustice on the part of traders may be heightened when, as often happens, a local authority prosecutes only a limited number of transgressors, often the larger stores, while turning a blind eye to the illegal trading of other shops within its area. On the other hand, in the areas where local authorities do not enforce the law, there is a sense of grievance on the part of those traders who do not wish to, and do not, break the law, but who feel that their share of the market is under threat from those who do so with impunity. In all these cases the grievance on the part of traders stems from the feeling that they are the victims of unfair competition. Last, but not least, local authorities resent the fact that they will be criticised whether they attempt to enforce the law or not. Those that do not prosecute are criticised for allowing the law to fall into disrepute. They may be required to enforce the law by proceedings for judicial review as recently happened in the case of at least one district council.[8] Those that do seek to enforce the law are unpopular because traders and shoppers see it being openly flouted elsewhere.

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8 R v Braintree District Council [1982] 81 L.G.R. 70

27. Clearly, a law that has produced such difficulties, that has become so ineffectual, and that has been subject to so much criticism, is likely to be regarded with cynicism. In recent years there has developed an open disregard for the restrictions on shop opening hours, to some extent in the evenings, but more particularly on Sundays. Such disregard of the law is not limited to small traders. Many of the large national multiples have begun to trade regularly on Sundays and to advertise the fact that they do so. In some cases this decision has even been taken after consultation with the local authority concerned.

28. The absurdities and lack of general enforcement of this legislation are serious enough in themselves. But the disregard in which it is held by many, including those whose duty is to enforce it, has a wider significance. It is a public and daily reminder that the law is an ass, and for many that is justification enough to ignore it. In short, it brings the law, and the criminal law at that, into disrepute.

The Two Main Questions

29. Although the need for our Inquiry has sprung from the inadequacies of the 1950 Act, the debate and the evidence submitted to us have focused on the wider issue whether trading hours should be the subject of legal restriction at all. We consider this question first. In doing so we start from the premise that the law should not interfere in the conduct of human affairs unless it serves a justifiable purpose or purposes in doing so. We have accordingly examined the various interests that have been impressed upon us as in need of protection by the statutory regulation of trading hours.

30. We have also tried to envisage what would happen if trading hours were freed from regulation. The latter is a difficult exercise in an area where, as the Retail Consortium has observed in its evidence to us, hard facts are elusive. The various arguments addressed to us have inevitably been conditioned by what people believe would happen if trading restrictions were

removed. It is for this reason that the Home Secretary commissioned the Institute for Fiscal Studies ("the IFS") to assist us in our task.

31. The Report of the IFS, which is Appendix 6 to this Report, and discussed by us in Chapter Six, provides a much more detailed analysis of the implications of change for the retail trade and society in general than has previously been undertaken. Some useful indicators have been identified, but, as the Institute itself points out, many uncertainties remain.

32. We have also looked at the experience of other countries, particularly those where trading restrictions have been removed or relaxed in recent years. But there is a limit to which reliance can be placed on experience in other countries whose history, traditions, religion, and economic and social structure vary from our own. So far as Sunday trading is concerned, the closest analogy is the position in Scotland where Sunday trading is generally permitted by law, and yet is not widespread. Even there we have had to consider whether the experience to date is the result of different traditions, geography, and economic and social patterns from the rest of Great Britain.

33. The second main question has been whether, even if there are interests with a justifiable need for protection, legislation could, in any event, be devised that would achieve that end. This has been an extremely difficult, but equally important part of our Inquiry, for if no system of regulation can be found which would command widespread support and which could be readily enforced, its introduction would do more harm than good. We have accordingly looked with great care at all the proposals that have been put forward at one time or another by those advocating the retention of some form of regulation.

34. Before considering these two major questions, first of the interests that statutory regulation might protect, and secondly whether in fact it would do so, we give, in Chapter Two, an account of the social and economic pressures for change and, in Chapter Three, of the main parties to the debate.

CHAPTER TWO

THE PRESSURE FOR CHANGE

Questioning Of The Law

35. The Shops Act 1950, consolidating as it did legislation from earlier decades, reflected the thinking and attitudes of the pre-war years. But in some other ways it was in keeping with the times in which it was passed. During the Second World War, shops generally had shortened their opening hours, and the public had become used to earlier closing. In 1950, Britain was still suffering from post-war shortages, and some goods remained rationed. The restrictions on opening hours continued in the 1950 Act probably did not, therefore, seem likely to cause much inconvenience either to customers or to those involved in the retail trade. Its provisions became subject to more questioning later on, when both the goods in the shops and the money to buy them became more plentiful.

36. The questioning has become more persistent and more radical as time has passed. Of the 18 abortive Private Members' Bills that have sought reform of the Shops Act 1950, 13 have been introduced in the last eight years. Two of the most recent, those introduced by Baroness Trumpington in 1981 and by Mr Ray Whitney in 1982, have sought the most fundamental reform, the abolition of all restrictions on shop opening hours.

37. Before we consider the various proposals for change, and the arguments for and against them, it is helpful to look at the background against which the discussion has developed. What are the economic and social changes that have affected the way in which shops operate since the Shops Act 1950 was passed? What developments have made restrictions on trading hours, once accepted with so little debate, now seem to many out of keeping with modern conditions?

The Changing Retailer

38. The past 30 years have been a time of very rapid change for the retail trade. The changes are described in the Report of the IFS, reproduced as Appendix 6 to our Report. We do not deal with them in the same detail here. But an understanding of the major trends in retailing is crucial to an appreciation of the arguments for and against regulation.

39. As the IFS points out, the experience of shopping in 1984 is very different from that in 1950. Then, most goods were bought in small shops, near the customer's home. The sales assistant worked behind a counter; would be prepared if necessary to advise the customer about his purchases; and would collect them from the shelves and wrap them ready for the customer to take home. It was a truly personal service. Shops of this type still exist - we all know them from our local shopping parades and shopping centres; but a large and increasing proportion of our purchases are now made in quite different circumstances.

Changes In Style

40. The first major change was the introduction of self-service methods of retailing, pioneered in the 1950's by the Co-operative Movement, and rapidly adopted by other stores, particularly in the food, but also in the non-food sector. The introduction of such methods had been hindered in the immediate aftermath of the war by shortages both of material to re-equip shops and of goods to sell in them. As the IFS points out, self-service is not an ideal way of selling rationed goods. But these difficulties eased in the 1950's, and, with the advent of commercial television making easier the widespread marketing of branded goods, the conversion to self-service methods was rapid. The advantages to the retailer were clear. Goods were pre-packed, and customers collected the items themselves. A smaller number of less skilled staff could therefore handle a large number of sales. Staff costs, a major component in a retailer's outgoings, were thereby reduced. Although some customers

preferred the personal service that they received at more traditional shops, others welcomed the speed and convenience of the self-service store.

Changes In Size

41. In the early 1960's a second major change began: the development of much larger stores. Leading the way were the large multiple grocery traders who recognised the opportunities in economies of scale and increased turnover. The growth in average size of stores has been spectacular. It seems almost incredible now that, when Sainsbury's opened its 7,500 square feet Lewisham supermarket in 1955, it was reputedly the largest in Europe. Now, shops up to 3,000 square feet, 40% of that area, are commonly regarded as "small shops" by those seeking special provision for the small shopkeeper.

42. Since 1950 total shopping floor space has increased markedly, while the number of outlets has decreased from over 580,000 to under 350,000. The major multiples in both the food and non-food sectors have found advantage in size. They have opened increasingly large stores whilst at the same time selling off their smaller outlets. So great have been the attractions of size to larger retailers that, in the 1970's, many of them began to look beyond the city centres and traditional shopping areas, in which development was hampered by physical and cost constraints. They sought to locate their stores on edge and out-of-town sites, where land was cheaper, rates lower, and parking easier to provide. Giant superstores and hypermarkets began to appear. At the beginning of 1981, there were 327 superstores with a floor area of more than 20,000 square feet, and about 15% of all retail sales were made in stores of this size. One major retailing company told us that, when planning a new superstore, it looks ideally for a site with a minimum of 35,000 square feet. The average size of the 240 grocery superstores in operation at the end of the 1970's was 39,000 square feet. Some are considerably larger. So are some of the new DIY superstores.

Changes In Concentration

43. The trend towards large stores has been accompanied by an increase in concentration of the market. This has been largely at the expense of small traders - retailers owning at most two or three shops. Since the 1960's, shops operated by such small businesses have been closing in Britain at a net rate of 30 a day. In the 1970's the net loss grew to 45 a day.[9] These net figures disguise the true mortality rate, as 25,000 new shops open each year. There are many explanations for the difficulties of small traders. Some may suffer from inexperience, or lack of training or commercial instinct. But there can be no doubt that, in the main, they are victims of pressures outside their control. The abolition of Resale Price Maintenance in 1965 gave the larger concerns freedom to set their own prices for the goods that they sold and then to pass on their lower costs to the customer. Their smaller competitors with higher costs could not compete. And size matters in retailing. Size gives the multiples advantages over the manufacturers who supply them which the independent trader does not enjoy. It allows them to drive a hard bargain on the prices of the goods that they sell, either under the manufacturer's label or their own, while independent traders may have to pay their suppliers up to 10% or 12% more. The multiples can save money on bulk transport and advertising. They can organize and re-organize their staff flexibly and efficiently. And if the range and other attractions of the goods that they offer are sufficient, they can often move stores away from congested city centres to the fringes of towns where land and other costs are cheaper.

44. One of the features of post-war Britain that has contributed to the growing market dominance of the multiples has been the increased mobility of the population. Some 60% of all households now have at least one car, and are no longer

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9 John A Dawson: "Small Firms in Retailing: Terminal Illness or Just a Cold?" University of Stirling Working Paper 8303, 1983.

dependent upon the shops near their homes or places of work. Many are able to "shop around" to obtain the best value for money. The availability of a car has changed not only the destinations but also the frequency of shopping trips. Instead of being limited to what they can bring home in shopping bags, consumers can now make one weekly shopping expedition to stock up on most of the items required for the rest of the week, the "main shop", leaving only "top-up" purchases for other days. Where the shopping expedition is for a large number of items, many shoppers find the cost and time of a journey to a supermarket or superstore, even some distance away, well worthwhile.

45. The trend towards stocking up for the week has been increased enormously by the rapid growth in the ownership of refrigerators and domestic freezers. In 1963, 64% of households had refrigerators. By 1983, this figure was 94%; and 57% owned deep freezers.

46. For the future, shopping habits will also be affected by the growth of new technologies. People have long been able to shop by mail order; now for some of their purchases, they can take advantage of telephone shopping. The increasing use of computers will make such "long distance" shopping easier, quicker, and, therefore, more attractive.

Changes In Ranges Of Goods Sold

47. A further trend in retailing has been that of diversification, with individual retailers continually adding to the range of goods available in their shops. Stores that were primarily grocers have moved into clothing, household and electrical goods, and sometimes gardening items as well. Similarly,large general clothing multiples have added to their ranges food, soft furnishings, cosmetics, plants and other goods. Chemists have begun to sell housewares, television and audio equipment, and stationers are now marketing records, toys and, recently, computers. This diversification has taken place, not only in the large stores, but in smaller shops as well.

Retailers have used it as a means of attracting more customers, or of adding to their ranges more profitable lines as changes in consumer expenditure patterns have reduced returns on their original range of goods.

Difficulties of Enforcement

48. These developments in the structure and pattern of retailing since 1950 have aggravated the problems of enforcement of the Shops Act in two important respects. Self-service and mixed retailing pose enormous problems for the enforcement of a system of restrictions and exemptions based on the type of goods being sold. Where shops offer a wide range of commodities, they may open legitimately outside normal hours to sell some of the items exempted from restriction. The difficulty is to ensure that they do not also sell restricted goods. The Crathorne Committee found this to be a problem when considering Sunday trading 20 years ago, for example, in respect of food shops and chemists. Since then, the problem has intensified. Where the selection of items on the shelves is made by the customer rather than the sales assistant, effective enforcement is near impossible. The exempted goods must be segregated from the restricted goods or at least clearly marked so that the customer is informed. And the till assistants must add to their role that of policing the purchases.

Survival Of The Small Shop

49. The trends described above have not been universal. Small specialist shops continue to survive, and in some cases thrive, particularly in those sectors where the customer may want advice about purchases, or the opportunity to compare goods closely with one another. But in several important sectors, notably grocery and provisions, general clothing, decorating materials and housewares, the trend has been clear and seemingly irreversible. Local shops selling these goods will continue to be patronized by those who, for whatever reason, are not able to travel to take advantage of cheaper prices and a wider range

elsewhere, as well as by others for convenience or "top up" purchases. But there are as yet no signs that the increasing dominance of the large multiples has reached its peak.

The Changing Workforce

50. The changes in the methods and structure of retailing have also affected the patterns of employment of shopworkers. Most of the large self-service stores that we have been describing do not demand great knowledge of the products or high levels of skill from most of their staff. Certainly, they require some staff with a degree of expertise and, in particular, well qualified and experienced managers. But they also need assistants for routine tasks such as shelf-filling and price-marking which can be done with little training. It has thus become possible to employ a high proportion of relatively unskilled workers. This has encouraged the increased employment of part-time workers to meet peak periods of demand. Such part-time employment has proved to be particularly attractive to the mothers of young children, who wish to work for only a limited number of hours a week. Nearly four out of every ten (39%) employees in retailing are women who work part-time.

The Changing Customer

51. The enormous increase in the number of working women since the passing of the Shops Act 1950 provides one of the most frequently cited arguments for extending trading hours. In 1951 only 24% of all married women below pensionable age worked, full or part-time. By 1981, this figure had risen to 57%. As long as one member of the household was free to visit the shops during their regular opening hours to purchase the family's needs, the limitations on late-night and Sunday trading were not too onerous. But now that, in many cases, both partners are working, the difficulties of shopping have increased markedly.

52. Shopping during conventional hours can also be difficult for a single, separated, divorced or widowed person, living alone or with dependent children and working full-time. The

number of single person households has increased from 12% of all households in 1961 to 23% in 1982. Much of this increase is accounted for by pensioners, who may well not experience difficulties in getting to the shops during the day. But 8% of all households now consist of a single person below retirement age, compared with 4% in 1961. For all of those who work and who cannot rely on any other person at home to make their purchases for them, shopping can be a problem. There are also difficulties for those who wish to sell to them. As one retailer put it to us, "The present position, where we open the shops just when the customers have gone into the factories and offices and close them before they come out, is almost unbelievable."

Flexibility Of Opening Hours

Within The law

53. Shops have coped with the altered pattern of demand by extending the hours for which they open. Most retailers now do not use all the permitted trading time - from midnight until 9 p.m. on one day a week and until 8 p.m. on other weekdays. But in recent years there has been a steady trend towards more late-night opening. In many areas shops, food and non-food, stay open later on one evening. For example, many Oxford Street shops open until 7 or 8 p.m. on Thursdays. But the great expansion of late-night opening recently has been in the food trade. We were told by the Retail Consortium that, over the past few years, opening hours in the food sector have been extended by at least a quarter. A great many supermarkets are now open until 8 or 9 p.m. on one or more nights a week. Evening opening is clearly popular with customers, and, as the IFS Report confirms, profitable for the big stores. Other retailers, outside the food sector, such as some of the larger DIY superstores, have also been successful with late-night opening. In addition, many shops which had previously closed for a whole or half day in addition to Sunday, now trade over a full six days.

Outside The Law

54. In spite of the scope for flexibility of opening hours within the present law, a growing number of stores trade outside the permitted hours. This has long been a fairly common practice among small local shops, notably in the food sector. While unable to compete with the multiples on price or range of choice, they have managed to carve out some share of a limited market by being open late at night or on Sundays when their competitors are closed. In their evidence to us, those representing the independent grocers made no bones about their dependence upon forgotten or "top-up" purchases. Shops trading outside normal hours in this way have been around for a long time, but their numbers have increased recently. Customers living near such shops, who have found difficulty in shopping during regular opening hours, have become used to the convenience offered by them, and have been ready to pay the higher prices these small traders generally charge.

55. These local stores have been joined by types of store that have developed since the passing of the Shops Act 1950, selling a range of goods particularly suited to weekend leisure activities about the home, in particular, the DIY stores and the garden centres.

56. The rapid increase in home ownership since the war, from 29% of households in 1951 to nearly 60% in 1984, has created a booming market for goods for home maintenance and improvement, and for gardening. In both fields manufacturers have responded by introducing new technologies, designs, and products which simplify and ease the work of the amateur in the home and garden. DIY stores and garden centres have proliferated to meet this demand.

57. The development of these new types of shop has been closely linked with the growth of pressure for the removal of restrictions on Sunday trading. Home maintenance and gardening, and shopping for them, are essentially weekend activities. Often, because of other demands on Saturday, they are particularly Sunday activities.

58. Both DIY stores and garden centres may open legally to sell some goods on Sunday. Motor vehicle accessories, which some DIY stores stock, and flowers, for instance, may be sold. Both types of outlet sometimes sell a few items of confectionery. But most of the materials stocked in DIY stores and much sold in garden centres are not exempt from the present restrictions. In fact, many DIY stores and garden centres have found it financially worthwhile to risk prosecution by offering for sale all their wares on Sunday, and to treat any fines imposed as part of their general running costs.

59. The Federation of Multiple DIY Retailers told us that, for its members, Sunday has become at least the second busiest trading day of the week. In many cases it has become the busiest day. The Federation's evidence was supported by individual submissions from multiple DIY retailers, stressing the great importance to them of Sunday as a trading day.

60. The experience of garden centres is much the same. The International Garden Centre (British Group) ("the IGC") and the Horticultural Trades Association told us that Sunday is usually the best trading day for garden centres. The IGC drew our attention to a survey which suggested that a substantial proportion (16%) of garden centre operators believed that they would have to cease trading altogether if forced to comply with the present law, and that another 50% or so believed that they would have to make significant reductions in staff. The enforcement of Sunday trading restrictions against such centres would, it was argued, affect not merely the centres and their staff but also the wholesalers, manufacturers and others who supplied goods to them.

61. The growth of DIY stores and garden centres has taken place over the past 15 years. More recent developments have been the appearance of shops selling and hiring video tapes, and of garage forecourt shops selling an increasing range of goods. Here too there has been a strong interest in trading on Sundays. In the course of our Inquiry the High Court has held, subject to appeal, that the opening of a video tape shop on Sunday for the hiring of video tapes is prohibited by

the Shops Act 1950.[10] The evidence of individual video tape dealers and of organizations representing them is that Sunday is a popular time for the hiring of films, and that it severely restricts their business if they cannot trade on that day. Garage forecourt shops, which used to concentrate on the sale of motoring accessories, have now expanded their range of goods so that in many cases they have become a general store while the garage is open for petrol.

62. Because so many shops open illegally, out-of-hours trading has become a recognized part of life in some areas. Local authorities, faced with public ambivalence or hostility to the law as it stands, have in the main failed to enforce it. Where illegal trading has been permitted to develop relatively unhindered, customers have grown used to it, and many now expect to be able to buy what they want when they want. The fact that the law is widely being broken with impunity is not in itself an argument for abolition of trading controls. Nevertheless, it is an indicator of demand and of the willingness of many traders to meet it. It is possible that, without this illegal relaxation of controls, the pressure for change might be greater than it is already.

Changing Attitudes To Sunday

63. People's attitudes to Sunday have altered since 1950. We return to this subject in Chapter Four. Although many people might claim a belief in God, few now take part in organized religion on Sunday. For a good many people, Sunday no longer has a predominantly religious flavour. Moreover, a growing number in this country belong to faiths other than the Christian one, and recognize a holy day other than Sunday. The Shops Act 1950 contains special provision for Sunday trading for those who observe the Jewish Sabbath and who do not wish on grounds of conscience to open their shops on Saturday. But, as a result of

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10 Lewis v Rogers; Gardner v Duffield; The Times, 7 April 1984.

post-war immigration, there are now many people of other faiths in Britain. Muslims for example observe Friday as their holy day, and the Shops Act 1950 makes no special provision for them.

64. The car has given people the freedom to go on outings and visits. Home-ownership has given them an incentive to work on their houses and gardens during their leisure hours. We have already seen the extension of sporting activities, both amateur and professional, from Saturday to Sunday. Cinemas and concert halls have been allowed to open on Sundays since before the last war, and many do so. Negotiations are taking place between West End theatre managers and the unions about the possibility of taking advantage of the freedom given by the Sunday Theatres Act 1972 to put on Sunday performances. Increasingly Sunday has become a secular day, for most a day of leisure and recreation, an opportunity to engage in activities either individually or as a family for which there is no other time in the week.

Summary And Perspective

65. The developments noted in this Chapter have all contributed to the pressure for change: new retailing methods and new types of shops; difficulties of enforcement; greater flexibility of employment in the retail trade; the growth in demand for longer shopping hours; and changing attitudes to Sunday itself.

66. It would, however, be misleading to leave the impression that there is an incessant general clamour for Sunday shopping or longer trading hours. Most people, even those who work full-time, do manage to buy what they need in the permitted times. Moreover, in general, working hours are becoming shorter, and if shop hours remain as they are now, people will have more, rather than less, time for shopping. Although advocates of change have campaigned vociferously, the true extent of demand for longer shopping hours is difficult to gauge, as we observe in Chapter Three. We know from the evidence submitted to us that, while the pressure for Sunday and late-night opening has grown, there remain large sections of the population who, for social, economic or religious reasons, believe that it should be resisted, or at least that some restrictions should be maintained. In the following Chapters we consider the main parties to the debate and their arguments.

CHAPTER THREE

THE PARTIES TO THE DEBATE

No Consensus

67. The evidence submitted to us has reflected the wide mix of views that has bedevilled all attempts at reform. There is no tidy grouping of the supporters and opponents of regulation of shopping hours. Most of the interest groups are divided even within themselves on what reforms they want. In this Chapter we examine the positions taken by the main groups with an interest in the debate.

68. Many retailers, trades unionists and the Churches have frequently been allies in the battle to keep regulation, particularly for Sunday trading. Among retailers, this side of the argument is led by the large department stores and national multiples, particularly in the food sector, who foresee greater competition and costs with additional opening hours, but no increase in trade. The trades union arguments, advanced most vigorously over the years by the Union of Shop, Distributive and Allied Workers, have been directed at the protection of shopworkers from exploitation, in particular, from having to work longer hours. The Churches' concern to encourage the Christian ethic and to preserve the traditional character of Sunday has been a consistent theme of their opposition to any significant extension in Sunday shopping.

69. Conversely, growing numbers of retailers have brought increasing pressure for total abolition of trading restrictions. More recently, they have been joined by shoppers giving their collective views through opinion polls and consumers' associations. Retailers who want late-night and Sunday shopping see it as a new market that will generate additional trade. The new out-of-town shopping superstores, particularly DIY stores and garden centres, are the most vociferous supporters of Sunday trading, but their cause is also being taken up by many important shopping high street names. The emergence of consumer

pressure groups and the increasing use of opinion polls have provided media for the organized expression of consumers' views. They have identified a consistent pattern of majority support for greater freedom in shop opening hours.

70. Those responsible for the administration and enforcement of the Shops Legislation, the local authorities, have in the main supported relaxation of the present restrictions, but have been divided on the question of their complete abolition.

71. Within the broad division of those for and against regulation are many variations in attitude, often reflecting the sectional interests of those advocating them. This sectional approach to the problem is reflected again and again in the evidence given to us by specialist trade associations arguing the corner for their own trade interest.

72. There is the added complication on the general issue of regulation as against de-regulation that views on weekday closing hours and Sunday trading do not always run hand in hand. On weekday trading, there is a growing body of opinion that there should be at least some relaxation of the present controls. No doubt, because many shops now do not open for all the permitted hours in the week, there is not the same fear of a "free-for-all" on weekday evenings in the event of de-regulation as there is in the case of Sunday.

73. In the following paragraphs we describe briefly the various parties to the debate over trading hours and the arguments that they have advanced.

Retailers

74. In the course of our Inquiry we have received evidence from over 600 individual retailers, including most of the department stores and familiar shopping high street names, and from 78 retailers' associations. This evidence shows that the retail trade contains a wide range of views on the issue of shopping hours, from maintenance of the present law to complete abolition

of all restrictions. On one side of the argument are many large and small retailers, who see complete de-regulation as an evil. The large retailers, well represented by department stores and national multiples, including most of the food chains, see the long-term effect of unrestricted Sunday trading in particular as increasing competition and prices, lowering margins, and closing outlets, all because they believe that longer opening hours will not lead to any significant increase in trade. The small retailers fear that their already tenuous hold on the market will be further weakened if they have to face competition, particularly from the large retailers, at all hours in the week and on Sundays. Within those general attitudes are many shades of view and different suggestions for reform of the present system, often reflecting the particular interests and claimed need for protection of individual trades.

75. On the other side of the argument are: a significant number of well known shopping high street names; the vast majority of the extraordinarily successful out-of-town traders that have become so important a part of the shopping life of the country in the past 15 years; and, to a lesser extent, small traders who see in Sunday opening a chance to increase their business, especially if restrictions continue to apply to their larger competitors.

76. Most of the associations representing retailers have traditionally favoured some form of regulation, but not all of them. With the rapidly changing character of retailing in recent years, particularly in the field of out-of-town outlets such as the DIY stores and garden centres, specialist trade associations urging liberalization are on the increase.

77. Foremost among the retailers' associations opposing any significant relaxation of the trading laws are the Retail Consortium and the National Association of Shopkeepers.

78. The Retail Consortium is the umbrella organization for the British Retailers' Association, the National Chamber of Trade, the Co-operative Union, the Mail Order Traders Association, the

Specialist Retail Group and the Voluntary Group Association. Through the National Chamber of Trade 29 national trade associations, collectively known as the Trade and Professional Alliance, are also affiliated to the Retail Consortium. The Consortium therefore claims to represent the interests of the vast majority of the retail trade and to span the whole of it "from the neighbourhood grocery store to the largest multiple chain store".

79. Many of the trade associations represented directly or indirectly on the Retail Consortium and their members have submitted evidence to us independently. The great variety in their submissions shows that the Consortium has the impossible task of representing the whole spectrum of views from total abolition to rigorous enforcement of trading restrictions. The Consortium acknowledges this unenviable position in the introduction to its evidence :

> "There is a variety of views within the trade as to what reforms are necessary to bring the Shops Act 1950 up to date. There is no question that the Shops Act 1950 is anomalous, out of date and in need of reform. Retailers' views as to what form those reforms should take are determined by the type of business they run; its location and of course by their own personal inclination."

80. The Retail Consortium has nevertheless identified areas of "broad common agreement" on which, it argues, proposals for reform could be based. These are that the Shops Act 1950 needs reform, that there is "strong support" for the removal of the early closing day provision, that "the vast majority of the trade is firmly of the view that some measure of control should be retained", and that "the majority of the trade is strongly in favour of maintaining control of trading hours on Sundays".

81. The National Association of Shopkeepers represents all types of small retail outlet, with a membership of 4,500 shopowners in England, Wales and Scotland. It has a further 1,500 members in Northern Ireland.

82. The Association suffers from the same difficulties as the Retail Consortium in the diversity of its members' views. Whilst they are generally in agreement with the present position on closing hours in the week, the Association records a division of opinion on the subject of Sunday trading. In 1982 a referendum of the Association's members on the question whether shops should be open on Sundays for all types of trading produced a 50-50 answer. However, there was a limited response to the referendum and in 1983, at the Association's annual conference,a majority,including delegates from Northern Ireland, carried a motion deploring the proposals for de-regulation in the Trumpington and Whitney Bills.

83. The National Chamber of Trade is not opposed to significant changes to the Shops Act 1950. However, it is concerned about the likely effects of complete abolition of controls, especially on the small shopkeeper. So it has proposed a compromise of a maximum of 60 hours trading a week, but with power for the local authority to permit longer hours if the majority of local traders are in favour.

84. The Association of Independent Retailers is also concerned about the pressure on small shops that de-regulation would bring, and suggests that Sunday and late-night opening should depend upon a licence issued by the local authority. Such licences, it proposes, should be limited to shops employing fewer than six people.

85. Most of the big names of the shopping high street favour regulation, particularly of Sunday trading. They include the Co-operative Movement, the House of Fraser, the John Lewis Partnership, Marks & Spencer and, with the notable exception of Asda Stores, most of the big food chains, including Safeway, Sainsbury's, and Tesco. Other familiar names in favour of regulation in one form or another are Argos, Bejam, Boots, Budgen, Ketts, Radio Rentals, Sears Holdings (which includes Selfridges), and Timpsons.

86. However, among large traders, just as with many small traders, there are those whose interest in the continuance of regulation is qualified by a wish for relaxation and, in some cases, for removal of restrictions to suit their own particular trading interest. Thus, Sainsbury's advocates continuance of the general prohibition on the sale of food on Sundays but argues for Sunday opening for DIY stores and garden centres. It believes that the fierce competition and narrow margins in what many believe to be a static food market would be bad for the trade generally, itself, and the consumer. However, Sainsbury's does perceive a potential for extra trade on Sundays in the DIY and garden centre fields which, through its subsidiary, Homebase, it has entered over the last two years.

87. A growing number of familiar shopping high street names favour liberalization. Among those arguing for the abolition of restrictions on shopping hours are Debenhams, Habitat/Mothercare, Rumbelows, Salisburys, W.H.Smith, and Woolworths. There are also several comparatively new and fast growing chains, such as Underwoods, the chemists, which argue strongly for the freedom to trade on Sundays and late at night.

88. Perhaps the greatest pressure for de-regulation has come from the out-of-town superstore traders, whose business has grown spectacularly over the last 15 years. DIY superstore chains, among them Marley's subsidiary, Payless DIY, Woolworth Holdings' subsidiary, B & Q, Sainsbury's Homebase, and Texas Homecare, have considerable experience of Sunday trading. They have argued their case to us individually and through their association, the Federation of Multiple DIY Retailers. Other traders with out-of-town stores selling household goods, such as Allied Carpets and Comet, also tend to support de-regulation. So do garden centres, which are mostly single businesses rather than parts of chains like the DIY superstores. They, also, do substantial trade on Sundays and have campaigned vigorously for the abolition of the controls affecting them, individually and through their trade associations, the International Garden Centre (British Group) and the Horticultural Trades Association.

89. The attitude of small traders, in so far as it is represented by individual trade associations, is generally in favour of a system that will protect them from increased competition from the large stores. For some, this can be achieved by retention of something like the present controls. Others argue for greater freedom to be given to small shops whilst retaining and strictly enforcing the present or similar restrictions against the large shops. The Voluntary Group Association, representing some 8,500 independent grocers, is an unashamed and powerful advocate of protection for the small shopkeeper in this way.

Shopworkers

90. Shopworkers, too, are divided on the subject of regulation, though the unions, which represent a small percentage of the total shop workforce, oppose any significant increase in the permitted hours.

91. There are about 2.2 million shopworkers in Great Britain, nearly one in ten of the employed labour force. Numbers are declining and have been for some years, largely as a result of increased productivity brought about by changes in retailing methods. The distribution of shopworkers has also changed. The proportion employed in chain stores has risen from 17% in 1950 to 49% in 1982. Some 66% of the workforce are women and 34% men, although men hold most of the managerial jobs. Of the women, well over half, 57% - i.e. nearly 40% of the retail workforce as a whole - are employed part-time. There is also an unusually high proportion of young people: in 1971, the latest year for which figures are available, 15% of males and 21% of females employed in the distributive trades were under 19.

92. The retailing labour force as a whole is characterized by relatively low pay and relatively high turnover, compared with other industries. It is also considerably less organized than many other industries. This reflects partly the high number of women and part-timers working in shops, for these groups are traditionally hard to recruit. It also reflects the fact that,

despite the growth of the multiples, about 50% of shopworkers still work in small shops which employ only a few people. Not only does this make it difficult for union officials to reach the employees to recruit them, it also may make some shopworkers, working close to their employers and seeing them on a daily basis, less inclined to join a union. Most union members in retailing are concentrated in the larger stores and co-operative retail outlets.

93. Because of the low union representation of shopworkers there are few collective agreements governing employment in the retail trade. Minimum wage levels, holidays and holiday pay are, in the main, set by two Wages Councils, one for food and allied trades, and the other for non-food. Between them, these Councils cover about a million of the 2.2 million shopworkers in Great Britain. Inevitably, the Wages Council rates indirectly influence, and are influenced by, the pay of the other million or so workers in the retail trade. It is clear, both from the evidence submitted direct to the Committee and from the research conducted by the IFS, that a majority of retail workers earn more than the Wages Council minima. But there are particularly striking differences between male and female earnings. In general, women shop assistants earn little overtime, and their earnings are closer to the minima set by the Wages Councils. Our impression is that, in general, the big and successful chains pay higher wages than many small shops, but that wage rates throughout the retail trade are lower than in other comparable occupations.

94. USDAW, which is the sixth biggest union in the United Kingdom, is the leading union representing shopworkers. It has a membership of more than a quarter of a million employed in the retail trade and a further 150,000 in manufacturing, wholesale distribution and transport. USDAW, therefore, represents about 12% of the total retail workforce. Of this 12%, about half are employed by the Co-operative Movement. About 70% of its members are women, two-thirds of whom are married. USDAW has some closed shop agreements, notably with the Co-operative Movement.

95. For many years USDAW, in company with the Co-operative Movement, has been in the vanguard of those opposing longer trading hours. Between them they have been a powerful influence behind the parliamentary fight against reforming legislation whenever it has been introduced. Both bodies are understandably concerned for the working conditions and earnings of shopworkers who already work in the evenings and on Saturdays, when most of the country does not work, and for comparatively low wages. Recently USDAW has softened its attitude to change, and has urged the need for a thorough inquiry into the working of the Shops Legislation and of the various proposals for reform. Its general approach now is that reform is needed, but that it should not take the form of "substantial de-regulation" of trading hours. More particularly, in relation to Sunday trading, USDAW emphasizes the importance of Sunday "as a day of special character whose status demands statutory protection in its own right". It urges that any exemptions from the general prohibition of trading on that day should depend upon "proven demand".

96. Some other unions have members engaged in or in connection with the retail trade. Among these are the General, Muncipal, Boilermakers and Allied Trades Union ("GMBATU"), whose sole representation in the retail field is in the Asda chain, where it has a closed shop agreement; the Association of Scientific, Technical and Managerial Staffs; the Transport and General Workers' Union; and the Bakers, Food and Allied Workers' Union. In at least one case, W.H. Smith, all the shop employees belong to a union peculiar to that Company, the Retail Book, Stationery and Allied Trade Employees' Association.

97. Like USDAW, the other unions whose members include shopworkers are also against any significant extension of trading hours, either in the week or on Sundays. Their attitude and that of USDAW is reflected in the evidence submitted to us by the General Councils of the Trades Union Congress and of the Scottish Trades Union Congress. Thus, the TUC General Council urged us to recommend:

> "...that there should be no increase in the permitted hours of shop opening unless the benefits of extended trading can be clearly and unambiguously proven."

98. Although there is general opposition from the trades unions to the extension of shopping hours and general Sunday trading, USDAW, GMBATU and the W.H. Smith employees' union all co-operate to the full with employers in Scotland who trade on Sunday. For the many shopworkers throughout the country who do not belong to unions the position is not so clear. However, where late-night and Sunday trading now take place, the evidence shows that there is generally no difficulty in finding staff to cover those times. Sunday work, in particular, appears to be popular.

Shoppers

99. It has been widely assumed, especially by the leader writers of the popular press, that there is a massive pent-up demand from consumers to shop on Sundays. This may be so, but it is extremely hard to quantify.

100. It is only in recent years that the collective views of shoppers, other than those who are members of the Co-operative Movement, have been heard in the debate over shopping hours. This is largely owing to the establishment in 1975 of the National Consumer Council, and to the increasing use of opinion polls. The Consumers' Association, formed in 1957, has also played a part, with its first major report on shopping hours appearing in "Which?" in July 1974.

101. The Co-operative Movement is a consumers' organization as well as a retail organization, with over nine million members. It is potentially an influential organization of consumers whose collective voice would merit close attention. Unfortunately, those active in the Co-operative Movement in support of the regulation of shopping hours have never canvassed the views of their shopping members as distinct from those engaged in the running of their shops. When the Movement circulated a questionnaire on the subject to all co-operative societies, the decision taken by the majority of boards of the various

societies was that the <u>Shops Act 1950</u> should be amended rather than repealed. We do not know what the nine million shopping members of the Co-operative Movement think on the subject. All that we know is that those responsible for the affairs of the Movement say that they have not been pressed by its members to support reform.

102. The National Consumer Council was established in 1975 to represent the interests of the consumer. It consists of 16 members who are nominated by the Secretary of State for Trade and Industry, and they are drawn from a wide range of interests. Since it first considered the matter in 1979 the Council has urged the removal of all restrictions on shopping hours. It has three main reasons for that policy: first, freedom of choice for shopowners; secondly, demand from shoppers, about two-thirds of whom, according to opinion polls over the last few years, favour late-night and Sunday opening; and thirdly, respect for the law, which it regards as endangered by the presence on the statute book of legislation to control shopping. The Council has commissioned and given publicity to a number of opinion polls and has supported various attempts at legislative reform over the last five years.

103. The Consumers' Association, publisher of the magazine "Which?", is an independent research-based organization that exists to promote the interests of its members and of consumers generally. It has a policy-making council by which all major policy proposals must be approved before implementation. The Council has 18 members, 15 of them elected by members and three co-opted. It has campaigned consistently for liberalization, and more recently, for removal of all restrictions on shop opening hours. In 1983 it helped to promote the unsuccessful Shops Bill of Mr Ray Whitney.

104. Opinion polls of shoppers on shopping hours have a short history. No such surveys were conducted before 1975. In that year a Home Office survey, based on 1970 data, showed that 51% of those surveyed thought that the present law on Sunday trading was "stupid/outdated". In 1978 the first survey on shopping

behaviour commissioned by the National Consumer Council, from NOP Market Research Ltd., showed that one-third of those surveyed wanted longer shopping hours. Surveys commissioned by the National Consumer Council and others since then, have shown consistently that at least two-thirds of those surveyed want greater flexibility of shopping hours in the week and freedom to shop on Sundays.

105. An NOP survey conducted for the Mail on Sunday in March 1984 produced, in percentages of those surveyed, 45% who wanted all shops to be able to trade on Sundays and a further 33% in favour of freedom for "some shops" to open on that day. Another recent poll, commissioned from Market and Opinion Research International Ltd by the Federation of Multiple DIY Retailers during the course of this Inquiry, found that 62% of those in England and Wales believed that the law should be changed to allow more shops to open on Sunday. Although only 22% of respondents said that they currently shopped on Sundays, 52% said that, if more shops were to open on Sundays, they thought they would take advantage of it. These two polls did not deal with the question of late-night shopping, but the surveys commissioned by the National Consumer Council generally have also shown that about two-thirds support late-night trading.

106. There has been a great deal of discussion about the reliability of the findings of these surveys. The answers that people give may be influenced by the wording of the questions, and the answers might change after reflection. It has been suggested, for example, that people might well offer an initial "yes" to the question whether they would like longer shopping hours, because of the extra convenience that they would bring, without thinking about possible disadvantages, for instance, the burden on shopworkers, or any possible increase in prices or in environmental disturbance. Some polls have sought to forestall this criticism by prompting second thoughts; for example, both that of the Federation of Multiple DIY Retailers and the earlier poll conducted by NOP in 1978 for the National Consumer Council went on to ask detailed questions about the likelihood and acceptability of any rise in prices. The Federation's recent

poll also asked about the risk of increased noise. But doubts still remain in the minds of some of our witnesses about how far any poll results can be said to reflect considered, rather than snap, judgments.

107. There is also some doubt about the degree to which such survey results reflect actual intentions to shop on Sundays or late at night. Respondents might say that they would welcome a change in the law to allow more shops to open on Sundays or during the evenings, without necessarily intending to make much use of longer shopping hours. It is interesting that a separate study conducted in 1981 by the National Consumer Council into the problems that people face in doing their shopping, found that just one in ten respondents said that they found existing shopping hours to be inconvenient.

108. The IFS, in its Report, Appendix 6, discusses the findings of surveys in some depth. It also reports on its own consumer survey, designed to elicit how people might actually alter their shopping habits if the law were changed to permit more Sunday trading. The IFS highlights the conservative attitude of respondents to questions about the likelihood of shopping on Sundays. In general, the sort of goods that people say they would buy are already available, legally or illegally, on Sundays. Whether they would be less conservative, given the opportunity of a wider range of purchases, must be a matter for speculation.

The Churches

109. The Christian Churches are not divided on the subject of restrictions on Sunday trading. They have been traditionally in the forefront of resistance to any relaxation of the law. Their resistance has varied from the strict Sabbatarian arguments of bodies like the Lord's Day Observance Society to the mix of theological and secular arguments of the Church of England and other Churches represented by the British Council of Churches and the Free Church Federal Council. The main argument of the Churches is not, and has not been for a long time, to protect

and encourage Sunday worship. Only about 10% of the population of Great Britain are regular Sunday worshippers. For many, Sunday has no religious significance. Indeed, in some urban areas there is a majority of people of other religions for whom Sunday is not a special day. The Churches' argument has been rather to emphasize the human need to preserve one day a week as a day different from the others, a day for rest and reflection, for change, for companionship with family and friends. Sunday happens to be the traditional day in this country for such a break, and, for that reason, as well as the Christian tradition, the Churches say that it is good sense to keep it that way.

110. Other religious organizations for whom Sunday has no special significance have made representations to us about their own particular interests. These include the Board of Deputies of British Jews, which has identified serious difficulties in the application of Section 53 of the Act and its supporting regulations permitting Sunday trading in certain circumstances by those observing the Jewish Sabbath. The Seventh-Day Adventists share with those of the Jewish faith the exemption to trade on Sunday, since their holy day is also Saturday, and see no objection to other traders being allowed to open on Sunday. The Union of Muslim Organisations pointed out that the holy day for Muslims is Friday, and that on this day they are required to attend the mosque for mid-day prayers. Many Muslim shopkeepers would like to be able to open late in the evening to make up for lost trading time and, in addition, they would also like to be able to trade on Sundays.

Local Authorities

111. Local authorities generally have not been active campaigners on either side of the debate, though from time to time their views have been prayed in aid by would-be reformers and opponents of reform. Local authorities do not all speak with one voice on the matter, and they do not divide according to type or political make-up of authority. In short, in their diversity of views, they reflect the country as a whole.

112. There is a difference between the Association of Metropolitan Authorities ("the AMA") and the Association of District Councils ("the ADC") over the reform needed, especially for Sunday trading. The AMA opposes general Sunday opening though it recognizes the need for some relaxation . The AMA represents the six metropolitan county councils, the 36 metropolitan districts, 31 London boroughs, the City of London, the Greater London Council and the Inner London Education Authority. Of those, the district councils, the London borough councils and the Common Council of the City of London are responsible for enforcing the Shops Legislation within their areas.

113. The ADC, which represents 333 district councils, all of which are responsible for enforcing the Shops Legislation, urged upon us that the whole of the Shops Act 1950 should be repealed, subject to new provision being made to protect the conditions of service of shopworkers. However, in doing so, it does not claim to reflect the views of all its members. We noted that on the question of unrestricted Sunday opening the district councils were almost evenly divided.

114. The Institute of Shops, Health and Safety Acts Administration, which represents the officers employed by local authorities to enforce the Shops Act 1950, has supported reform for many years. It has suggested the removal of early closing restrictions, and proposed that all shops should be allowed to trade until 9 p.m. with exemptions on present lines from 9 p.m. to midnight. It has also suggested that Sunday should not be treated differently from any other day.

Government and the Political Parties

115. Since the end of the First World War the lack of general agreement in the country on the subject of shop opening hours has deterred successive Governments from attempting legislation on the subject. The purely consolidating Shops Act 1950 and the abortive attempt by the Conservative Government in 1956 to implement the substantive recommendations of the Gowers Committee are the only instances of direct action on the subject

by Government since the Shops Act 1912, itself a consolidating Act, dealing with weekly half-day closing, meal intervals, hours of employment of young persons and closing orders.

116. With a few exceptions, the Labour Party has tended to oppose liberalization. Opinion in the Conservative and Alliance Parties has been more divided. In the last major attempt at reform, Mr Ray Whitney's Bill was defeated on its second reading by 205 votes to 106. Those voting for the Bill were made up of 95 Conservatives, six Labour members, four Alliance members, and one other, and those against of 152 Labour members, 41 Conservatives, six Alliance members and six others.

117. Labour and Conservative Administrations have differed noticeably on the subject of relaxation or complete abolition of trading restrictions. Labour Governments have been deterred from giving encouragement to liberalizing legislation by the strong and vociferous lobby that the trades unions and the Co-operative Movement have been able to muster in both Houses of Parliament. Conservative Governments, on the other hand, have in recent years adopted an attitude of "benevolent neutrality" to attempts at liberalizing reform by Private Members. At a conference on shop hours held at the University of Leicester on 3 November 1982 the Rt Hon. Timothy Raison MP, then Minister of State at the Home Office, spoke of the difficulties of enforcing regulation of trading hours at all. More recently, in the second reading debate on the Whitney Bill, Mr David Mellor, Parliamentary Under Secretary of State at the Home Office, put it in this way:

> "The Bill proposes to leave decisions about when to shop to the individual and whether to open to the shopkeeper .... the Government can find no objection to the proposals although ... whether the Bill makes progress must depend on the will of individual hon. Members, ... it is not a Government proposal. Individuals are free to vote ... as they choose and the Government will abide by the decision of the House."

118. Interestingly, not all Government Departments submitting evidence to us have adopted this attitude of benevolent

neutrality to de-regulation. For example, the Home Office, the Treasury and the Department of Trade and Industry, including the Office of Fair Trading, have submitted evidence that favours liberalization, while the Ministry of Agriculture, Fisheries and Food has urged caution in the case of food retailers.

119. Having identified the main parties to the debate on shopping hours, we turn now to our first question: what justifiable purpose is there in continuing the statutory regulation of trading hours?

CHAPTER FOUR

REGULATION AS A PROTECTION ?

The Debate

120. In Chapter One we said that the primary question is whether trading hours should be the subject of legal restriction at all, and that the law should only intervene if it serves a justifiable purpose in doing so. Put another way, the question is, "What interests are entitled to protection in the form of legal regulation of shopping hours?". The form that the law might take would necessarily depend upon who needs protecting and from what.

121. Many argue that shopping hours should remain subject to legal restriction unless and until a "need" or "proven demand" for change is established. As a starting point for our Inquiry, we reject that notion. Unless there are interests that ought to be protected by trading restrictions, there can be no justification for making removal of the present restraints dependent upon "need" or "proven demand". If there are interests with a legitimate claim to protection, contrary interests, including notions of "need" or "demand", have to be weighed in the scales to determine the balance for and against change. But even then, the concepts of "need" and "demand" have to be treated with caution. "Need" is a slippery concept. Who is to assess a need for additional shopping opportunities and by what criteria? And how frequently should the assessment be made to see whether there should be a change in the law? "Demand" for additional shopping hours is, if anything, a more difficult and mercurial test. It suffers from the fundamental difficulty that unless and until trading restrictions are removed there is no reliable way of assessing it.

122. We are required by our terms of reference to have regard to four main interests, "...consumers, employers and employees and to the traditional character of Sunday ...". Most of the

interests urged upon us as in need of protection fall within one or more of these categories. There are others, notably self-employed shopkeepers, residents in or near shopping areas and on busy traffic routes, rate and tax payers who finance public services, and religious bodies, for whom Sunday may or may not have a special significance.

123. Before turning to each of the interests that may have a claim to the protection of the law, we should mention briefly the problem of predicting what would be likely to happen if all or most shops were free to open late at night and on Sundays. We return to this problem in more detail in Chapter Six. This has been one of the most debated parts of our Inquiry, and, as will appear, we do not claim to have found any conclusive answers.

