

# SUNDAY, SUNDAY

The Issues in Sunday Trading



Terry Burke & JR Shackleton



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by

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## 1. INTRODUCTION

Proposals to allow Sunday opening of shops in England and Wales are again on the political agenda. Despite the failure of the Thatcher government's previous attempt to deregulate Sunday trading, the arguments in favour of change are as strong as ever. They appear, moreover, to be supported by the general public. Unlike some other policy areas where the electorate's perceptions sometimes lag behind those of free-market radicals, here is an issue where opinion polls repeatedly report almost two-thirds of respondents supporting deregulation.

It seems that the government, chastened by its earlier defeat, is in a mood to reach a compromise solution (1). Those retailers promoting the cause of Sunday trading, such as the "Shopping Hours Reform Council", seem similarly inclined. This is an opportune moment, then, to consider the arguments afresh.

In this paper we review the failure of previous initiatives to legalise Sunday trading. We argue that deregulation has been thwarted by a coalition of special interests who have run - particularly last time it was attempted - highly successful campaigns. However their previous success in these campaigns does not necessarily mean that they would succeed again; still less does it mean that full reform should not be pursued.

It seems to us that any compromise solution - involving partial deregulation, with trading in some goods at some limited times on Sundays - is likely to throw up as many difficulties and anomalies as the current position. It should only be attempted if the arguments against Sunday opening are so powerful that they lead us to make clearly-justified and widely-agreed exceptions to the rule in favour of allowing market forces to operate freely.

In what follows we reexamine the arguments for and against Sunday trading. Although we find that there are some genuine causes for concern about the impact of deregulation, we also note a number of fallacious or inadmissible arguments. Much depends on the likely size of the impact of Sunday trading on costs, sales and employment. We examine theoretical reasoning about and quantitative forecasts of the impact of liberalisation in England and Wales. We also survey the evidence from other countries which allow much greater scope for Sunday trading - the United States, Sweden and Scotland.

Our conclusion is that the effects of full deregulation of Sunday trading have probably been exaggerated by both its opponents and supporters. We would expect Sunday opening to have a considerable impact in some sectors and locations and at particular times of the year (notably in the run-up to Christmas): however its



overall impact would be relatively modest. There would be some accentuation of existing tendencies in retailing - towards concentration in larger outlets, towards out-of-town sites and towards a greater use of part-time workers. However these effects would be likely to take many years to complete.

We can see no economic case for preventing these changes from taking place. We believe that any adverse environmental consequences from Sunday trading could be counteracted in other ways. While we accept that there is a case for providing some protection for those shopworkers with religious objections, we cannot accept that such protection necessarily involves a ban on Sunday shopping.

## 2.THE BACKGROUND

In reviewing the debate on deregulation, we need some understanding of how we got to the present position. Sunday trading has been regulated in one way or another in these islands for at least 500 years. Its original context was in a mass of other obligations and ordinances concerning the Sabbath, at one time requiring such commitments as regular Church attendance and archery practice. The industrial revolution broke down much of the force of Sunday observance at first, and revealed many injustices and contradictions. If we may be permitted to quote from Karl Marx in an Adam Smith Institute paper, *Das Kapital* points to the way in which a rural labourer could be imprisoned for working in his own garden on a Sunday (an activity which well predates the garden centres who are amongst today's keenest supporters of Sunday trading), while liable for breach of contract if he refused to work in a metal works on a religious foible' (2). In the later 19th century, religious objections to Sunday working became entangled with trade union attempts to restrict the length of the working week, a marriage of convenience which endures today.

The legislation which currently controls opening hours for the retail trade is the Shops Act 1950, which codified much existing law.

Part IV of this Act is concerned with Sunday trading. It forbids the serving of customers in England and Wales except for certain classes of goods. A list of such goods is appended as a schedule to Part V of the Act. It is from this that we get the bizarre contradictions which necessarily result from freezing the pattern of consumption and social mores of a long-vanished Britain. Such contradictions are well known, and we will not rehearse all the absurdities of a world in which you can buy Chinese takeaways but not fish and chips, magazines but not books, motor accessories but not garden equipment.

Almost from the start, the regulation of trading hours was felt to be irksome by one group or another, and there have been twenty attempts to reform the Shops Act in one way or another. In recent years the pace has quickened, and has concentrated on the Sunday trading issue.

Matters were brought to a head by the fate of a bill, proposed by Baroness Trumpington, which passed all its stages in the House of Lords in 1981. Despite this it failed in the House of Commons (where it was proposed by Mr Ray Whitney) even though there was a free vote, considerable all-party support and opinion polls which suggested a sizeable majority of public opinion in favour of liberalisation. The defeat of the Trumpington-Whitney bill was



seen by its supporters as resulting not from the intrinsic unpopularity of its proposals - far from it - but rather as the result of orchestrated opposition from religious groups, trade unions and the Retail Consortium. Ralph Harris called it a 'farrago of special pleading' (3).

After the failure of the Trumpington-Whitney bill it became clear that successful reform of the Shops Act would require government support. After the Conservatives were returned to power at the 1983 election, this support was forthcoming. It was made known that Mrs Thatcher and several of her leading ministers were in favour of liberalisation. However, rather uncharacteristically for a government which has usually had little truck with consensus, the first move was to appoint a Committee of Inquiry. In August Robin Auld Q.C. was appointed to chair the Inquiry, and in December the Institute for Fiscal Studies was asked to undertake a review of the likely economic effects of Sunday trading to assist its deliberations.

The Inquiry took fourteen months to complete its work, and conducted a thorough and informed analysis. It argued that the Shops Act should be maintained only if two criteria were met: that individuals, groups or organisations were entitled to legal protection, and if the Shops Act were the best way of providing that protection.

In examining Sunday trading, the Committee rejected the sabbatarian argument about the need to keep Sunday special and concentrated on definable groups potentially in need of protection. It distinguished retailers, shopworkers, consumers, residents in shopping areas and rate and tax payers. In examining the arguments, however, the committee came to the conclusion that only shopworkers' fears of being coerced into working longer hours had any plausibility, and that safeguards could be developed for their position outside the framework of the Shops Act. Accordingly the Committee came down in favour of abolishing the 1950 Act, rejecting any compromise position. Partial deregulation would, it was thought, eventually lead to more anomalies and the need for further reform.

