

The Law on Shop Hours?

A CO-OPERATIVE VIEW

by

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From its inception the Co-operative Movement has sought to combine a progressive attitude with a pragmatic approach. It has advocated measures which would help to improve the general condition of society while being healthily sceptical of apparent nostrums whose appeal diminished in proportion to the detail with which their claims were examined. Though Honore de Balzac is rarely quoted at Congress, Co-operators have an instinctive understanding of his aphorism that people can do without Kings and Governments, but they must have breakfast and dinner.

As Britain's biggest food retailer the Movement is, of course, greatly concerned with breakfasts and dinners, and with the foodstuffs that constitute them. It is not oblivious to Kings and Governments, for it is aware from continuing and often painful experience that the latter can create difficulties which impede the effectiveness of its operations and impose difficulties on its members. The proposed reform of the Shops Act is a case in point.

Amendment or Fundamental Change?

Of course, "reform" has two meanings. One is partially to reconstitute; the other, to improve through change. In general terms, the Movement seeks to reform the Shops Act in both senses, though its emphasis is upon the latter.

It considers that the Shops Act requires amendment. It disputes that this Act needs fundamental change. That some changes would be beneficial could hardly be denied. The present Act dates from 1950 and was itself a consolidation of several previous pieces of legislation. During the past 30 years almost 20 attempts have been made to revise it. But — *Tot Homines, Tot Sententiae* — hardly any of these attempts agreed fully with any other as to the exact reform required.

Broadly, however, the changes advocated have followed one of two forms. Some have sought the virtual abolition of all the Act's provisions. Others have attempted, by modifying it, to remove its most serious anomalies.

When a Private Member's Bill, presented by Mr Ray Whitney, sought in February 1983 to replace the Act by one which would permit shops to open at hours which their owners thought convenient, Co-operative members of Parliament successfully led the opposition to it. In the course of their contribution to the debate they emphasised the value that could

arise from a thorough examination of the present legislation.

A year ago, this review was established, a small committee chaired by Robin Auld, QC, being given the responsibility for undertaking a major inquiry. By the time you read these words, the Committee's report will have been published. Comment upon it will follow in another place at another time. Meanwhile, let us summarise the main points of the submission made by the Movement to the Committee of Inquiry, and examine the philosophy on which its views were based.

Co-operative Guidelines for Amendment

In its evidence the Movement advanced four principles. The Act should be amended rather than revoked. No increase should be authorised in permitted weekday shopping hours. The existing position on Sunday trading in Scotland should remain unchanged. Existing provisions on Sunday trading in England and Wales should remain unchanged except for certain revisions suggested.

These revisions mainly concerned commodities whose sale on Sunday is authorised by the Act. They sought to remove anomalies by defining more clearly and extending the range of permissible commodities. One consequence of this recommendation would be that it would be permissible for garden centres to trade on Sundays. The rationale for this argument was that, unlike most other forms of retail activity, garden centres contained within their appeal some element of recreation; in this sense an analogy with cinemas was suggested.

This illustration may help to correct any impression that co-operators are killjoys or latterday puritans. Like J B Priestley they believe in hard work and high jinks, but they feel that these activities, both laudable and necessary, can flower best when they are performed at different times.

Wide Backing from the Movement

Throughout, the term "the Movement" has been used to describe the source of the Co-operative view. That this is a valid description should be adjudged from the fact that, while the details of the submission were formulated by a Working Group of retail Society chief and departmental officials, its conclusions were endorsed by the Central Executive of the Co-operative Union and the CWS Board. Such comments as were received from societies after they had seen the submission were unanimously favourable. Perhaps this is not altogether surprising, for the main thrust of the Movement's argument on Sunday trading arose from replies (often with additional comments) to a detailed questionnaire offering a variety of options on this subject.

To emphasize this point, there can be little doubt that the revision of the

Shops Act was a subject examined in Co-operative board rooms throughout the country. As societies' directors are closely in touch with their active members, it is highly probable that the response of societies reflected accurately the views of their members. It is perhaps significant that hardly any response favoured the complete "liberalisation" of Sunday trading.

The Case for Limited Revisions —

It may be helpful to deal with two matters which, unless explained, may not be fully appreciated. Why did the Working Group opt for limited and partial revisions to the Act when it is accepted to be complex, cumbersome and often hard to interpret? Why did it accept the status quo on Sunday trading in Scotland?

Anyone who has read the 77 clauses and eight schedules of this awkwardly drafted Act will recognise that it could be improved with revision. Yet to attempt to reconstruct it, simultaneously removing the anomalies while retaining its spirit, would be a daunting task to essay, which might produce further unintended complications. It seemed better to concentrate on those areas where short and sensible revisions would serve the purpose adequately.

— And Let Scotland Stand Where It Does

Similarly, Sunday trading in Scotland is not widespread. To accept this situation, recognising that much Scottish law differs from that applying to England and Wales, seems reasonable.

The attitude underlying these decisions was an empirical one. It seemed rational and in the overall public interest to concentrate on the achievement of revisions to the Act which could be incorporated within it without great difficulty, permit relatively speedy implementation and encourage uniform enforcement.

Inevitably this approach will not commend itself to those taking a simplistic view of the subject. They contend that all restrictions should be swept away. These latter day Rousseau's see a conspiracy of selfish shopkeepers and myopic magistrates threatening the public from indulging in an insatiable craving for late evening and Sunday shopping.

The Dangers of Unregulated Competition

The advocates of unregulated competition overlook the dolorous experience of contemporary Britain. It is over five years since Mrs Thatcher began our economic emancipation, but the economy stagnates and the dole queues lengthen. Perhaps shopworkers anticipating the likely abolition of Wages Councils, do not cherish the prospect of a decline in real wages which could possibly be a corollary of extended shopping hours. There is

little evidence of a real wish by the public to change the character of the English Sunday.

The Co-operative Movement has traditionally believed in the right of shop-workers to enjoy reasonable hours of employment, and the need to respect the views of its large number of trading members. There is no demand in the Movement for later shopping hours or for the extension of Sunday opening. Can these nine million people, and those who represent them all be wrong?

Note of the Author

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