124. Most of those who have given evidence to us, whether arguing for or against control, have simply asserted what they believe would be likely to happen, and have based their arguments about the need or otherwise for continued control on that belief. Some have attempted a reasoned and documented prediction of what would happen, but necessarily on very limited material. Even with the wealth of information that we have gathered, and the benefit of the economic review undertaken for us by the IFS, we cannot claim to see the future with any certainty in the event of all or some restrictions being lifted. We attempt an assessment in Chapter Six. For the purpose of considering whether there are interests that have a legitimate claim to protection in the form of legal restrictions upon trading hours, we take into account the possibility of the extreme case - that the removal of restrictions would result in general Sunday and late-night opening.

125. We now consider in turn the various interests, identified in our terms of reference and by the evidence, that might be affected by a change in the law.

The Traditional Character Of Sunday

Should trading hours be controlled in order to protect the traditional character of Sunday?

126. The tradition in Britain of Sunday as a special day has its origin in the Christian Sabbath as a day set aside for worship and rest. However, the way in which Christians have spent Sunday has varied over the centuries with changes in religious and social mores. Legislation introduced in the fifteenth century, prohibiting various activities on Sunday, including certain forms of trading, reflected in a patchy way the Christian concept of the day as one of rest from work. It was not until the seventeenth century that the full rigour of the Puritan Sunday was introduced by law, in a series of Acts in the early years of the Interregnum. Notwithstanding the important contribution of the Restoration in the form of the Sunday Observance Act 1677, Sunday in the early and middle eighteenth century was not an austere day - at least not in England and Wales. The Evangelical Movement towards the end of that century produced a tightening of attitudes, marked by the Lord's Day Observance Act 1781. But it was not until the middle of the nineteenth century that Sabbatarianism came into its own again, and continued to enjoy wide support until the turn of the century. With the relaxation of attitudes and increase in pressures of the twentieth century strict Sabbatarianism has become a minority form of Christian belief.

127. The Lord's Day Observance Society, founded in 1831, continues to proclaim Sunday as a day ordained by God for rest, worship and family life. The Society and, individually, over 3,000 of its supporters have argued strongly in evidence to us against any extension of freedom to trade on Sunday. As is to be expected, the Society's and its supporters' first concern is adherence to what they believe to be the word of God. However, they see in the word of God many practical considerations. The need to protect the family lies at the centre of these, and is a feature of the evidence given to us by many other religious and non-religious bodies.

128. The Christian Churches in the main adopt a much broader approach to the problem. Their concern is first with the likely impact on society generally, regardless of religious beliefs, of any further encroachment on Sunday as a day for family rest and recreation. Secondly, they wish the law to preserve as far as possible conditions in which Christians can meet for worship and other activities. We have received written and oral evidence from members of a joint working party of the British Council of Churches and the Free Church Federal Council, between them representing the major denominations, including the Baptist Union, Methodist Church, Church of England, United Reformed Church, Congregational Federation and the Church of Scotland, a total of 26 Church bodies. The Roman Catholic Church also wished to be associated with this evidence.

129. We have also received written submissions and heard oral evidence from representatives of the Board for Social Responsibility of the Church of England, which is a Board of the General Synod of the Church of England responsible for co-ordinating the thinking and action of the Church in matters affecting man's life in society.

130. The Churches in their evidence recognize that, although we are predominantly a Christian country, there are many here of different beliefs and for whom Sunday has no religious significance. They recognize too that, although the majority may be "vestigial" Christians, only about 10% of the population are regular church-goers. They acknowledge - and we have no hesitation in concluding - that it would be wrong to use the law, and the criminal law at that, as a tool to enforce or even encourage Christian beliefs and practice.

131. The Churches are under no illusion as to what has happened to Sunday. They know that the "traditional Sunday" is now largely a myth. Church-going is left to a minority, and Sunday has become a secular day.

132. There can be no doubt, however, that widespread opening of shops on Sundays would affect the traditional character of the

day very much more profoundly than the opening of cinemas, concert halls and theatres, or the holding of sporting events. The change would be likely to affect far more people in the way that they spend their Sundays, and would have a significant effect on the feel of the day.

133. The Right Reverend Hugh Montefiore, the Bishop of Birmingham, in his evidence to us, nicely described the role of Sunday:

> "... it gives space in the midst of a busy week, and it acts as a marker in the rhythm of everyday life."

Most of the great variety of leisure activities now possible on Sundays undoubtedly come within this description. The Churches recognize this and the resultant physical and spiritual benefits from the rest and the change that are so important for the individual and the family. However, the other side of the coin is that for those concerned with the provision of all these leisure activities, and with essential public services, Sunday is very much a working day, and often a long and busy one. The police, hospital and public transport employees, those working in the gas, electricity and water industries, hotel and catering staff, as well as shift workers in those industries in continuous production, all have to work on some Sundays as part of their regular employment. For them, it is no "marker in the rhythm of everyday life", no occasion for rest or recharging of batteries. The Churches and many others submitting evidence to us are concerned about the strains that such working imposes on the physical and spiritual well-being of the individual and upon the strength of the family. They believe that care should be taken to minimize those strains and to prevent any further encroachment on family life on that day. Central to that concern is the vital role that the Churches and, we think, most people believe that the family plays in the physical and spiritual well-being of society as a whole.

134. The Churches believe that widespread Sunday trading would have such a public face and would take so many more people away

from their families that it would effectively destroy what is left of Sunday as a common day of rest and relaxation. They also believe that any significant extension of late-night opening in the week would be similarly harmful to family life. Their beliefs are echoed in secular form by many people from all walks of life. 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.

135. There is another side to the argument. We believe that Sunday shopping has much to offer the family, particularly as shoppers but also, in some instances, as shopworkers, too.

136. For couples with young children and for those where both have full-time jobs, shopping together for anything other than the weekly essentials is largely restricted to Saturday. For many, regardless of family circumstances, Saturday is a day on which household chores, routine shopping and sporting and other leisure activities all compete for attention. The town centres are busy, the shops congested, and shopping on that day can be a testing business. For all these reasons, many find that Saturday is not a good day for the sort of shopping that involves the whole family, for household goods, things for the garden, presents and clothes. It is often only on Sundays that they can all get together to make shopping outings of that sort. It must be good for them to be able to spend time together in a leisurely and relaxed way, discussing projects and purchases of interest to them all. Shopping of this kind has become a leisure activity in its own right. For many, the planning and choosing in a shopping expedition, and the bearing home of the purchases at the end of the day are in themselves enjoyable activities. One has only to walk around DIY stores or garden centres that are now open on Sundays to see that this is so.

137. Sunday is also for many people their only opportunity to work on the house or in the garden. It is churlish and unsympathetic to say that the prudent should do all the shopping that they need for such Sunday activities in the week.

138. The emphasis on the family, moreover, ignores the fact that a growing number of people live alone, many of them without or far from families. For them, and for families too sometimes, "the traditional Sunday" can be a boring, lonely day. The opportunity to shop or work in a shop, or simply to see some life in the shopping high street, may offer a real improvement to the day.

139. We must also consider the problem from the point of view of those who work in shops, whether as employees or as self-employed shopkeepers. Putting aside for the moment the question of compulsion to work, to which we refer later in this Chapter, should those who might choose to work on Sundays in the event of de-regulation be protected against themselves? Fear for the effect upon the family of widespread Sunday working in shops is at the heart of the concern to protect the traditional character of Sunday. It may be all right for families who can shop and otherwise relax together, but what about families who are split up because one of them works in a shop on that day?

140. There are many reasons why people may want to work on Sundays. There is, of course, the attraction of premium payments for Sunday working. The present high level of unemployment means that there is more demand than formerly for work on that day. But that is not all. Single people may find stimulation and company in working in busy surroundings on what might otherwise be a lonely and cheerless day. Young couples without children may value the extra work and money if they are building a home, and may prefer to have another day off in lieu. Some wives and mothers who are tied to the home with children all the week may find relief in escaping to a different environment on a Sunday when their husbands are at home and able to spend some time with the children. Looked at in one way, separation of a family on Sunday is bad; looked at in another way it can be good for the individual and, in the release that it gives from the pressure of family life, good for the family too.

141. Taking the arguments together, we cannot see any justification for the continuance of legislation which would have the effect of depriving those who need or wish to work on Sundays from the opportunity of doing so. To attempt to justify it on the basis that they and their families should be protected against themselves in this respect is to ignore the immense diversity of people's lives and needs. With such diversity, who is to say that because some benefit from leisure on Sundays others should not work?

142. As to the self-employed small shopkeeper who relies mostly on himself and his family, it is said that he and they too should be protected from their own business instinct in opening for long hours. We can see little logic in this argument and even less in it as a justification for legislative restriction of business activity. Why should the self-employed shopkeeper suffer, in a way that no other businessman does, a legislative curb on the rewards that he and his family can earn from hard work? Any argument for regulation based on the need to protect small shopkeepers from themselves cannot, in our view, be substantiated.

143. In summary, for most people Sunday has a different character from any other day of the week. But its "traditional character" as a day on which very little outside activity takes place has long since gone. The special character of Sunday varies according to the family circumstances and life style of each person. This is its strength and its value as "a marker in the rhythm of everyday life". We are strongly of the view that it is wrong to legislate for uniformity in this one area of activity to reflect the views of some members of the community as to how Sunday should be, whilst disregarding the wishes and needs of others.

Retailers

> Should trading hours be controlled in order to protect retailers?

144. There are two main strands of concern for the retailing trade if there were to be a significant relaxation of trading

restrictions, particularly on Sunday. First, many have urged that to permit all shops to trade for longer hours in the week and to open on Sundays would be uneconomic. Secondly, there is particular concern for the small shop, which has up to now been able to compete by trading, sometimes illegally, at times when large shops close.

145. The effects on retailers of any significant relaxation of the law, if it were to lead to widespread Sunday and late-night trading, would be mixed. Retailers whose products are in heavy demand on Sundays or late at night would do well out of the change. The "leisure related" outlets, such as DIY stores, garden centres and video tape shops which now open successfully on Sundays would probably continue to trade profitably, although some might find themselves facing increased competition from retailers who are at the moment reluctant to break the law. Items that require time to compare and select might also receive a boost from longer trading hours. But any additional sales in such sectors as these would have to be balanced, at least to some extent, by less expenditure elsewhere. The DIY stores and garden centres and other beneficiaries of Sunday trading might draw some of their additional revenue from money which is currently spent outside the retail trade, such as on sports or holidays, but the sufferers would also include other sectors of retailing. If, for example, customers found themselves more able to indulge in leisure shopping on Sundays, the resulting pressure on family budgets could involve a reduction in the amount spent on groceries and other basics. And the IFS is clear in its conclusion that consumers could not switch sufficient money into retail expenditure to make it worthwhile for all, or even a majority, of traders to open on Sunday.

146. Therefore, despite the benefits that some individual retailers might derive from Sunday or late-night opening, the trade as a whole would be bound to suffer some casualties. As the IFS in its Report points out, the use of extended opening hours would amount to an increase in retail capacity, just as would an increase in the number of shops. The retail trade would in the short term suffer from over capacity because the increase in hours would not produce a corresponding increase

in sales. That would put retail margins under pressure and would keep them under pressure until the excess capacity had been eliminated. The reduction in capacity would be achieved primarily by the disappearance of those shops least able to compete: those with the highest costs, the less efficient stores, and the small or medium sized stores without a distinctive image of their own. Once capacity had been reduced, margins and profitability would be restored for the shops that remained. The more widespread Sunday or late-night trading became, the more extensive would be the shake-out of the retail trade.

147. We leave to Chapter Six our discussion of how widespread Sunday and late-night trading might be if all the present restrictions were to go. Clearly, the prospect of any significant number of shops being forced to close is not an attractive one - either for the retailers who would lose their livelihoods or for the consumers who would have less choice about where they shop. We have therefore thought very carefully about whether the risk to retailers warrants the continuation of legal restrictions on opening hours. We have had to conclude that it would not. In our view it is not a proper role of the law, the criminal law at that, to protect some traders from unwelcome competition. We have no doubt that there is demand for trading on Sundays and in the late evenings, and we can see no justification for the law prohibiting those retailers who wish to meet that demand from doing so. We agree with the view expressed by one of our Assessors that, since the criminal law does not attempt to control other aspects of competition between retailers, such as prices, delivery or after-sales services, it is anomalous for it to prevent retailers opening at hours that they may judge to be convenient for their customers and profitable for themselves.

148. If our conclusion seems unduly harsh, we must qualify it by saying that the trend towards fewer and larger shops will continue irrespective of what happens to opening hours. Even if the continuation of legal restrictions on opening hours could be

justified in the interests of protecting retailers generally, such a continuation would not reverse trends that have, in the main, other causes.

149. Similarly, we cannot see continued restrictions on opening hours as a proper way of safeguarding small shopkeepers. Small shopkeepers urge, and their case is most powerfully argued by the Voluntary Group Association, that to expose them to the competition of large shops for longer hours in the week and on Sundays will accelerate their decline. They say, with justification, that the small shop offers a valuable service to the community in a way that large superstores cannot. For the old, the ill, those without their own car, or simply for the house-bound mother with children, the corner shop or the village store is a life-line.

150. Although some small shops now trade legally on Sundays and in the evening by taking advantage of the present exemptions to trading restrictions, others, particularly small general stores, trade in breach of the law. In the main, they seek to preserve their advantage by urging freedom of trading hours for small shops only. Given the important role that many small shops play in the life of the communities that they serve, we would have some sympathy for this approach if privileged opening hours for them would be both an effective and a justifiable course. In the event, we are of the view that it would be neither. The growing pressures upon small retailers are such that they would not be countered by special opening hours for them. And as we have said, we can see no justification for legal intervention to regulate and distort competition between one part of the retail trade and another.

Shopworkers

> Should trading hours be controlled in order to protect shopworkers?

151. Many believe that the introduction of widespread late-night and Sunday trading would lead to exploitation of a

workforce that already has to work unsocial hours and for comparatively low pay. Their concern, which has been well expressed by USDAW, is more about longer working hours than about wages. In general, Wages Council Orders ensure modest but not unreasonable levels of ordinary and overtime rates, and premium payments for Sunday working. Saturday and overnight[11], after 8 p.m., working attracts payment at a level 20% higher than the basic rate, and Sunday working attracts payment of double time. Moreover, the Wages Councils have decided that work of up to four and a half hours on Sunday should be paid as for four and a half hours and work of between four and a half and eight hours on Sunday should be paid as for eight hours. These standards are also followed by many employers in retailing not covered by Wages Council Orders. If this protection continues and is properly enforced, and we say more about this in Chapter Seven, de-regulation would not pose a danger in the form of low wages.

152. There are detailed provisions in Part II of the Shops Act 1950 prescribing the maximum working hours and conditions of employment in shops of young persons; and for a weekly half-day holiday and proper meal breaks for all shopworkers. Section 22, subject to certain exceptions, provides that every assistant in England and Wales - not Scotland - who works for more than four hours on a Sunday should have a day off in lieu during the week, and should not be employed on more than three Sundays in a month. In the case of a Sunday worker for less than four hours, there is a corresponding entitlement to a half-day holiday in addition to the statutory half holiday, but with no restriction on the number of Sundays that can be worked in a month. These provisions, coupled with the requirements of Wages Council Orders for premium pay of double time for Sunday working, make it reasonably attractive. There is no other statutory provision governing the working hours of

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11 Only in the case of full-time workers. These rates do not apply to those in the retail newsagency, tobacco, and confectionery trades.

shopworkers.[12] In this respect they are in the same position as most other employees in the country. They differ, however, in that generally they lack the trades union protection enjoyed by most other workers. There are some collective agreements in the retail trade, even a few closed shop agreements, and informal co-operation by some employers with trades union representatives. But, in the main, shopworkers have to fend for themselves on the subject of working hours and conditions.

153. We consider in Chapter Seven whether there should continue to be special provision for the employment of shopworkers of the sort now in Part II of the Shops Act 1950. However, any special provision for them that may be considered necessary can be made whether or not there is continued regulation of trading hours.

154. We have already mentioned a variety of reasons why shopworkers might be eager or at least willing to work in shops on Sundays. During the course of our Inquiry, we have examined in some detail the structure and staffing patterns of shops large and small, in Scotland and in England and Wales. We have been struck by how many of those who now trade on Sundays report no difficulties in finding staff to operate their stores. Usually part-timers form a larger proportion of Sunday staff than they do during the week, but they are usually supervised and supported by a nucleus of full-time employees. The ratio of full to part-time Sunday employees varies between stores, but those retailers who can rely on a high proportion of Sunday part-timers without risking a deterioration in the level of service offered to customers enjoy more flexibility in meeting their manning requirements. Applicants for part-time jobs that consist wholly or mainly of Sunday working are not hard to find. Asda, for example, recruits some staff who work only on Sundays,

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12 Save for the generally applicable provisions of the Children and Young Persons Acts 1939 and 1963, the Children and Young Persons (Scotland) Act 1937, and the Young Persons (Employment) Acts 1938 and 1964, and the provisions of the Baking Industry (Hours of Work) Act 1954, governing the working hours of bakery workers.

and finds that it can fill jobs easily, even though it does not pay its Sunday-only staff the full double-time accorded by most other stores. Other retailers confirmed that it is often easier to fill Sunday than Saturday jobs.

155. The position regarding full-time workers is more complex. Some work on Sundays as part of their general duty rotas. This system appears to give rise to few recruitment or other problems, even at managerial level. Other companies do not include Sunday working in their normal rotas but rely on volunteer staff. The popularity of Sunday working among some employees is illustrated by the evidence from the Federation of Multiple DIY Retailers that some of its members have had to ration the available Sunday work among the staff who want it.

156. But while some people are obviously happy to work on Sundays, others are not. This point was forcefully put to us by USDAW, and by other organizations representing shopworkers, and endorsed in letters that we received direct from shopworkers and members of their families. It was also supported by the experience of the House of Fraser, which in recent years has opened on one or more Sundays just before Christmas in Scotland. The Company relies on volunteers from its regular employees to staff the stores, and has recently found the number of volunteers diminishing despite the relatively high pay levels.

157. Do those shopworkers who would be unwilling to work on Sunday or late at night justify protection by continuing legal restrictions on opening hours? While the supply of willing Sunday workers seems to be adequate to meet the present limited degree of Sunday trading, and there is therefore little need to press reluctant employees to come in on that day, it is difficult to say whether the supply would be sufficient to meet the demands of more widespread Sunday opening. It is also difficult to say how many people would be willing to take late evening shifts which, at the moment, attract a much lower premium.

158. If sufficient volunteers were not forthcoming, there might be pressure from employers on unwilling shop employees to work on Sundays or late in the evening. Such pressure might be greatest in those shops where casual labour could not provide a satisfactory substitute for regular staff, where, for instance, special skills or a high degree of product knowledge was required. This could be particularly true in the smaller specialist shops, where staff rotas could not provide the degree of flexibility that they offer the larger stores and multiples.

159. Given that some stores might find it difficult to meet Sunday or late-night staffing requirements entirely from volunteers, we need to consider two categories of reluctant Sunday or late-night shopworkers: existing employees, and those who might seek a job in the retail trade in future. Taking the latter category first, we do not believe that they require special protection against being asked to work unsocial hours. They would be in no worse a position than those taking up other employments necessarily involving Sunday working, such as hospital workers, the police, those in public transport, hotel workers and the many others employed in essential services and in the entertainment and leisure fields. In fact, quite apart from the statutory provision for a day or half-day off in lieu of Sunday working, aspiring shopworkers would frequently be in a better position than those considering entering other occupations whose working patterns would inevitably involve some Sunday working. The immense variety and scope for flexible working hours in the retail trade gives the would-be shopworker a better chance than many of finding a job that suits him or her. In those cases where refusal to work on Sundays would prevent an applicant from obtaining a job, that would not be a penalty peculiar to shopworkers.

160. The problem is more serious for those already employed in a shop, who could be faced, in the event of de-regulation, with a requirement for the first time to work on Sundays. Refusal could lead to their dismissal, or it could prejudice their prospects of promotion. It is difficult to assess how big a problem this could be. No doubt, in the larger shops it would

be eased by the greater flexibility of the workforce. And in all cases where part-timers are employed, a refusal by some to work on Sundays might be overcome readily by the wish or willingness of others to do so. But in the case of small shops, or where the employee is full-time and in a key position, the answer would not be so easy.

161. For reasons that we give in Chapter Seven it is difficult to suggest an effective legal protection for those workers who have accepted employment not involving late-night or Sunday working who might be faced with a requirement to work, contrary to their wish, at those times. Nevertheless, to continue general restrictions on shop opening hours, to avoid the possibility of pressure on some existing shopworkers to work when they now do not have to do so, would be to take the proverbial sledge-hammer to crack a nut. It would ignore the reasonable desire of many consumers to shop at those times, the willingness of many retailers to meet that desire and, not least, the eagerness of many shopworkers themselves to take advantage of the special pay for Sunday and late-night working.

<u>Shoppers</u>

Should trading hours be controlled in order to protect shoppers?

162. It is said that de-regulation would lead to an increase in prices and also to a reduction in the number of shops and hence a loss of convenience and choice. Any increase in prices seems likely to be both limited and short-term. The pressures of competition would help to ensure that, where retailers' costs rose as a result of longer opening hours, the increase would be met by a reduction in retailers' margins rather than passed on to consumers in higher prices. But in the long term, once retailing capacity had adapted to the new market conditions, costs would fall again and margins would be restored.It is just possible, though by no means certain, that this would permit a small decrease in the prices of goods in the shops because the

retail sector which emerged would be more efficient. Prices would in the long term be affected only marginally, if at all, if restrictions on trading hours were removed.

163. The difficulty of identifying the likely economic effects of de-regulation lies in disentangling them from the other trends in shopping which are in large part a response to consumer demand now and in the years to come. The progressive reduction in number and increase in size of retail outlets have been with us for years, and are likely to continue for some time. It is a reflection of some of the changes described in Chapter Two: the importance to the consumer of value for money, range of choice, convenience of shopping and parking; and the greater flexibility than formerly of opening hours even within the permitted trading times.

164. The possible future trends of a short-term increase in prices, and of a reduction in the number of shops, have to be considered alongside consumers' own perceptions of what they want in the way of shop opening hours. As we have said in Chapter Two, there is clearly a strong demand from some sections of the public to be able to shop outside the present weekday hours and on Sundays. They patronize legal and illegal late-night and Sunday traders; and Sunday markets are becoming regular attractions in many areas. However, the importance of this demand is discounted by the supporters of regulation on the simple ground that these would-be late-night and Sunday shoppers do not know what is best for them in the long run. Inherent in this attitude is the well-meaning approach that we have observed in the arguments of those who sought to use the law as a means to preserve what they regarded as the traditional character of Sunday. Here the proposal is to use the law as a means to enforce both a social and economic end, regardless of significant consumer demand for additional shopping hours and the wish of important sectors of the retail trade to meet it. This approach overlooks the fundamental reality of the market that consumers' own perceptions of their requirements, whether or not they are good for them, will have a decisive part in shaping the future of shopping.

165. Undoubtedly, the ability of large shops, particularly superstores and hypermarkets, to sell at much lower prices than smaller shops has been a critical factor in their development. But it is not only competitive pricing that lies behind their dominance of the market. They provide a range of choice, attractively and spaciously displayed under one roof, that smaller shops cannot provide. They are in the main conveniently located for the car-borne shopper, with ample car-parking and loading facilities. They cater equally for those in a hurry and for those who wish to browse. These advantages, whatever their relative importance to different people, are a powerful draw to the majority of shoppers today. And, as to price, one of the trends that we have observed, both here and abroad, is the move by many of the large national multiples "up market". This is a response to the increasing sophistication of shoppers who are looking for variety, quality, and value for money, not just cut prices, in their shopping trips.

166. People also value the ability to shop at times when stores are not crowded. Shopping on Thursday or Friday evenings or on Saturdays in busy supermarkets with long queues at each till can be frustrating. There is no doubt from the wide experience of Sunday trading, legally in Scotland and illegally in England and Wales, that many people do shop on Sundays because it is a time when the shops are not so busy. One of the interesting comments made to us by a number of those in the retail trade with experience of Sunday trading is that the atmosphere in the shop on Sundays is quite different from that on other days. Customers are in the main more relaxed, they have more time to spend, and they and the shop assistants seem to be generally in a happier frame of mind than on other days. There is a clear benefit both to customers and retailers if the peaks in shopping activity can be evened out so as to provide a better level of service and convenience for customers and better working conditions for shop staff. Looked at in this way, late-night and Sunday opening, where there is a demand for it, could be a benefit to all shoppers whether or not they would all take advantage of the new opening hours.

167. The group discussions conducted by Market Behaviour Limited ("MBL"), a market research organization, on behalf of the National Consumer Council during the course of this Inquiry throw further light on why some people want to shop on Sundays. Supporters of Sunday opening said that they found Sundays at present very drab and dull, particularly in the winter when outdoor activities are restricted. For some, Sunday was a lonely day. Shopping, particularly for non-routine items, was seen as a generally pleasurable activity, and a way of giving the day a focus. On the whole MBL found that opponents of Sunday opening were those who did not enjoy shopping as a leisure activity.

168. Many tourists and travellers would also welcome the opportunity to shop on Sundays. At the moment, even airport shops cannot offer a full range of goods on that day. In London, visitors from home and abroad enjoy areas such as the West End and the newly renovated Covent Garden, which offer an attractive combination of shopping and other activities during the rest of the week, but can offer only limited shopping facilities on Sundays. Other towns and cities throughout the country also attract considerable numbers of visitors, many for weekend "bargain breaks". For stately homes, Sunday is often the busiest day of the week. Although, as the IFS points out in its Report, Sunday shopping by tourists would not make any significant impact on the overall retail trade figures, benefits to individuals from home and abroad, and to many traders too, could be substantial.

169. There is an undoubted demand from a large section of the population for the freedom to shop at times when it suits them. Many already choose to shop on Sundays for a variety of reasons even though they sometimes pay higher prices for the convenience. The economic review undertaken by the IFS suggests that de-regulation would be unlikely to lead to higher prices, at least in the long term. Even if prices were to rise, in our view, that would not be sufficient to outweigh the strong consumer interest in the abolition of trading restrictions.

Residents In Shopping Areas

Should trading hours be controlled to protect residents in shopping areas?

170. Many fear that if late-night and Sunday shopping were to become widespread, those who live in or near busy shopping areas would lose what little respite they have from the noise and bustle of the week. We regard this is a matter for real concern, and do not dismiss it, as some do, by saying that people who choose to live in such areas must expect disturbance. No doubt, in many cases there are restaurants, public houses, and other places of entertainment open in shopping areas when the shops are shut, and local residents have to live with that. Similarly, large sporting events on Sundays may seriously disrupt the lives of those who live nearby. Even for those who live in the country, the roads are in some cases busier on Sundays than in the week, with trippers often combining a day out with a visit to their local garden centre or public house or both. But if late-night and Sunday shopping and other high street business activity were to become widespread, there is no doubt that many would be deeply upset by the change in their lives.

171. Ideally, there should be some protection from undue disturbance for residents of shopping areas. We consider in Chapter Seven a variety of proposals, and reluctantly conclude that none is practicable. However, with the trend towards large purpose-built shopping centres with their own parking facilities in towncentres and out-of-town superstores and hypermarkets, much shopping at "unsocial times" in the event of de-regulation would be likely to be away from residential neighbourhoods. Even in mixed shopping and residential districts it must be remembered that if there were much trading activity late at night or on Sunday it would only be because the communities served by the shops want it that way. In our view, the potential problems for some of those who live in busy shopping areas do not justify the retention of general restrictions on trading hours.

Rate and Tax Payers

Should trading hours be controlled in order to protect rate and tax payers?

172. It is said that if late-night and Sunday trading were to become widespread there could be additional demands on public services, such as rubbish collection, street cleaning, the police, traffic and car park attendants, public transport, trading standards enforcement and environmental health control. We have examined each of those possibilities with the assistance of the Association of District Councils, the Association of Metropolitan Authorities, the Association of County Councils and a number of individual authorities, including the Greater London Council, the Corporation of the City of London, Blackpool, Brighton, Edinburgh, Glasgow, Scarborough and Strathclyde Councils and a number of public transport bodies.

173. Much depends upon the extent to which late-night and Sunday trading might become widespread. The balance of informed evidence suggests that there would be no significant increase in the burden of expenditure on public services. The Association of District Councils predicts that the introduction of seven day trading would not have any marked effect on the rate burden, and observes that its 333 members, although expressly invited to consider this aspect, made little comment on it. The Association of Metropolitan Authorities, on the other hand, suggests that, while certain savings might be made from reduced demand in the week, particularly in the case of traffic and parking control, the overall effect would be to increase the cost of public services. The individual local authorities from which we sought evidence on these matters, in general, supported the views of the ADC.

174. As to waste disposal, the ADC suggests that Sunday refuse would normally be left until Monday for collection. As individual local authorities and retailers have confirmed, this is what happens now for Saturday waste, and, where there is Sunday trading, for Sunday waste too. Even in cases, such as

Glasgow, where there is a large Sunday market - the "Barrows" - requiring a special Sunday collection, the additional cost is minimal. In many cases, the cost of collection of trade waste does not, in any event, fall as a charge upon the general rates. It is paid for by each trader as part of a collection charge fixed according to the number of collections, and regardless of the day of the week.

175. Street cleaning does not appear to be regarded by local authorities as an area of expense that would be significantly increased by Sunday trading.

176. The police and fire services are always on duty. As to the police, arrangements for Sunday duties vary from one force to another. Some use rotas that have the same number of operational officers on duty on Sunday as on other days. Others have fewer officers available on Sundays, and they might need to review their arrangements if Sunday were to become a busy shopping day. If trading on Sunday generated sufficient extra traffic there could be a need for the employment of traffic wardens and car-park attendants on that day, although the extra cost could be partly offset by an increase in revenue from muncipal car-parks.

177. A number of those concerned with the provision of public transport have made the point that existing public transport on Sundays is unprofitable because it is not much used. Any increase in demand on that day would be likely to generate more revenue.

178. It has been suggested that widespread opening late at night and on Sundays could increase the costs of environmental and trading standards controls. There is already some coverage by environmental health and trading standards officers of legal and illegal Sunday trading. It may be that the employment of more inexperienced and part-time shopworkers on Sundays would increase the risk of offences, particularly in food stores, and, therefore, that more frequent Sunday checks would be required. On the other hand, as the Association of County Councils has

observed, most retail traders deal in pre-packaged goods, and a packet of peas or a 13 amp plug is no more likely to be misdescribed or to be of incorrect weight or to be dangerous on Sunday than on any other day. On balance, given the general infrequency of inspections on Sundays or any other days, we doubt whether Sunday opening would involve any significant increase of staff. In any event, if the restriction of trading hours were continued and properly enforced, the alternative would be an increase in the cost of such enforcement.

179. All in all, our view is that any increase in the cost of public services would be likely to be trivial and certainly not such as to justify the retention of the restrictions on trading hours.

Conclusion

180. In conclusion, we can find no interest, or any combination of interests, that justifies the retention of restrictions upon trading hours. There are nevertheless certain interests which, though not themselves justifying the continuation of trading restrictions, may be particularly vulnerable to the effects of de-regulation. These are present shopworkers who may not wish to work on Sundays or late at night, and people who live in or near shopping centres. We consider their position and whether anything can be done about it in more detail in Chapter Seven.

CHAPTER FIVE

CAN REGULATION WORK ?

Introduction

181. Those who are worried about the potential effects of de-regulation have put forward a variety of other options for reform. Some seek to put an end to the present unsatisfactory position by making the law more restrictive. Others propose some degree of relaxation, but stop short of total abolition of restrictions.

182. As we explained in the Chapter Four, we are satisfied that there is no justification for the continued regulation of shop opening hours. But even if there were interests that could justify such protection, the problem remains whether an effective form of regulation could be devised to achieve it. The lessons of the Shops Legislation are that any system of regulation needs, above all, to command general support. It must also be simple so as to be easily understood by retailers and customers alike, and to be readily enforceable. Otherwise it will fall into the same disrepute that has been the fate of the Shops Legislation to date.

183. The crucial test is enforceability. Many shops, large and small, break the law on Sunday trading, and the incidence of such offences is growing. Some shops also ignore the restrictions on evening trading. If some form of regulation were to remain, it is inevitable that illegal "out of hours" trading would continue to a greater or lesser extent. Accordingly, if society wished to retain some kind of restriction on trading hours, it would have to be prepared to commit itself to a dividing line between legal and illegal trading, and to provide the money and manpower to police it. The more difficult the law were to enforce, the more resources would be required. In this Chapter we look at the enforceability of all the main forms of regulation that have been suggested to us.

Tightening Up The Law

184. Very few of the witnesses who submitted evidence to us sought a total ban on Sunday or late-night trading. Nearly all recognized the need for some exemptions. There were, however, some who suggested that the shortcomings of the Shops Act 1950 should be remedied by making it more, rather than less, restrictive. Their proposals took two main forms. First, there were many proposals for reducing the lists of exemptions. We consider these in a moment. Secondly, there were some who suggested shorter opening hours.

185. For example, the Retail Fruit Trade Federation suggested that the general closing hour on weekdays should be brought forward. It observed that most traders close well before the present hour of 8 p.m., with 9 p.m. on one night a week, and that a general closing hour of 6 p.m. or so, with one late night permitted, would be adequate for people to do their shopping. Such a proposal would certainly limit environmental disturbance, and would also reduce the need for retailers and their employees to work what would generally be regarded as unsocial hours. But, in our view, far from commanding general support, it would arouse a large measure of public hostility and perpetuate the need for an extensive list of exemptions. The proposal clearly pays insufficient regard to the needs of customers, particularly those who work full-time and who may, in addition, have long journeys to and from their places of employment. The facilities increasingly offered, particularly by the food trade, for evening shopping until 8 or 9 p.m. are popular with shoppers, and have gone some way to ease the heavy congestion of Saturday. To intensify the present restrictions in this way would simply aggravate all the existing problems.

Revision Of The Schedules

186. The most common suggestion for change in the machinery of regulation has been a revision of the Schedules of exempted transactions. Some of the proposals were to make the law more restrictive by reducing the number of exemptions, particularly

on Sundays. This course was advocated by, amongst others, the Lord's Day Observance Society, some church congregations, the British Hardware Federation, and a number of individual witnesses. Mostly, however, the proposals for reform were for a relaxation of present restrictions, by revising the lists of exemptions to bring the law into line with what are seen as modern day requirements. This is an approach that found favour with a number of other retailers' associations, as well as with representatives of the unions, and with a rather larger number of church congregations.

187. Since both approaches involve drawing up a new list of what may be sold in the evenings or on Sundays, we shall consider them together. On the face of it, the idea of getting rid of the anomalies that have bedevilled the present law by revising the list of exemptions is attractive. But it is only necessary to think briefly about the drawing up of a new list of exemptions to see some of the practical difficulties that would arise. What criteria make the sale of some goods acceptable on Sundays or late at night, and others not? We have already touched, in the last Chapter, on the respective shortcomings of the alternative concepts of "need" and "demand".

188. Those who favour a more restrictive list of exemptions would, we think, accept that items should be available where needed in an emergency. Medicines or medical dressings would clearly be included in this category; so might petrol or motor spares to enable stranded travellers to get home. But although the traditional wisdom has been that "necessity" is a relevant criterion for exempting goods from the general ban on trading late at night or on Sundays, we are satisfied that it has only limited relevance today. In the past it was thought reasonable to allow essential food to be sold on Sundays because workers were not paid until Saturday evenings, and because lack of refrigeration made it difficult for either consumers or retailers to store fresh produce. Today, neither condition holds.

189. Moreover the concept of "necessity" has little to do with the exemptions that exist for such items as ice-cream and confectionery, alcoholic drinks, magazines or souvenirs. Some people might regard some of these goods as necessities, but many would not. Where people's values and lifestyles vary as much as they do in Britain today, "necessity" is a particularly difficult concept on which to base any list of exemptions to trading restrictions.

190. An alternative criterion would be "demand". Some, particularly USDAW and the TUC, have suggested that sales should be permitted only of those items for which there is an established public demand. Such a list might well include items of food, confectionery and alcohol, as well as items particularly related to weekend leisure pursuits, DIY, gardening goods and sports equipment. But this criterion, too, has difficulties. How can we measure the demand for particular commodities late at night or on Sundays unless shops are to be permitted to open to test it? The IFS, in its Report, comments on the difficulties of assessing likely consumer behaviour on the basis of opinion polls, because people find it difficult to predict how their shopping habits might change on the basis of hypothetical questions. We believe that "demand", until tested by actual opening, would always remain a matter of informed guesswork. It would be impossible to draw up a list that would command general acceptance.

191. Demand changes as social habits change and as new technology brings an ever different range of goods into the shops. The pressure to change the Schedules of exemptions would be constant. No list would stand the test of time. The suggestion of several witnesses that the Schedules could be embodied in a statutory instrument, rather than in primary legislation, would provide some flexibility. But there remains the fundamental difficulty, for whoever is responsible for determining the exemptions at any time, of the criteria to be followed. The public debate and sectional clamour for change would never end.

192. We are satisfied that neither "need" nor "demand" provides an adequate basis for a system for exempted transactions from a general restriction on shop opening hours. Nor have we found any better test.

193. Even if there were a degree of consensus over the criteria, we can see no possibility of compiling a list that would not be just as plagued with anomalies as the present legislation. The more exemptions, the greater the risk that they will appear arbitrary. And even for obvious exemptions, for example, medical requirements, inconsistencies and uncertainties would still arise. The courts in recent years have had to rule whether the sale of sunglasses by a particular chemist has transgressed the law on Sunday trading. The results have not always been the same. On one occasion, the retailer was found guilty of an offence; on the other, not guilty because it was able to demonstrate reasonable grounds for belief that the glasses were required for a medical purpose. It is absurd that the law should be so unclear that retailers and local authorities should have to do battle in the courts to establish whether the sale of a pair of sunglasses is legal or not. If the question can be raised about sunglasses, it can also be raised about lotions or hats purchased to prevent sunburn, and a host of other items. The fact that razor blades may be bought on Sunday for cutting corns but not for shaving has provided one of the more celebrated anomalies in the existing law. How many other items might find themselves straddling the divide between legal and illegal trading, even if the exemptions were defined as narrowly as items required for medical purposes?

194. Very few of the advocates of revision of the Schedules ventured a revised draft for our consideration, and, of those who did, none produced a formula to overcome the difficulties and pitfalls that we have described. Many others suggested particular commodities or groups of commodities that they felt should be included. The principal defect of these suggestions was that they favoured one trade or sector of the trade at the

expense of others; and they suffered from the same practical difficulties faced by more comprehensive revision of the Schedules.

195. There are also serious practical difficulties of enforcement where a single trader may sell some goods and not others. We have already referred in Chapter Two to the substantial increase in mixed retailing over the last 30 years. Where retailers stock a wide range of goods, some of which may be sold legally outside general opening hours and others which may not, it is extremely difficult for inspectors to prevent breaches of the law, particularly where self-service methods are in operation and where, as generally happens, buyer and seller are both willing to connive at the offence. In some larger stores, it may be possible to fence off or to cover up restricted goods. We do not believe that the cordoning off method could be operated simply and effectively in small shops or in stores with a broad mix of restricted and unrestricted goods.

196. In our view, therefore, revision of the Schedules would be, at best, tinkering with an unsatisfactory law. We are convinced that this is not the recipe for change because: of the impossibility of determining satisfactory criteria for a list of exempted transactions; of the inevitability of substituting one set of anomalies for another; and of the difficulty of enforcement, particularly where shops sell a wide range of goods.

Exemption By Type Of Shop

197. The problem of mixed retailing has led some witnesses to recommend that exemptions should be specified, not by reference to types of goods, but by reference to types of shops. Thus, for example, food shops, newsagents, chemists, DIY stores and garden centres might be allowed to sell any item from their stock. The Crathorne Committee looked at the problems caused by mixed retailing 20 years ago, with particular reference to food shops and chemists. Its recommendation was that shops

registered with the local authority as primarily food shops should be allowed to sell any article on Sunday. It felt that it would be an irritation, both to shopkeepers and customers, if other items in those shops could not be sold legally. For chemists, the recommendation was that they should be able to sell any items from their stock for up to two hours on Sunday. The Committee thought it unreasonable that a chemist open for the dispensing of medicines should not be permitted to sell other items in the shop. The two hour limit was recommended because the Committee did not wish to encourage chemists to open for general trading for the whole of Sunday. Since then, there has been a great increase in mixed retailing. We believe that there is now little rationale for picking out food shops and chemists for special treatment. On the other hand, we find it impossible to say how far any such system of blanket exemptions should extend.

198. First, we do not believe that it would be any easier to select a defensible list of types of shop for exemption than it would be to select a defensible list of goods. Secondly, just as the present law is criticised as anomalous because gardeners can buy flowers on Sunday from their local garden centre but not a pot in which to put them, it would be equally anomalous to say that they could in future legally buy a pot from a garden centre but not, for instance, from the local hardware shop. And the proprietor of the hardware shop might justifiably feel aggrieved about the unfair competition. There would, moreover, be serious practical difficulties, given the rapid growth of mixed retailing, in classifying shops into exempt and non-exempt groups and in preventing non-exempt shops from trading out of hours.

199. One suggestion for dealing with the problem of classification, put to us by the John Lewis Partnership, was that shops should be allowed to trade late at night or on Sunday provided that a preponderance of their normal trade was in the sorts of items exempt by law from trading restrictions. It was suggested that this could be monitored by instructing the staff to press a special button on the till when exempt goods were

purchased, so that it would be apparent from the till print-out whether or not the shop's main business was in exempt articles. This suggestion would not work for several reasons. First, it assumes agreement about what the exempt goods should be. Secondly, there is the difficulty of determining what shops would qualify and for what period. Individual stores might move to and fro across the qualifying boundary as their volume and mix of trade fluctuated. And if the mix of goods in demand on Sunday were different from the mix during the rest of the week, a shop would find itself on one side of the boundary as a six-day store, whereas it would be on the other if allowed to open for seven days. Thirdly, there is the practical question of how easy it would be for individual retailers to keep records of their sales of exempt and non-exempt goods. It might be relatively simple for large stores with sophisticated tills and stock-keeping devices. We suspect that it would be less so for a small retailer employing more basic technology. Fourthly, it would not be difficult for a determined trader to circumvent any required recording arrangements. Accordingly, we do not regard this proposal as a practicable proposition.

Exemption By Size Of Shop

200. We have already described the degree to which many small traders - particularly food and general stores - depend upon being open for custom when their larger competitors are closed. Some of these are taking advantage of the exemptions from the present law. Many more are, in part, trading illegally. Most local authorities are prepared to turn a blind eye to such offences at present, but there is general agreement that, if regulation is to continue in any form, the law should be properly enforced.

201. A number of witnesses have attached so much importance to the plight of small shops that they have sought special advantages for them. Some, such as the Voluntary Group Association and a number of academic witnesses, have proposed that small shops for this purpose should be specified in terms

of floor area: 3,000 square feet seemed to be a popular maximum. Others, including the Association of Independent Retailers, have suggested that the test should be the number of staff.

202. We see almost as many practical difficulties in these proposals as in the case of exemption by reference to transactions. First, any limitation by size, whether in terms of floor space or numbers of staff, is bound to be arbitrary. It would be likely to inspire various moves to bring some stores artificially within the limits, for example, by closing off part of a shop or by dividing a large store into smaller units. If the limitation were specified in terms of numbers of employees, there would be an incentive for shopkeepers to cut down on staff, or not to take on additional employees that they would otherwise require. As a result, in some small shops the burden imposed on individual members of staff by a decision to open late at night or on Sundays might be particularly heavy.

203. Enforcement of restrictions based on size would be impracticable. If the criterion were floor space it would be necessary to examine all shops wishing to open to see which qualified for exemption. Plans for new shops would also have to be vetted. The effective monitoring for changes would be difficult, costly and time consuming. Classification of shops according to staff numbers would raise even more enforcement problems, for changes in staffing levels would have to be notified and inspectors would have to check from time to time to see that more staff were not being employed surreptitiously.

204. It would not only be shops falling just on the wrong side of the size boundary that would be likely to cause problems for the enforcement authorities. Sunday or late-night trading by small shops might enable consumers to buy most necessities outside normal shopping hours, but it would not allow much in the way of leisure shopping. In particular, the restriction of Sunday opening to small shops would not begin to meet the demand for Sunday trading by the big DIY stores and garden centres. If, as we believe, these stores and centres have an established and useful trading role on Sunday, it would be wrong to prevent

their opening on that day. If no special exemptions were made, at least for DIY stores and garden centres, there would be a public outcry and consequent pressure on them to trade illegally. Proper enforcement would be unpopular and the costs high.

205. A variation on the theme is that Sunday trading should be generally permitted, save in the case of large food shops. Its advocates, who include Sainsbury's and the National Council for Voluntary Organizations, argue that there would be little demand for general food shopping on Sundays, since most people would have completed their routine shopping in the week. They say that all that would be required normally in the food line would be forgotten and "top up" purchases. The twin benefits of this proposal are claimed to be the help that it would give to small food shops and the avoidance of a damaging battle between the food giants on Sundays.

206. In our view, it is not possible to single out food shops in this way. Once again, the extent of mixed retailing would cause problems. What provision should be made for those large stores that combine sales of both food and non-food items? It is unreasonable and discriminatory to say that, for example, a tin of tomatoes could be bought from the local grocer but not from one of the multiples, if that multiple could be open legally for the sale of clothes and household goods. We do not believe that such a law would make any more sense to the general public than does the present law. In our view, the extent of mixed retailing makes it essential that the same rules should apply to both the food and the non-food sectors.

207. We are therefore firmly of the view that positive discrimination in favour of small shops, either generally or solely in the food sector, would not work.

Exemption For Self-Employed Retailers

208. It has been argued that self-employed retailers should be allowed to open their shops outside normal trading hours,

provided that they do not employ any staff at such times. Even more than the proposal to limit Sunday and late-night trading to small shops generally, this idea would minimize disturbance while allowing people to buy most basic necessities. But, like that proposal, it would not begin to meet the demand for other types of Sunday shopping. The idea of allowing owner occupiers to open on Sunday, provided that they do not employ assistants, was considered by the Gowers Committee, and rejected by it as unworkable. In our view, there would be insuperable enforcement problems. It would be all but impossible for enforcement officers to ensure that no staff were being employed to assist the owner operator. Such an exemption from the law would also, in our view, give some small traders an unjustifiable advantage, over other small traders as well as over large ones. Like the Gowers Committee, therefore, we regard this proposal as unworkable.

Exemption By Area

209. The possible restrictions that we have been discussing so far would be unenforceable in part because of the difficulties of detecting and preventing trading not in the exempt categories.

210. A different type of restriction, that would overcome some of these problems, would be to limit Sunday or late-night trading to certain specified areas. The present law already makes some provision of this sort by permitting additional Sunday and late-night opening in holiday resorts for part of the year. Theoretically, this could be adapted for the whole country, so that shops in specified types of location could trade for additional hours. The most frequent suggestion of this sort is that the law should specify out-of-town developments, or other purpose-built shopping centres. This would give a broader spread of legal Sunday opening than at present, covering a wider range of goods, while at the same time limiting the impact on the traditional character of Sunday to areas whose primary function was shopping, with few if any residents to disturb.

211. This proposal might ease enforcement problems. The enforcement officer would know immediately from the location of the shop whether or not it was trading legally. But the initial designation and the boundaries of the exempt locations would be difficult. A decision whether a particular group of outlets constituted an out-of-town development or shopping centre could not be taken centrally. It would have to be taken by the relevant local authority. Different authorities would inevitably adopt different standards of assessment according to whether or not they wished to encourage late-night or Sunday opening. The way would, therefore, be open for local inconsistencies and complaints of unfairness. Moreover, where a particular locality proves popular with Sunday shoppers, there is often a spin-off effect for shops in the immediately surrounding area. For example, in Scotland, when we visited the "Barrows" market in Glasgow on a Sunday, we saw that shops in nearby roads were also open and doing a good trade with customers on their way to and from the market. We can foresee great difficulties for a local authority in reaching an acceptable decision about how much, if any, of the surrounding area should be allowed to share a shopping centre's permission to trade on Sunday, and a good deal of pressure from those excluded who would believe, with some justice, that competitors were being given an unfair advantage.