A debate on the Auld Report in the House of Commons in May 1985 led to a victory for the government, which had recommended its adoption, by 304 to 184. But early warning of the difficulties the government was to face were given by 26 Conservative members who voted with the Opposition, and a significant number of abstentions on the government side.

The Queen's Speech at the beginning of the 1985-86 Parliamentary session gave notice of a bill to remove statutory restrictions on shop opening hours, and the Shops bill was accordingly introduced into the House of Lords, where it received its second reading on December 2nd 1985. The introduction of the bill in the Lords rather than the Commons was unusual, and may have been a tactical error. Although the bill eventually passed through the Lords with little difficulty, it gave opponents of the bill longer to



organise their campaign. And its initial smooth passage in the Lords may have lulled the bill's supporters into a sense of false security.

There is no doubt that the campaign against the bill was brilliantly successful, something which political analysts will discuss for decades to come. A bill which had strong backing from leading members of a new government with a big majority, and the intention of which opinion polls consistently showed well over 60% of the population to support, was nevertheless defeated on its second reading, on April 15 1986, by a majority of 279 votes to 227. This was only the second defeat of a government bill on second reading since 1924, and involved 72 Conservative back-benchers defying a three-line whip (4).

How did it happen? The campaign against the bill involved a curious alliance, including some retailers (5), shopworkers' unions and the churches. The main trade union involved was the Union of Shop, Distributive and Allied Workers. It linked with the Cooperative movement, which sponsors many Labour MPs, to persuade the Parliamentary Labour Party (quite a few of whose members had earlier been not unsympathetic to reform) that the bill was part and parcel of a larger move to undermine workers' living standards. For instance in the discussion it was frequently associated with moves being taken at the same time to limit the coverage and influence of Wages Councils.

Although USDAW also tried to use its grass roots membership to pressure MPs, the churches were vastly more successful. This was particularly so with Conservative members, who were unlikely to share trade union concerns but had to pay serious attention to key groups of churchgoers in their constituencies. The Church of England may no longer be the Conservative Party at prayer (more the SDP?), but there are still enough ties of loyalty and tradition, particularly at the local level, for the connection to matter.

The churches were organised by a body called the Pro-Sunday Coalition and claimed to have a total mailing list of over two million names, all of whom were exhorted to press their MPs to vote against the bill. This message was repeated in pulpits up and down the land. The General Synod of the Church of England voted 427 to 6 against Sunday trading, and petitions with over a million signatures were presented to Parliament. The Archbishop of Canterbury, the Catholic Archbishop of Westminster and the Moderator of The Free Church Federal Council also wrote to every MP asking them to reject the bill. But even more striking was the enormous volume of individual letters written in opposition to Sunday trading. Most MPs received hundreds of letters, the largest postbags on one subject many of them had ever received (6). The Home Office received over 40,000, and it is claimed that Mrs Thatcher's office received 20,000 from Ulster alone (7).

However impressive these figures may appear, they represent the outcome of a skilful pressure group operation rather than



spontaneous expression of opinion. Late in the day, large retailers in favour of the bill (notably members of the organisation Open Shop) woke up to what was going on and told their customers to write to their MPs to support it. In the last two or three weeks the number of letters written to support the bill was itself very impressive, but by then the damage had been done. Enough MPs had been convinced that there was a strong feeling amongst the general public against the bill.

In addition to the effects of pressure groups on voting intentions, there were further special factors. The government's handling of the bill was inept; for example, under back-bench pressure it first offered unlimited time for debate in committee, then appeared to withdraw this offer. The Labour Party saw an opportunity to embarrass the government and imposed a three-line whip; apparently some Tory rebels also saw it as an opportunity to chastise a leadership which was not paying enough attention to its sensibilities over a range of unrelated issues.

No doubt academics will puzzle for years over the exact cause of the government's humiliating defeat. But there seems widespread agreement that it had little to do with the intrinsic merits of the legislation. The need to reform Sunday trading is a genuine one, recognised even by many of those who oppose liberalisation: at the moment the law is a mess. So it is not surprising that the issue is back on the agenda. As we indicated earlier, since 1986 the pro-trading lobby seems to have moved to a compromise position, favouring limited Sunday opening rather than the complete abolition of the Shops Act. While it may be an understandable response to produce a second-best, fallback position - half a loaf is better than none - this may be too pessimistic a view. We have suggested that the government's defeat was as a result of some mismanagement on its own part and that of the pro-trading groups, and the unexpectedly successful tactics of its opponents. Insofar as the general public still seems to be as keen as ever on Sunday trading (8), there can be no suggestion that the government is flying in the face of public opinion, only in the face of organised pressure groups who are unlikely to be able to pull the same trick again.



### 3. ISSUES OF PRINCIPLE AND ECONOMICS

We now turn to examine the arguments which have informed the debate over Sunday trading in recent years. We start from our own position as economists.

As a group, economists tend to have much greater respect for the workings of the market than other people. Unlike many other intellectuals, they recognise the market's effectiveness as an allocator of scarce resources to competing uses, and as a transmitter of economically relevant information. Since the time of Adam Smith's *Wealth of Nations* they have understood that the apparently anarchic motive of individual self-interest can, via the market's 'invisible hand' (originally, incidentally, a religious metaphor), be translated into a socially beneficial outcome. Unlike some practical businessmen and women, however, economists also tend to be aware of the limitations under which markets operate. Smith himself, notably in his *Theory of Moral Sentiments*, realised that the possibility of mutually beneficial trade depended on there being a preexisting moral and social framework which the market could not create by itself. And Smith, like later economists, recognised that there could be examples of 'market failure' where there might be a case for government intervention. Examples of such market failures may be held to include the existence of externalities, market power or public goods problems (9).