212. In addition, special provision for particular types of locality would interfere with the normal workings of the market to the detriment of other areas and traders. For example, a decision to allow Sunday trading in out-of-town developments, but not inner cities, might accelerate the decline of city centres. It would also distort levels of rents and rates, possibly depriving some urban authorities of part of their income. Moreover, the restriction of Sunday and late-night opening to localities away from traditional residential areas, although intended to protect residents from unnecessary disturbance, would prevent many traditional corner shops from opening. It would thus exclude from the opportunities to shop on Sunday or in the evening the less mobile members of society, the elderly, the handicapped and the poor.

Exemption By Periods Of The Year

213. A different approach would be to limit late-night or Sunday trading to certain parts of the year, when demand from customers is particularly high. The additional trading for up to 18 weeks a year in holiday resorts provides some precedent for this, 18 weeks having been regarded, at the time the legislation was passed, as adequate to cover the summer tourist season.

214. The most common proposal is that shops should be allowed to trade freely on a limited number of Sundays immediately before Christmas. USDAW has indicated that its members might well be prepared to staff shops on these Sundays, provided that such work was voluntary, always attracted premium payments and that they were guaranteed a reasonable break over the Christmas period itself. In Scotland, where Sunday trading is not subject to regulation, a considerable number of shops that do not generally open on Sunday, do open for one, two or three Sundays before Christmas. The decision whether to open, and for how many Sundays, seems to be taken annually, in the light of the experience of the previous year and of what is known of competitors' intentions.

215. There is some attraction in allowing shops to open on Sundays and late in the evenings at periods of peak demand, such as just before Christmas. But, in our view, such limited opening, by itself, would only be a partial solution. Exemptions would still be needed for Sunday and late-night opening for the rest of the year. Once the principle of general Sunday trading were accepted for a limited number of Sundays, the pressure for additional Sunday opening would continue. We have received evidence from a number of those representing holiday resorts and the tourist industry that the 18 weeks during which a certain amount of additional trading is permitted for the benefit of holidaymakers is not enough, given the lengthening of the holiday season and the growing demand for out-of-season breaks. We suspect that, if only pre-Christmas additional shopping were allowed, pressure would rapidly build up for other periods of

heavy demand - the sales, for example - to receive the same treatment. This particular idea, therefore, would only be a postponement of, rather than a final solution to, the problem.

A Maximum Number Of Hours, Or Days, Per Week

216. A further proposal is to specify a limit on the total number of days or hours a week that any shop may open, and leave retailers to decide when to open within those limits. This would allow them to judge for themselves when their customers are most likely to want to shop and would avoid excessive working hours for themselves and their employees. Thus, the Greater London Council has suggested that shops should be allowed to open on any six days of the week that they choose. The National Chamber of Trade has proposed a limit of 60 hours a week, with extensions to be licensed by the local authority if a majority of local traders wish it. Dewhurst has also proposed a maximum of 60 hours a week, and Fine Fare one of 80 hours, with traders being free to use some of these hours on Sunday if they choose.

217. At present, shops may open legally between midnight and 8 p.m. from Monday to Saturday, with one late night of 9 p.m. - 121 hours a week. But, of course, very few traders open in the early hours of the morning, and very few use anything like their legally permitted total. Some, however, particularly newsagents and those in the grocery trade, do open for more than the hours suggested by the National Chamber of Trade. The ability of some retailers to continue with their present opening hours would thus depend, under the proposals of the National Chamber of Trade, on the willingness of other retailers to support an application for an extension of hours.

218. We believe that a system of maximum hours' trading a week would impose an unreasonable burden on enforcement authorities, even if each shop were to display a notice of its trading hours. The task of enforcing the law without a generally applicable opening pattern would be enormous, and would only be aggravated by a scheme of registration of individual opening hours.

Local Decisions

219. It will always be tempting, when there is difficulty in reaching agreement about what should be done on a particular problem, to suggest that individual local authorities should be given power to decide what should happen in their areas, so that local needs and circumstances can be taken into account. Such an approach neatly avoids the need to take any firm decision on a national basis. In fact, shopping seems to us to be one area where a reasonable case might be made for local discretion. Shopping is primarily a local activity, employing local people, and it would be local residents who would be disturbed by any untoward noise or traffic congestion.

220. Allowing a pattern of local variation to develop, in line with local needs and wishes, could be achieved in a number of different ways. The formulation of regulations could be left entirely to local authorities, or model regulations could be drawn up centrally which the authorities could decide either to adopt, or to reject. Or there could be a system under which, whatever the national position, local authorities would have the power to make special provision for particular shops, classes of shops, or districts within their boundaries.

221. A different approach would be for local traders themselves, by a majority, to decide what they want. There are precedents for this in the Shops Act 1950. For example, it requires a local authority to exempt any particular class of shops in its area from the early closing day requirement if it is satisfied that a majority of the occupiers of these shops are in favour of being so exempted. Yet a further variation would put the question to local referenda, giving all electors a chance to express their views, perhaps conducted in conjunction with the county council elections every four years.

222. Each of these proposals has its attractions, but each, in our view, also has serious drawbacks.

223. Any system that relied on local authority decision, and particularly one that required local authorities to vary general rules for individual shops, classes of shops or areas, would add substantially to their burdens. Many are already struggling to provide essential services in times of increasing financial stringency.

224. The suggestion that questions of trading hours should be determined by a majority vote of retailers smacks of restraint of competition. It would be wrong for a retailer who believed that there was trade to be done, and who was willing to put in the additional effort involved in opening for extra hours, to be prevented from doing so by competitors who were worried that their market share might be adversely affected. Moreover, we believe that a scheme of decision by local retailers would involve considerable enforcement difficulties. There would have to be exemptions under this as under any other system, with all the difficulties that that would entail. In a system where the rules depended on a vote of local retailers enforcement would be even more difficult than it is now.

225. There is also an argument that if the opinion of the majority of local retailers is to be taken into account, so also should that of shopworkers, local residents and potential customers. A majority in a local referendum for unrestricted trading hours would not, of course, make Sunday or late-night trading obligatory for all shops, and the ultimate decision on a shop's opening hours would continue to be taken by the retailer. Where the verdict was for continued restriction, however, the same enforcement difficulties would arise as if the decision had been taken by a majority of local retailers.

226. But the major difficulty with a pattern of local variations, and it is one that would apply whatever the method of local determination, would be the lack of consistency inherent in the system, both geographically and over time. Policies vary from area to area, and the views of local authorities and shopkeepers in their areas are subject to change for political or other reasons. The inconsistency would

perpetuate the lack of uniformity in the enforcement of the present restrictions, where traders subject to a regime of strict enforcement can lose business to their competitors across the local authority boundary.

227. In our view, a system in which the restriction of opening hours became a matter of local choice would aggravate the variations that the present inconsistent enforcement of the law has produced. Moreover, in those areas where it was decided to continue restrictions on trading hours, local authorities would have no better way of overcoming the difficulties of enforcement than they do at present.

Extension Of The Present Trading Hours

228. There are two other suggestions, both of which would allow increased flexibility of trading hours for shops in general, without discriminating by type of goods or shop, or by size of store, or by locality. The first would permit unrestricted trading hours from Monday to Saturday, but keep Sunday as a day apart. The second would allow trading for some limited part of Sunday but continue to restrict it for the rest of the day.

Abolition Of All Restrictions On Weekday Trading

229. The first of these proposals was made by a number of those submitting evidence to us, including the House of Fraser and the Menswear Association of Great Britain. It is also a course that would be favoured by many of those with religious objections to any increase in commercial activities on Sundays. Supporters of this idea point to the success of evening opening in the food sector. They argue that, if shops were permitted to open later if they wish, it would provide ample shopping time for all, ease congestion on Saturdays, and protect what remains of the traditional character of Sunday. They point out that the present restrictions apply only to four hours in the day, from 8 p.m. until midnight, and on one day a week, to only three

hours. Since shops may open as early as they wish in the morning, they suggest that there is little logic in continuing to prohibit trading for the few hours before midnight.

230. We think that there is much to be said for permitting shops to open later in the evenings. A minority of supermarkets and superstores, recognizing a demand from customers for later opening, already remain open until 9 p.m. on more than the one day a week permitted under the present law. A few stay open until 10 p.m. on certain days. In some localities corner stores and other small food shops stay open later still, and rely heavily on such out-of-hours business for their survival.

231. The removal of restrictions on weekday evening opening would not answer all the problems of the present law. It is clear from the evidence that we have received from organizations and individuals and from various surveys, that the evening is regarded primarily as a time for routine food shopping. For the present at least, there seems to be less eagerness at the end of a long day to shop for other goods requiring more comparison and care in choice. Moreover, late-night opening is unlikely to help those who, because they have young children, find it difficult to go out in the evenings.

232. Even if all restraints were removed from trading in the week, there would remain the problem of how to deal with the present restrictions on Sunday trading. Unrestricted weekday opening hours would therefore provide, at best, a partial solution to the problem.

Sunday Opening For A Limited Number Of Hours

233. An alternative, or complementary, approach would be to allow general trading on Sunday for a limited number of hours. This idea, in one form or another, has been proposed by a number of witnesses, including the John Lewis Partnership, Lord Jacques, Lord Sainsbury and Patrick Cormack MP. Such a system might specify that shops could trade freely on Sunday mornings only, or on Sunday afternoons only as

happens in Massachusetts. It might specify certain hours in the day, for example 10 a.m. to 5 p.m., or 9 a.m. to 6 p.m. Or it might prescribe a set number of hours for which retailers could trade if they wished, choosing the hours that suited them best. Most of these proposals also contemplate limited trading for certain goods outside the permitted hours.

234. Allowing retailers to choose their own trading times within an overall limit could make for the greatest difficulties for enforcement authorities. On the other hand, specifying either morning or afternoon would not meet the interests of all retailers and shoppers. Food shops report that their greatest demand is in the mornings. DIY stores and garden centres are at their busiest in the afternoons. But all of these proposals for limited periods of general opening on Sunday would cause considerable problems of enforcement. All would require a list of exemptions for trading at other times on that day. Depending on the period chosen, they might well require two lists, one for before the free trading period and one for after it. All the problems of anomalies and discrimination that currently plague the Sunday trading law would continue. Limited hours might also invite continued breach of the law at other times. The local authorities would have just as many problems enforcing the law as they do now. As an illustration, we understand that in Massachusetts, where general trading on Sunday is permitted in the afternoons but only limited trading, mainly by small shops, in the mornings, some of the larger stores are causing problems by opening their doors before the officially permitted time of noon.

Conclusion

235. In our view, all the forms of control canvassed in our Inquiry, while affording protection to some, would neglect the interests of others. More importantly, we are convinced that none of the suggestions for reform, short of 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.

CHAPTER SIX

THE EFFECTS OF DE-REGULATION

The Predictions

236. Much of the debate and of the evidence given to us has concentrated on the question of how much practical difference to our lives de-regulation would make. If the law were changed to permit more shops to open late in the evening or on Sundays, how many would actually do so? Would shopkeepers generally take advantage of unrestricted opening hours so that late-night trading and Sunday opening would become general? In particular, would Sunday lose its special character and become a normal trading day like every other day in the week? Opinion is sharply divided.

237. Those who argue for de-regulation stress that the removal of restrictions would not oblige shopkeepers to remain open all hours or to open at all on Sundays. On this argument each shopkeeper would be free and would be likely to open only for so long as it would be profitable for him to do so. Those who, regardless of commercial considerations, do not want longer opening hours, would be likely to continue as at present. Many who make this prediction say that the introduction of freedom of choice would be unlikely to lead to a marked increase in late-night and Sunday trading. Some would take advantage of it, and many would not for all sorts of reasons - indeed the overall level of shopping activity would not be so very different from what it is today. They refer, in support of that prediction, to the facts that most shops do not now open for all the permitted hours in the evenings, and that, in Scotland, where Sunday trading is permitted, most do not open on that day at all.

238. Such a picture of the future in the event of de-regulation inevitably provokes the question, "why seek the removal of the restrictions if there is so little demand from shopkeepers to open for longer hours?" The answer given by the advocates of de-regulation is that it is the freedom of choice that matters and the flexibility that it gives, in contradistinction to the rigid and anomaly-prone technicalities of a legal system of general prohibition subject to exemptions. The following submission of the National Consumer Council is typical of this approach:

> "It must be made clear that large parts of Scotland, both urban and rural, are totally unaffected by Sunday trading. A pattern has developed which brings considerable advantages to the traders who decide to open and to the consumers who choose to shop. The peace and quiet of the rest of the country is sustained entirely without a law on Sunday opening..... The situation in Scotland demonstrates that flexibility and balance is possible and that the unrestricted right to open on Sundays does not necessarily lead to universal 7 day trading. Retailers are perfectly capable of making their own decisions about the viability of opening hours.... We would expect a similar trend of shop opening to occur in England and Wales. If the law is reformed, then the initial outcome would probably be similar to the current (illegal) pattern of Sunday opening - but on a larger scale. We would expect to see the introduction of pre-Christmas Sunday trading and more late night supermarket shopping. Sunday opening is most likely to grow amongst the leisure/discretionary types of spending where the purchase requires an investment of time and family consultations. We would not expect widespread 7 day trading, as the crucial factor will always be whether the turnover will cover the operating costs."

239. Those advocates of de-regulation who believe that freedom to open would lead to at least a modest increase in Sunday or late-night trading also produce a second argument. They say that longer and more flexible hours would generate more business for the retail trade as a whole, and that Sunday and late-night sales would not simply be business transferred from current opening times or from other traders who were open for shorter hours. For these advocates, there is a "Sunday pound" and, no

doubt, a "late-night pound", that is money spent in shops which, but for the easing of restrictions, would not have been spent or would have been spent outside the retail trade - on holidays, leisure pursuits or entertainment for example.

240. The contrary argument is that shopkeepers, large and small, would have no true freedom of choice whether to open in the event of de-regulation. They would be driven to do so by the intense competition in the retail trade, particularly in the food sector; and some shops, particularly small and medium sized shops, would be driven out of business. Implicit in the argument that a trading "free-for-all" late in the evening and on Sunday would be harmful to retailers is the conviction that it would not generate additional trade. Shops would simply be competing for longer hours at greater cost to themselves and to the consumer for their share of the same overall level of trade. This is the "fixed cake" argument. It is particularly important in the food sector where demand is relatively inelastic.

241. Typical of this approach are the arguments of USDAW and the National Chamber of Trade. Thus USDAW in its written evidence to the Committee, observed:

> "We have heard much of the rhetoric of "freedom of choice" around the trading hours debate. The argument suggests retail trading is such an innocuous activity that the law should not be invoked and people should be left to determine for themselves when they should trade, 24 hours a day, 7 days a week. Our argument, however, is that "freedom of choice" in the harshly competitive retail sector is an illusion. In a de-regulated sector no trader could afford to withdraw from the market place as long as other competitors were prepared to remain. To maintain their presence, their share and their trade, they must open as long, as late and as frequently as others. Consequently, de-regulated trading hours will inevitably produce a trend generally towards late night opening and Sunday trading simply because it is in the very nature of the market to drive traders to compete longer and later for whatever trade might be available."

Similarily the National Chamber of Trade argued that,

> "If only one customer in ten were to transfer just a part of his/her shopping to Sunday then the vast majority of shops would be compelled to open to protect their own interests."

And again

> "Everybody seems to agree that Sunday would rapidly become similar to Saturday so far as retailing activity is concerned: those who advocate change base their arguments on substantial consumer demand, and those who currently oppose any extension of Sunday trading say that the forces of competition would force the majority of shops to open."

242. There are three possible ways of testing the validity of these arguments. One is to look at what has happened elsewhere, where shop hours are not restricted. The second is to consider the experience of those who now open in England and Wales outside the permitted hours. The third is to examine the present structure of retailing and try to predict how it would change with de-regulation.

<u>Experience Elsewhere</u>

243. The most frequently cited comparison is Scotland. The National Consumer Council was only one of a large number of organizations and individuals who drew on it as a useful precedent. The Committee's visit to Edinburgh and Glasgow by and large confirmed the picture of Sunday trading in Scotland painted by the National Consumer Council in the extract from its evidence set out above. But the pattern of Sunday opening in England and Wales under de-regulation would not necessarily be the same. Scotland is a predominantly rural country, with few large shopping centres outside Edinburgh and Glasgow, and with more strongly rooted religious traditions of Sunday observance. Moreover, many of its larger shops are operated by companies whose

headquarters are in England. Some may have remained shut on Sunday because their English based managements have geared all their retailing to their trading patterns south of the border. Hitherto a combination of these factors may have limited the degree of Sunday opening in Scotland. De-regulation of opening hours in England and Wales might prompt a new look at Sunday trading there as well.

244. The debate on Sunday opening is taking place all over the world. There have been investigations in several other major countries in the past decade. For instance, in Australia in the past two years there have been three official inquiries: in the Australian Capital Territory, New South Wales and Victoria. In Sweden restrictions on Sunday trading were removed in 1972, but have been the subject of continued review, described in Appendix D to the IFS Report. Sunday opening has become popular in some parts of Sweden, and 30 per cent of households now shop regularly on Sundays, with another 30 per cent doing so occasionally. Many shops that open on Sunday close at some other time, such as Saturday afternoons. In Norway, a government-appointed select committee has recently submitted its report - "Opening Hours and Accessibility" - to the Ministry of Finance. The Norwegian Government has just announced its intention to liberalize the law on trading hours.

245. The country in which Sunday trading has been established for longest is the USA, where only 23 states had laws restricting Sunday trading at the end of 1982. For many of the others, Sunday trading is now the norm. We have looked at their experience, and, in more detail, at that of Massachusetts where the law was changed in the spring of 1983 to permit general opening on Sunday afternoons.

246. In Massachusetts, we were told, the introduction of Sunday trading is widely regarded as a success, proving popular with retailers, shopworkers and customers alike. Not all shops open, though they tend to do so in the major shopping centres and shopping malls. During a visit to Boston in March 1984 the Chairman of the Inquiry learned that some retailers had begun Sunday opening reluctantly, to preserve their market share in the face of Sunday trading by their competitors. But he was informed that most of these retailers had since increased sales so substantially that they were now pleased with the new law. Sales levels in Massachusetts generally had increased by 18% during the first six months of Sunday trading.

247. As in the case of Scotland, we are cautious of putting much weight on the Massachusetts experience. It is difficult to say how far the increased sales are due to the introduction of Sunday trading, and how much to the general improvement in the American economy and the repatriation of some sales that had previously gone to neighbouring states. We believe that it is too early yet to judge what the eventual pattern of Sunday opening in Massachusetts is likely to be. Moreover, the reform is still a compromise, for there are still restrictions on Sunday morning trading.

248. Our overriding conclusion from our review of the experience of other countries is that their economic, social and historical traditions vary so much that none could provide a reliable guide for us. Comparisons with practice elsewhere are only of limited value in assessing what is likely to happen here.

Sunday Trading Now

249. Much has been made of the commercial success enjoyed by those retailers who now trade illegally on Sundays. As a picture of the prospects for retailers in general in the event of de-regulation it is highly suspect.

250. The IFS, in its Report, makes it clear that it could not be profitable for all shops to open on Sundays, because it is inconceivable that sales could increase by anything like the amount needed to compensate all retailers for the additional costs involved. But for some traders, particularly the first in the field to open, Sunday trading could be profitable. It would also initially increase the market share of these traders, as they would attract custom that might otherwise have gone to their competitors on other days. But as more stores were tempted to open to maximize their own sales, so the additional advantage of Sunday opening for each would diminish. The John Lewis Partnership clearly saw the risks of such diminishing returns, and put the point well in its evidence to us:

> "The long term view should discount what one might call "standing" benefit. There is always someone who wants a better view and stands to get it. Soon everyone stands. No one's view is improved; but all stand instead of sitting. It is not perhaps too fanciful to suppose that some of the largest companies now persisting in trading during hours which are in breach of the law are reckoning on the "standing" benefit."

The Structure Of Retailing In Great Britain

251. A third way of envisaging the pattern of trading after de-regulation is to use economic analysis to predict it from the present structure and trends of retailing in this country. That is what the IFS has done in its Report, Appendix 6. The retailing sector has been almost totally neglected by economists in the past, and the statistical information available is more limited and patchy than for many other areas of economic activity. The regular "Retailing Inquiry" conducted by the Business Statistics Office provides little of the information needed for this sort of exercise. From a variety of sources the IFS has built up a picture of the pattern of costs, prices and margins in retailing. From this picture, it has tried to judge how far restrictions on trading hours affect retailers' behaviour.

252. We are conscious of the difficulties of economic prediction, however comprehensive the study. Nevertheless, we are satisfied that the IFS has identified useful pointers to likely changes in the event of de-regulation. The main conclusion reached by the IFS is that, in terms of costs, prices, trading patterns, and employment levels, the long term impact of de-regulation would be small. It would not be large enough to stand out from the other changes that are in any case taking place as the result of other influences on the style and structure of British retailing.

253. The IFS, in its Report, discusses a number of factors likely to influence a retailer's assessment of whether it would be worthwhile to open for longer hours. The decision would inevitably depend to a large extent upon the demand for late-night and Sunday shopping. This is extremely difficult to establish in advance of a change in the law. As the IFS Report shows, people tend to say that they would buy on Sundays the sort of items that they can already buy, legally or illegally, on that day. Here we have the familiar chicken and egg puzzle. Do people say that those are the sorts of goods that they would buy because they already can, and do, buy them, and find the facility useful; or do shops now open to sell these particular items because it is for them, and them alone, that there is sufficient demand on Sundays?

254. The decision to open would also depend to a large extent upon the composition of a retailer's costs and the degree to which these would be likely to rise with an increase in opening hours. For example, a retailer whose labour costs are particularly high would be likely to find his costs for Sunday or late-night opening increasing more than average, because of the premium rates paid on Sunday and after 8 pm. Also relevant would be the extent

to which the retailer would be able to generate sufficient customer loyalty to ensure that customers would continue to come at times when the shop was open, rather than drift away to other stores with different trading hours. Stores with a distinct image and exceptional popularity can make their own choice about opening hours, almost regardless of the competition. Thus the John Lewis Partnership chooses to close its store in Oxford Street at lunchtime on Saturday, even though other stores on the Street remain open and busy for the whole of the afternoon. And both John Lewis and Marks and Spencer have, so far, resisted the trend towards opening on Sundays in Scotland in the immediate pre-Christmas period. A store without this degree of customer loyalty might well feel more pressure to match the trading hours of its competitors.

255. Many have suggested to us that the pressure to open on Sunday could be particularly strong for food retailers, thus accelerating the closure of the less competitive stores. There is already intense competition in this sector over price. Sunday opening could be an additional trading weapon. At least one major grocery multiple has announced its intention, if the law is liberalized, of opening on Sunday wherever it considers it profitable to do so. It is likely that one or more of the competing companies would also decide to open on Sundays to avoid losing custom as a result.

256. The effects of de-regulation upon the non-food sector are less predictable. There are clearly types of retail outlet that would be likely to do well out of Sunday opening, including those which now find it worthwhile to trade illegally on Sundays. This applies particularly to stores catering for Sunday leisure pursuits such as DIY and gardening. There would also obviously be a continuing demand for the services of newsagents and chemists. And wherever some shops found it worthwhile to open, other stores nearby would be tempted to follow suit. The effect would

be cumulative. Out-of-town developments, where shopping could be combined with a family outing, might do particularly well. On the other hand, there would probably be some shopping locations, such as some suburban shopping centres, where few if any of the retailers would wish to open on Sunday.

257. The attractions of late evening would be rather more limited. In general, it would be concentrated in the food sector. There would be unlikely to be sufficient demand from customers for other less routine items to tempt large numbers of shopkeepers in the non-food sector to stay open much beyond their present closing times, except possibly in the pre-Christmas period and during sales. But the situation could be different in tourist areas, where a much wider variety of shops might find it worthwhile to remain open, as some clothes, souvenir, and record shops now do in Central London.

258. The IFS has attempted to provide an estimate of the possible extent of Sunday opening, in the food and non-food sectors, based on the data that it has collected on the structure of retailers' costs and on surveys of consumer preferences. Although Sunday opening could not be profitable for all retailers, the IFS suggests that shops which now account for 48% of total retail turnover would find it worthwhile to open on Sundays if permitted to do so. The degree of opening would vary considerably between different retail sectors. The IFS suggests, for example, that Sunday opening could be widespread among stores whose main business is confectionery, tobacco, alcoholic drinks or household goods, including DIY and garden supplies. In the food and clothing sectors, however, fewer shops would find Sunday opening profitable. The estimates are that, for food, shops responsible for about 46% of total turnover would find it worthwhile to open on Sundays, while in clothing and footwear, the comparable figure is 23%. If, following de-regulation, Sunday opening did occur on this scale, the IFS would expect some 7% of retail sales to occur on that day.

259. It is obvious that the more widespread Sunday and late-night trading became, the more marked would be its social and economic consequences. As the IFS in its Report makes clear, in the event of widespread use of the additional trading hours, the principal effect would be to accelerate the changes already taking place in the structure of retailing.

260. It is vital, when considering the various consequences of de-regulation, to distinguish between its short and long-term effects. An extension of trading hours would initially have the same sort of effect as an increase in the number of shops. It would result in over-provision of shops to customers in some sectors and some areas, and hence increase the vulnerability of those that are less competitive. In the short-term, several years, this over-capacity would be likely to persist as shops compete over longer hours for much the same business. This might have the temporary effect of cutting margins whilst at the same time increasing prices slightly. In time, the over capacity would be reduced. In plain language, some shops would close. They would tend to be independent traders and the weaker units among the multiples - the kind of shops that are already under pressure for reasons described in Chapter Two. This would leave the consumer with a narrower range of shops, but with longer hours and a more efficient retailing sector.

261. The detailed analysis of this process undertaken by the IFS can be found in its Report at Appendix 6. Its findings relate specifically to Sunday, rather than late-night trading. The figures should be read subject to an important general qualification. They are based on a comparison between Sunday trading and no Sunday trading, whereas in practice many shops are already trading, legally and illegally, on Sundays. In some cases, therefore, the figures overstate the degree of change likely to follow de-regulation. The IFS's main conclusions are as follows.

Costs, Margins And Prices

262. A substantial increase in shop opening hours would not be matched by a commensurate increase in sales. In the short term, although some particularly successful Sunday traders would find their costs per unit of sales diminishing, for most retailers the reverse would be the case. Labour costs constitute the largest element of a retailer's costs, and, as Sunday working attracts double time, labour costs would be likely to increase more than proportionally to the extension of opening hours. Some other costs, notably those of energy, would also rise, though less than proportionally to the increase in opening hours. But some expenses such as rent and rates, for example, would not be directly affected by changes in opening hours. In the short term, if all retailers opened on Sundays, the IFS suggests that costs in the retail trade would increase by some 10%. In practice, the overall increase in costs would be less than this. Not all retailers would open, and those that would do so are likely to be those that would incur lower than average cost increases. Competitive pressures would limit the extent to which any cost increases could be passed on in the form of higher prices, and, although prices might rise slightly, the main burden would be likely to fall on retailing margins.

263. In time, however, the IFS considers that these trends would be reversed. The transfer of some sales from weekdays to Sundays would mean first, that stores could lower their weekday trading costs, for example by employing fewer staff to meet the diminished demand, and, secondly, that the needs of consumers could be met by a smaller retail trade. The decreased level of profitability would discourage the opening of new shops, and would accelerate the closure of some of the less viable among existing outlets. For the remaining shops, there would then be increased business, and margins would be restored broadly to their present levels. But because the retail trade would be more

efficient, and trade spread more evenly over the week, retail costs per unit of sale could be lower than at present. Overall, the IFS suggests that, in the long term, costs in the retail trade as a result of Sunday opening might be 2% lower than they would otherwise be. If fully passed on in prices, this cost reduction would lower the Retail Prices Index by 0.4%.

The Number Of Shops

264. The reduction in the number of shops would affect different sectors of the retail trade in varying degrees. Hardest hit would probably be the household goods sector, where the reduction in capacity might be as much as 30%, and drink, confectionery and tobacco outlets, where the comparable figure is 17½%. Although both these figures are particularly likely to overstate the change that would follow de-regulation, since they relate to two of the sectors where Sunday trading is already most common, the effects on these sectors could be substantial. In food, the reduction in capacity would be considerably lower, 6%, and in clothing and footwear, a little over half that. In all parts of the retail trade, the IFS would expect the most vulnerable to be the independent traders and the weaker units among the multiples, i.e. those already at a disadvantage because of other, unrelated, trends in retailing.

The Convenience Of Shopping

265. Shoppers would suffer some loss of convenience as a result of this long-term reduction in retailing capacity, with fewer shops to choose from, and perhaps the loss of a valued local store. These disadvantages must be weighed against the benefits to many consumers of more flexibility of shopping time. The IFS points out that it is those whose shopping opportunities are now

the most limited, people with jobs, and the young, who would be most likely to make use of an extension of shopping hours. For them, Sunday or late-night opening would bring substantial advantages. For others, who do not need or wish to shop at such times, there would still be the benefit that the present congestion in shops on Saturday and in the early evening would be decreased.

Jobs In Retailing

266. De-regulation would have an immediate effect on employment in retailing. Sunday opening would generate Sunday jobs, but the resulting fall in week-day demand would mean fewer jobs at other times. In the short term, the IFS suggests that the net effect of these two conflicting influences on manning requirements would be a small reduction in employment in the retail trade, possibly about 5,000 full-time equivalent jobs. The losses would fall most heavily on outlets selling confectionery, tobacco, drink and household goods, including DIY and garden supplies. In the longer term, the reduction in retailing capacity would inevitably involve a further loss of jobs. Although more people might be required in the remaining shops, the IFS predicts that the net effect would be a reduction of about a further 15,000 full-time equivalent jobs.

267. De-regulation would also mean a shift away from full-time towards part-time working and, because of the premium rates which apply to Sunday working, an increase in the average rate of pay. In the short term, therefore, while retailing would suffer a small reduction in the total number of full-time jobs, the IFS considers that the number of people actually employed would increase slightly, by about 5,000, and that their aggregate remuneration would also rise, by over £300 million a year. The IFS's

conclusion is that, in the long run, although full-time equivalent jobs would decrease, the number of people employed would fall by less, and total earnings would still be £250 million a year more than they would be without Sunday trading.

The Sensitivity Of The Predictions

268. The various predictions set out above are made by the IFS on the basis of its estimate that shops responsible for about 48% of present retail turnover would find it worthwhile to open on Sundays. A detailed account of its reasoning and assumptions is contained in its Report, Appendix 6. But the IFS itself points out that its assessment of the likely extent of Sunday opening is inevitably a speculative one. It therefore looked at the likely effects of de-regulation again, with different assumptions about a number of key factors that would influence a retailer's decision on whether to open, for example, the likely level of Sunday sales, overall sales levels, labour requirements, labour costs and interest rates. It found that only changes in the likely level of Sunday sales and in labour costs had any marked effect on the probable degree of Sunday opening. And even allowing for significantly more or less Sunday trading as a result, the IFS concluded that the effects of de-regulation on costs, prices, employment and trading patterns would remain small.

Social Effects

269. There are other possible effects of de-regulation that cannot be measured. If, as seems possible, shops covering about half of current retail turnover decided to open on Sundays, it would be bound to affect the pace of life, the level of activity and general noise and bustle at what are now relatively quiet times. The effects would vary from place to place. Away from shopping

areas, life would go on very much as before. In places where Sunday or late-night opening would become common, the change could be substantial. Some would regard this as a gain, others as a loss.

270. The changes would not necessarily be confined to the opening of shops. There would be more traffic in areas where shops were open, and perhaps the extension of parking and traffic restrictions which now operate only on weekdays. In the long term, other businesses in the high street might review their practice of remaining shut on Sundays - banks and building societies for example. Some estate agents already open on Sundays. The Government might be pressed again to look at the present restrictions on licensing hours, criticised by the Departmental Committee on Liquor Licensing, chaired by Lord Erroll, in its Report published in December 1972, [13] and at the restrictions on commercial sport and betting on Sundays.

271. In summary, therefore, the economic effects of de-regulation are likely to be small; the social effects may not be. Our picture of the future British Sunday, and of the future British evening, has an element of the sliding scale about it. If, in the event, only a relatively small number of shops decided to open outside what are now regarded as normal hours, the sorts of developments, good and bad, that we have been describing in this Report would be equally limited in scale. Indeed, in some areas they might be barely noticeable. If, on the other hand, the majority of shops decided to extend their trading hours the effects would increase in proportion. All that can be said is that, if Sunday or late evenings were to become particularly busy trading times, it would only be because a great many people would find it convenient to shop then.

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CHAPTER SEVEN

AREAS FOR CONCERN

272. We have been especially troubled by the possible effects of de-regulation upon two groups of people. They are those who live in or near shopping centres, and shopworkers.

Residents of Shopping Areas

273. Those who live in or near shopping centres would risk losing their peaceful Sunday or relatively quiet evening if near-by shops decided to take advantage of de-regulation. We have explored with a number of witnesses what safeguards could be provided, but have found no satisfactory answers. The common law right of the individual to be protected against private nuisance would be likely to be of limited assistance. Disturbance at certain times from a level of business activity which is a normal feature of a shopping area at most other times would be rarely likely to amount to an actionable nuisance. In any event, a system that would require individuals to go to the trouble, expense and delays of litigation in order to protect themselves from this of sort of intrusion would be no practical answer. Nor would it be any more effective to rely on the intervention of public bodies, whether the Attorney General or local authorities, to take action for public nuisance, or for local authorities to take proceedings in respect of the various statutory powers available to them, in particular under Section 58 of the Control of Pollution Act 1974, for prevention of noise constituting a nuisance.

274. Other suggestions for protection of residents have been put to us. Amongst these is a proposal for a form of licensing procedure to be administered by licensing justices. Under this proposal residents who might be aggrieved by the trading activity of a particular shop could apply to the justices to require the shopkeeper to stop it on pain of losing the right to trade.

Another proposal made was to submit all proposed late-night and Sunday opening to a procedure similar to that in planning control, involving rights of objection by local residents, the granting or otherwise of permission by local authorities after the holding of a public meeting, and rights of appeal from the decision of local authorities to the Secretary of State for the Environment.

275. In our view, these and all similar suggestions for judicial, quasi-judicial and administrative control in such cases would not work. In their various forms they would involve an expensive, cumbrous and time-consuming legal machinery which would amount to a replacement of one unsatisfactory form of control with an even more unsatisfactory and unpredictable form of local regulation. It would be a burden for those who seek to enforce it and for retailers subjected to it, and a fertile ground of discontent for all.

276. Moreover, the enforcement by residents of complaints through the courts or through some form of administrative procedure would not in most cases remove the real problem which many of them foresee. This is the impact of a general increase in trading and other commercial activity near their homes at times when they now have relief from it. However, the extent and severity of the problem would depend upon the extent to which shops in mixed shopping and residential areas would remain open late at night and on Sundays. As we have said, with the trend towards large purpose-built shopping centres with their own parking facilities in town centres and out-of-town superstores and hypermarkets, much of the concentration of shopping at "unsocial times" is likely to be away from residential neighbourhoods. In those neighbourhoods where there would be a change for the worse, it would be some measure of the demand of the community served by the shops in question.

Shopworkers

277 The likely effect that any change in the law might have upon shopworkers has been one of the most worrying questions of our Inquiry. Their case has been put forcefully and persuasively by the unions, especially by Mr John Flood, the Deputy General Secretary of USDAW. It has also been argued by many retailers, the Churches, a host of other organizations and many of the individual members of the public who wrote to us.

278 Our concern about shopworkers is fourfold:

1) that those who entered the trade without any expectation that they would be required to work on Sundays or late at night should not now be forced, against their wishes, to do so;

2) that increased freedom for shops to open for longer hours, including Sundays, should not mean generally longer hours for individual employees;

3) that young persons should be adequately protected from having to work excessive hours; and

4) that for all those who do work on Sundays or late at night, there should be adequate recompense;

Coercion To Work On Sundays And Late At Night

279 We explained in Chapter Four why we believe that existing shop employees might deserve greater protection against having to work on Sundays or late at night than those who enter the trade in the future, knowing of the likely requirements if our recommendations were to be adopted. Some of those now employed in shops would have religious objections to working on Sundays, and we

believe that such objections deserve particular respect. Others might be equally unwilling to work on Sunday or late at night because of family or other commitments, and we believe that it would be wrong if they were forced to choose between such commitments and keeping their jobs.

280. When the law was changed to allow general Sunday afternoon trading in Massachusetts in 1983, the new legislation included the following provision:

> "No employee ... shall be required to perform such [Sunday] work, and refusal to work for any retail establishment on Sunday shall not be grounds for discrimination, dismissal, discharge, reduction in hours, or any other penalty."

We gather that this provision has not yet been tested, because the introduction of Sunday trading coincided with the establishment of premium pay rates for Sunday working in shops, and, so far, there has been no difficulty in finding volunteers. It is difficult to say how effective the provision will be if and when it is put to the test.

281. We have considered whether there should be some similar statutory provision here, but we are satisfied that it would not work. The Bishop of St Germans, in his oral evidence to us on behalf of the Board for Social Responsibility of the Church of England, expressed the problems very well. He said:

> " ... it is an area which bristles with difficulties. If you make an enforceable regulation, you can place an individual who, from conscience, is determined to worship on Sunday in an isolated or invidious position. I suppose that an employer who was determined to keep a business going on a Sunday could find ways of avoiding the application of that regulation and so it could bounce back against an individual. If you build in something that is negotiable with a union, you are possibly creating another potential area of conflict with unions that will not be regarded with much favour either by the individual or the unions or the employer. Goodness knows, there are enough grounds for argument as it is without bringing God in as well. I do not think that legislation at that level is going to be very popular or possibly even helpful."

282. We, therefore, reject the idea of a specific statutory safeguard against shopworkers being required to work on Sundays against their will, and, for similar reasons, any statutory safeguard against compulsory late-night working. We hope that any problems of this nature would not be widespread. There is a flexibility of staffing in the retail trade, shared by few other industries, which should make it easier for employers, by employing additional part-timers, to cater for those among their regular staff who do not wish to work on Sundays or in the evenings. With the passage of time, the problems would disappear. But in those cases where an employee might be prejudiced by a requirement to work on Sundays or late at night, so that refusal to do so would lead to dismissal, it might be that the provisions governing unfair dismissal in the Employment Protection (Consolidation) Act 1978 would in certain cases provide a safeguard.

Longer Working Hours For The Shopworkers

283. The Shops Act 1950 does not contain any provision limiting the maximum number of working hours per week for adult shopworkers, though there are special provisions for young persons. Nor does the Act, through the medium of its restrictions on shop opening hours, impose any effective maximum on the number of working hours per week, since all shops are now free to open for at least 20 hours a day six days a week. In this respect, the shopworker is in no different position from the vast majority of employees in industry and other sectors of the economy. Where maximum hours are imposed by statute, for example in the case of lorry drivers,[14] it is for reasons of safety. Repeal of the Shops Act 1950, therefore, would not of itself change the maximum hours for which adult shopworkers are allowed to work.

284. The special protection that the Shops Act 1950 does give to adult shopworkers through Part II of the Act governing

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[14] Section 96 of the Transport Act 1968

conditions of employment, relates to the weekly half holiday, meal times, the number of Sundays in the month which may be worked, and time off in lieu of Sunday working. Most employees in other fields involving regular unsocial hours and Sunday working do not have these kinds of statutory protection, save in the general provisions governing health and safety in the Health and Safety at Work Act 1974.[15] Moreover, as a means of protecting shopworkers from having to work excessive hours, these provisions are woefully inadequate. Nevertheless, outside the retail trade this sort of protection, and often very much better, is usually to be found in collective agreements. In the case of shopworkers, with their weak bargaining position, protection can only be given in this statutory way or through the machinery of fixing weekly wages and other conditions of employment through the Wages Councils.

285. In our view, it would be unfortunate to remove all the protection that shopworkers now have at the very moment when, if our recommendations were to be adopted, they would feel at their most vulnerable. At the same time, we feel that it would be wrong to continue to embody in statute the special and inflexible provisions for shopworkers now in Part II of the Shops Act 1950. They apply to all shopworkers, regardless of the particular circumstances and pattern of their employment and, in some instances - for example, the weekly half holiday, time off in lieu of Sunday working, and the number of Sundays in a month that may be worked - imposed a "protection" on shopworkers whether they want it or not. There is an anomaly too in that the special provisions for Sunday working do not apply to shopworkers in Scotland. It may be that the answer lies in the continuation and extension of the role now exercised by the Wages Councils to ensure not only adequate pay but also satisfactory conditions of employment for shopworkers.

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[15] Section 2 of the Health and Safety at Work Act 1974. There is also provision for women and young persons in the Factories Act 1961; for lorry drivers in the Transport Act 1968; and for those employed in the theatre in the Sunday Entertainments Act 1932.

Employment Of Young Persons

286. Much of the protection given to young persons by Part II of the Shops Act 1950 is duplicated in other more generally applicable legislation. We have set out in Appendix 5 the relevant sections of Part II of the Shops Act 1950 govering the employment of young persons and the corresponding provisions in other legislation. This comparison shows that equal or greater protection is contained in other legislation, save in respect of intervals for tea (section 20 and Schedule 3), the number of Sundays in a month for which young persons may be employed (section 22) and the number of weeks in a year for which an employer may engage young persons in overtime work (section 24). These exceptions could be covered by amendments to sections 1(2), 1(5) and 1(1) respectively of the Young Persons (Employment) Acts 1938 and 1964. In addition, special provision would be required for exceptional cases: the sale of refreshments (section 21), catering (section 25), the sale of motor accessories (section 26) and milk, bread and newspaper deliveries (section 31).

Wages

287. We set great store by the preservation of the role of Wages Councils in fixing statutory minimum weekly rates, holidays and holiday pay for the retail trades. Shopworkers need their protection in this respect as much as ever, in fact more so now when jobs are harder to find and the already low membership of unions in the retail sector is declining. We have all been struck by how poorly paid many retail workers are. The Wages Councils stipulate minimum wages based on a 39 hour week and set premium rates for overtime and work done during unsocial hours. The basic rates are not high.

288. We understand that the Government has been considering the abolition of Wages Councils without replacing them with any similar machinery. If this were to happen, we believe that there would be a strong likelihood of exploitation of some shopworkers

in the form of lower wages, particularly for unsocial hours of work, and possibly in a longer working week. No doubt most good employers would continue to pay the established rates, but in the rapidly changing and uncertain conditions that might follow de-regulation of shop opening hours, if our recommendations were to be adopted, we cannot be sure that all employers would do so. Accordingly, although it is not directly within our terms of reference, we strongly urge the retention for retail workers of the machinery of the Wages Councils for the fixing of satisfactory wages and premium rates. Retention of Wages Councils is no adequate protection unless their orders are properly enforced. Accordingly, we also urge that there should be proper enforcement of the Wages Council Orders, by an adequately staffed Wages Council Inspectorate. This would become an event greater necessity in the event of de-regulation than it is now.

CHAPTER EIGHT

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

289. We are convinced that the removal of restrictions on trading hours offers the best - indeed the only - way forward. A great deal of our Inquiry has been devoted to considering the adverse effects that such a move might have on some. At the end of the day we are satisfied that any such effects would be far outweighed by the substantial benefits that de-regulation would bring. It would give retailers freedom and flexibility to meet and make the most of trading opportunities as they arise. It would be a convenience to shoppers, in keeping with the demands and varied pattern of modern living. These benefits would not be so prejudicial to the interests of shopworkers or to the quality of Sunday in its various guises as to justify retention of any form of control of trading hours.

290. We began this Inquiry from the premise that the law should not interfere in the conduct of human affairs unless it serves a justifiable purpose or purposes in doing so. We have considered all the interests with a claim to protection in the form of legal regulation of shopping hours. For the reasons given in Chapter Four, we are firmly of the view that there is no interest, or combination of interests that justifies the retention of such regulations.

291. We have considered as an independent issue whether, in any event, a form of control can be devised that would be fair, simple and readily enforceable. The present legislation does not satisfy any of these tests. As a result, it does not command general acceptance, and has brought the law into disrepute. We have examined in great detail a wide range of suggested different forms of legal control. As we conclude in Chapter Five, none would provide a fair or readily enforceable system.

For these reasons, we recommend the abolition in England, Wales and Scotland of all legal restrictions on the hours for which shops may be open to serve customers.

292. We have reached our conclusion on the need for the abolition of legal controls on shopping hours independently of predictions as to what de-control would bring. Nevertheless, we have examined a wealth of well documented evidence and information as to its likely effects, and the IFS has undertaken for us a most helpful economic review. From all this, we are satisfied that in the long run the impact of de-regulating trading hours on our economic and social life would not be so great as to be readily distinguishable from changes that are already taking place. In particular, we believe that:

1) the public face of de-regulation would vary; in some parts of the country, particularly the south and in large centres of population, the change in shopping patterns might be substantial; in other areas, where the pace of life is slower and traditions stronger, there might be very little change; it is likely there would be an increase in the momentum towards out-of-town shopping centres; the noise, traffic and public activity in those residential areas where there would be widespread Sunday and late-night trading would be more disturbing than now (paragraphs 269-271);

2) the short and long term effects of de-regulation on prices would be likely to be negligible (paragraphs 262-263);

3) de-regulation would accelerate the disappearance of already vulnerable shops (paragraph 264);

4) the difficulties for some shoppers in the increase in concentration and decrease in numbers of shops would be balanced by the convenience for many of a greater flexibility in shopping time (paragraph 265);

5) there would be likely to be a small decrease in employment in shops, and a greater shift than might otherwise have been the case from full-time to part-time work (paragraphs 266-267);

6) the likely effect on public expenditure would be minimal (paragraph 179).

293. We have reluctantly concluded that no special, practicable, legal protection can be devised for those residents of shopping areas who might be affected by an increase in late-night and Sunday opening in their areas. However, much of such increased trading as could occur would be likely to be in purpose-built shopping centres away from residential areas. Where there would be an increase in trading activity it would be some measure of the demand of the communities served by the shops in question (paragraphs 273-276).

294. We consider that a statutory provision specifically protecting shopworkers from being required to work against their will on Sundays and late at night would be impracticable. It would be likely to cause more problems than it could solve (paragraphs 279-282).

295. In our view, it would be unfortunate if the Government were to remove all the protection that shopworkers have now, at the very moment when, if our recommendations were to be adopted, they would feel at their most vulnerable. At the same time, we believe that it would be wrong to continue in statutory form the special and inflexible provisions for adult shopworkers, some of them only applicable to shopworkers in England and Wales, now in Part II of the Shops Act 1950. It may be that the answer lies in the extension of the role now exercised by the Wages Councils to ensure not only adequate pay but also satisfactory conditions of employment (paragraphs 283-285).

296. We consider that adequate protection for young persons employed in shops is, or can readily be, provided by other and more general legislation affecting the conditions of employment of young persons (paragraph 286 and Appendix 5).

Accordingly, we recommend abolition of all the special provisions for shopworkers contained in Part II of the Shops Act 1950 and its associated provisions in other parts of the Act;

and, although not directly within our terms of reference,

we strongly urge the retention for retail workers of the machinery of the Wages Councils for the fixing and proper enforcement of satisfactory wages and premium rates (paragraphs 287-288).

APPENDIX 1

THE WORK OF THE COMMITTEE

1. The Home Secretary appointed the Committee on 11 August 1983. Its Members held their first meeting on 15 September 1983, and thereafter met frequently throughout the Inquiry.

2. In September and October 1983 the Secretary to the Committee wrote to some 500 organizations and individuals inviting written submissions. A similar invitation was given to the public by means of a press release, issued on 28 September 1983, to the national, local and trade press. Shortly afterwards, on 23 October 1983, the Committee repeated this general invitation by an advertisement placed in all the national Sunday newspapers. The texts of the letter inviting evidence, the press release, and the advertisement are set out at the end of and as part of this Appendix. Over 7,000 organizations and individuals responded to these various invitations, as can be seen in Appendix 2 to the Report.

3. The Home Secretary appointed six Assessors to assist the Committee, each representing one of the main interests considered likely to be affected by changes in the Shops Acts. They were:

Mr Michael Duffell, the Chief Legal Officer and Assistant Town Clerk of Wolverhampton Borough Council - local authorities;

Mr John Flood, the Deputy General Secretary of the Union of Shop, Distributive and Allied Workers - shopworkers;

Lord Gallacher, former Parliamentary Secretary to the Co-operative Union and former member of the Council of the Retail Consortium - large retailers;

Miss Mildred Head, former President and Chairman of the Board of Management of the National Chamber of Trade - small traders;

Mr Maurice Healy, Head of the Policy Division of the National Consumer Council - consumers; and

Mr Bernard Thimont, Secretary of the Churches Main Committee - the Churches.

The role of the Assessors was to assist the Committee to identify and to obtain information from all relevant sources and to advise the Committee on the information and submissions that it received.

4. By the end of 1983 the Committee had received most of the written submissions. With the assistance of the Assessors it identified matters upon which it required more information, and wrote to certain organizations and individuals requesting it. The further information was in most cases provided.

5. On 6 December 1983 the Home Secretary appointed the Institute for Fiscal Studies ("the IFS") to undertake an economic review of the likely effects of possible changes in the permitted trading hours of shops. The IFS examined a wide range of economic questions raised by a possible removal of the restrictions upon Sunday and late-night trading, and advised the Committee throughout the remainder of its Inquiry.

6. In January 1984 the Committee asked to examine orally representatives of a number of those who had made written submissions. The Committee did so only where it considered it to be necessary to obtain yet further detailed information or to explore views or arguments already advanced in writing. The Committee conducted its oral hearings in the Arbitration Room in Gray's Inn, London WC1, between 6 and 23 March 1984. It examined representatives of the following organizations:

Asda Stores
Association of District Councils
B&Q (Retail) Ltd
Board for Social Responsibility of the Church of England
British Council of Churches and Free Church Federal Council
Habitat/Mothercare
Institute of Shops, Health and Safety Acts Administration
John Lewis Partnership
National Consumer Council
Union of Shop, Distributive and Allied Workers
Voluntary Group Association
Woolworth Holdings plc

Marks and Spencer plc was invited to send a representative to give oral evidence, but it declined to do so.

7. Because Sunday trading is not prohibited in Scotland, the Members of the Committee considered that it would be helpful to see at first hand the extent and effect of trading on Sunday there. In March 1984 they visited stores and markets in Edinburgh and Glasgow. During the visit they spoke to management and staff in several types of retail outlet, and obtained useful information about the nature and extent of Sunday trading in those cities. The Members of the Committee also met representatives of the Scottish Trades Union Congress, local authorities and the police. Later in March 1984, the Chairman of the Committee, while in the United States of America, took the opportunity to go to Massachusetts, to discuss with certain authorities and individuals the effects of recent changes in the law there to permit general trading on Sunday afternoons. Shortly afterwards the Members of the Committee visited various places in England to observe both legal and illegal Sunday and late-night shopping.

8. Finally, the Committee sought and received the advice of its Assessors and the IFS, and prepared its Report. The advice of the IFS is contained in its own Report, which is set out in full in Appendix 6.

C nittee of Inquiry into Proposals to amend the Shops Acts

Whittington House (Room 624)
19-30 Alfred Place
London
WC1E 7EJ

Tel: 01-637 2355

Secretary: Mrs E Grimsey

September 1983

On 11 August 1983 the Home Secretary, the Right Hon. Leon Brittan, QC, appointed Mr Robin Auld, QC, Mrs Liliana Archibald and Miss Frances Cairncross to be a Committee of Inquiry into proposals to amend the Shops Acts.

The Home Secretary, in announcing his intention to appoint the Committee of Inquiry, said:

> "There is widespread agreement that the restrictions on trading laws during the week and on Sundays in the Shops Act 1950 are in need of reform, but there are strong and conflicting opinions as to the way in which this should be achieved."

The Committee's terms of reference are:

> "To consider what changes are needed in the Shops Acts, having regard to the interests of consumers, employers and employees and to the traditional character of Sunday, and to make recommendations as to how these should be achieved."

The first stage of the Inquiry will be to invite and to consider written evidence in the form of views on the present law and on the changes needed.

The Home Secretary will shortly invite the main interests concerned with the opening hours of shops to make nominations, from whom he will appoint persons to give the Committee such assistance in the compilation and evaluation of the evidence as the Committee may require. During the first stage of the Inquiry the Committee will distribute copies of all material evidence received to those representatives.

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As the second stage of the Inquiry, the Committee will hear oral evidence from those who have submitted written evidence and whom the Committee wishes to question.

The Committee has asked me to invite you to give such written evidence as you consider would be helpful to it in its task of recommending what changes are needed in the Shops Acts, in particular, as to late night and Sunday opening. Please send your evidence to me at the above address.

The Committee wishes to be in a position to start oral hearings early in 1984. It would, therefore, be of assistance if you could submit your written evidence by 30 November 1983.

If the Committee wishes to question you on your written evidence, I shall notify you in due course of the times and place of, and arrangements for, the oral hearings. In the meantime, if you need any further information, please contact me.

Elizabeth Grimsey

Secretary to the Inquiry

Committee of Inquiry into Proposals to amend the Shops Acts

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19-30 Alfred Place
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Elizabeth Grimsey

Secretary to the Inquiry

Home Office

NEWS RELEASE

50 Queen Anne's Gate London SW1H 9AT
Telephone 01-213 3030/4050/5050
(Night line 01-213 3000)

September 28 1983

SHOPS INQUIRY INVITES EVIDENCE

The Committee of Inquiry into Proposals to amend the Shops Acts have invited written views that may be helpful to it in its task of recommending what changes are needed in the Shops Acts.

In particular, the Committee have asked for views on late night and Sunday opening of shops.

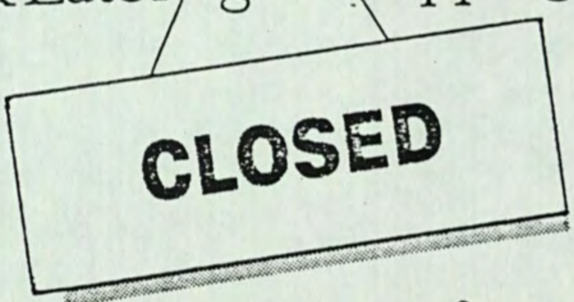
Anyone who wishes to submit views to the Committee is invited to do so, before November 30 1983, to Mrs Elizabeth Grimsey, The Secretary to the Committee of Inquiry into Proposals to amend the Shops Acts, Room 624, Whittington House, 19-30 Alfred Place, London WC1.

NOTE TO EDITORS

The Home Secretary, the Rt Hon Leon Brittan, QC MP, announced on August 11 that he had appointed Mr Robin Auld, QC, Mrs Liliana Archibald and Miss Frances Cairncross to be a Committee of Inquiry with the following terms of reference:

"To consider what changes are needed in the Shops Acts, having regard to the interests of consumers, employers and employees and to the traditional character of Sunday, and to make recommendations as to how these should be achieved."

Sunday
& Late Night Shopping



What's your view?

What's your attitude to late night and Sunday opening of shops? Its effect on customers, shop owners and staff . . . and the traditional character of Sunday?

A Committee of Inquiry, appointed by the Home Secretary and chaired by Mr Robin Auld QC, is examining proposals to amend the Shops Acts, and has asked for written views that may be helpful to it in recommending what changes in the law are needed.

The Committe would welcome *your* views. Please submit them by 30th November 1983, to Mrs Elizabeth Grimsey, the Secretary to the Committee of Inquiry into Proposals to amend the Shops Acts, Room 624, Whittington House, 19-30 Alfred Place, London WC1.

APPENDIX 2

ORGANIZATIONS AND INDIVIDUALS SUBMITTING EVIDENCE

1. Over 300 organizations and individuals submitted evidence in response to the Committee's letters of invitation. A further 7,000 wrote after hearing of the Committee's work from some other source, including the advertisement that had appeared in the national press on Sunday, 23 October, 1983.

2. Among those submitting evidence were:f

Aberdeen Consumer Group
Age Concern Scotland
Albert Dock Co Ltd
Lord Allen of Fallowfield
Allied Carpets
Rt Hon Julian Amery MP
Aquascutum Limited of London
Argos Distributors Limited
Mr Edward L Armstrong
Asda Stores *
Aspect Mail Order Ltd
Assemblies of God in Great Britain and Ireland
Association of British Launderers and Cleaners Ltd
Association of Chief Police Officers of England, Wales and Northern Ireland
Association of County Councils
Association of District Councils *
Association of District Secretaries
Association of Gardening and Hardware Wholesalers
Association of Independent Retailers
Association of Metropolitan Authorities
Association of Scientific Technical and Managerial Staffs
Association of Trading Standards Officers
Association of Video Film Dealers
Attorney General's Chambers
Dr David Avery
Aylesbury Vale District Council

B & Q (Retail) Limited *
Bakers, Food and Allied Workers' Union
Banking, Insurance and Finance Union
Management of the "Barrows" Market, Glasgow
Basildon Council
Basingstoke and Dean Borough Council
Representative Timothy A. Bassett of Massachusetts
James Beattie plc
Bejam Group plc
Mr William Benyon MP

Betting Office Licensees Association Ltd (and National Sporting League)
Beverley College of Further Education
City of Birmingham
Birmingham Consumers' Group
Blackpool Borough Council
Blackpool Pleasure Beach
Board of Deputies of British Jews
Booker Belmont Wholesale Ltd
Booksellers Association of Great Britain and Ireland
The Boots Company plc
Bournemouth Adult Education Centre
Sir Bernard Braine MP
Braintree District Council
Mr Martin Brandon Bravo MP
Brewers' Society
Brighter Sunday Campaign
Borough of Brighton
British Airports Authority
British Antique Dealers' Association Ltd
British Bingo Association
British Council of Churches *
British Evangelical Council
British Gas
British Hardware Federation
British Incoming Tour Operators' Association
British Independent Grocers Association
British Parking Association
British Railways Board
British Restaurants and Caterers Association
British Resorts Association
British Retailers Association Wines and Spirits Group
British Tourist Authority
Budgen Limited
Bulmershe Resource Centre for the Handicapped
Bus and Coach Council
Mr S R Byrne

The Cake and Biscuit Alliance Ltd and the Cocoa Chocolate and Confectionery Alliance
Metropolitan Borough of Calderdale
London Borough of Camden
Carson Hadfields
Carters Tested Seeds Ltd
Catering Industries Liaison Council Alliance
Central Transport Consultative Committee
Chelmsford Borough Council
Christian Affirmation Campaign
Christian Book and Prayer Centre
Christian Holiday and Tape Fellowship
Church of England *
Church in Wales
Cinematograph Exhibitors' Association of Great Britain and Ireland
Dr M Clark MP
College for the Distributive Trades
Comet Group plc
Commission for Racial Equality
Company Chemists' Association Ltd

Confederation of British Industry
Confederation of Fried Fish Caterers' Associations
Congregational Federation
Consumers' Association
Convention of Scottish Local Authorities
Co-operative Bank plc
Co-operative Union Ltd
Co-operative Party
Mr Patrick Cormack MP
Council for the Protection of Rural Essex
Council for Small Industries in Rural Areas
Covent Garden Community Association
Covent Garden Forum of Representatives
Covent Garden Market Authority
Cowley Road Traders' Association
Peter Crisp Ltd
Cultural Exhibitions Ltd

Dairy Trade Federation
Dr R L Davies and Mrs E Howard, University of Newcastle-on-Tyne
Ms Harriet Denning
Lord Derwent
Dewhurst
Dickie Dirts
Disabled Living Foundation
Domestic Coal Consumers' Council
Doncaster Metropolitan Borough Council
Drapers Chamber of Trade
Robert Dyas Ltd

C M Eastwood Ltd
City of Edinburgh District Council
Edinburgh Consumer Group
Electricity Council
Department of Employment
Department of Energy
English Tourist Board
Department of the Environment
Evangelical Alliance
Evangelical Movement of Wales
Dr Ann Everton, University of Leicester

Farm Shop and Pick Your Own Association Ltd
Federation of Bakers
Federation of Multiple DIY Retailers
Federation of Optical Corporate Bodies
Federation of Wholesale Distributors
Fellowship of Independent Evangelical Churches
Fine Fare (Holdings) Limited
Food Manufacturers' Federation Inc
Mr Eric Forth MP
Free Church Federal Council
Free Church of Scotland
Free Presbyterian Church of Scotland
Dr Christina Fulop, City of London Polytechnic

"Garden News"
Baroness Gardner of Parkes
General, Muncipal, Boilermakers and Allied Trades Union
City of Glasgow
Lord Graham of Edmonton
Great Universal Stores plc
Greater London Council
Greater Manchester Council
Greek Orthodox Church
Guild of Hairdressers

Habitat/Mothercare plc *
James Halstead Ltd
Lord Harris of High Cross and Mr Arthur Seldon
Hart and Friedmann Ltd
Mr Alan Haselhurst MP
Mr Warren Hawksley MP
Health and Safety Executive
Department of Health and Social Security
Her Majesty's Stationery Office
Mr Stan Hill, University of Aston
Historic Houses Association
Home Office
Horserace Betting Levy Board
Horserace Totalisator Board
Horseracing Advisory Council
Horticultural Trades Association
House of Fraser plc
Mr Andrew Hunter MP

Independent Footwear Retailers' Association
"Independent Grocer"
Independent Methodist Churches
Department of Trade and Industry
Lord Ingleby
Institute of Consumer Advisers
Institute of Market Officers
Institute of Shops, Health and Safety Acts Administration *
Institution of Environmental Health Officers
International Vacationers

Jacoa Ltd
Lord Jacques
Jenners of Edinburgh
Jockey Club
John Lewis Partnership *
John Quality Ltd
Mr Robert Jones MP
Jordan Marsh
Justices' Clerks' Society

Ketts
Dr David Kirby, University of Wales
Mr Michael Knowles MP

Law Commission
Leicester Square/Coventry Street Association Ltd
Lillywhites Ltd
Ms Marianne Littington, Chairman of Borough Council Committee (Northampton)
City of London
London City Mission
London Docklands Development Corporation
London Tourist Board
London Transport
Lord's Day Observance Society
Loughton Residents Association
Mr Nicholas Lyell MP

Rev. P Manton, Stores Chaplain, London Industrial Chaplaincy
Mr Robert McCrindle MP
Mr David McEvoy, Liverpool Polytechnic
Mr Tom McNally
Marks and Spencer plc
Lord Maude of Stratford-upon-Avon
Menswear Association of Great Britain Ltd
John Menzies Ltd
Mr Piers Merchant MP
Metropolitan Association of Strict Baptist Churches
Sir Anthony Meyer MP
Middlesborough Borough Council
Milk Marketing Board
Ministry of Agriculture, Fisheries and Food
Misselbrook and Weston Ltd, Sperrings, 7-Eleven
Lord Monson
Chief Superintendent C Moore
Moravian Church in Great Britain and Ireland
Mr Alfred Morris MP
Wm Morrison Supermarkets plc
Mothers' Union
Motor Agents Association
Lord Mottistone
Multiple Shoe Retailers' Association

National and Local Government Officers Association
National Association of British Market Authorities
National Association of Co-operative Officials
National Association of Estate Agents
National Association of Retail Furnishers Ltd
National Association of Shopkeepers
National Association of Soft Drinks Manufacturers Ltd
National Association of Women's Clubs
National Bus Company
National Caravan Council Ltd
National Chamber of Trade
National Chamber of Trade in Wales
National Consumer Council *
National Council for Voluntary Organisations
National Economic Development Office
National Farmers' Union
National Farmers' Union of Scotland

National Federation of Consumer Groups
National Federation of Fish Friers
National Federation of Meat Traders
National Federation of Retail Newsagents
National Federation of Self Employed and Small Businesses Ltd
National Federation of Sub-Post Masters
National Girobank
National Hairdressers' Federation
National Market Traders' Federation
National Secular Society
National Sporting League
National Television Rental Association Ltd
Newcastle Quayside Traders' Association Ltd
Mr Tony Newton MP
New Milton Town Council
Lord Norrie
Northern Arts and Crafts
Nottingham City Centre Retail Association
Nottinghamshire Chamber of Commerce and Industry

Office of Fair Trading
Office of Wages Councils
Off-Licences Association
Oldham and Rochdale District Grocers' Association
Mr Arthur Osborne, President of Massachusetts AFL-CIO
Mr Richard Ottaway MP
Oxford Consumers Group
Oxford Street Association

PTRC Education and Research Services Ltd
Payless DIY
John Perring Ltd
Pharmaceutical Society of Great Britain
Police Superintendents Association of England and Wales
Post Office
Post Office Users' Council for Scotland
Post Office Users' National Council
Prayer Book Society
Preston Consumer Group

Quaker Social Responsibility and Education Committee

R J K and Co Discount Stores
Radio Rentals Ltd
Ron Ramsdens
Mr R J Rathbone MP
Reading Borough Council
Redcliffe College
Reject Shop Ltd
Residents' Association of Mayfair
Retail Book, Stationery, and Allied Trades Employees' Association
Retail Consortium
Retail Fruit Trade Federation Ltd
Rhyl Town Council
Lord Robertson of Oakridge

Sir Hugh Rossi MP
Royal Environmental Health Institute of Scotland
Rumbelows Ltd
Mrs Angela Rumbold MP

Safeway Food Stores Ltd
Lord Sainsbury
J Sainsbury plc
Bishop of St Albans
Salisburys Handbags Ltd
Salvation Army
Alec Samuels JP, University of Southampton
Scarborough Borough Council
Scottish Association of Master Bakers
Scottish Consumer Council
Scottish Federation of Meat Traders' Associations
Scottish Grocers' Federation
Scottish Licensed Trade Association
Scottish Office
Scottish Pharmaceutical Federation
Scottish Retail Distributors Association Ltd
Scottish Society for the Mentally Handicapped
Scottish Tourist Board
Scottish Trades Union Congress
Scottish Women's Rural Institutes
Sears Holdings plc
Seventh-Day Adventists
Shaftesbury Project - Christian Lawyers Action Group
Sheffield and District Chamber of Trade
Sherman and Waterman Associates Ltd
Ship and Boat Builders National Federation
Sketchley plc
W H Smith & Son Ltd
Socialist Secular Society
Society of Directors of Administration in Scotland
Society of Local Authority Chief Executives
Society of West End Theatre
Southampton and District Consumer Group
Spondon Caravan Centre
Standing Conference of Women's Organisations
Mr Donald Stewart MP
City of Stoke-on-Trent Market Traders' Association
Stourport-on-Severn Town Council
Strathclyde Police
Strathclyde Regional Council

Tesco Stores Ltd
Texas Homecare
Thames and Chilterns Tourist Board
William Timpson Ltd
Trades Union Congress
HM Treasury

Underwoods (Cash Chemists) Ltd
Union of Muslim Organisations of UK and Eire
Union of Welsh Independents (Incorporated)
Unitarian and Free Christian Churches
United Kingdom Federation of Business and Professional Women

United Kingdom Petroleum Industry Association Ltd
United Reformed Church
Unit for Retail Planning Information Ltd
Union of Shop, Distributive and Allied Workers *

Victoria Centre, Nottingham
Video Retailers Association
Voluntary Group Association *

Wales Tourist Board
Wallpaper, Paint and Wallcovering Retailers' Association
Waring and Gillow (Holdings) plc
Watton and District Chamber of Trade and Commerce
Welsh Consumer Council
Welsh Office
Wendy Fair Market Operators
City of Westminster Chamber of Commerce
West Nottinghamshire College of Further Education
West Wight Business Association
Mr Ray Whitney MP
Mr Dafydd Wigley MP
Bishop of Willesden
Winchester Consumer Group
Witham Town Council
Mr T G Wolstencroft, Huddersfield Polytechnic
Woolworth Holdings plc *
Workers Christian Fellowship
Mr S Worthington, Trent Polytechnic
Dr Neil Wrigley, University of Bristol

* Also gave oral evidence

3. Among the other bodies submitting evidence were many local chambers of trade or commerce and church congregations.

4. Of the letters from individuals, some came from those who work in the retail trade, as shop assistants, managers of shops, or shopkeepers. The arguments put forward by those involved in retailing in general concentrated on what a change in the law would mean for their own particular sector, whether DIY shops, garden centres, antique shops, newsagents, or small general stores. But the vast majority of the letters were from members of the public without any direct involvement in retailing except as customers. Many of these letters were written as a result of the Committee's press advertisement; others were prompted by organizations to which the writers belonged.

5. Although the many letters written to the Committee cannot be statistically representative of public opinion as a whole, they have thrown some interesting light on some of the reasons behind people's attitude to trading hours. Most correspondents were concerned solely with the opening of shops on Sunday, only 11% also expressing views on the question of late-night shopping. In the main, the arguments advanced were against any significant extension of Sunday trading, while those who expressed a view on late-night trading, generally favoured some relaxation.

6. Of those opposing a general extension to Sunday trading: small retailers were prominent in urging special treatment for themselves whilst seeking the retention of the general restrictions on their larger competitors; many individuals wrote in defence of the Sabbath and of the threat to Sunday as a day of rest and for the family; some wrote expressing concern about possible exploitation of shopworkers and about expected increases in prices if Sunday trading were to become widespread.

7. The much smaller number who wrote in support of relaxation of the present restrictions on Sunday trading advanced various equally familiar arguments, among them: the convenience of customers, freedom from unnecessary interference from the Government, belief that more jobs would be created, and that the present restrictions are wholly out of keeping with modern conditions.

APPENDIX 3

SUMMARY OF THE LAW

General Application

1. The Shops Act 1950 imposes a general prohibition upon the opening of shops for the service of customers between 8 p.m. and midnight (9 p.m. and midnight on one "late-day") in the week, after 1 p.m. on one early closing day in the week, and all day on Sundays. The Act relaxes the rigour of this general prohibition, by way of exemption, for the sales of certain types of goods, and, by way of modification or special provision for certain areas, times of the year and for a limited number of trading activities. Where some of the goods sold by a shop are exempted from a prohibition and some are not, the shop may open outside the generally permitted hours, but only for the purpose of offering for sale the exempt goods.

2. The statutory regulation of trading hours applies only to premises or places, whether or not they are recognizable as shops, where any retail trade or business is carried on. To be caught by the restrictions the business must be conducted from a more or less permanent structure. A barrow, even if almost continuously on the same spot, or a mobile van that stops regularly at the same places, are not shops. Thus, car-boot sales and the like are not caught by the restrictions, and have become increasingly popular throughout the country in recent years.

3. The Act, in Part III, also specifically declares that the general closing hours and the early closing day requirements do not apply to fairs or private non-profit-making bazaars or sales of work for charitable or other purposes or to non-profit-making libraries. By virtue of the Shops (Airports) Act 1962 shops at all the major airports in England, Wales and Scotland are free

of the general closing hours and early closing day restrictions[1]. There are also special exemptions in the Tyne and Wear Act 1976 for the Quayside Market in Newcastle, the West Midlands County Council Act 1980 for the National Exhibition Centre in Birmingham, and in the Greater London Council (General Powers) Acts 1981 and 1983 for exhibitions, trades fairs and conferences at certain premises in Greater London.

4. Only "retail" trading, that is, selling to the general public, is subject to regulation. Wholesalers are free to trade at whatever time they like, subject to any individual planning restrictions.

5. It is the occupier of the shop or his manager, agent or employee, not the customer, who is liable to prosecution for breach of the various provisions of the Act governing the opening times of shops. The offences are triable in the magistrates' courts. The penalties are now a maximum of £100 for breach of the general closing hours requirement and £1,000 for illegal trading on Sundays. Lower fines are provided for breach of the early closing day requirements. All these penalties are now subject to variation by the Home Secretary to reflect inflation.

6. Local authorities are responsible in their areas for enforcing the Shops Legislation by a system of inspection and prosecution in the magistrates' courts. Since the re-organization of local government in 1974 the lot has fallen to the district councils. Local authorities generally have not been vigilant in the enforcement of the Act. Most local authorities lack the resources and the will to enforce the Shops Legislation effectively. For some this has become an embarrassment because their duty to do so may be enforced by application in the Courts for judicial review. On the other hand, those local authorities that do seek to enforce the law

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[1] But the restrictions on Sunday trading in Part IV of the Shops Act 1950 apply to all airports.

are not confined to the procedure of criminal prosecution in the magistrates' courts. Where the breach amounts to a deliberate flouting of the law, they may seek the discretionary remedy of an injunction in the civil courts to restrain illegal trading.

General Closing Hours

7. The 1950 Act, in Part I, provides that all shops, except confectioners, shall close by 8 p.m. in the week, save for the "late day" when the closing time is 9 p.m. The late day is Saturday unless otherwise fixed by the local authority. For confectioners, that is, those in the "trade or business of selling table waters, sweets, chocolates or other sugar confectionery or ice cream", the closing time is 9.30 p.m., or 10 p.m. on the late day. A local authority may also apply these later hours to the sale of tobacco and smokers' requisites if it is satisfied that they are "desired" by at least two-thirds of the shopkeepers affected.

8. There are two important points to note about the general closing hour. First, the law does not require shopkeepers to remain open until the statutory closing time, and many do not. Second, the prohibition upon trading after the closing hour stops at midnight. Shops are, therefore, free to trade for at least twenty hours a day in the week.

9. Local authorities have more extensive powers to restrict the generally permitted shopping hours than they have to extend them. If they are satisfied of the approval of at least two-thirds of the shopkeepers affected, they may make "closing orders" fixing earlier closing times within their areas, though not before 7 p.m. These closing orders may be of general application or may relate to particular shops and trades, and may have their own schemes of exemptions.

10. There are two general exemptions from the closing hours requirements: first, where the customer is in the shop before the closing hour, and secondly, where reasonable grounds exist

for believing that the article supplied is required in the case of illness. In either case the shopkeeper has the onus of proving, on a balance of probabilities, the facts entitling him to the exemption.

11. Exemptions from the general closing hours and closing orders for the sale of particular goods are listed in Schedule 2 to the Act. However dated some of the goods on the list may seem to be, the intent of its authors is reasonably clear. They sought to provide for the supply outside normal shopping hours of goods which, in the circumstances specified, could be regarded as necessities or reasonable comforts. Thus, special provision is made for those eating out in cafes and restaurants, people frequenting public houses and other places of entertainment, travellers, purchasers of newly-cooked food, and those in need of medical supplies or the services of the Post Office.

12. We reproduce the Schedule in full:

SCHEDULE 2

"TRANSACTIONS NOT AFFECTED BY GENERAL CLOSING HOURS OR BY CLOSING ORDERS

1. The sale of -

(a) meals or refreshments (including table waters, sweets, chocolates, sugar confectionery, and ice cream), for consumption on the premises, or (in the case of meals or refreshments sold on railway premises) for consumption on the trains:

Provided that -

(i) in the case of canteens attached to and situated within or in the immediate vicinity of any works, if persons are employed at such works after the closing hour, and the canteen is kept open only for the use of such persons, meals or refreshments may be sold after the closing hour for consumption anywhere within the works premises; and

(ii) for the purposes of the foregoing provisions, tobacco supplied at a meal for immediate consumption shall be deemed to form part of the meal;

(b) newly cooked provisions and cooked or partly cooked tripe to be consumed off the premises;

(c) intoxicating liquors to be consumed on or off the premises;

(d) tobacco, table waters or matches on licensed premises during the hours during which intoxicating liquor is permitted by law to be sold on the premises;

(e) tobacco, matches, table waters, sweets, chocolates, or other sugar confectionery or ice cream at any time during the performance in any theatre, cinema, music hall, or other similar place of entertainment so long as the sale is to a bona fide member of the audience and in a part of the building to which no other members of the public have access;

(f) medicine or medical or surgical appliances, so long as the shop is kept open only for such items as is necessary for serving the customer;

(g) newspapers, periodicals and books from the bookstalls of such terminal and main line stations as may be approved by the Secretary of State;

(h) aircraft, motor, or cycle supplies or accessories for immediate use, so long as the shop is kept open only for such time as is necessary for serving the customer;

(i) victuals, stores, or other necessities required by any naval, military or air force authority for Her Majesty's forces or required for any ship on her arrival at or immediately before her departure from a port, so long as the shop is kept open only for such time as is necessary for serving the customer.

2. The transaction of any post office business."

13. In addition to the scheduled exemptions, Part III of the Act contains a number of provisions permitting modification by way of extension of the general closing hours. In seasonal holiday resorts and sea fishing centres local authorities must permit later trading for a maximum of four months in the year if, upon application made to them, they are satisfied that the occupiers of a majority of shops to be affected wish it. There are also special provisions for exhibitions, the Christmas season and other special occasions.

The Early Closing Day

14. Part I of the 1950 Act also deals with the early closing day. Every shop must close for the serving of customers by 1 p.m. on one day each week. Originally the local authority was

empowered to fix the early closing day, but, by virtue of the Shops (Early Closing Days) Act 1965, each shopkeeper may now choose the day for himself. He must, however, display a notice identifying the chosen day for his customers and keep to it for at least three months. Local authorities must exempt from this general requirement shops of a particular class within their area where at least half of the occupiers of shops of that class wish it. Local authorities have made wide use of this power.

15. As with the provisions for general closing hours, the Act allows the serving out of hours of customers already in the shop before the statutory closing time or where there is reasonable ground for believing that articles are required in the case of illness. The Act also contains, in Schedule 1, a list of exemptions, from the half day closing requirement, most, but not all, of which are to be found in the exemptions to the general closing hours in Schedule 2 to the Act. In general, shopkeepers are subject to fewer restrictions on what they may sell in the afternoon of the early closing day than they are in the evenings after the general closing hour. For example, the early closing day requirement does not apply to the sale of "meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers and other articles of a perishable nature". Whereas, the comparable exemption from the general closing hours in Schedule 2 is the sale of "newly cooked provisions and cooked or partly cooked tripe to be consumed off the premises".

16. We reproduce Schedule 1 in full:

SCHEDULE 1

"TRADES AND BUSINESSES EXEMPTED FROM THE PROVISIONS AS TO EARLY CLOSING DAY

The sale by retail of intoxicating liquors.
The sale of refreshments, including the business carried on at a railway refreshment room.
The sale of motor, cycle and air-craft supplies and accessories to travellers.
The sale of newspapers and periodicals.
The sale of meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers, and other articles of a perishable nature.
The sale of tobacco and smokers' requisites.
The business carried on at a railway bookstall on or adjoining a railway platform.
The sale of medicines and medical or surgical appliances.

Retail trade carried on at an exhibition or show, if the local authority certify that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show."

17. As in the case of the general closing hours requirements, Part III of the Act makes special provision by way of modification for seasonal holiday resorts. Local authorities in such cases may suspend the early closing day requirement for a period or periods of up to four months a year. There are also special provisions for exemption for Post Office business.

Sunday Trading

18. Part IV of the 1950 Act contains the general prohibition on Sunday trading in England and Wales. Part IV also contains provision for partial exemption from, and modification to, the general prohibition and, in Schedule 5, a list of exempted transactions.

19. Local authorities, if satisfied that it is expedient to do so, and if satisfied of the approval of at least two-thirds of the shops or classes of shops affected, may make orders partially exempting and modifying the general prohibition on Sunday trading. As to partial exemption, they may permit shops to open on Sunday mornings up to 10 a.m., or later in cases of emergency, for the sale of bread and flour confectionery, fish, groceries and other provisions commonly sold in grocers' shops. And, in the case of seasonal holiday resorts, they may permit Sunday trading for up to 18 Sundays a year for the sale of holiday goods and food, namely: articles for bathing or fishing, photographic requisites, toys, souvenirs and fancy goods, books, stationery, photographs, reproductions and postcards and "any article of food".

20. There are also special provisions for London enabling the Common Council of the City of London and Greater London Council to permit Sunday trading until 2 p.m. in districts where there are established Sunday street markets, and, in the case of the City, in Bethnal Green, Shoreditch and Stepney where Sunday opening

has long been customary. Such orders must fix a closing day in lieu of Sundays for those traders who take advantage of the permission to trade on Sundays.

21. In addition to the familiar saving for the sale of goods reasonably believed to be required in the case of illness, the Act contains, in Schedule 5, a list of exempted transactions broadly similar to, but wider and more detailed than that for the general closing hours contained in Schedule 2. The notable additions are flowers and fresh fruit and vegetables, fresh milk and cream, and tobacco, cigarettes, newspapers, periodicals and magazines wherever sold. In general, Schedule 5 reflects the pattern of exemptions for necessities and reasonable comforts, but with the consideration that more indulgence is given to those deprived of access to shops for a whole day than just for the evening.

22. The exempted transactions for Sunday trading in Schedule 5 are as follows:

SCHEDULE 5

"TRANSACTIONS FOR THE PURPOSES OF WHICH A SHOP MAY BE OPEN IN ENGLAND AND WALES FOR THE SERVING OF CUSTOMERS ON SUNDAY

1. The sale of -

(a) intoxicating liquors;

(b) meals or refreshments whether or not for consumption at the shop at which they are sold, but not including the sale of fried fish and chips at a fried fish and chip shop;

(c) newly cooked provisions and cooked or partly cooked tripe;

(d) table waters, sweets, chocolates, sugar confectionery and ice cream (including wafers and edible containers);

(e) flowers, fruit and vegetables (including mushrooms) other than tinned or bottled fruit or vegetables;

(f) milk and cream, not including tinned or dried milk or cream, but including clotted cream whether sold in tins or otherwise;

(g) medicines and medical and surgical appliances -

(i) at any premises registered under Section 75 of the Medicines Act 1968, or

(ii) by any person who has entered into a contract with an Area or District Health Authority for the supply of drugs or appliances;

(h) aircraft, motor, or cycle supplies or accessories;

(i) tobacco and smokers' requisites;

(j) newspapers, periodicals and magazines;

(k) books and stationery from the bookstalls of such terminal and main line railway or omnibus stations, or at such aerodromes as may be approved by the Secretary of State;

(l) guide books, postcards, photographs, reproductions, photographic films and plates and souvenirs -

(i) at any gallery, museum, garden, park or ancient monument under the control of a public authority or university; or

(ii) at any other gallery or museum, or any place of natural beauty or historic interest, or any zoological, botanical or horticultural gardens, or aquarium, if and to the extent that the local authority certify that such sale is desirable in the interests of the public; or

(iii) in any passenger vessel within the meaning of Part II of the Finance (1909 - 1910) Act 1910, while engaged in carrying passengers;

(m) photographs for passports;

(n) requisites for any game or sport at any premises or place where that game or sport is played or carried on;

(o) fodder for horses, mules, ponies and donkeys at any farm, stables, hotel or inn.

2. The transaction of -

(a) post office business;

(b) the business carried on by a funeral undertaker."[1]

23. Those observing the Jewish Sabbath may open freely on Sundays up to 2 p.m. (later in the case of Jewish retailers of

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[1] Section 58 of the Shops Act 1950 makes provision for the sale by fishermen of freshly caught fish, including shellfish and the sale at, or produce of, a farm, small holding, allotment or similar place to be treated as though included in Schedule 5.

Kosher meat), but thereafter the general prohibition and exemptions apply, and they must close instead on Saturday. There are detailed provisions in Section 53 of the Act and regulations made under it for registration with local authorities before the benefit of this provision can be obtained. These provisions are open to abuse, and have been the subject of some criticism. No comparable provision has been made for those of other religions who do not observe the Jewish Sabbath and for whom Sunday has no religious significance.

Conditions of Employment in Shops

24. Part II of the Act contains a number of provisions governing the conditions of employment of shopworkers. Some of these are of general application, but most of them are concerned with the hours of employment of young persons.

25. As to the general provisions: all shopworkers are entitled to regular meal breaks, and must take a weekly half holiday. Shopworkers in England and Wales, but not in Scotland, who work for more than four hours on Sunday, must not work for more than three Sundays in a month; and, in addition to the statutory half holiday, they are entitled to a whole day off in lieu of each Sunday worked in the week concerned or in the preceding week.[1]

26. As to the hours of employment of young persons in shops: the Act prescribes the normal maximum working week for those between the ages of 16 and 18 years as 48 hours, subject to limited overtime provisions for seasonal or exceptional pressure of work, and for those in the catering trade, and in the sale of accessories for aircraft, motor vehicles or cycles. For those under 16 years of age the normal weekly maximum working hours are 44, subject to a limited provision for overtime during the Christmas period. No young person is allowed to work at night

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[1] There are certain exceptions. In addition, those in England and Wales who work for less than four hours on Sunday, are entitled, but not required to take a half-day off in the week in addition to the statutory weekly half holiday.

between 10 p.m. and 6 a.m., subject to certain limited exceptions for collection and delivery of early morning milk, bread and newspapers, and in the late evening for those in the catering trade or in retail business in the theatre. Shop occupiers must keep records of the working hours and rest and meal breaks of young persons. In general, equal or greater protection for young persons employed in shops is contained in other, more generally applicable legislation; see the Report, Chapter Seven, paragraph 286 and Appendix 5.

APPENDIX 4

A HISTORY OF THE LEGISLATION AFFECTING TRADING HOURS, AND OF ATTEMPTS AT REFORM

The Committee is grateful to the Home Office for the following history of the regulation of shop opening hours. The account is drawn from the Home Office's evidence to the Inquiry.

1. The Shops Act 1950 regulates Sunday trading, the hours of weekday trading, and the hours of employment of shop workers. The history of these forms of regulation does not, however, overlap until the twentieth century.

2. The first prohibition on Sunday trading was the Fairs and Markets Act 1448 which forbade the showing of goods on Sunday and certain feast days. The Sunday Observance Act 1627 forbade butchers to kill or sell meat on Sundays. The Sunday Observance Act 1677 included a number of provisions restricting various forms of Sunday trading.

3. The regulation of hours and conditions of employment in the interests of employees, particularly children and young persons, began early in the nineteenth century, in response to the extremely long hours worked in factories and shops. The regulation of employment in shops was the subject of studies by Select Committees of both Houses of Parliament during the last two decades of the century. The first Act introducing positive controls was passed in 1886 when the Shops Hours Regulation Act provided that persons under the age of 18 employed in shops should not work more than 74 hours a week. The Shop Hours Act 1904 gave local authorities the power (long demanded by the Early Closing Association) to make orders fixing hours of closing for shops in their area but before such an order could be made the approval of two thirds of the shops affected was required. (The effectiveness of this measure turned partly

on the willingness of the local authority to act and partly on the requirement of approval.) The Shops Act 1911 provided that all employees must have a half holiday each week and that all shops (with specified exceptions) must have an early closing day. All these Acts were consolidated in the Shops Act 1912. Additional restrictions were introduced during the 1914-1918 War under emergency powers and continued temporarily after it until these were put on a regular footing by the Shops (Hours of Closing) Act 1928 which provided that, with certain exceptions, shops should close by 8 p.m. except for one late day each week when they should close by 9 p.m.

4. By the 1930's it had become apparent that the earlier Sunday observance legislation was no longer serving its purpose. As a result the hairdressing trade and the National Federation of Meat Traders promoted Sunday closing Bills which became the Hairdressers' and Barbers' Shops (Sunday Closing) Act 1930 - which applied to England, Scotland and Wales - and the Retail Meat Dealers' Shops (Sunday Closing) Act 1936 - which applied only to England and Wales. In 1936 the Early Closing Association successfully promoted a Bill which became the Shops (Sunday Trading Restriction) Act 1936, also applying only to England and Wales. The promoters' aim was to set limits to the considerable increase in Sunday trading and, within them, to make due allowance for custom, to avoid hardship to the poor, and to provide exemptions required for health or necessity. The main points of difficulty proved to be the scope of provision required for street traders and Jews, the special treatment of seaside resorts, and the extended range of articles which was regarded as "necessary" under the prevailing social conditions. The Act left largely untouched the Sunday trading provisions of the Acts of 1448, 1627 and 1677, but provided that trading under the new provisions should not constitute an offence under those Acts. (The Acts of 1448, 1627 and 1677 were subsequently repealed in 1969 as part of the regular process of statute law revision.)

5. Under Defence Regulations during the Second World War, the general closing hours were further restricted but in 1946 the Home Secretary and the Secretary of State for Scotland appointed a Committee of Enquiry, under the Chairmanship of Sir Ernest Gowers, to enquire into

(a) the working of the Shops Acts relating to closing hours;

(b) the statutory provisions relating to the health, welfare and safety of employed persons; and

(c) the statutory regulation of the hours of employment of young persons.

6. In 1947 the Committee published an interim report entitled "Closing Hours of Shops" (Cmd 7105) within which the most important findings were:

(a) in the past, whilst the requirements for compulsory evening and half-day closing had been of great benefit in protecting the shop assistant from exploitation, the point was approaching where little more could be done in this respect, and it was now the public's turn for consideration;

(b) there were too many exemptions in the law which had had serious consequences in mixed shops and which had been the subject of a considerable amount of judicial criticism; and

(c) because it was contained in so many different Acts of Parliament the legislation was obscure and complicated and the law should therefore be consolidated.

7. As a first step in the consideration and implementation of these findings the law as it then stood was consolidated in the <u>Shops Act 1950</u>. This <u>Act</u> has subsequently been

amended by the Shops (Airports) Act, 1962, which exempted airports from the weekday closing provisions, and the Shops (Early Closing Days) Act 1965 which provided that a shop's early closing day be fixed by its occupier, and not the local authority. Certain local Acts of Parliament contain provisions which disapply some sections of the Shops Act 1950 with regard to places which have been shown to have a special claim to exemption. e.g. exhibition centres or special markets.*

ATTEMPT AT REFORM SINCE 1950

8. In 1953 the Home Office and Scottish Home Department published a joint memorandum entitled "Suggested provisions for Amending Shops Legislation - With Explanatory Notes" containing proposals which were based largely on the report of the Gowers Committee. In 1956 the Government introduced a 76 Clause Bill based on these proposals but the Bill encountered substantial opposition in the House of Lords and, when brought to the House of Commons late in the Session, the Government decided not to proceed with it.

9. In 1961 a Departmental Committee under the Chairmanship of Lord Crathorne was appointed to review the law relating to Sunday entertainments and Sunday trading. It reported in December 1964, (Cmd 2528) concluding that "the special character of Sunday ought to be preserved as far as practicable 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". At the same time the Committee recognised that some goods and services are required on Sunday and recommended that relaxation should be made in the existing law. Shortly before publication of the report of this Committee, the Home Office consulted a wide range of trade and other interested bodies about the need for amendment of the provisions regulating weekday trading hours. These consultations elicited an encouraging response.

* See annex

10. In the light of the Crathorne Committee's recommendations and of the response to the consultations about weekday trading hours, the Home Office and the Scottish Home and Health Department published in 1965 a discussion paper "Retail Trading Hours". The proposals in this paper would have left the existing machinery of control largely as it was, would have extended control to street trading and mobile shops but would have broadened the existing exemptions. The most novel proposals were those which would have conferred upon local authorities power

(a) to issue to individual applicants certificates of variation extending the number of hours they might trade; and

(b) as an alternative to such certificates, to authorise groups of traders to operate rota schemes by which they could provide a service for the public at times when otherwise such trading would be prohibited.

11. The expression of views advanced in response to the publication of this paper showed wide disagreement and considerable opposition. In the light of this response the Government concluded that it would not be appropriate to introduce a Government Bill based on the proposals but help was given with the drafting of a Private Member's Bill introduced in the House of Lords in 1968 by Lord Derwent. This completed all its stages in the Upper House but failed to make any progress in the Commons.

12. Since that time there has been no attempt by any Government to introduce legislation to reform trading hours but there have been many unsuccessful attempts by Private Members in both Houses.

A complete list of these attempts at reform is given below.

THE SHOPS BILL - 1956 GOVERNMENT

The main provisions were:

1. Shops to close on weekdays not later than 7 p.m. (8 p.m. on late night). 1 p.m. to be closing hour on early closing day.

2. Local authorities to specify pairs of late and early closing days for shopkeepers to choose.

3. Local authorities in holiday resorts empowered to suspend evening and early day closing restrictions for up to 22 weeks a year.

4. Local authorities empowered to suspend evening closing requirements at Christmas. Early closing restrictions could be suspended Christmas and Easter.

5. New Schedule for goods exempt from weekday closing restrictions.

6. All shops to be closed on Sunday except those open for sale of goods listed in Schedule 3 (may open until 7 p.m.).

7. Local authorities in holiday resorts empowered to allow trading on up to 23 Sundays.

8. Exemptions from Sunday trading restrictions for Jewish and Muslim traders and for certain London Sunday Markets.

9. Local authorities to be responsible for enforcement and to make annual reports to Secretary of State, who is to report to Parliament.

The Bill was withdrawn after passing through Lords.

THE SHOPS BILL 1967, sponsored by Mr Nicholas Scott, MP

The main provisions were:

1. Part I of Shops Act 1950 - containing restrictions on general closing hours to be repealed.

2. No shop assistant to work more than 42 hours a week - overtime permitted in special circumstances.

The Bill did not reach second reading in the House of Commons.

THE SHOPS (SUNDAY TRADING) BILL 1967, sponsored by Lord Derwent

The main provisions were:

1. A new Schedule listing transactions permitted on Sunday. Main change to include food for consumption on the premises, stationery, greeting cards, books, photographs, domestic fuel, farm and garden produce.

2. Exempts automatic vending machines, self-service launderettes, dry cleaners, hairdressers or barbers working elsewhere than in a shop.

3. Shops selling mainly food may register to sell other items of stock.

4. Local authorities may allow shops in their area to sell certain listed items required by tourists.

5. Where a shop carries on several trades only some of which are permitted on Sunday it may open on Sunday only for these trades.

6. Religious exemption provisions to be extended to Muslims.

7. Provides for compensatory time off for shop assistants employed on Sunday even if shop does not open on Sunday.

Lord Derwent withdrew the Bill before it reached its Second Reading Stage, and then introduced the Shops (Sunday Trading) (No 2) Bill which had been drafted with Government assistance.

THE SHOPS (SUNDAY TRADING) (No 2) BILL 1968, sponsored by Lord Derwent

1. A new Schedule listing transactions permitted on Sunday. Main change is that it includes all kinds of food for consumption on and off premises.

2. Shops which sell food as principal business may sell other items of stock, if registered with local authority.

3. Local authorities may allow shops in their area to sell certain listed items of interest to tourists.

4. Shops run by Muslims to be permitted to open on Sunday morning, if closed on Friday.

5. To provide for compensatory time off for shopworkers employed on Sunday, even if shop does not open on Sunday, for the serving of customers.

6. To allow Sunday trading at airports.

The Bill completed all stages in the House of Lords but failed to make progress in the House of Commons.

THE SHOPS (SUNDAY TRADING) BILL 1970, sponsored by Lord Derwent

The main provisions were:

1. A new schedule listing transactions permitted on Sunday. Main change is inclusion of meals for consumption on the premises; food and drink and toilet requisites. Local authority can register shops to sell food for consumption off the premises.

2. Local authorities may allow shops in their area to sell certain listed items for the use of tourists.

3. To provide for compensatory time off for shop workers employed on Sundays whether or not shop opens.

4. To allow Sunday trading at airports.

The Bill completed all stages in the House of Lords but failed to make any progress in the House of Commons.

THE SHOPS (HOLIDAY RESORTS - SUNDAY TRADING) BILL 1976, sponsored by Baroness Phillips

The main provision was:

1. Number of Sundays on which shops in holiday resorts may open to be increased from 18 to 26 weeks in any year, by order of local authorities.

The Bill was successful in the House of Lords but obtained no second reading in the House of Commons.

THE SHOPS (WEEKDAY TRADING) BILL 1970, sponsored by Mr Evelyn King MP

1. Occupiers of shops may close on weekdays at such hours as they themselves decide.

2. Conditions of Employment of shops assistants to be as in 1950 Act.

3. Sunday closing restrictions to be as in 1950 Act.

The Bill was talked out at Second Reading.

THE SHOPS AMENDMENT BILL 1976, sponsored by Sir John Langford-Holt MP

The main provision was:

1. Any shop operated entirely by its owner is to be exempt from the requirement to close not later than 1pm on one weekday.

An attempt to introduce the Bill to the House of Commons under the 10 minute rule was unsuccessful.