Despite these qualifications, however, economists frequently start from a position that favours the free play of market forces as an incentive to meeting consumer preferences in the most efficient manner. If there are to be government restrictions on economic activity, such as laws against Sunday trading, they therefore need sound justification.

Clearly the Sunday trading issue involves a variety of different arguments, only some of which the economist, qua economist, can shed light on. However, we shall do our best.

#### 3.1 The Sabbatarian Principle

First, there is the Lord's Day Observance Principle. The Old Testament is the basic text here; Genesis 2:3 tells us that "God blessed the seventh day and sanctified it" while in Exodus 20:9-10 we are told "Six days shalt thou labour, and do all thy work: But the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work". The Jews of antiquity strictly maintained the Sabbath - Saturday in their case, of course - but by the time of Christ at least people varied in the strictness of their adherence. Jesus tells us in Mark 3:27 that "The sabbath was made for man, and not man for the sabbath". Ever since, there have been differences within the Christian Church on how rigorous observance should be. That there are differences between European Catholic and Protestant traditions is well known. Even the day of the Sabbath is not uncontroversial for Christians, with some sects (such as the Seventh-Day Adventists) preferring the Jewish



Saturday to the Christian Sunday.

This is a delicate matter. Against fundamentalist Christians who insist on a literal interpretation of the Bible, there is really no argument against Sabbatarianism except the observation that we live in a democracy, not a theocracy. Although there is a large penumbra of passive (births, marriages, deaths and the occasional Christmas carol service) Christians with a sentimental attachment to the religion of their ancestors, active and committed Christians are today a small minority of the population. Arguably there may be as many active Muslims in some parts of the country as there are Christians.

Moreover, even amongst regular church or chapel attenders strict sabbatarians are rare. The 8.8 million Britons who work on Sunday at some stage during a year (10) must include many believers. Most other Christians must also from time to time make use of facilities already offered on Sundays - public transport, restaurants, cricket matches, cinemas, tours of stately homes and visits to antique fairs - without feeling any qualms of conscience. Is shopping qualitatively different from these other uses of leisure time? Increasingly, shopping is one of the country's leading leisure activities and shopping centres actively compete with other venues by providing child-care, restaurant and entertainment facilities (11). It seems arbitrary to allow some types of leisure activity to take place but not others.

Furthermore, it seems a reasonable prediction that in localities where religious feeling is particularly strong, nothing would be likely to change if Sunday trading were to be legalised. The preferences of consumers in those areas would tend to be respected by shopkeepers - including those who were not themselves committed to strict sabbatarianism. Thus in parts of Scotland where the Free Presbyterian Church has a large membership, nothing moves on a Sunday - even though shopkeepers are legally free to open. Perhaps even more tellingly, we should look at areas where there is a large orthodox Jewish population. There is no legal restriction on Saturday trading, but many shops are closed in Golders Green and other parts of North London. Where religious faith is strong it needs no state enforcement.

### 3.2 Small Shopkeepers

If we turn from the fundamentalist view, economists begin to feel more comfortable. They see arguments based on strong doses of special pleading or fallacious reasoning, and they know from long experience how to rebut them. One such claim is that deregulation of Sunday trading will put small shopkeepers out of business, and that this is a bad thing. For instance, corner shops frequently open on Sundays semi-legally (they are allowed to sell a limited range of products but often sell other goods as well). If large supermarkets are allowed to open on Sundays, they will entice away the small shops' custom. We would dispute whether this would



occur on the scale some have claimed, as we note later, but for the moment suppose it did become a significant feature. Why would this be bad? All economic change must involve, of necessity, gainers and losers. Small shopkeepers would lose, but consumers would gain from lower prices or more attractive shopping environments - if they didn't, they would have stayed with their previous Sunday supplier (there may be some exceptions to this: we shall consider them in a moment). Other gainers would include new workers taken on by larger shops and supermarkets, and such workers are on average likely to be less well off than shopkeepers.

If small shopkeepers were to become permanently unemployed, rather than reabsorbed elsewhere in the economy, this would clearly present a problem for social policy. But it is not a problem which justifies maintaining an inefficient and artificially protected group of traders. This is perhaps more clearly brought out by taking an absurd example. Suppose we had a trading law going back 500 years, as Sunday trading restrictions do, which said that only red-headed men could run shops. If such a law were repealed, red-headed men would clearly be losers. Many might have difficulty finding new jobs. But would you accept this as a valid argument against repealing the law? We think not.

It may be pointed out that some groups of consumers, for example the elderly, disabled or those without private transport, may suffer if local shopkeepers close and they are forced to travel long distances to new suppliers. While we are sympathetic to cases of individuals who can be shown to suffer in this way, we think that the problem is likely to be exaggerated by pressure groups who have a vested interest in spreading doubts of this sort. For one thing, genuine locational advantages and other special attractions offered by small retailers are likely to keep corner shops with us for many years to come. As we suggest later on, changes in retailing as a result of Sunday trading are likely to be evolutionary rather than revolutionary. For another, small businesses often show great entrepreneurial flair in situations like this: if significant numbers of people even in widely scattered locations cannot travel easily, alternatives such as mobile shops and delivery services are likely to be developed. More fundamentally, cases of hardship are really a problem which should be dealt with via the welfare system, rather than by cross-subsidisation from an artificially inflated small shop sector. Arguments like this have been heard to defend many different sorts of inefficiencies in the economy over the last decade.

### 3.3 Enough Shopping Time Already?

An argument which deserves knocking on the head is the view that, given the lengthening of opening hours in the evening which has already occurred, people now have enough time to do all the shopping they require and should be content with this. Such a view was the commonest reason given by people opposed to deregulation of Sunday trading in a poll conducted by researchers



at North Staffordshire Polytechnic (12), way ahead of sabbatarian objections or sympathy for those who have to work on Sundays. The shopworkers' union USDAW has taken the same position at times. Its Executive Council reported in 1982 that "There is no evidence..which justifies any extension in Sunday trading...There is certainly no desire or need for a seven-day retail free-for-all" (13).