THE SHOPS (SUNDAY TRADING) BILL 1976, sponsored by Mr Clement Freud MP

The main provisions were:

1. To allow all shops open on Sunday to sell all items of stock.

2. To allow all religious minorities closing shops on days other than Jewish Sabbath to be exempt from restrictions on Sunday closing.

3. To allow local authorities to hold referenda on Sunday trading.

4. To protect employees of shops opening on Sunday.

An attempt to introduce the Bill into the House of Commons under the 10 minute rule was unsuccessful.

THE SHOPS AMENDMENT BILL 1977, sponsored by Sir John Langford-Holt MP

The main provision was:

1. Any shop operated entirely by its owner to be exempt from the requirement to close not later than 1 p.m. on one weekday.

The Bill was given a 2nd reading without debate, passed the Committee Stage, but sponsor did not proceed further.

THE SHOPS AMENDMENT BILL 1978, sponsored by Mr Michael Nubert MP

The main provision was:

To allow the organisation on weekdays of promotional evenings on retail premises by order of the local authority.

An attempt to introduce the Bill into the House of Commons under the 10 minute rule was unsuccessful.

THE SHOPS (SUNDAY TRADING) BILL 1979, sponsored by Lord Ponsonby of Shulbrede

The main provisions were:

1. A new schedule listing transactions permitted on Sunday. Main change is that sale of all food for consumption on or off premises is included.

2. Local authorities may allow shops in their area to sell certain listed items required by tourists.

3. Arrangements for compensatory time off to be extended to all shopworkers whether or not shop actually opens on Sunday.

4. To allow Sunday trading at airports.

The Bill completed its Commitee stage in the House of Lords, but was lost on dissolution of Parliament.

THE SUNDAY TRADING LAWS BILL 1980, sponsored by Mr Clement Freud MP

The main provisions were:

1. Garden centres to be exempt from Sunday trading restrictions.

2. Sunday Markets to be regularised, permitted to operate if local authority criteria met.

3. Shops permitted to sell certain goods on Sunday able to sell all goods in stock.

An attempt to introduce the Bill into the House of Commons under the 10 minute rule was unsuccessful.

THE SHOPS BILL 1981, sponsored by Sir Anthony Meyer

The main provisions were:

1. Local authorities empowered to make orders (after consultation with employers, employees and consumers) to exempt shops from restrictions on weekday and Sunday trading hours.

2. New Schedule for goods exempt from weekday trading hours restrictions including gardening supplies and furniture.

3. Maximum working hours for shopworkers (other than owner and family) to be 40 hours.

The Bill failed to get a Second Reading.

THE GARDEN SUPPLIES (SUNDAY TRADING) BILL 1981, sponsored by Mr Nicholas Lyell MP

The main provision was:

1. Garden supplies to be added to the list of goods which may be sold on a Sunday.

The Bill was blocked when it came up for second reading in the House of Commons.

THE SHOPS BILL 1981, sponsored by Baroness Trumpington

The main provisions were:

1. Repeal of early closing day requirement.

2. Repeal of regulations for general closing hours.

3. Repeal of restrictions on Sunday opening.

4. Sunday trading to be allowed at airports.

The Bill completed all its stages in the House of Lords but failed to make any progress in the House of Commons.

THE GARDEN SUPPLIES (SUNDAY TRADING) BILL 1982, sponsored by Sir Angus Maude MP

The main provision was:

1. Garden supplies to be added to the list of goods which may be sold on a Sunday.

The Bill fell at the second reading in the House of Commons.

THE SHOPS AMENDMENT BILL 1982, sponsored by Sir John Langford-Holt

The main provision was:

1. Any shop operated entirely by its owner to be exempt from the requirement to close not later than 1 p.m. on one weekday.

The Bill did not reach 2nd reading due to dissolution of Parliament.

THE SHOPS BILL 1982, sponsored by Mr Ray Whitney MP

The main provisions were:

1. Repeal of early closing day requirement.

2. Repeal of Regulations for general closing hours.

3. Repeal of restrictions on Sunday opening

4. Sunday trading to be allowed at airports.

The Bill was defeated on the second reading in the House of Commons.

ANNEX

LOCAL ACTS WHICH DISAPPLY PROVISIONS OF THE SHOPS ACT 1950

Certain Local Acts of Parliament have exempted particular locations from the provisions of the Shops Act 1950:

1. Tyne and Wear Act 1976

Section 59 extends the list of transactions permitted on Sunday, and contained in the Fifth Schedule to the 1950 Act, in relation to the Quayside Market, Newcastle. Ten additional categories are thereby exempted from the restrictions on Sunday trading, including drapery, clothing and footwear, electrical goods and books.

2. West Midlands County Council Act 1980

Section 88 provides that Sections 1,2,8 and 47 of the Shops Act 1950 shall not apply at the National Exhibition Centre, Birmingham, during the course of an exhibition. The Centre is therefore exempt from the weekly half-day closing requirement; from the general closing hours requirement; from closing orders; and from the restrictions on Sunday trading.

3a. Greater London Council (General Powers) Act 1981

This Act contains a provision similar to that in the West Midlands County Council Act, which exempts from Sections 1,2,8 and 47 of the Shops Act 1950, shop premises forming part of certain exhibition and conference centres. The provision extends to seven centres, which are specified in Schedule 3 to the Act.

b. Greater London Council (General Powers) Act 1983

The provisions described in (a) above are extended to one more centre.

APPENDIX 5

PROTECTION OF YOUNG PERSONS: THE SHOPS ACT 1950 AND OTHER LEGISLATION

Provisions in Part II of the Shops Act 1950 which are/can be accommodated in other legislation

Statutory half-holiday (Sections 17 and 18)
Section 1(3) of the Young Persons (Employment) Act 1938 and 1964.
Section 116 of the Factories Act 1961.
Section 86 of the Factories Act 1961.

Intervals for meals (Sections 19 and 20)
Section 1(2) of the Young Persons (Employment) Act 1938 and 1964.
Section 86 of the Factories Act 1961.
Section 116 of the Factories Act 1961.

Special provisions for the scale of refreshments (Section 21)
No provision contained in other legislation.

Sunday employment (Sections 22 and 23)
Section 18(1)(e) of the Children and Young Persons Act 1933.
Section 1(S) of the Young Persons (Employment) Act 1938.
Section 93 of the Factories Act 1961.
Section 28 of the Children and Young Persons (Scotland) Act 1937.

Hours of employment of young persons 16 - 18 (Section 24 - 26)
Section 1(1) of the Young Persons (Employment) Act 1938.
Section 96 of the Factories Act 1961.
Section 89 of the Factories Act 1961.

<u>Employment of young persons under 16</u> (Section 27)
Section 18 of the <u>Children and Young Persons Act 1933.</u>
Section 28 of the <u>Children and Young Persons (Scotland) Act 1937.</u>
Section 1(1) of the <u>Young Persons (Employment) Act 1938.</u>
Section 87 of the <u>Factories Act 1961.</u>

<u>Employment partly in a factory and partly in a shop</u> (Section 28)
Section 91(2) of the <u>Factories Act 1961.</u>

<u>Power to regulate employment</u> (Section 30)
Section 18 of the <u>Children and Young Persons Act 1933</u> (as amended by Section 1 of the <u>Employment of Children Act 1973</u>).
Section 28 of the <u>Children and Young Persons (Scotland) Act 1937</u> (as amended by Section 1 of the <u>Employment of Children Act 1973).</u>
Section 89, 96, 117 of the <u>Factories Act 1961.</u>

<u>Night Employment</u> (Section 31)
Section 1(4) of the <u>Young Persons (Employment) Act 1938.</u>
Section 18 of the <u>Children and Young Persons Act 1933.</u>
Section 28 of the <u>Children and Young Persons (Scotland) Act 1937.</u>
Sections 86, 97-100, 106, 110-113 of the <u>Factories Act 1961.</u>
Sections 126 and 127 of the <u>Mines and Quarries Act 1954.</u>

<u>Records</u> (Section 32)
Section 2 of the <u>Young Persons (Employment) Act 1938.</u>

<u>Option to apply either the Shops Act 1950 or the Young Persons (Employment) Act 1938</u> (Section 68)
Section 7 of the <u>Young Persons (Employment) Act 1938.</u>

<u>Enforcement</u> (Section 71)
Section 3 of the <u>Young Persons (Employment) Act 1938.</u>

Changes in legislation would be needed to ensure that any exceptions to provisions in the <u>Shops Act 1950</u> were retained.

APPENDIX 6

The Regulation of Retail Trading Hours

Economic Review conducted for the Home Office Committee of Inquiry

into Proposals To Amend The Shops Acts

(Chairman, Robin Auld, QC.)

J.A. Kay, C.N. Morris, S.M. Jaffer, and S.A. Meadowcroft

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CHAPTER ONE

INTRODUCTION AND PRINCIPAL CONCLUSIONS

1. The economic background of retailing today is very different from that which prevailed when the existing restrictions on shop opening hours were introduced. To what extent have these economic changes altered the rationale of these restrictions? To what extent would changes in the legislation on shop hours accelerate, retard or alter these trends in the structure of retailing in Great Britain? It is these questions which we seek to illuminate in this report.

2. Perhaps the most important influence on the development of modern retailing has been the increase in the range and complexity of goods available in shops. At first sight it seems surprising that this development was not associated with a corresponding increase in the skills demanded of workers in retailing. The reason is that it was accompanied by, and to some extent caused, a change in the relative significance of manufacturer and retailer. Increasingly manufacturers came to take responsibility, through branding and advertising, for describing, selling, and monitoring the quality of the product.

3. Thus in the late nineteenth centry, the normal retail transaction was one in which knowledgeable shop assistants would select an anonymous product for the particular needs of a potential consumer. In the twentieth century

an increasing proportion of sales were ones in which the consumer would come to collect and pay for a product which he had already identified for himself, possibly before entering the store. After the Second World War, self service became an increasingly common retailing style.

4. In the last twenty years, the retailer has regained some of the power which had been ceded in earlier decades to the manufacturer. Multiple retailers have greatly expanded their market share, especially in food and in clothing. They have used their resulting strength to negotiate favourable terms from their suppliers, and have, particularly by own-branding, reasserted the retailer's responsibility for the products which he sells. Because it is the retailing establishment which takes this responsibility, rather than the individual employee, the skills required in retailing employment have continued to decline. The trend towards fewer and larger retailing enterprises has been parallelled by a similar trend in retailing outlets, as the growth of car ownership has facilitated an increase in the size of stores, and often a movement in their location away from traditional sites in city centres.

5. In Britain in the 1980's, most goods are sold by multiple retailers. Retail outlets have increased in size, and their number has diminished. After many years of moderate growth, employment in retailing has for the last decade fallen more rapidly than employment in the economy as a whole. Compared with the labour force generally, workers in retailing are less skilled, either in terms of previous educational qualifications or training on the job, and worse paid. Retail employees are generally younger than other workers, more likely to work part time, and more likely to be female.

6. The principal purpose of this report is to consider, and to attempt to resolve, those economic issues which were the subject of extensive controversy in earlier discussions of the regulation of trading hours and in the evidence put before the Committee. What are the effects of regulation on costs, prices and margins in retailing? How does it influence the pattern of trading? Underlying all these questions is the basic one of the degree to which the current restrictions do indeed modify behaviour . How many more shops would open later, or on Sundays if they were free to do so? Our economic analysis concentrates primarily on the issue of Sunday opening in order to give a clear form to the discussion. Much, though not all, of the argument is equally applicable to other extensions to trading hours.

6(a). There is a limited scientific literature on the subject of the economic effects of restrictions on trading hours. A review of this literature was undertaken for the Committee, and a fuller discussion of the issues raised can be found in working papers available from the Institute. The principal conclusion reached is that it cannot be decided on a priori grounds whether the restrictions on consumer choice, inherent in limitations to trading hours, could nevertheless yield overall benefits. The fact that shops choose to open on Sundays does not guarantee that the gains derived from greater consumer choice will offset the additional costs involved. A final assessment must depend on an empirical study of the costs and benefits involved, and this has not been addressed previously.

7. The consumer surveys we describe below, including one commissioned specifically for this report, suggest there is a real, but limited consumer

demand to shop in hours when trading is currently prohibited. However, the goods which people suggest they would be likely to buy on Sundays are, in the main, those which are already available on Sundays. This may be taken to indicate that the existing restrictions are not particularly irksome. It also illustrates the difficulty which confronts response to hypothetical questions - consumers find it easier to describe what they currently do than to imagine how they would react to options which are not at present offered to them.

8. It is clear that Sunday opening would be considerably less than universal even if it were permitted. However, the present intentions of retailers in relation to Sunday trading cannot be a decisive indicator of the likely outcome since, as most of them emphasised themselves, their decision would depend on the actions of other traders. Moreover this interdependence takes different forms for different commodities. In food retailing, the opening of one store on Sundays would tend to attract customers away from competing stores open at the same time; with many other commodities, where consumers may wish to look at the goods available in several retailers before deciding on their purchase, Sunday trading by one retailer might well attract custom to neighbouring shops which were also open. For these reasons, we expect that the likely outcome of de-regulation would be that some, but not all, food retailers would take advantage of it, while in other areas of trading we would observe clusters in which in some areas most stores were open while in others the majority were closed. This is the pattern currently observed in relation to evening opening and in other countries. In chapter 3 we discuss the relative attractions of Sunday opening for different types of retailer.

9. On average, taken over all commodities and types of retailer, retailing costs currently account for approximately 28% of the net of tax price of goods sold. In chapters 3 and 4 we report an analysis of retailing costs in Great Britain conducted with a view to estimating how these costs would be affected by an increase in hours of trading. This analysis draws heavily on the results of a computer simulation of retailing cost structures. The methods employed are described in some detail in those chapters. We have assembled a data base of some 150 model firms covering the range of retailing experience. For these firms we have estimated detailed cost structures and employment levels, taken from a number of different sources including published accounts, case studies, responses to questionnaires and special surveys. We have used special tabulations of the 1982 Retailing Inquiry (provided by the Business Statistics Office) to provide weights so as to ensure that different types of retailing are given their proper importance.

10. On this basis we have attempted to estimate how Sunday opening would affect retailing costs, prices and employment. The method we have used is that of comparing the structure of the retail sector in Great Britain as it would be if Sunday opening were generally permitted with that which would exist if Sunday opening were generally prohibited. The present reality is between the two, with some trade occurring on Sundays - in Scotland, where all Sunday trading is legal, and in England and Wales in both legal and illegal trading. We have not been able to describe the structure of that trade in any detail; still less have we been able to describe the trade which would take place if the present law were universally enforced. Our approach therefore measures the maximum impact on the structure of retailing which regulation or de-regulation might have. The actual effects of de-regulation

would be smaller than this suggests because some of them have already occurred.

11. In understanding the ways in which the retail sector would be affected by extended hours of trading, it is essential to distinguish the immediate from the long run effects, and between the experience of an individual retailer and that of retailing as a whole. Our analysis suggests that most of the variable costs of retailing are increased with hours of opening and that labour costs, the most important single element of costs for all retailers, would increase more than proportionally with hours of trading. For an average shop eight hours of Sunday opening (which would increase trading hours by around 13%) would raise retailing costs in the short term by around 10%. Although this cost penalty would vary for different types of retailer this variation is less than might be thought. Where traders, or commodities, have relatively high margins more tends to be spent on all the cost elements associated with retailing and hence differences between retailers in the structure of their costs are less marked than changes in the levels of these costs. The overall rise in retailing costs would be substantially less than the figure of 10% above because not all retailers would open and because those who did would tend to have lower than average cost increases from doing so.

12. The evidence indicates that it is not at all likely that there would be an overall increase in retail sales commensurate with this short term increase in costs. As we explain, there is no inconsistency between this and the clear evidence that Sunday trading increases sales of particular commodities and for individual retailers; the majority of these sales would be drawn from other commodities, other retailers, or other days of the week.

It follows that an immediate consequence of Sunday trading would be an increase in retailing costs per unit of sales.

13. In the short run such an increase might either raise prices or reduce net margins in retailing. Our judgement is that the major part of this adjustment would fall on retail margins. The effect of extended trading hours is to increase the effective capacity of the retail sector in the Great Britain by more than it would increase the demand for its services and in competitive conditions this will eventually reduce profitability. Even if consumers would be willing to pay extra for the benefit of Sunday shopping the only practical means of recouping these costs is by raising prices throughout the week. The competitive environment which makes this impossible for retailers now would remain - indeed be intensified - by the growth of Sunday trading.

14. Although there is a wide range of profitability among leading British retailers, neither the overall average nor the position of weaker firms is such that this reduction in profitability could be sustained without significant effects on the structure of the industry. The pressure on marginal retailing capacity would be intensified. This pressure could be expected to continue until overall capacity was reduced, by means of more rapid closure of secondary units and reduced investment in new stores by the stronger traders, and by exit from the industry by weaker units. For these reasons, we find that longer opening hours would be likely to lead to some acceleration of the trend towards the disappearance from the market place of independent traders and towards increasing concentration among multiple

retailers. For consumers, greater choice of time could in some degree be offset by reduced choice of establishment.

15. At the same time, however, these reductions in capacity would have beneficial effects on the remaining traders. Just as the initial impact of extended hours of trading is to raise unit costs by increasing capacity more than it increases sales, so the secondary impact is to lower unit costs by reducing capacity more than it reduces the volume of sales. The major part of this reduction would, in turn, go into the restoration of retail margins, since the costs of both six and seven day traders would now be met from greater sales volumes. In the long term, rates of return in retailing will be set at the level needed to attract capital to retailing from other property investment or industrial activities, and may be expected to return to broadly their current levels.

16. The general direction of these trends is not in doubt. Their magnitude will depend on the extent of Sunday trading. If it were to be widespread, the effect on unit costs and on margins could be comparatively large. So too would be the ability of existing retail outlets to absorb additional weekday sales within their existing capacity, since the diversion of current trading to Sunday would be correspondingly greater. In the extreme case, if all shops opened for 15% additional hours, and 15% of all weekly trade occurred during these hours, weekday demand might be 15% lower and the existing volume of sales could be served by a retailing sector some 15% smaller. In reality, all these effects would be considerably smaller. For example if, as we suggest, up to 5% of food trade were to occur on Sundays if trading were de-regulated and the major part of this was sales which are prevented by the

present law, retail capacity in food might over a period of years be 3% lower than would otherwise have been the case.

17. The effect of these capacity changes is to increase the efficiency of the retail sector. This effect on efficiency arises from two sources. First, the trend from higher cost to lower cost retail outlets would be accelerated. Since cost differences are quite large, this effect may be substantial, although it is difficult to quantify, and the point must be modified by noting that high costs are often associated with a higher quality of service offered to consumers. Secondly, efficiency is affected by the reduction in capital costs per unit of sales resulting from the more intensive use of the 'plant' of retailing in the United Kingdom, which would now be available on a seven rather than a six day basis.

18. Thus the overall effect of lengthening shop hours on costs and prices in the long run depends on a complex balance of factors. Are the increased variable costs of extended opening more or less than offset by reduced capital costs from the more efficient utilisation of retailing capacity? The answer partly depends on the mix of fixed and variable costs in retailing, and partly on the extent to which potential Sunday trading draws sales from what would otherwise be peak or off-peak shopping hours. If Sunday sales are mainly what would otherwise be peak sales, then the scope for more efficient capacity utilisation as a consequence of Sunday trading may be relatively large. If those who shop on Sundays would otherwise do so at times when these shops are not particularly busy, then Sunday trading would not have any substantial effect on peak weekday requirements for staff or premises. In that instance a more likely outcome would be that trading on, say, Mondays

would drop to levels at which the costs of opening might exceed the losses in sales resulting from closure on that day. In this case Sunday opening would lead to a shift, rather than an extension, in the trading week.

19. We could find no existing evidence on this question, and it was therefore an important part of our consumer survey to establish how extended opening might affect the pattern of demand in the course of the week. The evidence clearly suggests that Sunday sales would tend to be drawn disproportionately from what are currently peak shopping times, Friday for food, Saturday for most non-food items. This reflects the fact that it is those whose shopping opportunities are currently most compressed who would find an extension to trading hours advantageous. Respondents who were not in employment showed comparatively little interest in Sunday shopping.

20. In chapter 4 we put these various elements of the picture together and suggest that in the long-run, taking account of effects on both fixed and variable costs, the overall effect of Sunday trading would be to effect a small reduction in the aggregate costs of the retail sector. Our central estimate is that this reduction would be around 2% of costs equivalent to about 0.6% of retail turnover. Although the increase in concentration in the retail sector might lead to a small rise in profitability, this cost reduction would, if fully passed on in prices, lower the Retail Prices Index by approximately 0.4%.

21. The developments we have described above carry with them implications for retailing employment. In the short run, there are two conflicting effects. Sunday working itself would generate additional employment. It would, however, reduce weekday demand and hence weekday manning requirements.

In the long run, the reductions in retailing capacity which we anticipate would affect employment. On the one hand, the closure of marginal retailing capacity would reduce job opportunities; on the other, there would be more jobs available in existing establishments. In chapter 5, we have attempted to quantify these effects using our computer models of retailing costs to predict employment levels. We suggest that Sunday working itself might create 70,000-75,000 additional full-time equivalent jobs on Sunday itself, with some 20,000 further jobs arising from the weekday consequences of Sunday trading. However this would be slightly more than offset by reductions in the demand for labour during the week. In the long run, some further reduction in employment might occur. On the assumptions we have made this would be equivalent to 15,000 full time jobs. The reason for this is the increase in the efficiency with which retailing capacity is used which we have described also leads to some increase in the efficiency with which labour is used.

22. There would at the same time, be a shift in the structure of employment in retailing. This would favour part-time at the expense of full-time working. There would also be an increase in the average rate at which retailing employment is paid. Overall then the short run effect would be a small decrease in the total number of jobs in retailing, while their aggregate remuneration and the total number of people employed actually increases. In the long run, although labour requirements would fall, the number of people employed in retailing would fall by less than this, and total earnings in the retailing sector would still rise because the average rate paid per hour would increase. The rise in earnings is substantial and one of the most certain consequences of Sunday trading.

23. Our analysis shows that although extensions to trading hours undoubtedly would have effects on retailing costs, prices and employment, these effects would generally be small; and in the case of factors which are the net outcome of a number of conflicting influences, such as the long run consequences for employment and costs, we can be more confident in asserting that they are small than in identifying the final direction of the changes. It is unlikely that in any of the areas we have considered - costs, prices, employment, trading patterns - there would be effects which would be of sufficient magnitude readily to be distinguished from the other changes which would be ocurring as a result of other influences on the style and structure of British retailing.

CHAPTER TWO

RETAILING IN THE UNITED KINGDOM - THE ECONOMIC BACKGROUND

I Retailing before 1939

24. Until as recently as one hundred years ago, retailing served its local community in ways which changed little. Many of the opportunities available to the consumer involved direct purchase from the producer - the boot and shoe maker, the tailor, the cabinet maker. Retailing was largely a matter of attendance at fairs and markets or purchase from small retail units like grocers, hosiers, drapers and chandlers. Very few chains existed; most shops were individually owned, and the owner would personally undertake their day to day operation, possibly with one or two assistants.

25. But if retailing was predominantly local and community-based, legislation about the hours during which it should be undertaken was centralised and well-developed. The first documented legislation on the subject of trading hours was the Fairs and Markets Act of 1448. This prohibited the showing of goods on Sundays and certain feast days. It was backed up by the Sunday Observance Act of 1627 - which prevented butchers from killing or selling meat on Sunday - and the second Sunday Observance Act of 1677, which added further restrictions to Sunday trading. Control of the hours during which traders could operate was extensive by the end of Victorian times.

26. Modern retailing began when large shifts of population led to the creation of large urban centres, and the newly developed canals, roads and railways were used to service these centres with goods which were increasingly produced some considerable distance away. The first chains of retail shops appeared in the 1850's, with names such as W H Smith and John Menzies, still to be found in every high street. The advantage of the chains was their capacity to organise purchase and distribution to and within the new urban areas. A different, but equally signficant development was the growth of the Co-operative Movement. Each retail society had only a few branches. But through the Co-operative Retail Society, the co-operatives became the first organisation to enjoy substantial benefits from large-scale purchasing, and they extended this into the manufacture of goods for sale through co-operative shops.

27. With many of the retail outlets now owned by large companies, and against a background of new employee-protection legislation in other industries, the pressure grew for legislation to protect the new employed workforce and particularly young people. The Shop Hours Regulation Act of 1886 specified that persons under 18 employed in shops should not work more than 74 hours per week. This was followed by the Shop Hours Act of 1904 which gave local authorities powers to fix trading hours, provided they could get agreement from two thirds of affected traders, and the Shops Act of 1911 which specified that all employees must have a half-day holiday each week. Because shops were in general small, the scope for replacing the employee on the half-day holiday was also small. The Shops Act recognised this, and also the desirability of uniform behaviour, by stipulating that all shops, with a few exceptions, must have an early closing day.

28. The period before the first world war saw a growth in the power of the retailer relative to the producer because of the growth of multiple-store chains. Although this trend continued between the wars, the pace of change was less rapid. Figures from Jefferys (1954) show that the number of firms with 10 or more branches grew from 471 in 1920 to 680 in 1939, and the average number of stores per firm rose a little, largely because of mergers and amalgamations. An important influence in the period was the emergence of centralised manufacturing. Partly because of the rapid technological progress which was taking place, the range of goods available increased rapidly. Man-made textiles, numerous drug and other pharmaceutical goods and many household durables such as electrical goods were added to the list available for consumer purchase. The practice of branding goods and the development of standards and trademarks grew rapidly.

29. With this growth in the importance of the identity of the manufacturer of the product came an extension of Resale Price Maintenance (RPM) by which manufacturers were able to control the final selling prices of their goods. Some practices of this kind had occurred in the nineteenth century, but it is estimated that the proportion of consumer spending represented by goods subject to RPM was only 2% to 3% in 1900. By 1938, the proportion had risen to 38%. These developments helped to sustain the independent trader. The multiple-store retailers responded to this coalition between manufacturers and independents by increasing their own manufacturing capability. By 1939 almost all food multiple chains with more than 100 branches distributed own-label products, and at this time the majority of these were produced in the retailer's own manufacturing facilities.

30. There were other economic influences on the development of retailing. Although the overall population was static there were major shifts in regional distribution with much the most rapid growth occurring in the West Midlands, and in conurbations generally. Retailing grew in turnover and in floorspace at a faster pace than the growth in population as the proportion of consumer needs which were purchased through retail outlets increased. High levels of unemployment and increasing female participation led to an increase in the underemployed labour force, and much of this underemployment was to be found in the independent retail sector.

31. For most of the 1920's the existing law, as consolidated by the Shops Act 1912, was considered sufficient regulation for retailing, but increased late-night opening and worries about nuisance in residential areas led to greater pressure for general restrictions to be imposed on weekday shopping hours. The Shops (Hours of Closing) Act of 1928 specified that most shops should close by 8pm, with one late night on which trading was permitted to 9pm. This Act was followed by a number of extensions to Sunday trading restrictions during the 1930's which extended prohibition to groups previously wholly or partially exempt.

II Post-War Developments: the Economic Background

32. While the late nineteenth century saw the growth of retail chains (and particularly the Cooperative Movement) and large-scale manufacturing increased in the inter-war years, the average size of retail outlets remained small. In 1950, out of the half million shops in Britain, fewer than 50,000 had annual sales of over £25,000 and fewer than 10,000 had annual sales in excess of £50,000. Even the large department stores which had become an

increasingly important part of inter-war retailing accounted for only 5% of retail sales by 1950.

33. The post-war era brought the most important changes in shopping habits since industrialisation and the associated concentration of population. Customers were increasingly able to travel in order to shop. Population census statistics show that there were 2.25 million cars in 1950; in 1981 there were 15.25 million, and 60% of all families had access to a car. The traditional urban centres declined. In 1951, 53% of the population lived in large towns and conurbations; now only 42% do so, and shops moved with them to the outer suburbs where floorspace was often less expensive. Shopping around became more worthwhile, as RPM came under pressure and was ultimately abolished. The growth of ownership of domestic refrigerators and freezers made it possible to shop less frequently. Commercial television at first increased the impact of brands, but gradually led to a concentration on a smaller number of national brands in contrast to the proliferation which had occurred between the wars. All these factors undermined the position of the traditional British retailer, the small independent trader in a city centre location.

34. More married women went out to work; figures compiled by Joshi, Layard and Owen, Centre for Labour Economics (1985), show that in 1951 only 24% of all married women below pensionable age were in the work force, full or part-time, but by 1981 this figure had risen to 57%. As we shall see later, retailing employment has itself been an important element in this change. Apart from contributing to an overall family income, the result has been an

increased demand for shopping which is efficient in terms of use of time and to pressure for longer hours and more opportunities for shopping as a family.

35. Real per capita personal disposable income rose between 1950 and 1983 by 70%. As society became more affluent, so its consumption pattern changed. Table 2.1 shows how consumers' expenditure divided between the 10 main expenditure categories as recorded by the Family Expenditure Survey. Increased affluence has led to a reduced proportion of expenditure on essential goods such as food, which has fallen from 31% in 1962 to 21% of the average family's overall budget, and clothing (9.5% to 7.2%). Tobacco consumption has also fallen steadily. Housing, on the other hand, has become a larger proportion of overall expenditure. In 1962 the average family spent less than 10% of its budget on housing. Now it spends over 16%. There have also been rapid rises in expenditure on household durables, on transport and particularly on motor cars, and on services generally. The share of consumer expenditure devoted to retailed goods, which had previously increased steadily, began to fall. However, despite this relative contraction, growth in the economy was sufficient to ensure that retailing turnover has only recently declined. In constant 1980 prices, retailing turnover grew from £40.6 million in 1950 to £60.4 million in 1974 but was only £58.4 million in 1980 and £57.4m in 1982.

36. With these changes came alterations in trading methods. In 1950 the norm was for goods to be traded through small outlets employing only a few staff and for most items to be collected and wrapped by the shop assistant, who was often knowledgeable about the goods he sold. The changes to structure of ownership, to the range of goods available and to the organisation of production which we have charted had still little effect on

Table 2.1

THE CHANGING PATTERN OF CONSUMERS' EXPENDITURE IN THE UK, 1962-1982

a) Based on average weekly expenditure in current prices

	1962	1972	1977	1982
Retail Items				
Food	30.7	24.9	24.7	21.0
Clothing and Footwear	9.5	9.0	8.0	7.2
Durable Household Goods	6.8	7.4	6.9	7.2
Tobacco	6.2	4.0	3.6	2.9
Alcoholic Drink	3.8	4.7	4.9	4.6
Non-Retail Items				
Housing	9.7	12.6	14.5	16.2
Fuel, light and power	6.5	5.9	6.1	6.2
Transport and vehicles	9.7	14.2	13.5	14.8
Services	9.1	9.8	9.7	11.5
Miscellaneous and other	8.0	7.5	8.2	8.0
TOTAL	100.0	100.0	100.0	100.0

b) Based on average weekly expenditure in constant 1982 prices

	1962	1972	1977	1982
Retail Items				
Food	32.4	25.5	22.0	21.0
Clothing and Footwear	5.4	6.0	6.1	7.2
Durable Household Goods	4.3	5.5	5.7	7.2
Tobacco	6.0	4.5	4.1	2.9
Alcholic Drink	3.6	4.6	5.2	4.6
Non-Retail Items				
Housing	12.1	13.8	17.3	16.6
Fuel, light and power	8.7	7.6	7.2	6.2
Transport and vehicles	9.7	14.7	13.7	14.8
Services	10.5	10.4	11.8	11.5
Miscellaneous and other	7.4	7.3	7.0	8.0
	100.0	100.0	100.0	100.0

Sources: Department of Employment, Family Expenditure Survey, 1982 Table 6, and other years Table 1 the way the customer was served. The experience of a consumer today is generally different. Most retailing is carried out in large stores, with self-service techniques, centralised advisory services and payment at a check-out or centrally located till. Most goods are pre-packaged and most consumers will not discuss their purchases with the retailer at all. Even the remaining bastion of the pre-1950 style of trading, the local general store, is today giving way to the small supermarket. Very recently there has been some reversal of these trends, with major grocery stores installing personal service counters, such as delicatessens and in-store bakeries. There is also a growing number of small specialist stores whose very attraction to customers lies in the high degree of personal service they provide. Often these will be located near large stores or superstores, benefiting from the passing trade. Despite many statements to the contrary, there would still appear to be a future for the small independent retailer, as indicated by the success of these small specialists. The secret appears to lie in successfully locating a niche in the market which is not filled by the larger retailers.

37. The initial impetus to increased store size came from a shortage in manpower in the immediate post-war years, combined with general rebuilding after wartime damage. Growth was constrained, partly because of shortages of materials for new building or conversion of existing stores and partly because rationed goods could often not be sold under full self-service conditions, so that the fastest period of growth of the new supermarkets occurred in the late 1950's and through the 1960's.

38. Self-service came first to food retailing. Table 2.2 charts this growth and the later decline in outlets where 'counter sales' were the normal method of trading. The table shows that the initial growth was almost entirely confined to small retail outlets (below 2200 square feet) and that the main change which had occurred by 1960 was not a significant increase in average store size but a change in trading methods. The supermarkets, although roughly the same size in terms of floorspace as existing counter-service outlets in the early years, had considerably higher turnover per unit. Statistics quoted by Tounsey show that in 1950 they accounted for 1.4% of total grocery and provisions trade but by 1963 this had risen to 32.7%. Other types of retailer, in greater or lesser degree, followed the trend away from counter service towards self selection.

39. A second phase of development produced substantial increases in the size of stores. Again, the trend was led by food retailers. In 1958, only 175 (3.8%) of the 4,500 self-service stores and supermarkets had a floor area of over 2000 sq ft; by 1972 this had risen to over 5000 (16%). Census of Distribution statistics show that average turnover per grocery outlet rose accordingly, from £105,400 in 1961 to £164,400 in 1971, and that labour productivity rose, with sales per employee rising from £28,000 to £32,000 (1982 prices).

40. The trend to increasing store size accelerated with the development of out-of-town supermarkets and superstores. Until the mid-1970's, retailing developments were either concentrated in town and city centres, or formed part of an integrated new community. However, the improvements to major roads in the 1970's, increasing congestion in the cities, and the growth of car ownership we have already noted, have paved the way for considerable changes

Table 2.2

THE GROWTH OF SELF-SERVICE SHOPS AND SUPERMARKETS, 1948 TO 1980

	Self-Service Shops and Supermarkets	Supermarkets *	of which: Cooperatives	Large Multiples	Small Multiples & Others	Dept. Stores	Counter-sales Shops
1948	250						142,990(1947)
1950	600						143,192
1952	1,250						
1954	2,150						
1956	3,000						146,652(1957)
1958	4,500	175					
1960	7,100	367					140,678(1961)
1962	11,850	996					136,000 (1963
1964	15,680	1,268					
1966	20,500	2,500					
1968	27,000	3,300					
1969	28,062	4,400					
1972	32,000	5,140	1,200	3,270	575	95	
1974		5,800	1,562	3,578	660		
1976		5,890	1,674	3,500	716		
1978		7,160					
1980		7,000					

* Over 2,000 sq. feet of selling space (2,200 sq. feet to 1973)

Sources: IGD Research Services, Food Statistics Digest (1984) Table D6

R. G. Tounsey, (1964) Self Service Retailing, Table 1.1

No figure is shown where comparable data is not available in retailing. The Jordan Supermarket and Superstore Survey showed that at the beginning of 1981, there were some 327 superstores with a floor area in excess of 20,000 square feet, compared with 25 in 1971, and new superstores are being built at the rate of about 30 per year according to the latest Unit for Retail Planning Information statistics. In 1980, some 15% of all retail sales were conducted in stores of this size.

41. The cost advantages of the out-of-town superstore are considerable. Tesco described in their 1981 Annual Report the development cost of two stores of identical size, one in Hanley Town Centre and the other in an edge-of-town industrial area at Irlam.

> "In Hanley we paid £65,000 per acre for our site: in Irlam £27,500 per acre; in Hanley (including a three-storey car park for 504 cars) development costs have totalled £1,974,000; in Irlam (with a single-storey unit and parking for 875 cars) development costs total £950,000; in Hanley installations such as heating and ventilation cost £425,000; in Irlam they were £100,000 less........Or to put it another way, Irlam will cost us £20 per sq.ft. to develop against £42 in Hanley."

42. The popularity of out-of-town superstores is partly the result of the low prices which these cost savings allow and partly of the availability of a wide range of commodities under a single roof. In 1975 the "Which?" shopping basket of branded groceries could be purchased at Asda, the leader in the development of out-of-town superstores, for about 10% less than at Tesco or Sainsbury's, and for 14% less than at an independent store which was a member of a voluntary chain. The 1982 "Which?" survey showed Asda still the cheapest, but the gap between them and these other large supermarket chains was now only around 4%, partly because the others had developed superstores as well but also because the multiples had become able to offer

lower prices through all their outlets. The gap between the superstore and the independent trader remained much the same.

43. Although the development of the superstore has been the most obvious change to retailing in the 1970's, the general tendency towards an increase in size has been very marked. Table 2.3, also from Tesco's 1981 Annual Report, shows how their stores have changed between 1972 and 1981. In 1972, the vast majority of their stores had floor areas below 5,000 square feet, whereas in 1981 only one third of their stores were in this size range, of which nearly 50 were "Home 'n Wear" only. The total number of stores operated by Tesco fell from 790 to 554 over this period and the average size increased substantially, from 3,700 to 12,300 square feet.

III Changes in Patterns of Retailing

44. We have described how the post-war period saw a move to self-service retailing, followed by an increase in the size of store and a movement away from city-centre locations, against a background in which the retail sector as a whole was no longer expanding.

45. Table 2.4 summarises the resulting trends in numbers of establishments of different kinds. In 1950 there were over 580,000 retail establishments of which 146,000 sold grocery and provisions and 138,000 distributed other food (bakers, butchers etc). By 1982, the number of outlets had fallen to under 350,000 with the decline largely concentrated in food and in clothing. Three quarters of co-operative outlets closed, while the number of stores owned by large multiples grew by 17%.

Table 2.3

TESCO: ANALYSIS OF STORE SIZE 1972-1981

Size in Sq. Ft.	1972	1974	1976	1978	1980	1981
Up to 5,000	518	471	417	340	189	177*
5,000 - 10,000	180	179	178	172	163	160
10,000 - 25,000	87	107	117	123	147	151
25,000 +	5	14	28	38	53	66
TOTAL	790	771	740	673	552	554

* 46 Home 'n' Wear only

SOURCE: Tesco Stores (Holdings) Ltd. Annual Report 1981

Table 2.4

RELATIVE NUMBER OF RETAIL ESTABLISHMENTS IN GREAT BRITAIN, 1950 to 1982

	1950	1961	1966	1971	1976	1980	1982
Multiples	53,949	66,701	73,852	66,785	70,238	65,241	63,208
Co-ops	25,544	29,396	26,684	15,413	11,117	8,556	6,945
Independents	503,639	446,204	403,876	390,793	309,781	274,804	279,503
	583,132	542,301	504,412	472,991	391,136	348,601	349,656
of which:							
Grocery & Provisions	145,709	146,777	123,385	105,283	69,833	56,560	54,234
Other Food	137,867	114,655	104,359	92,524	72,717	61,523	60,540

SOURCE: CSO Annual Abstract of Statistics 1976 Table 311, 1980 Table 11.1 and 1984 Table 1.1

Notes

1. Independents include multiples with less than ten stores and single independent stores.

46. However, with the large changes in turnover per store we have already noted, the number of stores provides only limited information about how the different types of retailer have fared. In Table 2.5 we present information on the shares of total retail grocery turnover of three categories of grocer. In 1950, the share of large multiples was below 22%; by 1981 it had risen to nearly 63%. As a result, the other two groups have fared badly, with co-operatives fading from a position of clear market leadership to 13% of overall turnover in 1972. Thereafter their position stabilised. The independent sector has declined steadily and now accounts for only one quarter of sales of groceries.

47. The growth of major multiple chains has come partly because of the economies of scale associated with the increased size of new stores and partly because of the economics associated with the increased buying power of large chains.

48. Not only has the share of multiple retailers increased, but so has concentration within the multiple retail sector, particularly in food. In 1982 the six largest multiples (including the Co-op) sold approximately three quarters of the packaged grocery market according to recent unpublished Audits of Great Britain Ltd statistics. Most of the growth of the leaders has been generated internally, although mergers and changes of ownership have been common among the second rank (in size terms) of retailers.

49. Consumer preferences and habits in retailing can be changed extremely quickly. The rewards for successful innovation have been large and the penalites for slow adaptation correspondingly severe. Home and Colonial Stores, Burton and Woolworth were among the leaders of the inter-war

Table 2.5

SHARES OF RETAIL GROCERY TURNOVER IN GREAT BRITAIN 1950 TO 1981

	Multiples with 10 or more stores	Co-operatives	Independents and small multiples
1950	21.9	24.2	53.9
1961	26.7	20.7	52.6
1966	36.9	16.9	46.2
1971	44.3	13.2	42.5
1972	46.4	13.0	40.6
1974	48.4	13.3	38.3
1976	49.4	14.0	36.6
1978	57.9	15.3	26.8
1980	60.9	14.2	24.9
1981	62.7	13.7	23.6

SOURCE: IGD Research Services Food Industry Statistics Digest (1984) Table C4.

expansion of multiple retailing, but they failed to respond sufficiently to changed post-war conditions and were overtaken by rapidly expanding competitors such as Marks and Spencer and Tesco. More recently companies such as Asda and Comet have grown from a small scale to market leadership in a very short period of time by pioneering new styles of retailing. It is often suggested that the day of the big department store, whose development was such a striking feature of retailing earlier in the century, is over. But the results of the annual Retailing Inquiry show that the category of 'mixed retail business' has continued to expand. (The results of the Retailing Inquiry are published by the Business Statistics Office in their SDA25 Business Monitor Series). Marks and Spencer has moved from its strength in clothing to encompass a wide range of household goods, Boots has similarly built on its base in toiletries and pharmaceuticals, and the major grocers have widened the range of goods they sell. The most successful department stores, such as Harrods and John Lewis, have continued to thrive, but others, slower to respond to the trends we have described, have seen their market share diminish sharply. It is clear that retailing success is influenced by favourable or unfavourable changes in the economic climate, but is far more dependent on a capacity to detect these economic changes and react quickly to them.

50. In earlier decades, the Co-operative Movement was at the forefront of retailing innovation in asserting the buying power of the multiple retailer, in introducing own-branding, and in moving to self-service operation. Some 90% of the 600 self-service stores operating in 1950 belonged to Co-operative societies. But subsequent developments in retailing techniques and methods passed them by, and their market share fell precipitately, as Table 2.5

illustrates. Only in the 1970's, with increasing involvement in out-of-town supermarkets and superstores, have they succeeded in stablising their position.

51. The decline of the independent retail sector and in consequence of the independent wholesaler would have been considerably faster if they had not responded to these pressures by developing new voluntary agreements between wholesalers and retailers. These have taken two main forms. In the first the retailer agrees to accept a minimum quantity from the supplier and that at a specified minimum charge. The wholesaler accepts a slightly reduced margin generally varying with order size. The retailer agrees to pay promptly, usually within seven days, in contrast to the lengthy periods of credit which are common in other areas of the retail trade. The second form of agreement, now more common, is for groups of retailers and wholesalers to form themselves into a voluntary chain. The idea originated in the United States in the immediate post-war years, and the first voluntary chain of any size to operate in Europe was the Spar Chain. Spar (Great Britain) Ltd was set up in 1956. Other chains followed suit, as reported in Table 2.6.

52. As well as reducing costs for the retailer, the new voluntary chains provided assistance with the management of the small retail outlet. Most of them advise on shop layout and stock presentation, and in the siting and design of new stores as well as day-to-day problems of stock control and costing. Much promotional material is centrally produced. As the chains developed, they began to produce own-brand products and today many of the staples sold in such outlets are own-brand products. The formation of these

Table 2.6

RETAIL MEMBERSHIP OF VOLUNTARY CHAINS

	1964	1975	1984
Mace	4,712	4,800	) 3,800
Wavy Line		1,790	)
Spar (GB)	3,574	) 4,000	3,200
Vivo	1,930	)	
V G Management	2,911	3,340	N/A
Centra	2,500	N/A	N/A
Luxury Line	1,382	1,790	–
A & G	1,300	1,300	–
4-star Independent		3,650	–
APT		1,700	1,100
Bob Group Ltd	N/A	N/A	1,500
Londis			1,250
Maid Marion			1,000

SOURCE: Grocer Marketing Directory, 1984
Commission of the European Communities, <u>A Study of the Evolution of Concentration in the Food Distribution Industry for the United Kingdom</u>, Table 6.9

groups also permitted wider advertising on television and in the press than would have been possible for an individual retailer or even wholesaler.

IV Shop Hours Since the War

53. In the years since the War, there has been steady increase in weekday opening hours, so that traders are now often opening to the limits of existing legislation and sometimes beyond. This is by no means universal however; in many places late-night shopping is limited to one night a week. Food shops and shops in London are more likely to open late. In evidence submitted to the Committee many instances of illegal opening were cited. In 1983 the majority of these were DIY stores: for example, five of the large DIY multiples (with a total of 289 outlets) had 165 opening illegally on Sundays, and a further 60 were closed due to local enforcement of the legislation. Other examples of illegal opening were also provided, including supermarkets, clothing, electrical and furniture chains, and numerous local home improvement centres.

54. The tendency to lengthened opening hours is the result of several trends, social and economic. We have already noted that increased female participation in the workforce has left less time for shopping during traditional trading hours. A measure of the extent of this is given in Table 2.7. 30% of respondents normally buy food in late night shopping or on Saturdays; almost half the population normally buy their clothes at weekends. The shift in consumer expenditure towards major purchases like furniture and other durables has led to an increasing desire for the family to shop

Table 2.7

DEMAND FOR LATE NIGHT AND WEEKEND SHOPPING

	% of respondents		
	Food a)	Clothing b)	Clothing c)
Late nights	16	3	2
Saturdays	16	29	47
Sundays	-	2	1
Weekdays	57	66	46
Do not buy/Not stated	15	2	8

Questions asked in MORI poll:

a) "When do you tend to buy most of your food and groceries?"
Base: all respondents

b) "When did you buy most of the clothes which you bought last week?"
Base: all those who bought clothes last week

c) "When do you tend to buy most of your clothes?"
Base: all those who have not bought clothes in the last 7 days

SOURCE: MORI Research Study conducted for the Institute for Fiscal Studies, 1984

NOTE Percentages may add to more than 100 as in a few cases respondents entered multiple answers together. Some retailers who trade on Sundays asserted that shopping trips made on that day are family events.

55. As we examine in more detail in Chapter 4, the change in the style of retailing may also have influenced trading hours considerably. In 1950, the individual employee was central to the operation of the small shop, and early-closing legislation, with its roots in employee protection, seemed to be the only way to guarantee employees a half-day off. Today the larger stores have a changing personnel, with far more part-timers, and rostering is common. In traditional retailing, the opening hours of the shop were also the working hours of most of its employees, but this is no longer generally true.

CHAPTER THREE

THE IMMEDIATE EFFECT OF SUNDAY TRADING ON RETAIL COSTS AND PRICES

I Retailing Costs in the United Kingdom

56. The analysis of retailing costs generally begins with the calculation of the gross retail margin. This is the difference between buying and selling price, expressed as a percentage of the selling price, net of VAT. Thus if a retailer purchases an item for 70 and sells it for 100, the gross retail margin is 30%. There is considerable variation between commodities in gross margin. In the 1982 Retailing Inquiry produced by the Business Statistics Office, the average gross margin for food retailers was 20.0%. For retailers of clothing and footwear the margin was, at 40.6%, twice as great. There are similarly large variations in labour costs. If we examine employee remuneration relative to turnover as reported in the published accounts of major retailers the figures range from 5.3% for Kwiksave (a discount food store) to 28.2% for Horne Brothers (a retailer of menswear). The net margin, profit as a percentage of turnover, is what remains after all costs have been deducted.