The point here is that nobody is in a position to say what other people want or need. Perhaps, though we think it highly unlikely, people are correct when they claim there is no demand for Sunday trading in England and Wales. Without being able to try it out, traders have no way of knowing. If they open and nobody comes, fair enough. Sunday opening can be abandoned at very little cost. However a refusal to allow the experiment to take place suggests that opponents of Sunday trading fear its outcome. If that is the case, they must justify their opposition to deregulation on other grounds: they are in a logical impasse.

### 3.4 Sunday Trading and Costs

Another piece of odd reasoning lies behind the view that if Sunday trading is likely to increase costs to the consumer it is therefore a bad thing. The argument is that being open on Sunday will mean that the same or only a slightly greater volume of sales will be spread over a longer working week and a consequently larger wage bill. We shall have more to say on this argument later when we survey evidence on cost simulations, but suppose for the moment we accepted it. What follows? Why are higher prices in themselves bad? Price is only one element in the consumer's decision to buy goods. Other elements include favourite brands, convenience, location, pleasant staff, good parking facilities and so on.

If people are willing to pay more for goods from firms which open on Sundays, this means that they value the convenience of being able to buy them at stores which are open longer hours. In economists' jargon, their utility is increased as a result of a constraint being removed from their behaviour. For both firms and consumers have a choice. If firms don't open on Sundays they would, on the assumptions outlined above, be able to offer lower prices during the week. Customers who didn't want the benefits of Sunday shopping and preferred lower prices would take that option. If firms do better by remaining closed on Sundays than by opening, that will be what they do. Certainly that seems to be what happens in Scotland, where some firms open and others don't. And in England and Wales some shops close on certain days during the week while others stay open; some close at 5.30 while others stay open much later.

Outside the most basic of textbook models of perfectly competitive markets, there is no reason whatsoever why competition should produce an equilibrium where firms behave identically. On the contrary, lack of competition is more likely to produce identical behaviour. A good case in point was the



behaviour of commercial banks in the sixties and seventies. Facing little competition, they maintained restrictive opening hours and offered consumers the same interest rates and services. Only with the advent of competition from building societies and foreign banks did the commercial banks start offering different packages and giving consumers a wider choice.

### 3.5 Externalities

The reasoning we have looked at so far does not seem to us to offer much of a case for continued restrictions on Sunday trading. However we now turn to arguments which have more plausibility. One of these is the possible existence of 'negative externalities', the unlovely term economists use where an activity causes costs which are not reflected in prices consumers pay. This is usually held to justify some form of government regulation. Environmental pollution is the obvious example. However, economists rarely argue nowadays that the existence of pollution is sufficient to cause an activity to be banned outright. It is likely to be preferable on cost-benefit grounds to impose a tax or charge on polluters, forcing them to internalise the costs they impose on society (14).

Examples of negative externalities imposed by Sunday trading include the noise and congestion caused by traffic in shopping areas, and the litter left by shoppers. These can impose very substantial costs on particular neighbourhoods, as can be seen from the disruption caused by Sunday street markets in London. However, costs like these can in principle be reflected in charges on those who impose them: traders can be made to pay for clearing the rubbish they leave and consumers can be made to pay for the road congestion they create. The fact that frequently they are not made to pay is an indictment of policy-making at both the national and local level, but it cannot be used to justify a ban on Sunday opening. It does however suggest that deregulation should be accompanied by increased government and local authority vigilance in this area.

Another possible example arises from the disruption of family life allegedly caused by Sunday employment. It has been claimed (15) that as many as one million married women with dependent children who are currently employed in retailing would be likely to find themselves rostered for Sunday working on a regular basis, and that this could eventually produce significant social costs (for example the break-up of families and increased juvenile delinquency). While we are not totally dismissive of this argument, we feel that the possibility is greatly exaggerated. For one thing, we feel that the scale of likely change in retailing employment has been exaggerated, as we argue later in the paper. For another, we would argue that most of the increased Sunday employment in retailing would be genuinely voluntary: evidence from Scotland (see section 5) strongly suggests this. Those married women working on Sundays are likely to do so because they are attracted by premium rates of pay and opportunities for paid employment which did not previously exist.



Extra family income from employment may be a significant feature in some family budgets; and we know that money problems are one of the major causes of broken homes.

### 3.6 The Conscience Issue

New entrants to retailing after deregulation would come in knowing that they might be expected to work on Sundays, and could reasonably be deemed to have agreed to this. Many workers who choose to become bus drivers, policemen and women, doctors and so on accept that they have to work on Sundays: they may not like it, but accept it as an unattractive part of the occupation, balanced by other elements of the 'job package'. So long as there is a wide range of jobs which do not require Sunday working, new entrants to the labour market are not compelled to go against their conscience in breaching Sabbatarian principles.

However we feel there is a genuine problem with existing retail workers who face a fundamental change in their conditions of service. They may have spent many years building up 'human capital' in specific skills and experience, and more tangible capital in the form of pension rights. Where they feel particularly strongly on this matter of conscience, leaving their existing jobs could involve substantial losses. These amount to an implicit confiscation of a capital asset, and there are grounds for arguing for some form of compensation. We share the view of the Auld Committee that it ought to be possible to devise a 'conscience clause' to protect existing workers against dismissal for refusing to work on Sundays, with substantial monetary compensation in cases where employers behaved badly. There are precedents for this, for example compensation paid to those with moral objections to trade union membership in the case of the closed shop.

Once again, though, we feel that the existence of the conscientious objection to Sunday employment by individual workers cannot in itself justify continued restriction of Sunday trading. While there is a genuine problem of costs being imposed on some individuals, it is not efficiently resolved by imposing costs on all those who wish to buy or sell on Sundays.



#### 4. LIKELY EFFECTS OF SUNDAY TRADING IN ENGLAND AND WALES

Although a number of the questions we have touched on involve matters of principle, some idea of the nature and scale of the likely changes in trading patterns consequent on deregulation is surely relevant to the discussion. Without an estimate of the effects of Sunday trading, it is difficult to see what weights policy-makers should attach to such problems as environmental disruption, dislocation of family life, increased costs to some groups of consumers and so on.

In this section we survey theoretical analysis and model-based simulations of Sunday trading, together with some limited evidence of opening intentions.

##### 4.1 Some Theoretical Considerations

One frequently-heard argument against Sunday trading is that households only have a limited amount of money to spend, and that therefore sales on Sundays can only be at the expense of sales on other days. The implication is that costs will necessarily increase, largely because staff must be paid at higher rates on Sundays. We call this the 'Shopping Fund Fallacy' (16). It can be attacked on a number of grounds.

One obvious observation is that the UK is not a closed economy, and that an important source of customers for many retail firms, particularly in our major cities and tourist spots, is overseas visitors. Sunday opening would mean that the tourist spending a week in the country would have up to 15% more shopping time available. It does not seem unreasonable to suppose that, even if overseas visitors have a fixed annual budget, they might spend a little bit more here than they would have done otherwise.

But this is a minor point. More importantly, we would argue that total sales to UK residents are likely to rise as a result of increased shopping opportunities. One reason we would offer for this prediction lies in an analysis of shopping based on the work of Professor Gary Becker of the University of Chicago, whose pioneering paper of the 1960s, "A Theory of the Allocation of Time" (17) seems to us particularly relevant. Becker was one of the first to draw economists' attention to the idea of a 'time budget' in which individuals were constrained to operate, in addition to the income (or wealth) constraint on their consumption.

Our analysis sees part of the real cost of a good being the time spent choosing it. To put it another way, time spent choosing (or searching) for a good has an opportunity cost which is part of the real price the consumer faces. For those whose time is very valuable, high earners, shopping may be a luxury they can hardly afford: indeed, it may be delegated to others. The cliché of the top executive who sends out a secretary to buy family Christmas presents points to an important truth.



Indeed for most of the twenty million plus people in work in England and Wales - male, female, married or single - the time available for shopping is currently restricted to an hour at lunchtime, after work on weekdays and Saturdays. If shops were allowed to open on Sundays, this would nearly double the amount of time available for searching, comparing goods and generally browsing in shops.

Such a substantial increase in time available for search is the equivalent to the customer of a reduction in the real price of goods and services. Elementary economics suggests that a decrease in price will lead to an increase in the quantity demanded. A further related implication is that this will change the consumer's pattern of spending, as well as its total amount. For different commodities have different time costs associated with their purchase. Routine shopping for food, household and personal goods is rapid and easy to organise. We predict that Sunday trading is more likely to be important in fields where time-intensive search is more important: for example, household durables, hi-fi equipment, home computers, fashion clothing, jewellery and other types of 'comparison shopping'. It is here where the extra time available as a result of Sunday trading will lower the 'real price' of commodities most markedly. Note, too, that for many households search shopping reaches its annual peak when gifts are chosen for relatives and friends in the weeks before Christmas, when we know from the experience of other countries that Sunday trading is most widespread.

A quite distinct issue from that of time budgets is the increase in trading opportunities which arises from Sunday opening. By 'trading opportunities' we mean possibilities for consumers and suppliers to meet, to their mutual benefit. The rapid growth of street markets (once thought an archaic form of trading) in the 1970s and 1980s is a case in point. The trading taking place at North London's Camden Lock on Sunday mornings is not a diversion of existing shopping. Rather there is an opportunity for trade which would not exist otherwise. Small craft workshops, for example, have an outlet where large numbers of potential customers congregate. Without such opportunities production might not be profitable. And remember it is not simply the direct selling on stalls: there are fast-food and other catering outlets, entertainment and auxiliary services.

Similarly, we have already pointed out the growing appeal of the shopping trip as a pleasurable event in itself, competing with other leisure activities. One magazine report recently drew attention to families who spend whole days inside the new specialist shopping malls which are springing up all over the UK. One satisfied young consumer reported "Sometimes we go to Windsor Great Park. But I like it here best. We're going to have lunch here, too" (18).

Some anxiety has been expressed about the way in which the extra spending our analysis predicts would be financed. Some, no doubt, would be covered by running down savings and increasing consumer



debt. This may be thought undesirable given the consumer boom of the last few years, already thought by many to be excessive. However we would argue that this is a macroeconomic problem if it is anything, to be dealt with by macroeconomic means (such as tighter monetary control or higher interest rates) rather than by restricting Sunday trading. In any case, we would argue that a substantial amount of extra spending would be financed by increases in real output. This would occur partly because of the increased opportunities for mutually beneficial trade outlined in the previous paragraphs (Adam Smith would agree with this proposition). But it would also occur as another byproduct of relaxing household time budget constraints.

For example, employees might be able to make more use of overtime opportunities in evenings or on Saturdays if they knew that they were able to do their shopping on Sundays rather than during the week: total output would therefore increase. Those who were self-employed would be able to spend more time working on profitable Saturdays rather than having to take time off to meet their own weekend shopping needs. These may seem to be minor points, but experience teaches us that the removal of constraints of any kind on economic activity can often have significant effects on the total level of activity. Alterations of working practices and lifestyles as a result of economic liberalisation throw up new market opportunities and incentives which can only be dimly discerned at the time.



#### 4.2 The IFS simulations

The Institute of Fiscal Studies was commissioned by the Committee of Inquiry into Reform of the Shops Acts 1950 to investigate the likely effects of deregulation. The IFS developed a formal model of the retail sector, using cost information derived from questionnaires, company accounts and other data sources. The principal finding of its report, based on the assumption of a fixed volume of sales, was that deregulation would lead to lower costs and prices in the retail trade, together with a less than 1% reduction in employment over a ten to twenty year time horizon (19).

Two of the authors were subsequently commissioned by the Federation of Multiple DIY Retailers to rerun their simulations on the assumption that deregulation would result in increased sales. In this second report (20), S. M. Jaffer and C. N. Morris assumed that deregulation leads to a 2% increase in sales (which we agree with them is well within the bounds of possibility). This would, they claimed lead to a 22,000 job increase in the short run falling to 9,000 in the long run.