57. Since extended hours of trading would be likely to change the balance between different elements of retailing costs, it is important to establish the way in which different cost items contribute to the overall gross retail margin. Although the Retailing Inquiry reports gross margins it does not seek any further breakdown of retailing costs and very little published data on this subject is available. This is in contrast to the position for

manufacturing industry, where much more comprehensive statistical information is normally available. We have therefore constructed an extensive database on retailing costs. The information which this contains is derived from a number of sources. A number of retailers, large and small, provided us with detailed analyses of the structure of their costs on bases which we had agreed with them. About 30 stores were covered in this way. Although this sample is small, this data is the most reliable available on the subject since the difficulty of compiling such information on a constant and comparable basis is considerable. In particular, accounting measures of retailing costs generally underestimate capital costs, but by arbitrary and variable amounts. We discuss this issue further in Appendix B. In what follows we define net margin as profit after full deduction of the capital costs of retailing. Basic cost information about an additional 60 retailers was provided by responses to a questionnaire which we despatched to a selection of large and small retailers whose names and addresses were drawn from trade directories. A survey of retailing costs in Scotland in 1979, undertaken by the Fraser of Allander Institute, provided some additional assistance. Analysis of the published accounts of 45 companies principally engaged in retailing yielded further information about cost and asset structures, mainly for multiple retailers.

58. The regular Retailing Inquiry conducted by the Business Statistics Office provides estimates of the distribution of retail sales by turnover and category. This is used to take into account the relative importance of the different sized retailers in each retail category. Hence by weighting the individual cost structures that we identify, we obtain an approximate picture of the overall cost structure of the retail sector in Great Britain.

59. Although there is considerable variation in the level of gross margin between retailers, the structure of costs within the gross margin show much less variation. Retailers who have high costs tend to have uniformly high costs as, Table 3.1 shows. This table is derived from the database described above and gives an average breakdown of cost structure for six different categories of retailing. We have also estimated the current average opening hours of each type of retailer. This is based on the average reported by a group of 44 retailers (counting each multiple retailer as one). Average trading hours weighted by turnover are currently just under 60 per week. The majority of retailers trade for 50-55 hours per week but the average is raised by the extended opening hours of food and confectionery, drink and tobacco outlets.

60. The average gross margin for all retailers was 28% and the average net margin 1%. The net margin is lower than conventionally reported because it includes an allowance for all capital costs of retailing. (For more detail on this problem see Appendix B). When costs are fully allocated, some retailers continue to make substantial net profits while others make a loss. In 1982/3 Sainsbury's reported profits before tax of £109 million, equivalent to a return on capital employed of 20%. On the other hand, Owen Owen earned £0.48m on employed capital of £21m, a return of 2.2% on capital, and probably less than the current market rental of their freehold and long leasehold assets. Some retailers earn returns on goodwill acquired from their past trading reputation. Companies also differ in their management capabilities and in their success in adapting to a changing trading environment, and these differences are reflected in profitability. Retailers who earn less from trading than the market value of their premises must, in

TABLE 3.1

RETAIL MARGINS AND COSTS

Margins and Costs Expressed as a % of Turnover

TYPE	Gross Margin	Labour	Premises	Energy	Services & Transport	Stockholding	Net Margin	Average Opening Hours
Food	20.72	9.85	5.92	0.86	3.94	0.13	0.04	67
Clothing and Footwear	39.76	18.26	14.07	2.05	8.16	0.50	-3.29	52
Drink, Confectionary and Tobacco	25.66	9.71	6.40	0.84	6.42	0.20	2.09	61
Household Goods	32.23	12.59	9.89	1.67	6.74	0.45	1.89	55
Mixed Retail	31.82	12.96	8.63	1.48	5.47	0.27	3.01	52
Other	35.01	14.05	7.49	1.42	5.04	0.47	6.54	52
All	27.64	11.79	7.78	1.22	5.29	0.26	1.30	60

SOURCE: IFS Retail Cost Model.

the long run, expect either to improve their trading performance or contract their activities. In fact the net margin for the clothing sector as a whole is negative, indicating that there is still excess capacity in this branch of retailing and that the marked contraction in the number of clothing outlets which we noted in Chapter 2 has not yet come to an end. For food, on the other hand, the average net margin is close to zero; but the variety of profit rates is such as to suggest that some further redistribution of capacity in favour of the multiples is likely. We return later to the implications of these factors.

II The Short Term Effect of Extended Opening Hours

61. In Table 3.2 we show the cost breakdown given in Table 3.1 in relation to gross margin. Labour costs are more significant for food and clothes retailers than for others, and premises costs are high for clothes retailers, reflecting in part a concentration in central locations. Extended opening hours would be likely to affect each of these different elements of cost in different ways. In Table 3.2 we have made brief comments on the likely effect on each item, assuming for the moment that there are no compensating adjustments to costs during existing opening hours as a result of shifts in the pattern of trading. We are therefore considering only the immediate short-term effect on costs of a decision to open on Sundays.

62. Labour costs are the largest element of overall cost, apart from the cost of goods sold, and the one likely to be increased most by Sunday trading. We discuss in Chapter 5 the methods used to staff Sunday operations and their impact on labour costs. Other elements of cost, such as rent and rates of premises, would not be affected by the number of trading hours.

TABLE 3.2

RETAIL COST STRUCTURE BY SECTOR

Cost Element	As % of Gross Margin: Food	Clothing	Drink Confectionary & Tobbaco	Household Goods	Mixed	Comment
Labour	47.74	45.66	39.90	39.22	41.01	Labour costs more on Sunday
Premises	28.56	35.38	24.95	29.76	27.11	No change in fixed costs
Energy	4.31	5.10	3.04	4.88	4.34	Partly fixed, partly related to sales.
Services & Transport	20.33	20.39	22.80	19.64	16.33	Slightly affected by hours.
Stockholding	0.68	1.27	0.81	1.42	0.85	Largely proportional to sales volume.

SOURCE: IFS Retail Cost Model.

Some, such as stockholding costs and some elements of labour cost, depend on the volume of sales rather than the number of hours of operation. Others, such as energy costs, could be expected to rise but less than proportionately to the number of hours of opening.

63. Opening for eight hours on Sunday would increase average trading hours by 13%. Eight hours of Sunday trading may be more than many retailers contemplating Sunday opening would ideally envisage; certainly most retailers who currently open on Sunday start trading later on that day than on weekdays. However current Wages Council Orders, which require spells between four and a half and eight hours to be paid as for eight hours, mean that the cost saving from shorter periods of trading is small. In Table 3.3 we provide estimates of the likely effect of eight hours trading on each major element of costs. The exercise is necessarily a speculative one, and there is some uncertainty about each element of it. This uncertainty has been used in evidence to the Inquiry as a basis for both ridiculously high and ridiculously low estimates of the additional costs of Sunday trading. We have tried to take a balanced view in each individual case.

64. We have been guided in this by very detailed costings provided by retailers who have stores which operate on a six day basis and other similar stores which open, either in Scotland or illegally in England and Wales, on a seven day basis. For reasons of confidentiality their particular figures cannot be reproduced here. We have also discussed the probable effect of Sunday opening with other retailers who have experience of Sunday trading although not in directly comparable establishments, and with others who have considered the implications of Sunday opening for their costs although they are currently unwilling or unable to open on that day.

Table 3.3

ESTIMATED COST INCREASES WITH EIGHT HOURS OF SUNDAY TRADING

	Food		Non-Food		All	
Cost Element	% increase in existing level	change as % of Gross Margin	% increase in existing level	change as % of Gross Margin	% increase in existing level	change as % of Gross Margin
Labour	19.24	9.18	23.58	9.66	21.77	9.46
Premises	–	–	–	–	–	–
Services & Transport	2.40	0.49	2.96	0.55	2.73	0.52
Energy	7.20	0.31	8.88	0.38	8.18	0.35
All	9.98	9.98	10.59	10.59	10.33	10.33

SOURCE: IFS Retail Cost Model

65. Most retailers who discussed their Sunday operations with us emphasised that with a premium on Sunday wages, they would economise on staff employed on Sundays. For example, cleaning, shelf-stocking and certain clerical and managerial functions might not be undertaken on Sundays, but left to be carried out in relatively slack periods during the week at lower wage rates. We have allowed for this dual structure of cost increases in our computer simulations of likely cost changes.

66. Table 3.3 summarises the predictions of our cost simulation model for the likely short-term effects on a retailer's costs of opening for eight hours on Sunday. We estimate that additional labour requirements on Sunday (assuming a Sunday wage of twice the weekday wage in line with existing Wages Council Rates) would add 21.8% to total labour costs for such a retailer, including a small allowance for additional weekday costs of deferred working, equivalent to 9.5% of gross margin. In addition, service transport and energy costs will, we estimate, add less than 1% of gross margin to total costs bringing the total to 10.3%. Labour costs are much the most important element. If the Sunday premium were only 1.5 times weekday pay rates, the addition to costs would, we estimate, be around 8.7% of gross margin. Conversely if the premium were to be 2.5 times, the short run addition to costs would rise to 12.5% of gross margin.

III The Effect of Sunday Trading on Overall Sales

67. We have shown above that an extension of trading hours to Sunday could, in the absence of any other changes, increase the costs of a retailer by as much as 10% of gross margin. This can only be the beginning of the story

since, in the absence of any other changes, it would certainly not pay to open in the face of such a cost penalty. The actual effect of Sunday trading on costs, prices and margins, and the other changes in retailing costs which would certainly follow from it, depend on the effect of extended opening on both the volume and pattern of retail sales. This needs to be considered both for the economy as a whole and for individual retailers.

68. The evidence submitted to the Committee contained a wide range of contradictory assertions about the likely effect on overall sales of an extension of trading hours. Individual retailers with experience of Sunday opening provided evidence that their sales had increased as a consequence. However this cannot be taken as evidence that general Sunday opening would increase sales generally, since one retailer opening on Sundays is likely to enjoy some benefit to sales at the expense of his competitors, especially in a context in which Sunday trading is relatively uncommon. For similar reasons, the pattern of trading over the week observed by those retailers who do now open on Sundays cannot be taken as an indicator of the likely pattern of demand if Sunday opening were general, and will tend to overestimate the demand by consumers for Sunday trading.

69. Retail sales currently amount to about 60% of total consumer expenditure. The remainder goes on housing, on utilities such as electricity, gas and telephones, on services such as holidays and meals away from home. Any increase in retail sales would therefore have to be at the expense either of these items or of a reduction in the savings rate. In Table 3.4 we report recent trends in the composition of personal saving in the United Kingdom, which has averaged around 10% of disposable income.

Table 3.4

PERSONAL SAVING IN THE UK AS A % OF PERSONAL DISPOSABLE INCOME, 1970 to 1980

	1970	1975	1980
Committed saving			
Life insurance and superannuation	4.3	5.6	6.4
Loan repayments (mainly mortgages)	5.0	4.0	3.2
Other	0.3	0.3	0.5
Total committed saving	9.6	9.9	10.1
Acquisition of capital assets less borrowing (mainly house purchase)	0.3	-1.0	-1.0
Discretionary saving	0.3	5.6	6.3
Unidentified	-0.9	-2.1	0.4
Total saving	9.3	12.4	15.8

Source: Derived from S. Toland, Committed and Discretionary Saving, Economic Trends, Nov. 1981, Table B

70. There is a very extensive body of economic research on the determinants of consumer expenditure. There is in this overwhelming support for the view that the main determinants of such expenditure are levels of national income and wealth; recent work has also shown that other factors such as inflation expectations may play an important role. There is very little evidence to support the proposition that consumer expenditure is significantly affected by purchasing opportunities, of the kind represented by comparatively minor limitations such as restrictions on trading hours. Indeed analysis of what determines consumer expenditure has suggested that the overall volume of such expenditure is surprisingly robust even to very substantial changes and restrictions on what is offered to consumers, such as the limitations both in the availability of goods and the times available to purchase them implied by the exigencies of war.

71. Some further sources of increased retail demand were suggested in a number of the submissions made to the Committee. The first was that an increase in trading hours would cause a shift from 'non-retailed' to retailed items within an overall total of consumer expenditure. Some DIY suppliers, for example, claimed in evidence that their main competitors were not so much other retailers as the suppliers of package holidays. Much of non-retailing expenditure is difficult to vary in the short run; a high proportion of it is on housing, but some is not. But such effects could not be large. To set the possible magnitude of these changes in perspective, if British tourist expenditure abroad was to be cut by as much as 25%, the resulting increase in spending power would be equivalent to a 1.3% increase in retail turnover.

72. Sunday retailing might also compete for the "Sunday Pound" with other ways in which time and money can be spent on Sundays, for example in public houses and restaurants. Once again, however, the effect on total retail trade is not likely to be large. Analysis by the Food Economists' Unit (1984) shows that in 1978 approximately 32% of Sunday family expenditure was on food (including restaurants) and alcoholic drink. If as much as half of this were to be redirected towards retailing, the total increase in retail turnover would be approximately 2%.

73. It is also suggested that foreign tourists, particularly in London, who may only be in the United Kingdom for one weekend, may spend more if an additional day is available for trading. It is difficult to know how far foreign tourists set a total for expenditure on their holiday and pack their spending into the time available or how far they will be influenced to spend more, or to redirect their spending towards retailed goods. Again to put the matter into perspective, foreign tourist expenditure, including business tourists, in the United Kingdom in 1982 was £3184 million, and some 36% of this was spent in shops. As total retail turnover in 1982 was £69,784 million, a 25% increase in tourist expenditure in shops would only lead to a 0.4% increase in retail turnover. The effect on particular retail outlets well known to foreign visitors, such as Marks and Spencer's Marble Arch branch or Harrods, could of course be much more substantial if these stores decided to open.

74. While there is no decisive evidence, it is in our judgement inconceivable that extended trading hours would produce an increase in overall sales volume in any way commensurate with the increase in trading opportunities. An increase of 1% in retail sales, with expenditure on other

items unchanged, would more than eliminate all discretionary personal saving in the United Kingdom. But in any event, the level of retail sales is only a short run influence on the level of retail costs. If there was to be a large increase in retail sales, because of extended trading hours or for other reasons, then over a period of time retail capacity would be expected to increase to meet that demand (either by extended trading hours or otherwise). There is no evidence to support the proposition that unit costs in retailing are lower in countries where per capita sales are higher, either because of higher incomes or lower savings rates. The view that a variable volume of retail sales is to be spread over a fixed volume of retailing capacity is one which can be true only in the very short term. We return to this issue further below.

IV The Demand for Sunday Trading

75. A survey undertaken by MORI for the Multiple Traders Association in November 1983 gave an indication of demand for evening and Sunday trading under existing law. (Tables 3.5 and 3.6). This showed that the most popular shops for evening visits are supermarkets, take-away food shops and off-licences. On Sundays on the other hand, it is newsagents and local grocers, and DIY and garden centres that are the most popular.

76. Evidence provided to the Committee by both opponents and supporters of general Sunday trading suggested that it might stimulate demand for certain types of goods. These fell into two main categories. One consisted of goods which are complementary to leisure activites, of a type frequently undertaken on Sunday. Examples included DIY and gardening materials. The second

Table 3.5

STORES USED CURRENTLY IN THE EVENINGS NOVEMBER 1983

Q3. "And which, if any, of the types of store on this list do you ever go shopping in, in the evening, nowdays?".

	Shop in nowadays
	%
Supermarkets	40
Take-away food shops	31
Off Licences	31
Chemists	18
Local grocers	13
Newsagents	14
DIY stores	9
Bakers	3
Greengrocers	4
Butchers	2
Department stores	4
Electrical goods stores	2
Garden centres	3
Bookshops	1
Clothing stores	2
Furniture shops	2
Carpet retailers	1
Sports shops	1
None of the above mentioned	33
At least one of above mentioned	67
At least one food shop	59
At least one household store	11

Base: All respondents, quota sample of 1,892 of adults in GB

SOURCE: MORI Public Attitudes Toward Shop Opening Hours. November 1983.

Table 3.6

STORES USED CURRENTLY ON SUNDAYS, SEPTEMBER 1983

Q2. "Which of these stores do you shop at on Sunday?"

	All	England & Wales	Scotland
	%	%	%
Newsagents	49	50	36
Local grocer	31	31	28
DIY stores	27	25	48
Garden centres	23	23	24
Off licences	22	24	1
Chemists	9	9	4
Greengrocers	7	7	1
Supermarkets	7	6	11
Furniture shops	5	4	16
Bakers	3	3	1
Stores like Woolworth	3	3	4
Bookshops	2	2	2
Carpet retailers	2	1	7
Clothing stores	2	1	5
Department stores	2	2	4
Electrical goods shops	2	2	6
Sports shops	1	1	1
Butchers	-	-	1
None of these	13	14	8
Any food shops	41	41	41
Any household stores	39	37	55

Base: All who ever shop on Sundays (542)

SOURCE: MORI Public Attitudes towards Shop Opening Hours, September 1983.

category was goods whose purchase requires a substantial input of time, either for purposes of comparative shopping or in order to evaluate the product; major household items or fitted furniture were examples cited.

77. Supporting evidence for these opinions is provided by the observation that it is in relation to goods in this first category that the existing law seems to be under greatest pressure. The second category of goods raises more complex issues, because comparative shopping may be easy only if a high proportion of retailers are open on Sundays and because purchases which require detailed consideration by the purchaser are also those which tend to demand relatively large product knowledge on the part of the salesman.

78. A survey undertaken by MORI for this inquiry sought to establish what goods consumers would be likely to buy on Sundays if the opportunity were available. The survey used a representative quota sample of 1,964 adults interviewed at 172 sampling points throughout Great Britain, and the results are shown in Table 3.7. The goods which are most in potential demand on Sundays, DIY type materials and garden products, are in fact those which are already widely available on Sundays, in one case as a result of illegal trading, and in the other mostly illegal trading. It seems probable that there are two factors at work here. One is that these types of stores have opened because consumers really are more anxious to be able to buy garden and DIY materials on Sunday than other commodities. Another is that respondents find it difficult to imagine how their shopping habits would change in a different trading environment. When asked to specify what goods they would be likely to buy on Sundays, they therefore tend to specify those which they are already accustomed to buying on Sunday, or which they know would be available on that day.

Table 3.7

POTENTIAL SUNDAY DEMAND FOR DIFFERENT GOODS

If all shops were open seven days a week, including Sundays, which of these products do you think you personally would be likely to buy at least occasionally on Sunday?*

	%
DIY/Decorating materials etc	40
Garden Products	38
Books/cards/stationery	21
Toiletries/cosmetics	17
Carpets/furniture	13
Records/cassettes	12
Electrical items large	7
Electrical items small	7
Sports equipment	7
Lamps/lampshades/pictures etc	6
Curtains/bedding	6
Antiques	6
Toys	6
Stereo units/TV's/cassette players	5
Cameras/photographic equipment	5
China and glass	4
Utensils/hardware	4
Other	4
Wouldn't buy anything	23
Don't know/not stated	5

SOURCE: MORI Research Study conducted for the Institute for Fiscal Studies, 1984

*Food and clothing were not included in the responses to this question since they were the subject of more detailed enquiries reported below.

79. In view of this, it is interesting to note that the next items in Table 3.7 are books/cards/stationery and toiletries/cosmetics. Neither of these groups of commodities can legally be on general sale on Sundays but both are widely sold in newsagents and pharmacies, whose principal commodities can be sold on Sundays. It is therefore possible that the effort of imagination required to envisage Sunday shopping is smaller in these cases. It is also possible that it is in relation to these commodities that consumers are most likely to have experience of being told by a shopkeeper that sales are not permitted under existing law. For these reasons, some reservations are appropriate in assessing answers to hypothetical questions, and it is possible that surveys of current consumer intentions underestimate the demand for Sunday trading which would exist once habits had adjusted fully to a different legal framework.

80. Similar caveats apply in estimating the amount of trade in particular items which would take place on Sundays. Nevertheless we can make some tentative estimates. In our survey respondents were asked to indicate their current levels of expenditure on food and clothing, and the proportion of this expenditure which they would plan to undertake on Sundays if the same shopping opportunities existed on that day as on other days of the week. From these answers, we calculate that if all shops were open on Sundays consumers' present intentions would be to buy 9% of their food and 16% of their clothing on that day. This implies that shopping for food, which other surveys have indicated consumers regard as a chore, appears less likely to be planned for Sunday than for other days of the week. Shopping for clothes, which has some of the attributes of a leisure pursuit, is more likely to occur on Sundays.

81. The demand for Sunday shopping comes mostly from those who are working full-time, and from the young, as Tables 3.8 and 3.9 show. The elderly, and those who are not working or are unemployed, are relatively unlikely to want to shop on Sundays; presumably existing trading hours are sufficient for most people in this position. This has important implications for the likely effects of Sunday shopping on weekday demand patterns, which we consider further in Chapter 4.

82. We have also examined regional variations in response, shown in Table 3.10. From the table it can be seen that for food and clothing the demand for Sunday trading is significantly greater in London and the South-East than elsewhere in the country. For some of the smaller furnishing items demand in the London area is not so high, as against the South-East where demand is uniformly high across all product categories. Wales and the North on the other hand show a generally low preference for Sunday trading. Demand in Scotland is slightly above the average for Great Britain. This regional pattern of demand for Sunday trading follows closely the pattern of economic activity for women across Great Britain. The latest Regional Trends, published by the Central Statistics Office, shows that in 1981 over 48% of adult women were in the labour force in the South East, the North West and the West Midlands. Wales and the North on the other hand, had much lower female economic activity rates, at 42.1% and 45.9% respectively.

83. Although there is little to suggest that Sunday trading would have any substantial impact on overall sales levels, the evidence above provides some support for the view that Sunday trading might lead to some redistribution of consumer spending across commodities. If total expenditure remained unchanged it necessarily follows that other items of spending would be

Table 3.8

DEMAND FOR SUNDAY TRADING BY WORKING STATUS

Working Status	Total	Full Time	Part Time	Not working/ unemployed
% of respondents who would buy food on Sundays	31%	39%	30%	24%
% of respondents who would buy clothes on Sundays	30%	41%	30%	21%

Table 3.9

DEMAND FOR SUNDAY TRADING BY AGE

Age	Total	15-24	25-34	35-44	65 and over
% who would buy food on Sundays	31%	38%	48%	33%	9%
% who would buy clothes on Sundays	30%	43%	44%	34%	5%

SOURCE: MORI Research Study conducted for the IFS, 1984

TABLE 3.10

REGIONAL BREAK-DOWN OF SUNDAY DEMAND

% of respondents who would buy on Sundays, at least occasionally, the following items:

	Food	Clothing	Carpets/ Furniture	DIY/ decorating Materials	Lamps/ Lampshades/ Pictures	Large electrical items
Scotland	30	37	15	28	6	9
North	21	13	6	16	2	3
North West	32	31	16	38	7	5
Yorkshire & Humberside	32	29	13	43	10	11
East Midlands	29	29	20	42	5	10
West Midlands	28	24	15	45	6	6
Wales	22	17	7	30	3	3
South West	30	33	16	41	8	8
East Anglia	25	34	19	37	4	4
GL - South	38	44	9	44	5	3
- North	38	35	7		3	4
South East	42	40	19	57	8	10
All	30	31	13	40	6	7

SOURCE: MORI Research Study conducted for the IFS, 1984

reduced. This reduction might affect directly competitive pursuits, for example other leisure activites such as sports. The redistribution of spending for items such as groceries, may occur not as a result of direct substitution but as a consequence of overall budgetary pressure on consumers. It is therefore possible that in some areas of consumer expenditure, such as food, general Sunday trading would be likely to lead to a reduction rather than an increase in overall sales volume.

V Sunday Trading and Individual Retailers

84. Whatever legal framework is imposed Sunday trading would not be universal. Most multiple retailers with experience of Sunday trading have chosen to open some outlets on Sundays but not others. Of Asda's 8 superstores in Scotland, 5 are open on Sundays, 2 have never opened on Sundays, and one was closed after a period of Sunday opening. Of 109 B&Q outlets, 63 are open on Sunday, 30 have been closed under threat of proceedings, and 16 are closed by commercial decision. The shops which do not open on Sundays would tend to be those which would suffer the greatest cost penalties, or smallest gain in sales, if they did so. Indeed at first sight the cost estimates above, which indicate that on average costs would increase by an amount substantially in excess of any likely gain in sales, would suggest that it would pay few if any retailers to open on Sundays.

85. This conclusion is, however, mistaken. It might pay many individual retailers to open on Sundays even though it would pay all retailers collectively to shut on Sundays, and it is very likely that this is in fact the case. Indeed it would otherwise be difficult to explain why many

retailers appear to support legal restriction on their opening hours. The reason is that the loss of sales which any individual trader would suffer as a result of a decision to close his store on that day would be large, even though the loss of sales for the retail sector taken as a whole would be small, because the majority of these lost sales would be gained by others.

86. The worst case assumption for any retailer is that the whole of potential Sunday sales would be lost if he were shut on Sundays. For some retailers, eg. those entirely dependent on passing trade, this may indeed be the case. In most cases, however, at least some of these Sunday sales would be recouped during the week. At any particular location, the decision whether to open on Sunday would, among other things, depend on the degree of customer loyalty - the extent to which sales would be retained if opening hours were restricted. This would depend partly on the style and reputation of the retailer concerned and partly on the extent of Sunday trading itself; in general, the larger the number of other shops open on Sundays the more likely would be a disappointed customer to satisfy his requirements on Sunday at another store rather than at the same store on another day.

87. There is therefore a variety of factors which might indicate the likely extent of Sunday opening if all shops were free to do so. We have attempted to ascertain retailers' intentions, both as expressed in evidence to the Committee and as reported to us. However, we can attach little weight to the evidence so generated. Many traders were reluctant or unable to express a view on how they would react in a hypothetical situation in which their responses would in any case depend on the actions of their competitors. While others found it hard to distinguish the issue of how they would react

if Sunday trading were permitted from that of whether they thought such trading should be permitted.

88. We can identify from our data on cost structures and on consumer preferences those areas of retailing where it is likely that Sunday opening would be profitable. In some, there is already substantial evidence of consumer demand, currently met legally or illegally. These include newsagents, garden centres and DIY shops. In others, evidence of latent demand is provided from consumer surveys; among the goods which are not at present widely available on Sundays, toiletries and stationery items emerge both from our survey and from others as the largest source of frustrated demand. Sunday opening would also be relatively more attractive to retailers who experience a low degree of customer loyalty. Thus within particular sectors, such as clothing or department stores, Sunday opening would tend to be more profitable for retailers who do not have a strong or distinctive image in the minds of consumers. Sunday opening would also be more profitable in areas where weekday competition is intense, mainly conurbations where multiple retailers have found Sunday opening advantageous.

89. In evidence to the Committee, it was frequently argued both that competitive pressures would lead to a widespread extension of Sunday opening and that Sunday opening would be more likely to be profitable for an individual retailer, or for the first retailer to open on Sundays, than it would be for the retail trade taken as a whole. At first sight, these two propositions are clearly inconsistent with each other. If Sunday opening is more profitable for the first retailer to open than for the second and subsequent retailer, then the more outlets which are open on Sunday the less attractive will it be for any further outlets to follow. Thus widespread

opening would reduce rather than increase the incentive for any further retailers to open.

90. For food retailing, there seems little doubt that this would in fact be the case. It is possible that the initial period after deregulation would be one in which all major retailers would be reluctant to disturb the status quo, but that if one major group were to do so others would follow. However since the evidence to the Committee indicates that at least one group would be likely to open many of its stores on Sunday if permitted, the probability of such a tacit understanding persisting, regardless of its possible illegality as a restrictive trade practice, seems low.

91. In some other forms of retailing, however, consumers commonly "go shopping" as well as go to a particular shop. This means that one retailer who would open on Sunday might generate additional custom for others as well as himself. This would create a greater degree of instability in the number of retailers likely to open. If no shops were open, then the first retailer to do so might attract few customers, and so experiments in opening would not prove very successful. This has been the experience of some retailers with bank holiday opening. If all shops are open, the pool of potential customers is large and the penalty for shutting considerable. Thus positions with very few shops open, or with very many shops open, might both prove stable. For commodities like food (or gardening products, or DIY materials) the probable outcome is that a proportion of outlets across the country would open. The likely development in major shopping centres is that some centres would see very widespread opening and trading while others would see little of either.

92. Thus there is an interesting and important difference in the ways in which extended opening would affect behaviour in different sectors of retailing. When major stores began opening in Oxford Street on Saturday afternoons almost all outlets adopted six day trading after a comparatively short period. This was true in other parts of the country also. Many stores open late for one evening a week, and for most shops in a locality it is the same evening. By contrast, the extension of opening hours in food retailing has been a gradual one. The trend has been general, but its pace has varied between different multiple retailers and different parts of the country. We believe similar trends would be observed in relation to Sunday opening. Some shopping centres would be mainly open including some city centre locations, which would benefit from the greater availability of time to travel to them and the lower levels of congestion experienced on Sundays, as well as out of town centres; it is in intermediate cases that Sunday opening would be less probable. In food retailing, the outcome would be more uniform across the country and more patchy in any particular area of it. In most localities, there would be some stores that were open and others that were shut. The difference between, on the one hand, shopping that is practical and functional, and on the other hand comparative shopping more akin to a leisure pursuit would be reflected in differences in the pattern of response to opportunities to Sunday trading; this expectation is reinforced by experiences so far of de-regulation in Massachusetts.

93. We have used our computer simulation model to estimate the break-even point at which the trading benefit from Sunday sales would outweigh the immediate cost disadvantage. This is where the profit from sales gained through Sunday trading is exactly equal to the cost penalty associated with it. For the vast majority of retailers, this break-even point is between

10% and 15% of total sales. The interpretation of this number requires some care. It does not mean that overall sales would need to increase by that amount for Sunday opening to occur. Nor does it mean that if Sunday accounted for 10%-15% of total retail demand all or most shops would open.

94. A break-even point of say 12% means that an individual retailer contemplating Sunday opening or closing would find it profitable to stay shut on that day unless such a decision would cost him 12% of his total sales. Suppose, for example, 5% of all clothing was sold on Sundays. But because only one third of clothing outlets opened on that day Sunday trading would account for 15% of the weekly sales of those shops which were open. A shop which considered closing on Sunday would be unlikely to lose a full 15% of its trade. Some of its customers, perhaps one third, would come on another day. In that case the loss of sales would be only 10%. A break-even point of 12% implies that Sunday opening would not be worthwhile for this shop. The effect of Sunday trading on an individual retailer's sales depends partly on the extent of overall demand for Sunday shopping, partly on the number of other outlets which are open on Sundays, and partly on the loyalty of its customers.

95. The average break-even point is lowest for confectionery, tobacco and drink outlets, and, because these are heavily reliant on casual trade, their sales are likely to be roughly proportional to their opening hours. This suggests that it would pay most retailers in this category to open on Sunday. Food also has a relatively low breakeven point, at 10.6%. Our consumer survey indicated that with general opening only 9% of all food sales would be made on Sundays, but if not all retailers opened then some would do better

than this. Clothing has a higher break-even point, at 12.5%. Although we estimate that if all clothing shops were open on Sundays, some 16% of total trade might take place on that day, consumer loyalty to particular outlets is such that it is unlikely that a trader who remained shut would lose as much as 16% of his sales.

96. In Table 3.11 we reproduce the distribution and the average of break-even points for the different retailers we have modelled. We have also suggested for each commodity group the possible loss of sales to any individual retailer if he were to close on Sunday. By comparing this figure with the break-even point, we can determine whether Sunday opening would or would not be profitable for any particular retailer. For clothing, comparatively few retailers would find that Sunday opening paid; this partly reflects the relatively unfavourable cost structure of this type of retailing, and partly an expectation that a significant proportion of frustrated customers would return on another day. For household goods and for confectionery, drink and tobacco, both cost and demand factors are favourable to Sunday opening. We expect that most outlets in these categories would be under pressure to open.

97. After ascertaining for each type of retailer whether Sunday opening would or would not be profitable, we have weighted each by the proportion of total retail sales currently occurring in outlets of that type. The results of this analysis are shown in Table 3.12. For clothing and footwear, shops accounting for 23% of present sales might find Sunday opening attractive if permitted. For food retailing, the corresponding figure is 46%. Most retailers of household goods and of confectionery, drink and tobacco would be likely to open. We do not expect 100% opening in reality, partly because some

TABLE 3.11

BREAK-EVEN POINTS FOR SUNDAY TRADING

	Proportion of retailers* with break-even sales volume of:			Assumed sales loss from Sunday Opening
	5-10%	10-15%	Average	%
Food	46	54	10.6	10
Clothing & Footwear	10	90	12.5	12
Drink, Confectionery and Tobacco	35	65	10.0	15
Household Goods	22	78	13.0	20
Mixed	15	85	12.4	10
Other	0	100	13.3	10

*Expressed as a % of the total turnover of that sector.

SOURCE: IFS Retail Cost Model.

Table 3.12

POSSIBLE EXTENT OF SUNDAY OPENING

	Assumed sales loss from Sunday opening (%)	Potential extent of opening weighted by current turnover (%)	Resulting percentage of trade on Sunday (%)
Food	10	46	5
Clothing and footwear	12	23	3
Drink, confectionery and tobacco	15	100	15
Household Goods	20	100	20
Mixed	10	15	2
Other	10	0	0
All	12	48	7

Source: IFS Retail Cost Model

locations would not find Sunday opening attractive and partly because we expect some retailers, especially in family businesses, would stay closed even if it would be profitable to open.

98. Although the qualitative pattern presented by this analysis is, we believe, a robust one, the particular numbers derived from it are subject to considerable margins of error. Nevertheless some estimates of the probable extent of Sunday opening are necessary to any consideration of the various assertions made about its impact on costs and prices. In Chapter 4 we consider the sensitivity of our conclusions to changes in these, and other, assumptions.

CHAPTER FOUR

THE MEDIUM AND LONG RUN EFFECTS OF SUNDAY SHOPPING ON RETAIL COSTS AND PRICES

I The Effect of Sunday Trading on Weekday Demand

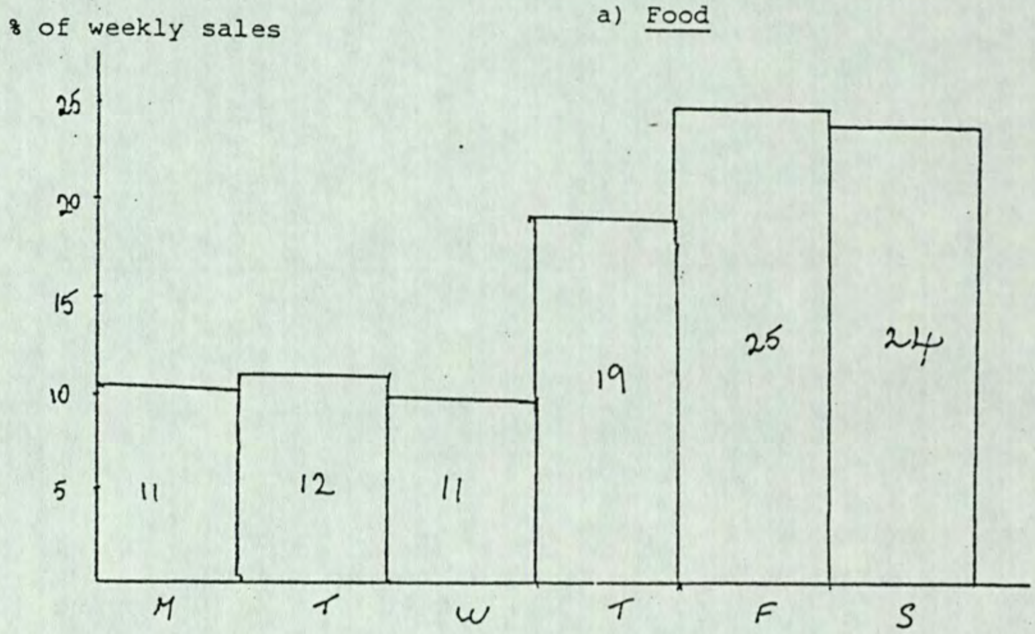
99. Any variation on trading hours would be likely to have substantial effects on the pattern of demand during existing opening hours. The extent to which retail capacity is utilised varies considerably by time of day and day of week. Food shopping reaches a peak on Thursdays and Fridays when weekly paid workers receive their wage packets and households stock up for the weekend. For most other commodities, the profile of demand is more uneven still and Saturday is the peak shopping time. Figures 4.1a and 4.1b illustrate typical sales distributions for food and non-food items respectively. These distributions should be regarded as representative rather than as being the experience of any particular retailer or averages over the whole retail sector. They are based on detailed confidential analyses provided to us by a number of individual retailers and on estimates obtained through our questionnaires from a wider range of outlets.

100. The difference in the characteristics of demand reinforces the observation noted in chapter 3 that there is a distinction between certain kinds of shopping which are seen as a household chore and others which are a leisure activity. Table 4.1 shows how Friday is the main shopping day for what consumers see as 'household shopping', even for women in full-time work, while Saturday is the principal occasion for personal shopping.

Figure 4.1

DISTRIBUTION OF SALES BY DAY OF WEEK

a) Food



b) Non-Food

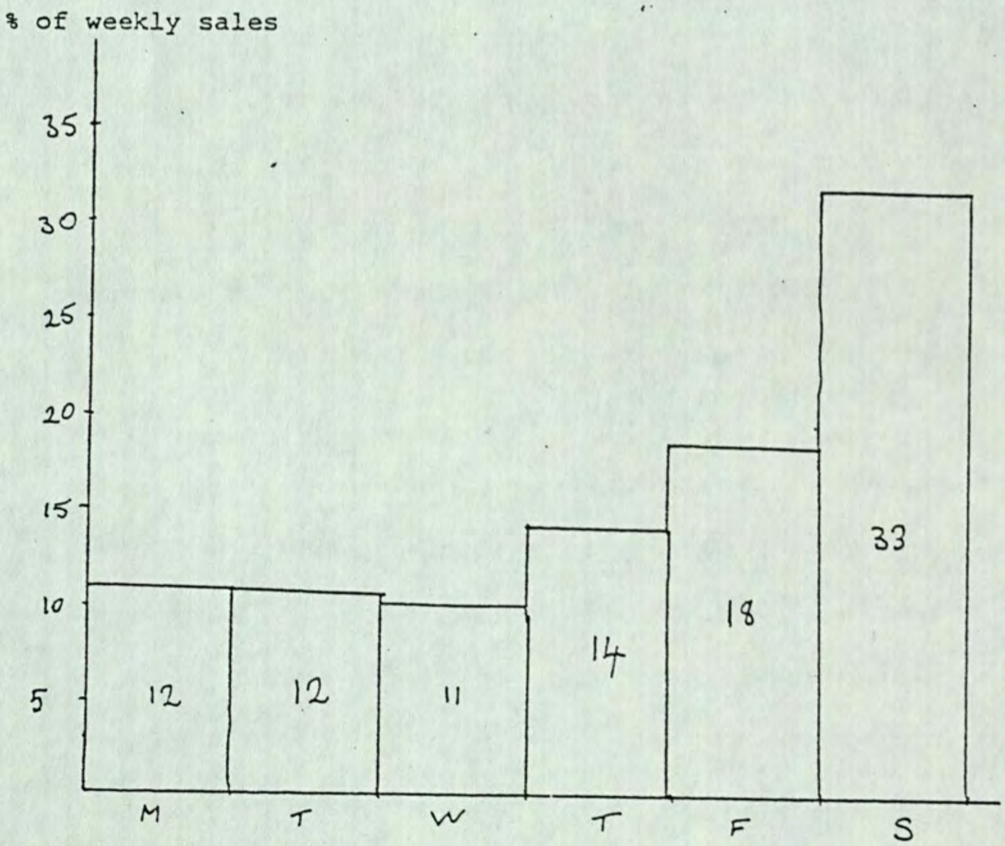


TABLE 4.1

PATTERN OF HOUSEHOLD AND PERSONAL SHOPPING IN 1970

Proportion of Shoppers whose main shopping day is:	Household Shopping*		Personal Shopping	
	All	Full-time Working Women	All	Full-time Working Women
Mon	1	–	5	5
Tues	6	4	9	5
Wed	3	2	6	5
Thurs	12	14	7	6
Fri	30	41	7	4
Sat	22	35	44	59
Sun	–	–	–	–
Any day	38	19	33	24

SOURCE: Bradley & Fenwick, Shopping Habits and Attitudes to Shop Hours in Great Britain, Tables 4 iv), 5 iv) and 32 i), (1975).

* Two main shopping days were allowed for household shopping.

101. Retailers who currently trade on Sundays provided evidence for the Committee on how this had affected their pattern of trade. In many cases, they reported that Sunday was their second busiest trading day. But as we have already observed, the experience of retailers who already trade on Sundays cannot be representative of, and is likely to be more favourable than, the general experience if such trading became widespread. It is important to establish the likely extent of demand for Sunday sales and the way in which this would be likely to affect demand on other days of the week. Neither current experience of Sunday trading, nor reports from other countries with different social habits, could provide satisfactory evidence on this.

102. For this reason, our investigation of consumer preferences was particularly concerned to establish the way in which weekday demand would be affected by Sunday shopping. In our survey we therefore asked potential Sunday shoppers when they currently did most of their shopping. Table 4.2 shows that potential Sunday food shopping would be significantly drawn from existing evening opening hours. More than a third of those who would plan to buy all or most of their food on Sundays currently obtain it during the evenings, while those who are not interested in Sunday shopping now shop mainly during the day on weekdays. On the basis of the information given by potential Sunday shoppers about their current expenditure levels and shopping habits we estimated the likely distribution of sales over the week which would result from general Sunday trading, and the results are shown in Table 4.3. This confirms that Sunday food shopping would be drawn disproportionately from evenings and from existing Friday/Saturday trading.

Table 4.2

DISTRIBUTION OF CURRENT SHOPPING TIMES FOR FOOD

ACCORDING TO SUNDAY SHOPPING INTENTIONS

Current Shopping Times	Sunday shopping intentions All	Most	Half	A little	None
Mon to Friday, day	39	30	41	58	63
Mon to Fri Evenings	42	30	34	16	17
Saturday	19	28	20	21	13
Don't know/No Answer	-	12	5	5	7
	100	100	100	100	100

SOURCE: MORI Research Study conducted for the IFS, 1984

Table 4.3

THE DISTRIBUTION OF FOOD EXPENDITURE BY DAY OF WEEK

	Mon to Thurs	Friday	Mon to Fri Evenings	Sat	Sun	
Currently	43	21	19	17	-	100
If all shops open on Sunday	41	19	16	14	9	100
% reduction in trade	-5%	-9%	-16%	-19%		

SOURCE: MORI Research Study conducted for the IFS, 1984

103. In Table 4.4 we reproduce the results of a similar exercise for expenditure on clothing. The estimate of current Saturday demand which appears there suggests a demand pattern even more peaked than that which is actually observed. The probable reason is that we thought it unlikely that consumers could accurately report the distribution of their expenditure by day of week and instead asked them to tell us their normal shopping day. It appears likely that people who normally buy clothes on Saturday are more likely to buy some clothes on other days than are people who normally buy clothes on other days to make some purchases on Saturdays. Hence the Saturday peak is exaggerated. Nevertheless it seems unlikely that this affects the main conclusion of Table 4.4, which is that Sunday shopping for clothes would tend to be drawn more from Saturday than from other days of the week. It seems reasonable to expect that something similar will be true for other commodities which are most usually bought on Saturdays.

104. The results we describe above are a natural consequence of the evidence we put forward in Chapter 3 that potential Sunday shoppers are likely to be young and in full-time employment. Sunday trade would be disproportionately drawn from those periods during which such households are particularly likely to shop: in the evenings and on Friday for food, on Saturdays for other items. This has a number of implications. Because relatively little Sunday trade would come from off-peak shopping hours, it is unlikely that Sunday opening would change very much the economics of closing during part of the normal working week, an option which a diminishing number of traders now exercise. It follows that it is unlikely that Sunday trading would substitute for, say, Monday trading, and hence Sunday opening would be likely to produce an extension of the trading week rather than a shift in it.

Table 4.4

DISTRIBUTION OF CLOTHING EXPENDITURE BY DAY OF WEEK

	Mon - Thurs	Friday	Mon to Fri Evenings	Sat	Sun
Currently	35	8	1	57	-
If all shops were open on Sundays	30	7	1	44	16
% reduction in trade	-14%	-13%	-	-23%	

SOURCE: MORI Research Study conducted for the IFS, 1984

105. For food, where trade is already more evenly distributed over the week, Sunday opening would to some extent compete with late evening opening and would, if it were general, provide a rather dull trading day. For other commodities, potential Sunday demand is probably no less than on other days of the week and any satisfied Sunday demand would be likely to be drawn disproportionately from the existing Saturday peak.

II The Effect of Sunday Trading on Weekday Cost Levels

106. If Sunday trading accounted for 5% of total retail turnover, and overall sales remained constant, there would be a 5% reduction in the level of weekday demand. This would be felt by all retailers, whether or not they opened on Sundays. The outcome is that both peak and average sales levels would fall; peak sales, according to our evidence, by rather more than 5%. This would lead to reductions in the demand for labour in retailing during the week. The labour needed to staff a store depends partly on the size of the store, partly on the average level of sales being made in the store, and partly on the peak level of sales in the store. Retailers with large units have considerably more flexibility in adapting staff levels to current demand, although this depends on the type and style of retailing. We discuss this issue in more detail in Chapter 5. Other cost elements would also be affected. The extent of these reductions would depend on the extent of Sunday trading; the more shops were open on Sundays, the larger would be the impact on weekday demand and so the larger the reduction in weekday costs.

107. There are thus two groups of retailers. Those who would open on Sundays would increase sales above present levels, but would have higher

costs because the additional costs of Sunday trading would normally outweigh the savings from lower sales achieved during the week. In some cases, costs per unit sale over the week as a whole would rise as a result of the balance of these factors; in other cases they would fall. Those who would remain shut on Sundays would lose sales, but this implies some reduction in their costs. However in almost all cases costs per unit of sales would rise for these firms. Not all of these cost effects would be derived immediately; labour cost reductions in particular would take some time as staffing levels were adjusted to the new pattern of retail sales. We note in Chapter 5 that labour turnover in retailing is higher than in most sectors. The factors we have described are similar to the cost changes which would be likely to occur during the first year or two of Sunday trading, in which retailers would be exploring the new market conditions which had been created.

108. In Table 4.5 we examine the changes in retailing costs per unit of sales which our model suggests would result in the medium term from the extent of Sunday opening described in Chapter 3. The medium term is the period in which weekday staffing levels have been adjusted to the changes in weekday demand, but there have as yet been no changes in capacity or in investment in the retailing sector. For retailers accounting for around 90% of current sales, the medium term effect would be to increase costs per unit of sales. This is true even though Sunday opening would be profitable for many of these retailers; costs per unit of sales would be less than they would be if <u>that</u> retailer closed on Sunday but higher than they would be if <u>all</u> retailers closed on Sundays.

Table 4.5

THE MEDIUM TERM EFFECT OF SUNDAY OPENING ON RETAILING COSTS PER UNIT OF SALES
NET COST IMPACT

Sector	-1 to 0%	0-0.25%	0.25-0.5%	0.5-1%	1-2%	2-3%	Average
Food	-	10	63	26	-	-	0.41
Clothing	18	-	27	56	-	-	0.46
Drink, Confectionery and Tobacco	-	2	39	30	28	-	0.77
Household Goods	-	-	15	5	68	12	1.40
Mixed	9	62	29	-	-	-	0.17
Total Retail Sector	11	16	40	20	12	1	0.50

SOURCE: IFS Retail Cost Model

109. Indeed the increase in costs per unit of sales would be highest for those sectors, drink, confectionery and tobacco and household goods, in which Sunday opening would/be most attractive. This is because Sunday opening would be widespread but for the sector as a whole there would be no increase in sales commensurate with the increase in costs attributable to Sunday trading.

110. Table 4.5 shows the likely distribution of changes in unit retailing costs per unit of sales, a change of 0.5% in this figure implies, if prices remained the same, that net margin would be reduced by 0.5%. It shows that although most retailers would experience increased costs in the medium term the cost increase would be generally small, equivalent to an average of 0.5% of turnover or 1.8% of gross margin.

III Sunday Trading and Retail Margins

111. The discussion above leads to the conclusion that Sunday trading would be likely to raise retailing costs in the medium term by around 1.8% of gross margin and 0.5% of turnover. Such an increase in costs would lead either to an increase in retail prices or to a reduction in net margins, or to an element of each. The extent to which one or other would happen would depend on the nature of competitive conditions in retailing, and on the extent of Sunday trading itself. Again we consider food separately from general retailing.

112. Food retailing in the United Kingdom has been subject to intense price competition since Tesco began a round of rigorous price cutting in 1977. Although half of retail food sales are now in the hands of the four largest traders, there have also been considerable changes in market shares, as Table 4.6 shows. Moreover it is clear that these market shares are highly

Table 4.6

CONCENTRATION IN FOOD INDUSTRY

% Share of Packaged Grocery Market in Great Britain, 1977 to 1982

	Tesco	Sainsbury's	Asda	Co-op	Total
1977	10.0	8.7	5.7	19.0	43.4
1978	12.3	10.6	6.0	17.9	46.8
1979	13.5	10.9	6.3	17.6	48.3
1980	13.8	12.2	7.7	17.7	51.4
1981	13.6	13.5	7.9	16.9	51.9
1982	13.8	15.0	8.5	15.9	53.2

SOURCE Retail Consortium, unpublished evidence to the Committee of Inquiry sensitive to price levels. Under these conditions, it would clearly be difficult for retailers faced with extra fixed costs of Sunday trading to pass these into prices.

113. At present, a number of small retailers employ a trading strategy based on long opening hours and prices significantly higher than those of their major competitors. In London certain larger chains trade in this way. Would it be possible for a major firm to follow this lead, in more modest degree? If only one major retailer opened on Sundays, Sunday trading would not only constitute a disproportionate share of his overall sales but also one which would be less sensitive to prices than his weekday trade. Hence it would be possible for him to achieve a given market share at a rather higher price level than would be attainable with six-day trading, and recover part or all of the higher cost of Sunday trading through prices. The greater the number of retailers trading on Sundays the smaller would be this effect. In the extreme case where Sunday trading was universal, the choice between price and market share confronting each firm would be exactly the same as at present, except that the resulting trade would be spread over seven days rather than six. The result, despite the higher costs would be a price level similar to that prevailing at present, and the strain would mainly be taken on net margins.

114. We showed above in Table 4.5 that the initial effect of the immediate increase in costs per unit of sales is to reduce retail margins most substantially in those areas where Sunday trading is widespread, confectionery, drink and tobacco and household goods. In Table 4.7 we provide the average gross margin as reported in the 1982 Retailing Inquiry and our estimate of net margin. The relative impact of these cost increases

TABLE 4.7

THE EFFECT OF COST INCREASES ON MARGINS

Industry	% of Turnover Gross Margin (Current)	 Net Margin (Current)	 change in net margin
	%	%	%
Food	20.0	0.04	-0.41
Clothing & Footwear	40.6	-3.29	-0.46
Drink, Confectionery and Tobacco	15.1	2.09	-0.77
Household Goods	31.7	1.89	-1.40
Mixed Retail	32.9	3.01	-0.17
Other non-food	31.0	6.54	0.00

SOURCE: 1982 Retailing Inquiry, Table 5
IFS Retail Cost Model.

on net margins is quite large. In Table 4.7 we also show how these margins, as calculated in our cost analysis of Chapter 3, would be affected by these developments. The likely effect of these changes on the structure of retailing are considered further below.

115. Market shares are less sensitive to price in sectors other than food where there are greater differences between products and trading styles. Here there may appear to be greater scope for passing increased costs of Sunday trading into prices. However this would be decidedly limited. Those retailers who, initially, would choose to open on Sundays will do so because it would lower the unit cost of sales to them, even though the cost of sales might be higher than it would be if no retailer opened on Sunday. Those who would not would find the unit cost of sales increase; but this increase in cost, resulting from a fall in demand, would put downward pressure on margins rather than upward pressure on prices. Those who respond by themselves opening on Sundays would restore profits through increased sales rather than increased margins. The basic problem, as in food retailing, is that an increase in fixed costs attributable to a given sales volume could not readily be recovered in higher prices. For these reasons, we expect that the major effect of any net increase in costs resulting from extended opening hours would in the first instance be a fall in retailing profitability.

IV The Effect of Extended Opening Hours on Retail Capacity

116. We have seen that Sunday opening would be likely to put pressure on margins in retailing. The underlying reason for this is a simple one. The effect of Sunday trading would be to increase the effective capacity of the retailing sector. Using the 48% opening derived in Table 3.12 (by comparing

break-even sales levels with the sales losses arising from remaining closed on Sunday), and assuming that retailers open for 13% more hours we see that shopping opportunities rise by around 7%. The reduction in margins we have identified would be the result of the availability of this increased capacity to meet a fixed volume of sales. It is also the mechanism by which, over a period of years, that increased capacity would be eliminated.

117. It is not easy for individual retailers to adjust the size of their stores in line with changes in demand. Indeed in many cases the size of a store is fixed by the exigencies of available space and sites, and the retailer's decision is essentially that of whether to have a store in that particular location or not. But it is clear that the long-term effect of these individual decisions is to match retail capacity to retail demand. A detailed examination of several towns of varying sizes indicates that lower demand is partly reflected in representation by fewer major stores, partly in smaller sizes of these stores.

118. In Tables 4.8 and 4.9 we show the growth of the capital stock of the retailing sector in the United Kingdom. This stood at £24 billion in 1982. This figure excludes the value of land used for retailing, which is considerable. This capital stock has grown substantially since the Second World War. While capital employed in retailing increased by a factor of 6 between 1947 and 1982 the corresponding figure for manufacturing industry is only 3. New investment in the retail sector in 1982 represented around 7% of the existing capital employed of which around half was a net addition to the capital stock.

Table 4.8

THE CAPITAL STOCK OF UK RETAILING (1982) (£m)

	Net capital stock	Gross capital formation	Net Capital Formation
Construction	13291	684	484
Plant	8607	638	299
Vehicles	2048	311	-39
Total	23946	1634	734

SOURCE: Central Statistical Office, unpublished estimates.

Table 4.9

CAPITAL FORMATION IN UK RETAILING, 1947 TO 1982

£m, 1980 prices

	Net Stock	Over Previous Five Years		
		Gross Capital Formation	Net Capital Formation	% Growth of net stock
1947	3,346.4			
1952	3,792.8	1161.5	446.4	13.3
1957	4,840.7	1973.1	1047.9	27.6
1962	7,019.7	3470.6	2179.0	45.0
1967	10,142.5	5006.2	3122.8	44.5
1972	14,065.7	6532.8	3923.2	38.7
1977	17,864.3	7331.7	3798.6	27.0
1982	21,630.4	8174.7	3766.1	21.1

SOURCE: Central Statistical Office, Unpublished Statistics.

119. Capacity in food retailing has grown more slowly than in other types of retailing. This reflects the diminishing share of food in total sales, but is also a consequence of the transfer of market share from small retailers to large, who average higher sales per square foot. However, multiple retailers themselves have achieved greater sales per square foot through extensions to trading hours. The experience of retailers currently operating both six and seven day stores indicates that sales per square foot are on average 20% higher in seven day than in six day stores.

120. The long term result of the widespread adoption of extended trading hours would be a reduction in retailing capacity, as measured by floorspace or capital employed. This reduction would be achieved partly by a fall in new retailing investment, and partly by a more rapid rate of closure of existing less economic stores. In the following section we consider the likely effects of this on the pattern and on the efficiency of retailing; effects which would themselves have consequences for the level of retailing costs and prices, and for the range of consumer choice and opportunities. Here however we note that a fall of 1% in retailing capacity would lead, in the long run, to a fall of around 1% in the capital costs of retailing. There would also be effects on other cost elements. We noted that labour costs were partly dependent on store size; thus a move to more effective utilisation of floorspace would lead to some reduction in weekday labour requirements. Energy and some other costs would be reduced.

121. We should stress again that these cost savings would not be achieved by retailers trimming the size of their existing stores. Indeed the effect on the individual retailer would not be at all obvious. The cost savings would be achieved in the following way. The cost and competitive pressures of

extended opening would push high-cost retailers out of the market more quickly than would otherwise have occurred. This would lead to an increase in sales levels throughout the week for those retailers who remained in the market.

122. Because of the lower levels of weekday demand brought about by Sunday trading, this increase could be met without requiring increased capacity and would lead to an overall increase in sales per square foot. The effect is similar to the way in which existing seven day traders have achieved higher rates of sales per square foot at the expense of their competitors. The other way in which retailing capacity would fall would come from a reduction in pressure for store extension or expansion, which results from lower levels of weekday trading, especially at peak times.

123. If Sunday opening were extensive, it would therefore lead to significant changes in the size and structure of the retailing sector. Since entry to and exit from the retail trade, either by new operations or by the expansion or contraction of existing ones, is relatively easy, we would not expect extended opening hours to have any significant effect on net retail margins one way or another in the long run after appropriate adjustments had taken place; the returns required are set by the levels needed to attract capital investment into retailing. Just as we would expect the major part of the cost increases resulting from extended hours to be borne by retail margins, so we would also expect the cost savings resulting from reduced capacity to operate to restore retail margins. These savings would mainly take the form of increased sales volume at given cost levels, or of lower fixed costs, either of which would benefit margins.

124. How large a reduction in retailing capacity could be expected? When would contraction stop? Capacity is determined by a balance between the supply of and demand for the services of retailing. The cost of supply is set by the price of new or extended stores; demand by the sales which could be achieved in them. The precise changes which would occur as a result of Sunday trading are difficult to assess, but we have assumed that they would reflect broadly the same balance of demand and supply as now. This means that retailing profitability would return to its present level, and that weekday sales achieved per square foot would also be the same as now. These two criteria between them determine the effect of Sunday trading on retail capacity and on prices; they set what the extent of the contraction of the retail sector is likely to be and the associated impact of that contraction on retailing costs.

125. Because the reduction in weekday sales would not be uniform, it is necessary to consider whether it is average or peak sales that principally determine retail capacity. It is evident that there is considerable excess capacity in retailing at off peak times, and that demand could increase at these times without requiring existing traders to extend their stores, although it might encourage previously unrepresented retailers to construct new ones. We have therefore made a central assumption that capacity is equally determined by peak demand and by average demand.

126. In Table 4.10 we provide estimates of the capacity changes implied by these assumptions. There is a major effect in the drink, confectionery and tobacco sector. The reason is that we anticipate that Sunday opening would be widespread in this sector, and a substantial proportion of sales would occur on that day. If the number of outlets did not contract, then each

TABLE 4.10

OVERALL EFFECT OF SUNDAY TRADING

Industry	Estimated % Reduction in Capacity	Changes in costs as a % of Gross Margin		
		Cost Saving from reduced capacity	Increased Variable Cost of trading	Overall Effect
Food	5.8	2.56	2.03	-0.53
Drink, Confectionery and tobacco	17.6	7.52	3.04	-4.48
Clothing and Footwear	3.4	1.79	1.18	-0.61
Household Goods	30.0	13.75	4.18	-9.57
Mixed Retail	2.0	0.82	0.50	-0.32
Other non-food	-	-	-	-

SOURCE: IFS Retail Cost Model

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individual retailer would face higher costs for the same volume of sales. This could not be met by higher prices. If prices did rise substantially then gross margins, and so the profitability of incremental sales to individual retailers, would be correspondingly greater and there would be a downward pressure on prices. The attraction of cutting prices to obtain additional sales would be obvious to every trader in a competitive environment. The inevitable outcome would be lower profitability and ultimately less new entry and more rapid exit of marginal outlets.

127. The effect on the household goods sector would be even more substantial, mainly because the effect of Sunday trading would be so considerable and the existing Saturday peak would be doubled in length and intensity. However it is important to note that our figures exaggerate the impact of de-regulation from the present position. This is because they are based, as we have already observed, on a comparison between Sunday trading and no Sunday trading, and in both these sectors a good deal of Sunday trading already occurs, legally in some cases, illegally in others. Nevertheless, de-regulation could bring marked changes in these sectors.

V Retail Costs and Prices

128. Retailing is a competitive industry, and hence any change in costs would in the long run be reflected in a corresponding change in the prices faced by consumers. It follows from the nature of this competition that the initial effect of a rise in average unit costs resulting from extended opening hours would be a cut in retail margins, and that the long term consequence of any cost change would be a fall in prices. If the whole of

the cost savings described in Section IV, including subsequent reductions in capacity, were passed on to consumers, the effect would be to reduce average retail prices by 0.6% and the Retail Prices Index by 0.4%. We should acknowledge two complications in this proposition.

129. One would arise if extended opening were ultimately to reduce effective competition in retailing. This might occur from a reduction in the number of smaller outlets competing with a single multiple retailer in a particular locality (although the prospect of this affecting prices is reduced by the national pricing policy adopted by most multiple retailers). Alternatively, the withdrawal from marginal outlets by major retailers might in some areas reduce competitive pressures on smaller shops.

130. A second complication is the problem of rent. Changes in retailing profitability would give rise to changes in the rentals of retail premises. The effect would be likely to be most marked where, as with superstore sites, values are principally determined by competition between retailers themselves. It would be be less important where, as with city centre locations, retailing competes for space with other commercial activities, such as those of banks, building societies, estate and travel agents. But gains and losses would be incurred in relation to particular premises, and factors which depress retailing profitability would tend, on balance, to depress retail rents.

131. For a number of reasons, we have not thought it appropriate to take explicit account of these factors in our analysis. Most importantly, there is no practical means of quantifying an effect which we suspect is on balance

rather small. The most important owners of retail premises are retailers themselves, and therefore the division between retailing profits and rental levels is of more limited significance.

VI Sensitivity Analysis of the Results

132. The likely chain of consequences we have described is a lengthy one, and the likely final effects are the product of the whole series of links in the chain. It is therefore important to assess the sensitivity of the eventual outcome to the various assumptions involved. In particular, our assessment of the likely extent of Sunday opening is inevitably a speculative one. It could be expected, however, that changes in this percentage would not have a very substantial effect. The reason is that all the three components of the cost change (new Sunday costs, adjustments to weekday costs and the long run reduction in costs), would broadly be multiplied or divided by a similar amount, and hence the direction of change would remain the same.

133. In Table 4.11 we report the results of a detailed sensitivity analysis of the results generated by our computer model. In each case, we have run through all the steps in the preceding two chapters varying just one assumption. We focus in this table on key variables for four different groups of retailers: the (turnover weighted) percentage who would be likely to open, the expected reduction in capacity, and the price changes which would follow this reduction while restoring net margins to the pre-Sunday-opening position.

TABLE 4.11

SENSITIVITY ANALYSIS

	FOOD			HOUSEHOLD (including DIY)			DRINK CONF TOBACCO			CLOTHING		
	% open	% reduction capacity	final change in price as % of turnover	% open	% reduction capacity	final change in price as % of turnover	% open	% reduction capacity	final change in price as % of turnover	% open	% reduction capacity	final change in price as % of turnover
1. Base	46.2	5.8	-0.12	100.0	29.9	-3.24	100.0	17.6	-1.18	22.6	3.4	-0.23
2. Sunday sales x ½	0.0	0.0	0.0	22.5	3.3	-0.28	26.2	2.3	-0.06	0.0	0.0	0.0
3. Labour 90% peak	46.2	5.8	-0.31	100.0	30.0	-5.36	100.0	17.5	-1.60	22.6	3.4	-0.44
4. Sales inc 1%	46.2	5.4	-0.18	100.0	29.6	-3.30	100.0	17.0	-1.24	22.6	2.9	-0.36
5. Sales inc 5%	46.2	3.4	-0.40	100.0	28.0	-3.55	100.0	15.4	-1.46	22.6	1.0	-0.85
6. Labour premium 1.5	86.1	10.8	-0.37	100.0	30.0	-4.04	100.0	17.6	-1.18	94.4	14.2	-0.98
7. Labour premium 2.5	4.5	0.5	-0.01	83.2	25.0	-2.24	35.4	6.2	-0.40	17.8	2.7	-0.10
8. Capacity 100% peak	46.2	7.0	-0.22	100.0	40.0	-4.80	100.0	20.0	-1.46	22.6	4.1	-0.37
9. Capacity 100% weekday sales	46.2	4.7	-0.01	100.0	20.0	-1.69	100.0	15.0	-0.90	22.6	2.7	-0.10

SOURCE: IFS Retail Cost Model

134. The first line of Table 4.11 presents the results as reported for our central set of assumptions, described in detail above. The main assumptions employed there are that wages on Sunday would follow existing Wages Council rates (generally, be double their weekday level), that capacity reductions would reflect an equal mix of the reduction in average sales during the week and peak sales, that there would be no increase in overall retail sales, and that weekday labour, in line with evidence from case studies, would mostly be determined by average sales during the week.

135. In this base case, our expectation is that just under half of all food retailers (by turnover) would open, and almost all household goods and drink, confectionery and tobacco would do so, while less than one quarter of clothing retailers would open. With these opening levels, the resulting reduction in retail capacity would be some 6% for food, nearly 30% for household goods and 3% for clothing. For all four types of retailing these capacity reductions would be sufficient to allow current margins to be earned at somewhat lower price levels.

136. Case 2 examines the effect if retailers were less pessimistic about the effects of Sunday closing on their sales. So, for example, food retailers would expect to lose only 5% of weekday sales by Sunday closing, rather than 10% in the base case. Here no food retailers open (their required sales volumes to offset cost are tightly bunched in the 8-12% range), only 23% of household goods retailers, 26% of drink, confectionery and tobacco and no clothing retailers. Capacity reductions and price changes, still negative, are correspondingly small.

137. Case 3 examines the effect of weekday labour requirements being determined by peak, rather than average, sales during the rest of the week. Opening remains the same, the retailers' initial decision is unchanged, but offsetting cost reductions are slightly greater. However, this makes little difference either to capacity reductions or to eventual price changes. This robustness carries through into cases 4 and 5, which examines the effect of overall retailing sales increases of 1% and 5%. These also offset the cost penalty from opening, mitigate the capacity reduction slightly and permit slightly larger price falls. But it is important to note that the long run effect of Sunday trading is not greatly influenced by whether or not it leads to an increase in overall sales volumes.

138. In cases 6 and 7, we examine the effect of variations in the labour premium. This is the simplest way of allowing for error in our estimates of the costs of Sunday opening. A low premium - say, Sunday workers would receive 1.5 times the weekday wage - would reduce significantly the cost of Sunday opening and therefore the level of sales required to make it profitable. A high premium would have the opposite effect. Because of the bunching of the break-even sales percentage among food retailers, this change has dramatic effects on the percentage which open; in the first case, some 86% are predicted to open while in the second less than 5% are. The high premium reduced opening in household goods to 85% and in drink, confectionery and tobacco to 35%. It is striking, however, that the long run effect on prices is very little changed even by these very substantial variations in the assumed impact of Sunday opening. The reason is that the greater (or lower) costs of Sunday opening are offset by the smaller (or larger) numbers of traders who are persuaded to open.

139. Cases 8 and 9 examine alternative assumptions about capacity reductions. In the base case we have attributed equal importance to the peak and average levels of sales during the week. If capacity were entirely dependent on peak demand, the reduction would be greater than if it were entirely dependent on average sales. With a higher reduction in capacity, the scope for price falls is correspondingly greater.

140. The range of simulations we have described is only a selection of the many we have conducted. The majority of our conclusions seem robust to most reasonable changes in assumptions. It is unlikely that there would be universal opening of food stores, or widespread opening for the sale of clothing, and we can find no circumstances in which substantial long run effects on cost and prices would be likely. We have also identified some sectors for which there can be no doubt that Sunday trading would be important and would have significant effects; household goods and drink, confectionery and tobacco. The conclusion that the effect of Sunday trading on prices would be likely to be small is extremely robust and the majority of our simulations suggest a fall rather than a rise.

VII Effects of Sunday Trading on Different Retailers

141. With widespread Sunday opening, there would be a shift of demand from week-days to Sunday, and a significant reduction in peak demand during the week. The initial result of this would be to put pressure on those who do not choose to open (because the cost penalty they would face exceeds the likely benefit from increased sales on Sunday) by reducing their market share and consequently their net margin.

142. Because weekday sales would now be lower, sales per square foot during the week would fall. This would lead to higher overall costs. Unless consumers are willing, in the long run, to pay higher prices for lower weekday congestion, some reduction in this overcapacity would be inevitable. We have noted above that this reduction would take a number of forms. New supermarkets might be smaller, the least profitable outlets of large retailers might close or new outlets might not be built, and some retailers might be forced out of business.

143. We cannot hope to predict the extent of each of these forms of reduction in capacity or which individual retailers would be able to respond by improving, for example, on management practices . What we can do, however, is to examine, using our computer models and database, the profitability of existing retailers and the likely effects on the profitability of individual retailers of the complex chain of events we have described. Because much of our data was obtained on a confidential basis, the discussion that follows can only be in broad terms.

144. There are two types of retailer who would be likely to suffer particularly from Sunday trading. There are those who would experience above average increases in costs per unit of sales, and hence would find that the effect of extended opening hours on their profitability is markedly adverse. Such outlets could be among those who would open on Sunday or among those who would not; but would be mostly likely to be found among the latter group. The second type of retailer who would suffer would be those who are already marginal to the industry, those with the lowest existing level of profitability. These would come under pressure from any factor, not just

extended opening hours, which reduced profitability and capacity in the retailing sector. We can look for these among relatively less profitable retailers, but even those retailers who are more than averagely profitable will generally have some units which are marginal.

145. The first of these groups, those who would suffer particularly substantial cost penalties as a result of Sunday trading, is probably of less importance than the second. The reason is that, as Table4.5onpage 239 shows, the range of cost effects would be quite narrow; certainly very much narrower than the range of profitability itself. Although retailers with high labour costs would be at a disadvantage, all costs of such retailers tend to be high and hence their relative position would not be affected so adversely. For these reasons, we believe that levels of profitability would be more significant than changes in profitability in determining which firms contracted or left the industry as a result of the pressures on the retailing sector resulting from Sunday trading.

146. This point is particularly important for small and specialist retailers. We could find no evidence that the costs of Sunday opening were higher for small shops than for large; indeed the proportion of labour costs in total costs was if anything slightly lower for small traders. However the two sectors which would be most affected, household goods and confectionery, drink and tobacco, do have more small outlets than the multiple dominated food and clothing sectors. In addition many small shops have below average profitability and are hence vulnerable to any change which puts pressure on the less efficient parts of the retail sector. Sunday opening would accelerate trends which are evident in the retail sector in any event, one of

which is the disappearance of small shops which have failed to find specialist roles.

147. It is not only small shops which have less than average profitability and which form part of existing marginal retail capacity, and it is to the identification of relatively weak traders generally that our attention has been principally devoted.

148. We noted in Chapter 3 some problems in examining profitability in retailing as it exists at present. Retailers who own the freeholds of their premises pay no rent; others who lease them may pay anything from a peppercorn to a full market rent. The economic cost of using premises for retailing, in all cases, is the amount which these premises could earn in other uses, and this is what should be considered in assessing the real profitability of retailing activities. Published accounts often give little indication of ownership structure or occupancy costs, and definitions vary.

149. To allow for these deficiencies we have attempted to adjust the data derived from published accounts to approximate to a more economic concept of profit, while in other cases we have asked directly for the relevant information. The discussion which follows is therefore based on a concept of profit which takes account of all costs, including the use value of premises and fixtures owned, against revenue received.

150. As one might expect in a competitive industry, the average profit level once all costs have been computed is close to zero, with about half of all retailers making losses and half making profits. Some retailers make substantial losses which are not necessarily reflected in published accounts

because during better times they have accumulated assets which they are now failing to maintain in real terms. In conventional accounting terms, we would find this reflected in a below-average return on capital.

151. In general terms those who are making losses in this sense are some of the small supermarket chains, small hardware and ironmongery chains, smaller clothing outlets (such as tailors, specialist shoe shops), and a number of large department store chains of traditional style. In other words, those who are revealed by this analysis as least fit to face fundamental changes to trading conditions are those who have suffered from the changes which have already occurred.

152. Examining the imputed change in profits after all these effects have been worked through, we find that the effects of Sunday trading would generally reinforce the changes which have been occurring over the last couple of decades. Those who would suffer most appear to be those with high gross margins in sectors where retailers with lower gross margins are moving to dominate sales. So pressure on profits would be greatest among older smaller supermarkets, traditional clothing outlets, smaller ironmongery, hardware and furniture outlets, and traditional department stores.

153. However, there are many exceptions to this general picture. Where the retailer occupies a particular market niche he is isolated from or even possibly advantaged by these wider changes. So we would not expect, for example, the changes to mean necessarily the demise of the small convenience food outlets. In Sweden (Appendix D) liberalisation of trading hours has been accompanied by a significant increase in the number of 'neighbourhood

stores'. In any case, except under the most extreme assumptions, the effects on food retailing would much less dramatic than in, say, household and DIY goods.

154. Similarly, any changes might take a very long time to happen. Retailers with large, wholly - owned capital assets could insulate themselves from moderate losses for extended periods during which they might change their retailing style and practices considerably. The period over which adjustment would take place is long, and the effects much smaller than has often been suggested. For most retailers, the penalty or gain from the changes imputed by our model lies between zero and 0.5% of turnover. We do not anticipate that changes generated by a change in trading hours would be anything like as significant as the large changes which are happening already. Sunday trading would accelerate trends already under way, but not to such an extent that they could not be accommodated in the way that existing changes already have been.

CHAPTER FIVE

THE EFFECTS OF SUNDAY TRADING ON EMPLOYMENT

I Introduction

155. The effect of extended opening hours on employment is subject to particular controversy. It could be measured in terms of the numbers of people employed in retailing, the number of full time equivalent jobs offered, or the total employee remuneration earned. Since changes in trading hours are likely to affect both the mix of part-time and full-time staff, and average rates of payment, these different measures are likely to be affected in different ways.

156. Because labour costs are the most important single component of overall retailing costs, there is inevitably a strong correlation between movements in labour costs and in total costs. This correlation was not reflected in the expectations of those making submissions to the Committee. The majority of those who expected costs to rise as a result of extended trading hours also thought that employment in retailing would fall. This could be true only if there was a marked fall in total retail sales, or a reduction in the share of labour costs in total costs, or a substantial rise in average earnings in retailing. The majority of those who expected costs to fall as a result of extended trading hours also thought that retailing employment would increase. This would be true only if Sunday trading led to a considerable increase in overall sales, or to a reduction in sales volume per employee. In what follows, we attempt to disentangle the various influences on retailing employment.

II Retailing Employment; Structure and Trends

157. The retail sector is a major employer. In 1982 the 2.2 million workers in retailing represented 9.5% of the total employed labour force in Great Britain, and retailing is a particularly important source of part-time employment, especially for married women. Table 5.1 shows the trend in retailing employment from 1950 to 1982, which is described in more detail in Table A1 on page 293, contained in Appendix A. From the end of the Second World War to the late 1950's there was considerable growth in numbers employed in retailing, reflecting the general expansion of retail sales. Retail employment then remained constant at approximately 2.5 million until the mid 1970's. However, from 1976 to 1982 there was a decline of 12% in numbers engaged in retailing, compared to a 4% decline in the total employed labour force over the same period. As retailing employs a large proportion of part-time workers the number employed does not provide a particularly good measure of labour input. A better measure is full-time equivalent numbers and these are shown in the second column of Table 5.1. This shows that although numbers engaged stayed constant between 1957 and 1976 labour input fell by 12%; this reflects an increase in the proportion of part-timers in the workforce.

158. The decline in labour input in retailing was initially the result of rising labour productivity rather than declining retail sales. Labour productivity as measured by sales per full-time equivalent person engaged has continuously increased (Table A2 on page 294). We described in Chapter 2 the changes which took place after 1950 in the structure of the retail trade which led to this rise in productivity. The most notable of these changes was the growth of multiples, the trend towards fewer and larger shops and the

Table 5.1

EMPLOYMENT IN RETAILING IN GREAT BRITAIN, 1950 TO 1982

	Person Engaged in Retailing		Total Employed Labour Force
	Number	FTE	Number
	(Thousands)	(Thousands)	(Thousands)
1950	2392.2	-	22,680
1957	2529.6	2158.2	23,938
1961	2484.6	2158.8	24,046
1966	2555.7	2138.2	24,813
1971	2541.4	1995.4	23,858
1976	2503.4	1897.0	24,272
1977	2441.7	-	24,296
1978	2424.0	-	24,434
1979	2429.0	-	24,743
1980	2368.0	1780.0	24,629
1982	2202.0	1680.0	23,252

SOURCE: Census of Distribution
Retailing Inquiries
NEDO - unpublished estimates
Annual Abstract
Robinson and Wallace, Pay and Employment in Retailing, Table 1.4

Note: FTE = Full-Time Equivalent (39 hours) development of self-service techniques. This increase in productivity has continued in recent years against a background of static or declining retail sales, and this has produced the marked fall in employment observed since the mid 1970's.

159. These changes have had major effects on the working environment of retail employees. Although it is still true that retailing is characterised by a large number of small independent traders each employing comparatively few workers, the trend over the last 30 years has been towards fewer and larger shops. The proportion of workers employed in multiples rose from 17% in 1950 to 49% in 1982 (Table A3 on page 295). There has also been a change in the number of persons engaged in different types of business. This is the result of changes in the retail trade brought about by changes in consumer expenditure patterns. Food retailing has provided a diminishing proportion of total employment; only one third of all retail workers now sell food (Table A4 on page 295).

160. Another consequence of the changing structure of retailing has been some further lessening in the skills needed by the retailing labour force. Fewer staff are required to have a specialised knowledge of the products they are selling or to provide customers with any substantial degree of personal service. Increasingly retailing labour has been used on relatively unskilled tasks such as shelf-filling or till operation. The result has been a polarisation of the labour force towards a small number of specialised managers and a large number of single-grade unskilled workers. In 1974 over 70% of full-time employees did not have good specialised training and were without wide knowledge of their particular trade (Table A5 on page 296).

Similar information is not available for more recent years but there is some evidence that the trend towards lower average levels of skills has continued. Retail workers have lower general educational qualifications than workers generally (Table A6 on page 297), and expenditure on training in the distributive trades is comparatively low - the average per employee is less than half that in manufacturing industries (Table A7 on page 297).

161. Modern retailing employment includes a disproportionately large number of women, part-time and young workers. Table 5.2 shows the breakdown of the labour force into male and female and full and part-time workers. (The table excludes the self-employed because, although this group makes up a high proportion of the total workforce, there is less detailed information available about them in recent years.) The table shows that the proportion of women and particularly of part-time workers has risen since 1957. At that time female employees made up 60% of the employed workforce but by 1976 this had risen to 66%. Over the same period the proportion of part-timers increased from 27% to 43%. This position has stabilised since 1976 and the proportions of both women and part-time workers have remained constant up to 1983.

162. The retail sector is one of the most important sources of female employment. 66% of women sales assistants and 74% of women proprietors and managers are married, and these married women tend to be part-timers working between 8 and 30 hours a week. A large number of these married women have dependent children, but these are largely children over 10 years old enabling women to work at least part-time. (Tables A8 on page 298, A9 on page 299).

Table 5.2

STRUCTURE OF RETAILING LABOUR FORCE IN GREAT BRITAIN 1957 - 1983

Employees	1957 %	1976 %	1983 %
Male - full-time	31.8	27.1	(
			(33.9
Part-time	8.5	6.6	(
Female - Full-time	40.9	29.9	27.3
Part-time	18.8	36.4	38.8
	100.0	100.0	100.0

SOURCE: Census of Distribution

Department of Employment Gazette, various issues

163. The increase in the numbers of part-time and women workers in retailing over the period 1950-1976 was partly the result of general employment trends and partly the result of the different staffing requirements of new types of retailing. During the period increasing numbers of part-timers and women entered the labour market and firms were keen to take them on. Changes in national insurance, taxation and employment legislation encouraged such employment, and the flexibility offered by the use of part-time labour was also an attraction. This was particularly true in the distributive trades where part-timers can ease the problem of scheduling staff to deal with fluctuations in demand over the week. As shop opening hours increased and the average working week fell, in retailing as elsewhere, this flexible use of part-time labour became increasingly important.

164. For similar reasons, retailing employs relatively large numbers of young people. In 1971 15% of males and 21% of females employed in the distributive trades were less than 19 years of age. (Table A10 on page 300).

165. Labour turnover in retailing is also high. Even for full-time adults labour turnover in retail distribution is greater than that in all industries and services (Table A11 on page 301). The "Retail Distribution Report" by the Commission on Industrial Relations in 1971 showed that staff turnover was particularly high for Saturday-only employees, most of whom were still at school, at an average annual rate of over 100%.

III Earnings in Retailing

166. Pay levels in retailing in Great Britain are recorded in the New Earnings Survey 1983. Table 5.3 shows average earnings of full-time adults

Table 5.3

AVERAGE EARNINGS OF FULL-TIME ADULTS IN VARIOUS OCCUPATIONS IN GREAT BRITAIN - IN APRIL 1983

	Gross Weekly Earnings £	Gross hourly Earnings £
MEN		
Managers - Dept. Stores, etc.	171.2	N/A
Branch Managers of other shops	162.4	N/A
Sales Supervisors	154.7	3.88
Salesmen, shop assistants, shelf fillers	118.8	2.89
Production and Works Managers	211.8	N/A
Supervisors of Clerks	167.7	4.39
General Clerks	130.6	3.36
All non-manual occupations	194.9	5.03
All manual occupations	143.6	3.19
All occupations	167.5	3.98
WOMEN		
Branch Managers of other shops	110.8	N/A
Sales Supervisors	95.5	2.46
Saleswomen, shop assistants, shelf fillers	73.4	1.91
Retail shop check-out operators	74.9	1.91
Office Managers	151.2	N/A
Supervisors of clerks	138.2	3.72
General Clerks	96.9	2.62
All non-manual occupations	115.1	3.09
All manual occupations	87.9	2.22
All occupations	108.8	2.88

SOURCE: New Earnings Survey 1983 Part A Tables 8,9 at April 1983. Retailing earnings are below the average for the economy generally, and this is true for all grades of workers. Full-time retail workers also work slightly longer average hours than in other non-manual occupations (Table A12 on page 302), but weekly earnings overall are still lower than average. One striking feature of Table 5.3 is the large difference between the earnings of men and women in retailing. In 1983 gross hourly earnings of women shop assistants were only 66% of those of male shop assistants. Table 5.3 only shows the earnings of full-time adults. Rates paid to young workers and part-timers are generally somewhat lower.

167. In comparison with other occupations little overtime is worked in retailing and consequently overtime pay makes up only a small proportion of total earnings. Women shop assistants are heavily dependent on basic pay and receive little in the way of overtime, payment by result or shift pay. In contrast, such payments amount to 18% of the weekly earnings of male shop assistants. (Table A13 on page 303).

168. Retailing has traditionally been seen as a poorly paid sector with relatively weak trade unions. The principal shopworkers' union, USDAW, had 437,854 members in 1982 of whom one third were employed outside retailing. The remaining membership is heavily concentrated in multiple retailers and particularly co-operatives. Wages Councils were established in the late 1940's. A reorganisation in 1979 established the two Councils whose operations presently cover the sector, the Retail Foods and Allied Trades Wages Council, and the Retail Trades (Non Food) Wages Council, each of which governs pay, [illegible] holidays and holiday pay for around half a million employees.

Although there are small differences the minimum payments for equivalent grades in these two sectors of retailing move very much together.

169. In Table 5.4 we report the results of a comparison for 1983 of Wages Council rates with information on the distribution of earnings in retailing from the 1983 New Earnings Survey. Wages Council rates effective from 4 April 1983 were £1.69 per hour in both food and non-food for the lowest-grade adult worker outside London. Average hourly earnings of males in retailing on 6 April 1983 were 76% above these rates for food and 92% for non-food, and only 6.5% of male workers in food and 3.4% in non-food earned less than £1.80 per hour. Womens wage rates, however, seem to be closer to Wages Council rates. Average female hourly earnings in food were only 17%, and in non-food, 34%, above the minimum, and some 41% of women in food retailing, and 22% in non-food, were paid less than £1.80 per hour. Many multiple retailers pay slightly more than the Wages Council rates (Table A14 on page 304). Although pay is in these cases not directly determined by the Wages Councils, the pattern of pay settlements in retailing both influences and reflects their activities. Increases in Wages Council rates are normally effective from a date in April of each year, and the settlement dates of most retailers are fixed at or about the same time. The rates operative in 1984 are shown in Table 5.5.

170. Wages Council rates also govern minimum Sunday payments. These require that Sunday working in all retailing except retail newsagency, tobacco and confectionery outlets should be paid at twice the hourly rate prescribed by the rates of Table 5.5, which refer to a 39 hour week. For these others, the rules stipulate a 1.5 times premium. In addition, hours worked up to 4.5 hours must be paid as for 4.5 hours, while a shift of between 4.5 and 8 hour

Table 5.4

WAGES COUNCIL RATES COMPARED WITH NEW EARNINGS SURVEY

Wages council rates effective 4th April 1983

£1.69	Retail Foods Council	)	Lowest grade adult worker outside London
£1.69	Retail Non-food Council	)	

Wage Councils	Average hourly earnings excluding effect of overtime	Percentage with hourly earnings less than £1.40	£1.60	£1.80	Hourly earnings Lowest decile	Lowest quartile
MEN						
Workers covered by:						
Retail Food Council	2.98	–	–	6.5	1.93	2.28
Retail Non-Food Council	3.26	–	–	3.4	1.95	2.25
WOMEN						
Workers covered by:						
Retail Food Council	1.97	2.1	9.2	41.4	1.62	1.73
Retail Non-Food Council	2.27	1.1	3.0	22.1	1.71	1.82
OCCUPATIONS						
Men - Salesman, shop assistants, shelf fillers	2.89	–	–	11.9	1.77	2.06
Women - saleswomen, shop assistants, shelf fillers	1.91	4.9	12.4	48.6	1.56	1.69
check-out operators	1.91	0.7	3.4	38.3	1.68	1.76

SOURCE: New Earnings Survey 1983 Part A Tables 2, 3, 20, 21, 22 & 23

NOTE Wages Council rates effective from 4th April 1983 were used for the comparison since the 1984 New Earnings Survey is not yet available

Table 5.5

WAGES COUNCIL RATES EFFECTIVE FROM 2 APRIL 1984

£ PER HOUR

	FOOD		NON-FOOD	
	London	Outside London	London	Outside London
Manager	1.98 - 2.13[1]	1.92 - 2.07[1]	1.97 - 2.01[2]	1.90 - 1.94[2]
General Assistant				
Aged 19 or over	1.89	1.83		
18	1.61	1.54		
17	1.38	1.32		
Under 17	1.22	1.15		
Skilled Assistant				
Aged 19 or over			1.90	1.84
18			1.63	1.56
17			1.35	1.29
Under 17			1.17	1.10
Transport Worker				
Aged 19 or over	1.89	1.83	1.90	1.84
18	1.61	1.54	1.63	1.56
17	1.38	1.32	1.35	1.29
Any other worker				
Aged 19 or over	1.88	1.82	1.89	1.83
18	1.60	1.54	1.62	1.55
17	1.38	1.31	1.34	1.28
Under 17	1.21	1.15	1.16	1.10

1. Depends on weekly turnover
2. Depends on number of staff in the store

Source: Wages Council Orders
Retail Trades (Non-Food) NF (16) 27.3.84
Retail Food and Allied Trades RF (17) 23.3.84

must be paid as for 8 hours. These rules apply both to full-time and part-time employees. Broadly similar rules apply to working in a weekly rest day or a customary holiday. Wages Councils also specify overtime rates: hours in excess of 39 per week must be paid at 1 1/2 times the basic rate. Saturday and overnight (8pm to 6am) working attracts a premium of 20% above the Wages Council minima.

IV Sunday Working in the Economy Generally

171. The latest survey to provide any detailed information on the nature and extent of Sunday working in the United Kingdom was conducted in 1975 by the Office of Population Censuses and Surveys, 'Labour Force Survey'. Around 15% of those in employment worked 'regularly' on Sundays and 19% worked 'occasionally' on Sundays. Unfortunately, these concepts were not quantified, but if we interpret 'regularly' as one Sunday in three and 'occasionally' as one Sunday in eight, around 1.7 million people, or 7.3% of the total labour force, might then have been working on any particular Sunday.

172. Sunday working in 1975 was very much a male preserve, with males constituting 75% of the regular Sunday workforce and 82% of those who worked on Sunday occasionally (Table A16 on page306). Sunday working in 1975 was mostly confined to service industries - transport, the Health Service, hotels and catering - with retailing a very small Sunday employer (mostly in newsagency and take-away food). (Table A17 on page 307). There seems to be little resistance to Sunday working in these industries, and several employers told us that it was taken for granted by their employees as an

integral part of these employments. Double time is prescribed for Sunday working in retailing in general, although the rule for retail newsagency, where Sunday working is common, requires only time and a half. In the economy generally where Sunday working is unusual, double time is the common practice. In industries where Sunday working occurs more frequently, the premium is often lower. The Wages Council for the catering and licensed trades prescribes no premium for Sunday working, and in general none is paid.

173. 'Sunday only', or 'Saturday and Sunday only' working is relatively unusual in Great Britain. However it is notable that a substantial proportion of regular Sunday employment occurs in industries, such as the railways and health service, with a high degree of unionisation and relatively traditional labour practices. Retailing, by contrast, is characterised by less strong unions and exceptional flexibility in the use of labour. Hotel, catering and licensed trades are more, but not at all closely, analogous.

V Sunday Working in Retailing

174. Several retailers who currently trade on Sundays provided details of the way in which they meet their requirements for labour on that day, either in evidence to the Committee or for the specific purpose of our inquiry. Broadly speaking, such requirements are handled in two ways. Weekday staff are rostered on a basis which makes provision for Sunday working, or part time staff can be recruited for this specific purpose. Both these approaches are adopted by major retailers. For example, most of Asda's Sunday staff work for the company on that day only, while Underwoods, which opens a number

of Central London shops for the sale of pharmaceuticals, toiletries and some other household items on Sundays, does so on the basis of rosters which treat Sundays more or less the same as days of the week.

175. The difference between these two methods of staffing is, however, considerably less sharp than it might at first sight appear. Any retailer trading on a Sunday is likely to want some of his full-time staff present, either for their particular skills or expertise or in order to fill supervisory or managerial positions. In some cases this may be reversed; Underwoods employ some pharmacists in 'Sunday only' positions, while more junior staff may be full-time employees. Moreover, because part-time working in retailing is already so extensive, there is an infinite gradation of possible varieties of employment in between the polar cases of full-time 39 hour week employees and the Sunday only worker. It is possible for Sunday to be a major part, though not the whole, of an employee's part-time job; and it is likely that many workers currently employed on a Saturday only basis would wish to work on Sundays also, or instead, if such employment was available.

176. It is clear from the experience of those retailers currently opening on Sundays that the proportion of Sunday labour supplied by part-timers is substantially higher than the proportion of weekday labour so provided. For those retailers providing evidence to the Committee the average Sunday figure was between 70% and 85%, as against 41% for the retail trade as a whole over the whole week. A similar picture was painted by those retailers who currently open on Sundays and who provided information on their employment of part-time workers in response to our general retailing questionnaire. On average, these companies employed part-timers (below 30 hours per week) for 30% of their workforce during the week and 53% on Sundays. If this pattern

was extended as a result of more widespread Sunday opening then the type of Sunday working which resulted would be significantly different from that in those non-retailing sectors where Sunday trading is already widespread, as described above.

177. The composition of Sunday labour also differs from that on weekdays. Because of the extra cost of Sunday working, a number of functions are generally restricted on Sundays and left to weekday opening hours. These include reception of goods (although this might change if Sunday opening became widespread), stock-counting, shelf-filling and most administration. As most of them appear to be related to the overall volume of sales, their non-performance on Sunday raises the requirement for weekday labour - but only to the extent that Sunday trading increases sales.

178. The level of skill of labour employed on Sundays is, on average, lower than that required during the rest of the week. This is principally because most management tasks are performed during normal working hours, and only basic supervisory functions are performed on Sundays. Skilled trades such as butchery and display are not normally exercised on Sunday. The average level of basic remuneration, before supplementation by premia for Sunday working, is therefore lower than the average for retail employment as a whole. Information on the pattern of employment provided by retailers with experience of both six and seven day trading shows a lower percentage of management, office and stock handling staff and a higher percentage of check-out operators working on Sunday as compared to Monday-Saturday.

179. Who would the new Sunday workers be? A variety of indications are available. First, and probably most important, are the employment practices of traders with experience of Sunday trading. We have already noted that these practices differ, with some retailers - like Asda - employing Sunday-only staff and others developing - like Underwoods - roster systems. Of the new employees identified to us in case studies and to the Committee in evidence, over half were students or young persons and most of the remainder married women.

180. However, the present market for Sunday labour in retailing is not extensive in England and Wales, and the experience of those few retailers who do open may not be representative of those who would open following a relaxation of legislation. A second source of information might therefore be the employment experience of existing employees. We saw earlier in this chapter that the main Sunday employers, British Rail, London Transport, and hospitals, tended in 1975 (the latest data available) to employ predominantly males on Sunday and to avoid the employment of young persons. We understand that Sunday working , at a high wage, is often used as a reward for productive employees.

181. We consider incentives to Sunday working below. There are also fiscal discincentives. The marginal tax rate which would be levied on Sunday earnings is particularly relevant. Many wives of low-paid workers face extremely high marginal tax rates on their income; Family Income Supplement, for example is withdrawn at 50% on all but the first £15 of wives' income, Housing Benefit at between 23% and 40%; income may also be subject to National Insurance Contributions and income tax. Young persons and students

on the other hand would probably face much lower marginal rates on their Sunday working.

182. Information on who are the current Saturday only workers can also be used to give an indication of those who would be likely to be the Sunday only workers should trading hours be liberalised. The most recent information available on Saturday working in retailing is from a survey by the Department of Employment and Productivity in May 1968 reported in the December 1968 issue of the Department of Employment gazette. They found that 75% of Saturday only workers were under 18 (of whom 64% were girls) and 87% were under 21.

VI Premia for Sunday Working

183. The pattern of double time for Sunday working in the retail trade is reflected in most collective agreements in the sector and in the practice of the majority of retailers who do not have collective agreements. The premium for Sunday working is in some cases inflated further by the criteria for the calculation of Sunday hours. It is clear that the status of this 'double time' rule is essentially that of a well-established convention. It reflects, but does not necessarily measure, the inconvenience of Sunday working. The present premium for Sunday working is not necessarily that which would need to be paid to attract the amount of labour required to staff actual or prospective Sunday opening. We shall call this latter premium, which would depend on the extent of Sunday opening and which might be greater or less than the existing premium, the market premium.

184. The existence of a divergence between the conventional premium for Sunday working and the market premium has significant economic implications. The conventional premium might prove to be less than the market premium. In this case, Sunday opening could only be maintained by implied or explicit pressure on weekday employees, since the numbers coming forward voluntarily would be less than the number required to keep stores open. An extension of Sunday opening in these circumstances would be a disguised wage reduction.

185. Conversely, suppose the conventional premium exceeds the market premium. Then Sunday working would generally be sought after, and an extension of opportunities for employment on Sundays would have the effect of a wage increase - the additional earnings desired from Sunday working would more than compensate for the additional inconvenience involved. (The situation would be analagous to the common, but widely criticised, practice in which low basic wage rates are boosted by conventional or even artificial overtime practices.) Labour costs would rise, but mainly as a result of an increase in the real earnings of employees in the retail sector, and it is clearly important to distinguish between this form of increase and rising labour costs which would be the result of reduced efficiency in the employment of retailing labour. This appears to describe the present situation. Those retailers who do open on Sundays encounter little difficulty in obtaining labour and indeed several retailers used the opportunity to work on Sundays at double time as a means of rewarding deserving employees. With the present extent of Sunday working, the conventional premium exceeds the market premium.