The reasons why plausible changes in sales to have a negligible impact on employment is that gains in employment by Sunday opening are more or less offset in their model by job losses through inefficient traders closing. Moreover the IFS authors argue that the total employment effect may even be marginally negative, since the more efficient, less labour-intensive outlets are more likely to survive any efficiency shake-out following on deregulation. It is this efficiency gain that leads the IFS to forecast a long run trend to lower retailing costs and hence to lower prices.

They also examined the likely impact of a change in the Sunday pay premium from its current value (Sunday workers are currently paid about twice normal rates) to about 1.5. They conclude that, given constant sales, there would be short-term gain of 2,000 jobs, with a long run small loss in employment of a similar order. Changing the Sunday premium in fact appeared to have little effect on long run employment considerations. What appears to happen is that reducing wages would encourage more shops to open on Sundays, thereby increasing capacity and so further deepening the resultant shake out of the less efficient.

In fact Jaffer and Morris point out that while the estimates of the exact number of jobs gained or lost depend on a large number of largely unprovable assumptions, the effects, whatever the (plausible) assumptions made about sales and wage levels, were likely to be extremely small.

In another study based on the IFS work (21), Morris and J.A. Kay noted that in the debate that led to the defeat of the repeal of Sunday hours restrictions in the House of Commons in 1986 that the issues were primarily social and libertarian, rather than economic. They touch on a number of issues we have examined



earlier, such as the externalities question, in the context of a formal theoretical model. A particular problem they discuss is the widespread belief amongst retailers that they cannot vary prices according to the time of day or day of the week. In many situations, differential pricing of this sort makes possible a more effective allocation of resources because it smoothes peaks and thus tends to lower average costs. Examples include cheap day fares on public transport, favourable electricity tariffs in the evenings and cover charges in restaurants at busy times. We fail to follow just why some such differential pricing is impossible in retailing, but Kay and Morris point out that in theory such a constraint could lead to excessive opening at high cost times, if Sunday opening were to be permitted. In practice however they believe that this would not happen. They conclude "...that although these inefficient equilibria could occur, in fact they do not: and our sensitivity tests suggest that it is improbable that there are any reasonable assumptions under which this could be characteristic of the British retail sector as it is today."

"It follows that there is no economic case for general restrictions on Sunday trading, and that any argument about the subject should be conducted on other grounds. It does not however follow that the extent of Sunday opening in an unrestricted equilibrium would necessarily be optimal. This is an important conclusion but, given the difficulties of enforcing any intermediate position which are discussed in the report of the (Auld) Committee, one which has limited practical relevance" (22).

The simulation exercise was based on cost information for 150 types of retailer obtained from questionnaires, annual accounts and special inquiries by IFS. Their model suggested that premises costs (mostly fixed) accounted for 25% to 35% of total costs, with labour (mostly variable) accounting for 40% to 50%. Other cost items, such as energy and administration, are partly fixed and partly related to trading hours and partly to sales volume.

Elsewhere the IFS model is reported as estimating that weekday labour requirements are 85% determined by average weekday sales, 5% by peak loading and 10% fixed and independent of sales.

Additional costs for extended opening mostly consisted of increased labour costs. As we have noted, wages currently paid for Sunday working are broadly twice the normal rate. The IFS authors suggest that there is evidence that this may be above the equilibrium market rate, as some employers report that Sunday working has to be rationed between employees. Retailers with experience of Sunday opening reported that they did not employ non-essential staff on Sundays, but shifted tasks like stock handling and clerical duties to slack weekday periods.

#### 4.3 Patterns of Trading and Employment

Apart from these aggregate projections, the IFS team has attempted to predict the likely pattern of jobs and sales. Using



the current Sunday wage premium, they estimated that Sunday opening would increase costs by around 10%, although there would be savings elsewhere. These will vary from retail area to retail area - clothing for example having much higher total selling costs than food. (We would add the comment that we expect some retailers to change their mode of trading to take advantage of Sunday opening and hence their cost structure). IFS proceeded to match retailers given costs by sectors with the likely corresponding consumer demand schedules.

They felt clothing was likely to be a popular Sunday purchase, but customers might through loyalty to a specific outlet be prepared to forego the convenience of Sunday shopping. The clothing trades cost structure was not particularly conducive to opening. Confectionary, tobacco and drink, on the other hand, were goods where there was little consumer loyalty to particular outlets, so that here the Sunday potential trade would be realised by those electing to open. Consumer loyalty to food and household goods would be somewhere in between.

On the basis of these considerations they estimated that just under half of the food sector would open on Sundays. Other estimates are a quarter for clothing and footwear and full opening for confectionary and tobacco and for household goods. The IFS team assumed in this projection that there would be no overall increase in sales, but that shoppers would switch some of their expenditure from weekday to Sunday shopping. This shift would imply an increase in the effective capacity of the retail trade.

In the absence of extra trade this increase in capacity would result in the exit of the highest cost outlets, since the loss of weekday sales would, depending on consumer store loyalty, affect both the openers and the non-openers. Kay and Morris point out that the capacity adjustments may be less dramatic than their model indicates, since many shops in the household goods area already open illegally.

The main thrust of the work by IFS is that although wages costs may rise through payment of Sunday premia, overall retail costs will be reduced by better use of resources and by the elimination of the most marginal, in efficiency terms, outlets. Certain types of outlet are more likely to open than others, given the balance of cost structures and consumer demand by segment for Sunday opening. The long term effects of deregulation are likely to be small and scarcely distinguishable from the myriad of other changes taking place anyway.

In our own work, we have suggested that the employment effects in food and other 'experience' goods (those where consumers, through repeated purchases, have wide knowledge and experience of alternatives) was likely to be broadly neutral, while for 'search' goods (those which are purchased rarely and where up-to-date information has to be acquired by a time-intensive search process) there would be an increase in both sales and employment.



We estimated in 1986 that there would be an overall increase in full time equivalent jobs of 20,000 to 25,000, which would be mainly filled by part-timers (23).