186. In either case, there would be more wide ranging consequences. If unpopular Sunday opening were to be imposed on employees, retailing would become less attractive as an occupation and the need to attract staff would tend to raise the general level of weekday earnings. If, on the other hand, the opportunity to work on Sundays at high premium rates were welcomed by many employees, retailers would be under less pressure to increase the scale of basic pay rates.

187. Some of these effects can be seen in responses to Sunday working elsewhere in the economy. The 'double time' principle is commonly observed in areas of the economy where Sunday working is relatively unusual. Where there are in fact substantial requirements or opportunities for Sunday working, practice is more mixed. Premia in excess of double time are virtually unknown, but smaller ones are not uncommon. This may be because double time is in fact above the market premium, and employers for whom Sunday working is a matter of importance have wished or been forced to adjust their Sunday premium to market levels. Or it may be because an unpopular contractual obligation to work on Sundays is partly reflected in a higher basic rate of pay. We would judge that there is some truth in both these explanations.

188. In any case, it is clear that if the conventional premium persists, its relationship to the market premium is an important element in the interpretation of the economic consequences of extended trading hours and in assessing the gains and losses to employees which would result. But is it certain that the conventional premium will persist, either because Wages Council rates might be changed or because Wages Councils might be abolished?

189. The relationship between the conventional premium and the market premium would certainly change if Sunday working became much more extensive. We have assumed for most of our analysis that the double time rule would continue. But current experience both in the retailing sector itself and in other areas of the economy where Sunday employment is substantial suggests that double time is more than is needed to attract the labour required. If that is so, then the growth of Sunday working would be equivalent to increasing wages in the retailing sector. It is important in assessing the overall effects to distinguish between volume changes and those which merely cause a transfer of resources. If more staff are needed to deal with Sunday customers then real economic costs are incurred; if the same staff are paid more this is merely a transfer from retailers to their employees. The same observations apply to premises. If smaller premises are required, then real savings have been made; if the rent of existing premises falls they have not been. This issue arises in para 130 where we discuss likely movements in retailing rents. Some of the apparent costs of Sunday trading are simply increases in real wages. To this extent, the calculations of the additional cost of Sunday working which we undertook in Chapters 3 and 4 overestimate the real economic cost involved and understate the potential benefits of Sunday trading.

VII Labour Requirements in Retailing

190. The staffing requirements of retailing depend partly on the size of the store; partly on the average sales volume of the store; and partly on the peak volume of demand in the store.

191. There is no 'typical' store in this respect, since all retailers differ depending on the size and style of their operation and the commodities which they sell. We have carried out a number of case studies on the subject and interviewed experienced retailers with a view to establishing the importance of each of these factors. We found particularly helpful in this respect the extensive analysis carried out by Woolworths as the basis of their store staffing model; it formed the basis for our analysis of the determinants of retail employment by store.

192. On this assessment, it is evident that labour requirements in retailing are now overwhelmingly determined by sales volume. We estimate that the elasticity of labour requirement with respect to sales, at given levels of the other factors we have identified, store size and peak demand, is between 0.8 and 0.9. By this we mean that if the overall turnover of a store of fixed size were to increase by 1%, the volume of labour employed in that store would increase by between 0.8% and 0.9%. This figure would not be significantly affected by the pattern of this turnover; it would not matter much whether the additional expenditure occured principally at peak or at off-peak times, and we can find little evidence that the elasticity of employment with respect to peak demands on retailing is significantly more than zero. These results appear to hold even for the relatively small stores providing as few as six full-time equivalent jobs.Store size does influence labour requirements, independently of turnover, but not substantially. The elasticity of employment with respect to store size is in the range 0.05-0.1. The fact that the sum of the elasticities we have identified is slightly less than one indicates that there are some scale economies in labour requirements for retailing, although they do not appear to be great.

193. It appears that modern retailing methods have enabled the demand for labour to be more closely related to the average volume of business, and less to store size or demand pattern. This has been achieved by increasing the proportion of his or her time which any assistant spends in actually dealing with customers. Self-service provision enables each assistant to cover, or take money for, a wider range of goods. More flexible staffing practices have increased the extent to which staff on duty are present when customers require them rather than just when the store happens to be open. Smaller retail outlets have less scope for these methods but can achieve similar results in other ways; for example, by using spare time between customers for routine tasks such as shelf stocking.

194. These empirical findings yield an obvious conclusion. Changes in trading hours could have a significant effect on overall retailing employment only if they had a significant effect on overall retail sales. If, as we have suggested, this latter effect would be unlikely, there would be little overall change in retailing labour requirements as a result of changes in trading hours. There might be significant shifts within the total, so that opponents of extended opening would be able to point to job losses and supporters to job gains, but this would be within the context of a broadly static total. In order to determine this distribution we now consider more specifically how these changes might arise.

195. We have used the evidence described above, in conjunction with our retailing cost model, to estimate the likely effect of opening levels as generated by our 'main case' assumptions in which outlets representing some 40% of retailing turnover open. We have done this by using detailed

information on the employment structure in each type of outlet and relating this to imputed movements in labour costs.

196. The total number of employees in retailing in Great Britain is around 2.2 million. Of these, an average of around one million are at work during weekday opening: most employees work for less than the full trading hours of the shop in which they work and many for much less. To open rather less than half of the retail outlets in Great Britain on Sundays would therefore require that rather less than half a million workers should attend on that day. In fact, the results of our detailed analysis, based on our retailing costs model, show that significantly less employment would be created than this rather crude calculation suggests. This is because those shops which would be likely to open on Sundays would be those which use less labour than the average - clothes shops, for example, are less likely to trade on that day, and within each sector high labour cost establishments are those which would find Sunday trading less attractive. Relatively few management and supervisory functions would be undertaken on Sundays, and a number of other tasks would be deferred in order to be performed more cheaply during the week. Overall, we estimate that about 350,000 workers would be needed to permit the degree of Sunday opening we have described. This is equivalent to approximately 73,000 new full-time jobs and, on the mixture of part-time and full-time workers we have assumed, would draw an additional 110,000 workers into retailing.

197. This is not, however, the end of the story. We noted in Chapter 3 that with a premium for Sunday working, employers would economise on staff actually employed, and fulfil certain functions by employing additional

staff, at normal wage rates, during the week. We estimate that these effects would, in our base case, add either 22,000 full-time equivalent jobs, or some 30,000 actual - part-time or full-time - jobs.

198. These gains would be offset, although not immediately, by a decline in weekday employment. Average weekday sales would fall as a result of Sunday opening and peak demand by rather more. The estimates in Table 5.6 assume that average demand during the week would fall by 7% and peak demand by 11%, implying a 5.9% overall fall in staffing requirements; but would be offset by a 1.3% increase in weekday demand as a result of functions deferred from Sunday such as clerical activities and stock-handling. Overall there would be a small decrease in the total number of full-time equivalent jobs, which translates into a small increase in the actual number of jobs. This is because a higher proportion of Sunday working than of weekday working would be provided by part-time labour. The effect on earnings would be substantial and positive. Assuming double time is paid for Sunday working, the increase in employee remuneration for Sunday working is estimated to be some £700 million. Deferred functions due to Sunday trading, but carried out (at normal wages) during the week, are estimated to add a further £125 million to the wage bill. These cost increases would be offset to a large extent by the reduction in weekday trading requirements, which, we estimate, would reduce the total of employee remuneration by some £500 million.

199. Overall, the short-run impact is estimated to be a decrease of about 5,000 full-time jobs in retailing. As described above, this translates into an increase of about 5,000 actual jobs due to the shift towards part-time work. Overall, employee remuneration in the short-run would be likely to rise by some £325 million.

Table 5.6

THE EFFECT OF SUNDAY TRADING ON EMPLOYMENT

	Full-time Equivalent Jobs	Total number of jobs	Employee remuneration (£m.pa)
Short-run effects			
New Sunday jobs	73,000	110,000	700
Additional weekday jobs	22,000	30,000	125
Lost weekday jobs	- 100,000	- 135,000	- 500
	- 5,000	+ 5,000	+ 325
Longer run effects	- 15,000	- 20,000	- 75
Eventual effect	- 20,000	- 15,000	+ 250

SOURCE IFS Retail Cost Model

200. These numbers should be measured in relation to total employment in retailing of some 2.2 million, or 1.7 million on a full-time equivalent basis, and total employee remuneration of approximately £10 billion. Even in the short-run, the volume of goods sold determines labour requirements to a much greater extent than the number of trading hours. There are here two counteracting factors within an overall constant level of sales; first, longer hours mean more staff, irrespective of the number of goods sold, and second, a more uniform pattern of demand means that labour can be utilised more efficiently. According to our estimates the first is, marginally, more important than the second.

201. In the long-run, as we discussed in Chapter 4, the reduction in peak demand created by additional shopping opportunities would reduce overall retailing capacity and therefore reduce labour requirements. The second part of Table 5.6 presents our estimates of the effects, again with 48% opening. Our computer model indicates that with an 11% reduction in peak demand, on average, and a 7% reduction in average weekday demand, we estimate that capacity would fall by a little over 9%. We estimate that this implies a fall in weekday employment of some 15,000 jobs, about two-thirds of them full-time. Total employee remuneration would fall by some £75 million.

202. Overall then, in the event of removal of restrictions on Sunday trading, we estimate a reduction in labour requiremnts of approximately 20,000 full-time equivalent jobs. These job losses would be likely to be concentrated in particular sectors, namely DIY and food. Our results suggest that in the long run a total of some 12,000 full-time jobs (around 60% of the total job loss) might occur in the DIY sector, and some 4,000 jobs might be lost in food retailing. Again, we should note that this is based on a

comparison between effective prohibition and de-regulation and many of the effects we predict, especialy in DIY, may have already occurred.

203. Our sensitivity analysis also gives some indication of the effect on employment of varying our assumptions. A lower wage premium for Sunday of 1-1/2 times the normal rate would reduce the extent of job losses to around 18,000 full-time jobs. That a wage premium of 2-1/2 times would result in similar job losses might at first sight seem surprising. However, this reflects the fact that with a high wage premium, fewer stores open, with a consequent lessening of the effect on employment.

204. The more peak demand is assumed to determine labour or capacity requirements, the greater the job losses involved. For example, if labour requirements were 90% peak determined (a patently unrealistic assumption as our previous discussion indicates), total job losses would amount to around 80,000 in the long run. Likewise if capacity were 100% peak determined, approximately 23,000 job losses might be expected. Finally if sales were to increase by 5%, there would be gains in employment of around 50,000 full-time jobs.

205. Our conclusion that, in the long term, Sunday working would slightly reduce retailing employment may seem at first sight surprising. A number of retailers are able to point specifically to the additional jobs which they would create if Sunday opening were permitted. However it is much harder to identify the particular jobs which would be lost in the resulting shake-out in retailing. There can be no large increase in employment in British retailing unless there is a large increase in sales, and although Sunday

trading would lead to some increases for particular commodities and particular retailers it could not have large effects overall. The reason there would be a small reduction in employment is that Sunday opening would increase the efficiency of the retail sector, partly by accelerating the trend from less efficient to more efficient retail outlets, and partly by permitting more effective use of retail capacity. However, because Sunday working is so much better paid than retail employment generally, a substantial overall increase in retail earnings would be an inevitable result of Sunday trading.

APPENDIX A

Statistical information on retailing employment.

All tables are for Great Britain apart from Table A5 which is for the United Kingdom

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Appendix A.1

STRUCTURE OF LABOUR FORCE 1957 - 1983

RETAILING	CENSUS OF DISTRIBUTION/BUSINESS MONITOR					CENSUS OF EMPLOYMENT		
	1957	1961	1966	1971	1976	1976	1980	1983
Employees								
Male - Full-time	629.6	603.2	586.4	-	537.0	501.7	624.3	613.3
- Part-time	167.5	110.5	182.3	-	168.2	122.6		
Female - Full-time	809.1	736.4	726.5	-	605.7	553.4	553.3	493.4
Part-time	371.5	404.9	559.7	-	793.9	672.9	664.1	703.5
Total male employees	797.1	713.7	768.7	-	705.2	624.3	624.3	613.3
Total female employees	1,180.6	1,141.3	1,286.2	-	1,399.6	1,226.3	1,217.4	1,196.9
Total full-time employees	1,438.7	1,339.6	1,312.9	1,361.7	1,142.7	1,055.1	-	-
Total part-time employees	539.0	515.4	742.0	894.9	962.1	795.5	-	-
Total employees	1,977.7	1,855.0	2,054.9	2,256.6	2,104.8	1,850.6	1,841.7	1,810.2
Self-employed								
Male - full-time	-	227.3	243.4	-	211.9			
- part-time	-	33.9	33.0	-	20.4			
Female - full-time	-	155.4	164.3	-	123.9			
- part-time	-	67.1	60.1	-	42.4			
Total male self-employed	-	261.2	276.4	-	232.3			
Total female self-employed	-	222.5	224.4	-	166.3			
Total full time self employed	453.7	382.7	407.7	409.5	335.8			
Total part time self employed	137.4	101.0	93.1	107.5	62.8			
Total self employed	591.1	483.7	500.8	517.0	398.6			
Total engaged	2,568.8	2,338.7	2,555.7	2,773.6	2,503.4			

SOURCE: Census of Distribution
Retailing Inquiries
Employment Gazette, Nov 1977, Jan 1982, Sept 1983.

Table A.2

PRODUCTIVITY IN RETAILING, 1957 TO 1982

	Sales Revalued by the Retail Price Index to 1982 prices (£m)	Sales per Full-time equivalent (£ 000's)
1957	51,824.1	24.01
1961	55,661.5	25.78
1966	58,670.3	27.44
1971	62,574.4	31.36
1976	69,461.4	36.62
1980	71,071.8	39.92
1982	68,315.0	40.66

SOURCE: Census of Distribution, appropriate years
Retailing Inquiries, appropriate years

Table A.3

NUMBER OF ESTABLISHMENTS AND PERSONS ENGAGED, 1950 & 1982

	1950	*1982
Number of establishments		
Co-operatives	25,544	6,983
Multiples	53,949	70,509
Independents	503,639	261,482
All Retailing	583,132	331,991
Persons Engaged		
Co-operatives	179,181	116,000
Multiples	401,665	1,077,000
Independents	1,811,380	1,125.000
All Retailing	2,392,226	2,202,000

* In 1982 Co-operatives are included in Multiple and Independents
SOURCE: Robinson and Wallace, Pay and Employment: in retailing, Table 1.1
Retailing Inquiry 1982, British Business, 16th Dec 1983

Table A.4

PERSONS ENGAGED BY TYPE OF BUSINESS, 1961 & 1982

(Thousands)

	1961	1982
Food	1,026	800
Drink, Conf. & Tabacco	249	253
Clothing, footwear etc.	396	261
Household goods	264	260
Other non-food	237	208
Mixed retail	312	377
Hire and repair	-	43
	2,484	2,202

SOURCE: Census of Distribution, 1961
Retailing Inquiry 1982, British Business 16th Dec 1983

Table A.5

FULL-TIME EMPLOYEES IN RETAIL TRADE BY SEX AND QUALIFICATIONS 1974

	Male %	Female %	Total %
Top Management Personnel	2.0	-	1.1
Management Personnel and Senior Executives	3.7	-	1.9
Executives and Managerial Staff	19.9	5.1	12.2
Highly qualified junior personnel	18.2	9.3	13.6
Skilled junior personnel *	47.3	74.9	61.4
Unskilled junior personnel	8.9	10.7	9.8
	100.0	100.0	100.0

SOURCE: Commission on Industrial Relations, 1974. Table A1

* Skilled Junior Personnel - this includes sales staff without good specialised training and without wide knowledge of the particular trade.

Table A.6

QUALIFICATION OF LABOUR FORCE IN 1983

Qualifications	WOMEN (%) Distribution, hotels & catering, and repairs	WOMEN (%) All Industries	MEN (%) Distribution, hotels & catering, and repairs	MEN (%) All Industries
Higher Education	4.1	16.0	6.3	15.1
Other Qualification	37.2	38.5	53.9	49.9
No Qualifications	58.7	45.5	39.8	35.0
	100.0	100.0	100.0	100.0

SOURCE: Department of Employment Gazette, April 1983

Table A.7

TRAINING*COSTS PER HOUR - 1981 - BY INDIVIDUAL SECTOR

	Average Expenditure per employee, pence per hour	As percentage of total labour costs
Distributive trades	3.44	1.1
Manufacturing industries	6.89	1.8
Mining and quarrying	3.16	0.5
Construction	13.60	3.8
Gas, electricity & water	11.77	2.0
All index of production industries	7.97	2.0

* Training costs incldiung wage and salaries of apprentices and full-time trainees.

SOURCE: Department of Employment Gazette, May 1983

Table A.8

MARITAL STATUS OF WOMEN EMPLOYED IN RETAIL OCCUPATION IN 1971

		TOTAL	HOURS USUALLY WORKED 8 or less	8 - 30	Over 30	Not Stated
Proprietors and - Managers	Single, widowed, divorced	5,750	128	544	4,732	34
	Married	16,833	533	2,801	12,495	1,00
	Total	22,583	661	3,345	17,227	1,350
Shop Salesmen and - assistants	Single, widowed, divorced	25,606	988	3,932	19,895	79
	Married	50,658	2,678	28,122	18,835	1,02
	Total	76,264	3,666	32,054	38,730	1,81

SOURCE: Census of Population 1971, Table 24

Table A.9

AGE OF YOUNGEST CHILD OF MOTHER WITH DEPENDENT CHILDREN

Occupation	Percentage with youngest child between ages of		
	0-5	5-9	10-16
Selling	3	30	67
All Occupations	13	45	42

Source: Low Pay Unit survey of Part-time Workers, 1977

Table A.10

AGE DISTRIBUTION OF MALE AND FEMALE EMPLOYEES IN DISTRIBUTIVE TRADES AND ALL INDUSTRIES AND SERVICES - JUNE 1971

	MALE		FEMALE	
Age Group	Dist. Trades	All Industries & services (%)	Dist. Trades	All Industries & services (%)
15 - 19	15	8	21	13
20 - 39	39	41	32	39
40 - 64	41	48	40	41
65 and over	5	3	7	7
	100	100	100	100

SOURCE: Department of Employment Gazette, June 1972

Table A.11

DISTRIBUTION OF EMPLOYEES BY LENGTH OF SERVICE WITH CURRENT EMPLOYER, BY INDUSTRY - FULL-TIME WORKERS, APRIL 1979

Percentage with Length of Service of More Than 12 Months

	Retail Distribution	Retail Distribution - Food	Retail Distribution - Other	All Industries and Services
Men - Manual	85.0	84.6	85.4	88.9
Non-Manual	89.5	91.1	89.0	92.0
Women - Manual	80.7	-	81.6	86.2
Non-Manual	82.7	81.4	83.2	85.0

SOURCE: New Earnings Survey, 1979, Part E Tables 139-141

Table A.12

AVERAGE WEEKLY HOURS OF FULL-TIME ADULTS IN VARIOUS OCCUPATIONS - APRIL 1983

	Average weekly hours: Total including Overtime	Overtime
MEN		
Sales Supervisors	39.4	0.8
Salesmen, shop assistants, shelf fillers	40.2	0.9
Supervisors of clerks	37.9	1.2
General clerks	38.4	1.6
All non-manual occupations	38.4	1.3
All manual occupations	43.9	4.7
All occupations	41.5	3.2
WOMEN		
Sales Supervisors	38.8	0.5
Saleswomen, shop assistants, shelf fillers	38.3	0.3
Retail shop check-out operators	39.0	0.3
Supervisors of clerks	37.0	0.5
General clerks	36.9	0.4
All non-manual occupations	36.5	0.4
All manual occupations	39.3	1.2
All occupations	37.2	0.6

SOURCE: New Earnings Survey 1983 Part A Tables 8, 9

Table A.13

COMPOSITION OF AVERAGE GROSS WEEKLY EARNINGS
OF FULL-TIME WORKERS IN VARIOUS OCCUPATIONS - APRIL 1983

	Percentage of average gross weekly earnings			
	Basic Pay	Overtime	PBR	Shift etc. premium, pay
MEN				
Managers - Dept. Stores etc.	95.6	1.3	2.5	0.6
Branch managers of other shops	90.9	1.5	7.1	0.4
Sales Supervisors	90.5	1.7	7.0	0.8
Salesmen, shop assistants, shelf fillers	81.6	2.6	15.2	0.6
Production and works managers	95.2	1.8	1.9	1.0
Supervisors of clerks	94.0	3.8	1.4	0.8
General clerks	92.0	5.3	1.8	0.9
All non-manual occupations	93.3	3.1	2.8	0.8
All manual occupations	76.0	12.6	7.9	3.5
All occupations	85.4	7.5	5.1	2.0
WOMEN				
Branch Managers of other shops	94.7	1.4	3.7	0.2
Sales supervisors	96.3	1.8	1.3	0.6
Saleswomen, shop assistants, shelf fillers	96.2	1.1	2.0	0.7
Retail shop check-out operators	96.1	1.3	0.5	2.0
Office Managers	97.2	1.2	1.3	0.3
Supervisors of clerks	96.8	2.0	0.9	0.3
General clerks	97.0	1.7	1.1	0.2
All non-manual occupations	96.2	1.4	1.1	1.3
All manual occupations	85.7	3.9	8.0	2.5
All occupations	94.2	1.8	2.4	1.6

SOURCE: New Earnings Survey 1983 Part A Tables 8 & 9

Table A.14

COMPARISON OF WAGES COUNCIL RATES WITH INDIVIDUAL COMPANY WAGE RATES

Wages Council rates effective from 4th April 1983

£1.69	Retail Food W.C.)	Lowest paid adult outside London
£1.69	Non-Food W.C.)	

Wage rates in force at 6th April 1983 - for lowest grade adult worker outside London

	£ per hour
House of Fraser	1.81
Woolworth	1.72
Boots	1.80
Lewis Ltd.	1.80
Asda	1.83
B.H.S	1.73
Littlewoods	1.79
John Collier	1.84

SOURCE: Income Data Services Industrial and Relations Review and Pay and Benefit Bulletin , various issues

Table A.15

PAY RATES AND BASIC WORKING HOURS FOR THE LOWEST GRADE ADULT MANUAL WORKER IN THE MAJOR NATIONAL COLLECTIVE AGREEMENTS FOR 1983

	Operative date of last increase	Lowest Basic weekly rate	Basic Weekly hours
Retail Co-ops	May 83	67.55	39
Retail Multiple Footwear	Apr. 83	67.50	39
Retail Multiple Grocery	Apr. 83	67.00	39
Retail Meat - England & Wales	Apr. 83	65.80	39
Retail Bespoke Tailoring	Mar. 83	65.30	40
Retail Pharmacy	Apr. 83	65.00	40

SOURCE: Income Data Services, Pay and Benefit Bulletin

ESTIMATED NUMBER OF WORKERS (INCLUDING PART-TIMERS) COVERED BY THE PRINCIPAL NATIONAL COLLECTIVE AGREEMENTS

	Estimated coverage
Retail Co-ops	178,500
Retail Multiple Footwear	33,000
Retail Multiple Grocery	150,000
Retail Meat - England & Wales	40,000
Retail Pharmacy	35,000

SOURCE: 'Changes of Rates of Wages and Hours of Work', Department of Employment

Table A.16

THE COMPOSITION OF THE SUNDAY WORKFORCE IN 1975

		Working on Sunday	
		Regularly	Occasionally
Male	Full-time	73.8	81.6
	Part-time	0.9	0.9
Female	Full-time	15.8	10.2
	Part-time	9.5	7.3
		100.0	100.0
Percentage of total workforce		15.0	18.6
Number of individuals		3472.2	4317.9

SOURCE: Labour Force Survey 1975, Office of Population and Census Surveys

Table A.17

SUNDAY WORKING

Percentage of persons in employment working on Sundays or public holidays regularly or occasionally, 1975

Industry	Regularly	Occasionally
	%	
Agriculture, forestry, fishing	54.3	24.6
Mining and Quarrying	14.0	34.3
Food, Drink and Tobacco	13.6	17.4
Coal and Petroleum Products	25.2	26.4
Chemicals and Allied Industries	15.9	20.2
Metal Manufacture	29.7	21.2
Mechanical Engineering	6.6	23.3
Instrument Engineering	2.9	13.8
Electrical Engineering	3.7	17.4
Shipbuilding & Marine Engineering	17.2	37.9
Vehicles	5.5	21.5
Metal Goods Not Elsewhere Specified	4.3	16.0
Textiles	6.9	11.1
Leather, Leather Goods and Fur	3.5	13.1
Clothing and Footwear	1.5	7.0
Bricks, Pottery, Glass,Cement etc	15.0	19.4
Timber, Furniture etc	3.5	20.0
Paper, Printing & Publishing	12.9	19.9
Other Manufacturing Industries	7.0	13.7
Construction	6.5	30.7
Gas, Electricity and Water	20.3	23.1
Transport and Communication	29.6	27.2
Distribution Trades	10.1	14.7
Insurance, Banking, Finance and Business Services	4.4	11.9
Professional and Scientific Services	16.4	13.0
Miscellaneous Services	27.1	17.0
Public Administration and Defence	17.1	17.6
All Industries	15.0	18.6

SOURCE: Labour Force Survey, 1975

APPENDIX B

CAPITAL AND OTHER COSTS IN PUBLISHED ACCOUNTS

1. The capital costs of retailing are underreported in most studies of retail cost structures. There are two reasons for this. Retailers may own their property freehold, or may occupy it on leashold terms at less than current market rents. The correct economic treatment of these cases is straightforward. The opportunity cost of occupation is set by the value of the next best use, and this is measured by the market rent. (The position may be less straightforward where the value of a property for retailing far exceeds its value in any alternative use, a case which we have considered in Chapter 4). It is therefore necessary to take into account the difference between current rent and actual rent, if any, and reduce the net margin correspondingly. For those stores for which we have case studies, the retailers concerned estimated the current market value of their premises. From this information, we analysed the relationship between occupancy costs and other retailing costs and substituted estimated occupancy costs so derived for reported costs for other retailers.

2. Food retailers typically buy packaged groceries on credit and sell them for cash. If stock turnover is rapid, then goods will often have been sold before they have been paid for. Trade credit received could exceed the value of stocks and the net cost of stocks become negative. Although the accounting treatment of these items is correct, the apparent economic implication that stockholding costs are negative is misleading. Similar issues arise, though in less extreme forms, in other areas of retailing. A retailer buying on these terms obtains a package which includes both the

goods and a quantity of credit. It follows that the economically correct treatment is to subtract from the cost of goods sold the value of net trade credit received and to increase the gross margin correspondingly. The costs of holding stocks are higher by the same amount and hence the net margin of the retailer concerned remains unchanged. For some retailers who have a rapid stock turnover of groceries sold on low margins this adjustment has a substantial effect although in the majority of cases it is not material.

APPENDIX C

EXTERNAL EFFECTS OF SUNDAY TRADING

1. It was frequently suggested in evidence to the Committee that extended trading hours might have significant effects on costs which are consequent on retailing but not necessarily borne by retailers themselves. These include costs of policing, refuse disposal, street cleaning, and public transport. Most of these costs affect local authorities, and the Committee received evidence from local authorities with experience of Sunday trading as to their extent.

2. The City of Edinburgh and City of Glasgow Councils considered that although additional demand for refuse collection and street cleaning services was created by Sunday trading, the cost was minimal compared to the total cost of the council's services. For example, the City of Glasgow Council estimated the cost of refuse and street cleaning services (on both Saturday and Sunday) to be £54,800, compared to a total expenditure on these services of £25m in 1983. Further, even in the busy pre-Christmas Sunday trading period when many deparment stores were open, additional refuse collection vehicles were found to be unnecessary, as the normal Monday service could cope. Blackpool Borough Council also considered the cost of Sunday trading to be negligible in this regard, particularly as much of any extra Sunday cost was attributable to hotels and entertainment facilities.

3. With regard to additional parking problems and the costs of policing traffic, again the City of Edinburgh and City of Glasgow Councils reported no serious difficulties. Although there were some problems with the busy pre-

Christmas period in Edinburgh, much of this was attributed to the fact that weekday parking restrictions lapsed on Sundays. Scarborough Borough Council could envisage no particular costs in supervising parking, while Brighton Borough Council argued that the extension of meters and more off-street parking might in fact increase revenues.

4. One further local authority cost was mentioned by two councils: that relating to the enforcement of the Food and Drugs legislation and consumer and trading standards. Both Blackpool Borough Council and the City of Glasgow Council considered there would be no additional cost arising from Sunday trading, since available staff time would be redistributed over 7 days instead of 6, if required. There could, of course, be savings from any reduction in the need for enforcement of present trading restrictions.

5. There might be some beneficial effects on public transport facilities. At present, demand for public transport on Sundays falls so far short of capacity that quite substantial increases could be accomodated with effects on revenue far in excess of the effect on costs.

6. If an extra 5% more shopping trips were to be generated on Sundays we estimate that London Transport would gain approximately £1.7m in bus revenues and an extra £1.8m in underground revenues. On the other hand, if the extra Sunday trips merely represented a shift in shopping times from the rest of the week, then this would allow some savings to be made on the provision of peak hour services

7. On the basis of the local authority experience quoted above, we would expect Sunday trading to have little impact on total local authority expenditure. Further it is evident that any impact would not be material in relation to the direct costs and benefits of Sunday trading, and we do not consider it further.

APPENDIX D: THE SWEDISH EXPERIENCE

I. The Legislation

1. Sweden has had no control on business hours since the 1st January 1972, on which date the Business Hours Act of 1967 lapsed. The 1967 law stated that shops could only open between 8.00am and 8.00pm on weekdays. There was a range of exemptions for certain types of outlets and categories of goods, and the local authorities could allow further exemptions, subject to an appeal procedure.

2. A Committee of Inquiry was set up in 1971 to evaluate the law, and in its report "Free Opening Hours" (SOU 1971:33) proposed the total abolition of controls. In a statement to the Swedish Parliament in November 1971, the Minister for Commerce and Industry stated:

> "Legislation of this kind with exemption clauses and possibilities for dispensation is cumbersome from an administrative point of view. In many cases it has led to the service needs of consumers being dealt with unequally and the reciprocal competitive relationships of business being distorted."

3. The Act was repealed, and a Board of Business Hours was set up to monitor the situation under free trading hours. The Board reported back to Government in May 1975. The majority of the board recommended some form of control on business hours, and a Committee on Business Hours was appointed to analyse the material produced by the Board and recommend the necessary measures.

4. The Committee on Business Hours presented its report in July 1977. The members had differing opinions as to whether controls should be introduced, but the majority favoured some control. Nevertheless the Liberal Government decided in December 1978 not to propose any control of opening hours. Likewise in June 1980 Parliament rejected a bill put forward by the Social Democrats for the control of opening hours.

5. When the Social Democrats were returned to power in 1982 one further Committee of Inquiry was established. It found in favour of free opening hours, and in January 1984 the Finance Minister announced that unrestricted hours were to be retained permanently.

II. The Initial Response to Free Opening Hours

6. The most authoritative study on the initial impact of free trading hours is the 1977 Report of the Committee on Business Hours. This looked at price, structural changes and working conditions for employees over the first four years of deregulation.

7. In that period responses to free opening hours were, in general, cautious. The greatest response was from department stores (Sunday opening) and food shops (evening opening). (This pattern of opening is consistent with the distinction drawn between comparison and convenience shopping made in chapter 5). Table D1 shows that in 1972, the first year of free trading there was a substantial increase in the proportion of department stores opening on Sundays. In subsequent years the proportion declined, a decline which in fact continued until 1977. However, department stores represented only 4% of total retail trade and there was little Sunday opening by other

Table D1

SUNDAY OPENING 1971 TO 1974

Proportion of shops which open on at least 3 Sundays a month

	1971	1972	1974
Department Stores	7	30	22
Food Shops	3	3	5
Single-line retail trade	2	4	2

Table D2

EVENING OPENING 1971 TO 1974

Proportion of Shops open until 8.00pm or later

	1971		1974	
	Mon-Thurs	Fri	Mon-Thurs	Fri
Neighbourhood shops			80	
Food shops - Co-op	14	14	29	43
Private	16	19	24	27
Department Stores	22	54	20	38
Furniture	3	6	3	3
Clothing Shops	4	10		

SOURCE: Tomas Tetzell, "Business Hours", Unpublished paper for the Finance Department, 1983.

retailers - slightly more food stores were opening, but most other retailers remained closed.

8. Table D.2 charts the position on evening opening. It shows that more food shops (both Co-op and private) began opening later in the evenings. It must be remembered that in Sweden the working day finishes earlier than in the United Kingdom: many people have finished work by 3.30pm. Thus shops that close at 8.00pm or later provide substantial evening shopping opportunities.

9. It is interesting to note that the trend in evening opening times is the reverse for other types of retailers. By 1974 fewer department stores, furniture shops and clothing shops were opening late in the evenings, particularly on Fridays. (Most shops were also opening slightly later in the morning as well). This suggests that Sunday opening, by increasing the effective capacity in retailing, (as discussed in Chapter 4) has enabled stores to close at other, less popular, shopping times. The decline in newly established department stores, larger shops and supermarkets that occured over the period also reflects this increase.

10. The main area of expansion which followed deregulation was the creation of the neighbourhood shops. These carry a comprehensive range (but limited number of items) of convenience goods, in a maximum of 250 square metres of selling space, and remain open for at least 60 hours per week. (They are termed motorists' shops when attached to petrol stations). Both neighbourhood and motorists' shops have grown up entirely since the de-regulation of trading hours,taking advantage of the liberalization of

hours to provide an out-of-hours service previously uncommon in Sweden. Disregard of trading hours in these areas was, unlike in the United Kingdom, very rare prior to de-regulation. As the survey of several Swedish towns commissioned by the IFS indicated, much of their trade comes from being open at times when the larger supermarkets are shut. It appears that many of these stores are in fact traditional food shops which converted to the neighbourhood format to avoid closure.

11. The Committee on Business Hours also examined the likely effect on prices and profit margins. It concluded that Sunday trading was more profitable than weekday trading and that the Sunday cost premium had not affected the price level. (Swedish workers are paid double time on Sunday and after 8.00pm, and time and a half between 5.00 and 8.00pm). The Committee also noted that prices in shops that opened on Sundays tended to be lower than in shops that did not - a reflection of the general trend towards more efficient retailers opening on Sundays.

12. When examining the effect on employment, the Committee came to a number of conclusions. Firms appeared to have no problems recruiting staff, with at least a quarter of Sunday workers being specially employed for Sundays. Most of these were women and students, and many women felt that Sunday work provided their only employment opportunity due to the problems of childcare.

III. The Longer Term Effects

13. Twelve years on from the lifting of restrictions the current Swedish position indicates the longer-term implications of deregulating trading hours. Evidence on the current situation is available from a number of

sources. A Swedish Finance Ministry paper by T Tetzell (1983), a report for Woolworths on Sunday Trading in Sweden, and a special study commissioned by the IFS. The IFS survey covered 4 provincial Swedish towns, varying in population from 9,000 to 47,000 and examined current opening times and trading patterns of different types and styles of retailers. Essentially the picture that has emerged is that of a considerable increase in the extent of Sunday opening with some previously identified trends being taken further, such as the development of neighbourhood stores.

14. Our survey shows that shops open are mostly the big department stores and convenience food shops. There seems to be little evidence of many clothing outlets opening, and the medium to large food supermarkets tend to remain closed. A surprising feature of the Swedish experience is the small importance of Saturday afternoon - we were informed that most shops closed at lunchtime on Saturday.

15. The most marked development has been the continued rapid growth of neighbourhood and motorists shops. As Table D3 shows these have doubled in number since the 1977 Business Hours Committee Report. They now account for more than 15% of the total number of convenience goods shops and about 7% of sales.

16. Table D4 illustrates the considerably greater extent of Sunday opening by co-operative shops by 1983. Particularly noteworthy is the large proportion of furniture stores open on Sunday. The 26% figure for department stores in fact understates the significant increase in Sunday opening of such stores, since according to the Swedish Finance Department Report, the large

Table D3

DEVELOPMENT OF NEIGHBOURHOOD AND MOTORISTS SHOPS 1976 TO 1982

	1976	1978	1979	1980	1982
Neighbourhood Shops	400		625	706	730
Motorists Shops	230	300			600

Table D4

% OF CO-OPERATIVE SHOPS OPEN ON SUNDAYS, 1983

Obs (Hypermarkets)	71
Interior (Furniture)	47
Domus (Department Store)	26
Konsum (Supermarkets)	12
Servus (Neighbourhood)	98

SOURCE: T Tetzell, "Business Hours" Unpublished paper for the Ministry of Finance, 1983 private chain J S Saba has almost twice the proportion of stores open on Sundays as does the Co-operative KF. While the proportion of Co-operative supermarkets that open on Sundays has increased to 12%, evening shopping remains the more popular time for food shopping in these outlets.

17. One very evident feature is that Sunday opening is much more prevalent in Stockholm than the rest of the country. This is readily apparent from Table D5: Sunday sales of non-food items from Co-operative stores amount to 12% of their weekly trade in Stockholm, compared to 2% elsewhere. (The table also illustrates the great disparity that exists between the Sunday trade of different categories of goods.)

18. The regional opening pattern was also evidenced by the IFS Swedish Survey. Of the four provincial towns surveyed, only one had any shops other than convenience stores open on a Sunday. In fact the survey showed that most shops were open only on Saturday mornings, suggesting differences in the competitive environment in Stockholm and elsewhere.

19. Since 1973 the trend in employment appears to be that of increasing numbers of part-time workers. The Shopworkers Union is the only major group to remain opposed to free trading hours. They argue that extended hours create social problems for their members.

20. A small amount of information is available from consumer polls on the extent of Sunday shopping in Sweden, and on the characteristics of those who participate. An opinion poll carried out in March 1983 by SIFO (Swedish Institute for Opinion Polls) showed that 30% of householders shop regularly on Sundays, and a further 30% shop occasionally. Consistent with the MORI

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Table þ5

SUNDAY SHOPPING IN THE SWEDISH CO-OP, 1983

SWEDEN ex Stockholm

Type of shop	percentage of weekly trade by day						
	M	T	W	TH	F	S	S
Servus	13	12	13	13	16	18	15
Konsum	14	14	15	16	25	16	0
Domus food	12	12	13	16	29	18	0
Obs food	8	10	11	15	24	23	9
Total Food	13	12	13	16	26	18	2
Domus non-food	14	14	15	16	22	19	0
Obs non-food	10	10	12	14	19	23	12
Interior	15	12	15	15	20	23	0
Total non-food	13	13	15	16	21	20	2

STOCKHOLM

	M	T	W	TH	F	S	S
Servus	13	12	12	13	17	18	15
Konsum	16	14	14	16	24	15	2
Domus food	14	13	13	16	26	16	3
Obs food	10	10	11	18	24	19	9
Total Food	14	13	13	16	24	16	5
Domus non-food	15	15	15	16	19	16	5
Obs non-food	11	11	11	13	15	18	20
Interior	12	12	10	11	12	17	27
Total non-food	14	14	13	14	16	17	12

Servus - supermarkets
Konsum - neighbourhood stores
Domus - department stores
Obs - hypermarkets
Interior - furniture (out-of-town)

SOURCE: Woolworths report, "Sunday Trading - Lessons from Sweden", 1984 findings for Britain, in Sweden it is working parents and those with young children who make the greatest use of Sunday shopping.

APPENDIX E: PREVIOUS CONSUMER SURVEYS & THE IFS SURVEY

Questionnaires to Date

1. There have been a number of previous consumer surveys which undertook to discover (or at least touched upon) attitudes of consumers towards shopping hours. These are reviewed briefly here, to provide a picture of the development over the last 15 years of consumer attitudes and behaviour towards shopping hours.

2. The 1970 Bradley and Fenwick study was the first detailed study into attitudes towards shop opening hours. They found relatively little support for extensions to shopping hours, as can be seen in Table E1. Even amongst full-time working women, a group traditionally in favour of extended shopping times, the majority felt that the law should not be changed.

3. Another study into consumer opinions of extended trading hours was undertaken by NOP Market Research Ltd in 1978. It too did not find great support for longer trading hours, with 67% of respondents being against extending trading hours, and only 33% in favour.

4. However the more recent series of MORI polls indicates that there has been a significent shift of consumer opinion. Table E2 shows well over 60% of respondents in the early 1980's to be in favour of allowing both late night and Sunday trading. This increase in support for extended hours has a number of possible contributory factors. Support for extended hours by those working full-time has increased considerably. The November 1983 MORI poll showed 73% of these respondents were in favour of changes to the law, which

Table E1

SUPPORT FOR LONGER TRADING HOURS, 1970

	All	Male	Female	Full-Time Working Women
Law Should Be Changed	35	36	35	44
Law Should Not Be Changed	60	59	60	52
Don't Know	5	5	5	5

Question: Taking all things into account do you think the hours during which shops are open should be changed in any way?

Source: Bradley & Fenwick (1975), Table 54.

Table E2

SUPPORT FOR LATE NIGHT & SUNDAY OPENING 1981 TO 1983

a) Question: Do you think the law should be changed to allow other shops to open during the evening or not?

	Dec 81	Sep 82	Nov 83
Should	64	69	64
Should Not	32	28	30
Don't Know	4	3	6

b) Question: Do you think the law should be changed to allow shops to open on Sundays or not?

	Dec 81	Sep 82	Nov 83
Should	63	69	65
Should Not	33	29	31
Don't Know	4	2	4

Source: MORI Public Attitudes towards Shop Opening Hours, September 1983 and November 1983.

can be compared to the 41% in favour in the 1978 NOP survey. It is also likely that the increased publicity over shop hours in recent years has made the public more aware of the difficulties faced by full-time working women. It would appear that the high level of support shown in Table E2 for September 1982 may have followed from the publicity surrounding the bill sponsored by Ray Whitney MP.

5. Table E2 also shows that Sunday and evening opening attract almost identical levels of support. This is in marked contrast to the earlier surveys. In 1970, of those who thought that the law should be changed, 43% favoured later closing compared to 2% in favour of Sunday opening. This suggests the increase in support for Sunday opening has been much greater than for evening opening.

6. The distinction between convenience and personal shopping illustrated by Bradley and Fenwick has already been discussed in Chapter 4 (para 100). It is however, a distinction which finds some support in a panel survey undertaken in Cardiff in 1982. Evening shopping trips were found to be important for convenience shopping, with large expenditures being made compared with shopping trips made in the daytime during the week.

7. Finally, examination of these surveys raises two caveats which should be borne in mind. The Bradley and Fenwick (1975) survey showed clearly the difficulties that arise from the way in which questions to consumers are phrased. For example, the following question obtained a response of 55% in favour.

"Some people have suggested to us that it would be possible to change the law so that individual shops themselves could decide the hours during which they are open, instead of it being decided by law. What would you think of such a change?"

This compares to 35% being in favour of changing the law when asked:

"Taking all thing into account do you think the hours during which shops are open should be changed in any way?"

8. The second caveat is that raised in Chapter 3 (Para 78). That is, respondents find it difficult to imagine how their shopping habits would change in a different trading environment. The results of the various MORI polls suggest that respondents tend to specify as the goods they would be likely to buy on Sundays those which they are already accustomed to buying.

The IFS Questionnaire

9. Bearing in mind the problems raised from the review of past surveys, we now turn to the results of the IFS questionnaires. The IFS questions were designed to obtain some quantification of likely changes in shopping patterns in the event of deregulation, particularly peak/off-peak shifts. Hence the form of the questionnaire differs from previous surveys, but the results are nonetheless consistent with those already discussed.

10. Table E3 and E4 summarize the current shopping pattern of respondents for food and clothing respectively. Table E3 shows that a significant

Table E3

CURRENT PATTERNS OF FOOD SHOPPING

Q. When do you tend to buy most of your food and groceries?

	Total	Working Status		
		Full-time	Part-time	Not Working
	%	%	%	%
Monday to Friday	57	36	70	74
Mon - Fri evenings	16	24	16	9
Saturday	16	23	13	12
Sunday	-	-	1	-
Don't buy/Not stated	15	21	5	10

NOTE: % do not add to 100 where respondents entered more than one response

Base: All respondents

Source: MORI survey conducted for the IFS, 1984

Table E4

CURRENT PATTERNS OF CLOTHES SHOPPING

Q. When did you buy most of the clothes which you bought last week?

	Total	Working Status		
		Full-time	Part-time	Not Working
Monday - Friday (day)	66	59	62	73
Mon - Fri (evenings)	3	4	3	3
Saturday	29	35	31	23
Sunday	-	-	2	-
Do not buy/not stated	2	2	2	1

Base: All who bought clothes in last seven days

Source: MORI survey conducted for the IFS, 1984 proportion of food and grocery shopping takes place in the evenings or on Saturday. Also the popularity of these shopping times is considerably greater for full-time workers. Thus only 36% of people working full time currently buy their groceries during week-days, compared to 57% of the population at large.

11. This pattern of late-night or evening sales is not so marked for clothing, as Table E4 shows. Of those buying clothes in the previous week, 66% of all consumers and 59% of those working full time, made the majority of their purchases during a week-day. The emphasis on Saturday purchasing is very marked for clothing however. Only 3% of consumers bought clothes in the evenings, compared to 29% on Saturday. Food on the other hand shows a much more even split between Saturday and late-evening shopping, reflecting the distinction between comparison and convenience good shopping discussed earlier.

12. Consumers' perceptions of their use of Sunday shopping facilities for food and clothing (should Sunday trading become widespread) are summarized in Tables E5, E6 and E7. Table E5 shows that only 31% of people consider that they would do any Sunday shopping for groceries. (This proportion increases to 42% for full-time workers). However Table E6 indicates that of those who would shop on Sunday 27% would intend it to be a major shopping trip. Again this is more marked for those working full-time: 33% of Sunday shoppers who work full-time would expect to spend more than £10 compared to 27% of all Sunday shoppers.

13. Table E7 reveals similar conclusions regarding anticipated Sunday shopping for clothing. 30% of consumers expect that they would do at least

Table E5

ANTICIPATED SUNDAY FOOD SHOPPING

Q. If all shops were open seven days a week, including Sundays, how much of your food and grocery shopping would you expect to do on Sunday?

	Total	Working Status Full-time	Part-time	Not Working
	%	%	%	%
All/Most	3	5	3	2
About half/A little	28	34	27	22
None at all	66	57	69	73
Don't know	2	3	1	2
Not Stated	1	1	-	1

Base: All Respondents Source: MORI Survey conducted for the IFS,1984

Table E6

ANTICIPATED SUNDAY EXPENDITURES ON FOOD

Q. How much money would you estimate that you would spend on food on Sundays if all shops were open seven days a week?

	Total	Working Status Full-time	Part-time	Not Working
	%	%	%	%
Up to £5	65	56	74	76
£5 - £9.99	8	11	3	4
£10 & Over	27	33	23	20

Base: All who would do any food shopping on Sundays
Source: MORI Survey conducted for the IFS, 1984.

Table E7

ANTICIPATED SUNDAY CLOTHES SHOPPING

Q. If all shops were open seven days a week, including Sundays, how much of your clothes shopping would you expect to do on Sundays?

	Total	Working Status Full-time	Part-time	Not Working
	%	%	%	%
All/Most	8	11	10	5
Half/Little	22	30	20	16
None	66	55	66	75
Don't Know/Not Stated	4	4	4	4

Base: All respondents Source: MORI survey conducted for the IFS, 1984 some clothes shopping on Sundays, with 8% likely to do all or most of it on Sundays. Again the table shows that full time workers would be likely to make greater use of Sunday facilities, with 41% shopping for clothes on Sundays.

14. Other results obtained from our MORI survey have already been discussed in the body of our Report, in particular, the types of goods that people feel that they would be likely to buy on Sundays (para 78), and the likely shift in the weekly distributions of expenditure on food and clothing (paras 102 to 105). Rather than repeat those discussions, it suffices to say that the picture of shopping patterns indicated by the above results, namely who the current late-night and Sunday shoppers are, and expectations as to future shopping patterns should restrictions be lifted, provide some additional support for the analyses and conclusions of Chapters 3 and 4.

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