Using the IFS figures in a similar way (zero growth of sales of basic items, but 2% increase in sales of clothes and household goods) produces an employment increase of 5,700. Another estimate made around the same time was given by Amin Rajan, Research Fellow of the Institute of Manpower Studies, University of Sussex, who expected an increase of 20,000 full-time equivalents rising to 30,000 over five years (24).

#### 4.4 The Sunday Workforce

*One issue in the 1985 debates concerned the likely make-up of the Sunday labour force. Christopher Townsend and Michael Schluter, working for the church-sponsored Jubilee Centre (25), suggested that one million married women currently employed in retailing would be likely to find themselves working on Sundays, probably on a rostering basis. This, they argued, would lead to a severe dislocation of family life. As we have indicated earlier, we do not accept this conclusion.*

Any attempt at identifying the likely make-up of the Sunday workforce needs to start with the IFS estimate that to open half the country's retailing capacity would require 350,000 workers. In our earlier work we assumed only 10% of this would be covered by rostering full-timers on a three week cycle. We would then have about 100,000 full timers, working on average one week in three. The remaining 215,000 workers would be part time, most of whom would want regular employment.

We assumed that these workers would be typical of the labour force as a whole, so that just over 30% of the full-time workers would be women, of whom 23% would have children aged 15 or under. Of the part-timers 90% would be women, of whom 63% would have young children (26). This produced an estimate of 180,000 women with children under 15 choosing, for whatever reason, to work part-time on Sundays. We concluded that this was likely to be an overestimate, for women with such domestic responsibilities were less likely to offer themselves for Sunday work. We were therefore unable to reconcile the Townsend and Schluter estimate of a million with our figures.

In reality it seems unlikely that half the country's retail capacity would open on a regular basis. As with all the other estimates by ourselves, IFS and others, the impact of Sunday opening is likely to be considerably less dramatic than has been suggested by some of the opponents of deregulation.

#### 4.5 Opening Intentions

An alternative method of obtaining an estimate of the impact of Sunday opening is to ask retailers directly about their



intentions if full deregulation were to occur in England and Wales. One of the authors of this paper carried out such an exercise in 1985 (27). In his survey, Terry Burke asked sixty major retailers (of whom forty, representing about 25% of all retail sales, replied) about their plans in the event of legalised Sunday trading. The results indicated considerable caution, with retailers wishing to be assured of profitability before committing themselves. Although a number of respondents were extremely bullish and positively relished the prospect of an extra day's trading, others were fearful that commercial pressures would force them to open in order to protect their market share from erosion by competition. A curiosity of the responses was that those most opposed to opening were keenest to answer the questionnaire, showing overt hostility to the idea and predicting higher prices, while those lobbying for opening to be legalised needed the most chasing.

Special note should be taken here of the response from the John Lewis Partnership, which supplied a copy of its evidence to the Auld Committee of Inquiry. The Partnership's evidence suggested that over time in most places Sunday would become one of the two busiest days of the week, that trade would swing away from High Streets to out-of-town centres and that small independents would be damaged by fiercer competition as trade moved to the larger and more economically efficient outlets. Based on a range of detailed and carefully argued points the Partnership's evidence was against no limit Sunday trading in the interest of the preservation of the special quality of the English Sunday.

The main findings of Burke's survey were (i) it seemed likely that only 15-20% of high streets would open all the year round (ii) there would, however, be widespread pre-Christmas and holiday opening (iii) most out-of-town centres would open and (iv) small independents would carry on more or less as they did now. Some points of detail emerging from the study are noted in Table 1.

Three years later, the author largely stands by his conclusions. Although he did not add this at the time, he now takes the view that over three-quarters of the multiples would take advantage of Sunday opening at peak periods within ten years of deregulation. As he did not directly test the intentions of independents, doubts about the overall picture must remain, but he still thinks that year-round opening would only be found profitable by about one-sixth of retail outlets.

Prior to conducting the survey, the author had conducted a group discussion with area managers from one of the country's largest retailers. This discussion suggested:

- 1) It would take between two and four years for the retail market to adjust to the economic implications of Sunday opening, and for retailers to know whether or not it would be profitable for them to open.
- 2) Year-round Sunday opening would be most successful in major



urban areas and in out-of-town centres, although a majority would opt for limited seasonal opening.

3) To be successful Sunday traders would need to offer a relaxed atmosphere, so that Sunday shopping could become a family leisure event, with time for browsing, ease of parking and an element of entertainment. This would be particularly important when the majority of traders in a given High Street or Shopping Centre elected to open.

The results of exercises like this need to be treated with a great deal of caution. Apart from the general problems of reliability of questionnaires and structured discussions, it is known that many retailers in some areas have already anticipated Sunday opening, and so it is sometimes unclear from response whether comparisons are being made with the existing situation or with what would prevail in the absence of any Sunday trading at all. Nevertheless, the evidence is useful as a supplement to other available indicators.

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TABLE ONE: SUNDAY OPENING INTENTIONS OF MAJOR RETAILERS, 1985  
Source: Burke 1985

TYPE OF OUTLET	INTENTIONS
Food	Larger outlets likely to open, with Sunday rivaling Saturday as the busiest day of the week. Unlikely to experience any overall growth in sales.
Shoes and clothing	Likely to restrict Sunday opening to pre-Christmas period.
Furniture and electrical	Likely to try the water in the initial phase and decide selectively on trading performance.
Department & variety stores	Divergence of opinion, but selective seasonal opening likely, with a core (perhaps a quarter) opening all year round.
DIY and Gardening Centres	Eager to open throughout the year.

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## 5. EXPERIENCE IN OTHER COUNTRIES

Predictions of the impact of Sunday trading are necessarily speculative, and it is possible to differ over the methods employed and the estimates produced. However the deregulation of Sunday trading is not a complete step in the dark, for other countries have already had many years of unregulated shopping. In this section we survey experience in three advanced economies which have significant points of resemblance with England and Wales.

### 5.1 The Scottish Experience

We start with Scotland, which obviously has the closest resemblance of the countries we are discussing. Scotland has its own legal system, and for various reasons has not in modern times been subject to the same sort of rules on Sunday trading as the rest of Britain. Restraints on Sunday opening have existed, but they have largely been social rather than legal.

Terry Burke (28) has recently investigated the extent of Scottish Sunday shopping. He administered a questionnaire to directors of nine major retailers with an average eight years experience of trading in Scotland on Sundays. These retailers covered DIY, furniture, household items, food and clothing, controlling 135 outlets and 2.3 million square feet of selling space. Burke concluded that year-round Sunday trading, although a minority pastime, was now a normal and unexceptional part of Scottish life.

This view contrasted with that of the Keep Sunday Special Campaign which in December 1988 published a press release containing a cumulative frequency polygon purporting to show that almost half of shops in Scotland had opened on one Sunday or more at some time in the year compared with only one in eight a decade earlier.

The two statements are in fact readily reconcilable, although the Campaign's 50% looked a little on the high side, in view of Burke's findings. These were that (i) most major multiples opened some or all branches on Sundays throughout the year (ii) there was widespread pre-Christmas opening by most multiples and independents (iii) the majority of independents and one or two lead multiples nevertheless elected to remain closed throughout the year.

The growth in Sunday opening in Scotland over the decade reported by the Campaign is in line with the comments of the retailers canvassed in the Burke study. Their view was that Sunday opening had become an established, if relatively small, part of Scottish life. They saw Scottish Sunday trading as a mature market that had broadly settled down. They expected Sunday opening to become a little more widespread, with a lengthening and deepening of the pre-Christmas period, but thought it likely that the majority of those best suited to Sunday trading are already profitably open.



The increased, if selective, adoption of Sunday opening indicated by both the Campaign frequency graph and the Burke report suggests that retailers in Scotland have had time to examine the desirability of Sunday opening and have come to the conclusion that for many of them it is, under certain circumstances, commercially viable - that is that there is sufficient consumer demand to enable them to operate profitably on Sundays.

Most of the retailers covered in the Burke paper reported that they could detect a continuing growth trend in their Sunday sales, especially in the pre-Christmas period. It therefore seems likely that Scotland has not yet reached its Sunday opening equilibrium point, especially from pre-Christmas and other peak sales periods. It also seems probable that banks and other institutions may in time wish to open in the busier shopping centres.

It also suggests that the competitive pressures to open were fairly weak in Scotland during the eighties and that the retail market responded fairly slowly to changes in its competitive environment.

Burke further enquired into the origins of "Sunday money". All active retailers reported that Sunday was bringing in additional sales. What was not clear was where the new money was coming from - some traders felt they were taking it from shops which elected to remain closed, while others felt that it was genuinely new spending.

We argue elsewhere that there are theoretical reasons to expect the additional opportunities to trade offered by Sunday opening will lead to extra sales. The Scottish retailers drew attention to rising incomes favouring the types of goods best sold on Sundays and to the greatly improved access to credit, which has characterised the past decade.

Those retailers who do open on Sunday find it a good trading day, with sales averaging 14% of weekly takings, even though opening hours on Sunday are typically only about two-thirds those of weekdays. The highest proportion of weekly sales reported was 25%, making Sunday the busiest day of the week for that retailer. Nearly all stores reported that the average spend per customer was higher on Sundays and that customers were more likely to purchase higher priced items, presumably because these required additional consideration and involved joint family decision making - exemplifying the 'search' principle discussed earlier.

In general retailers chose to open fewer hours than on weekdays - on average 6.2 hours compared to 9.5 for weekdays. The effect of this was to make Sunday hours almost 30% more productive than average weekly hours. This indicates that for those firms who to date have found it profitable to open in Scotland on Sundays, have, in the main, found it well worth while.



As far as staffing is concerned two trends can be detected - stores either prefer to employ the full-time staff, or rely on part-timers: a mixture of the two does not seem popular. Either way Scotland, where a premium is paid for Sunday work, has no difficulty in recruiting labour. Sunday work appears to be popular with married women in their twenties, although, depending on the type of goods sold, some stores prefer younger single women, or in other cases more mature males.

How far is the Scottish experience transferable to England and Wales? It seems likely that the economics of store operation will be broadly similar on either side of the border and that a minority of stores will find it pays them to open all the year round, with perhaps half electing to open on Sundays on a selective basis. The speed of adjustment may be rather faster in the South East, where higher spending power and working wives are likely to favour Sunday sales of 'Big Ticket' items.

As far as labour implications are concerned, it seems likely that England and Wales will follow Scotland, with some stores preferring rostering full-timers to employing part-timers, the decision depending on the types of goods sold.



## 5.2 Sunday trading in Sweden

Towards the end of 1983, at about the same time as the Home Office Committee of Inquiry was looking into the abolition of Sunday trading laws, the Swedish Finance Ministry (now back in Social Democratic hands after a spell of Liberal control) was considering the re-introduction of Sunday trading regulation. This had been abandoned in 1971. At the time of abolition, the Swedish Minister of Commerce had stated:

"Legislation of this kind with exemption clauses and possibilities of 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 reciprocal competitive relationships of business being distorted."

After the process of review had been completed, in January 1984, the Finance Minister announced that unrestricted hours would be retained:

"Business hours have been free from restrictions now for ten good years. During this time significant changes have taken place in the structure of the retail business."

These changes included the growth of two-breadwinner households with a need to shop in the evenings and at weekends, new part-time job opportunities, and increased profitability for small outlets now able to offer weekend neighbourhood services. The Swedish Minister noted the strongly voiced opposition of the Union of Shopworkers, but decided on administrative and consumerist grounds to retain open shopping hours.

Woolworth Holdings' Nigel Whittaker published a report in June 1984 on the Swedish experience (29). Opening was patchy, he noted - most kiosks, service stations and neighbourhood shops took advantage of the Sunday trading opportunities, while only about a quarter of department stores chose to do so. Perhaps unsurprisingly, Sunday shopping was most strongly established in the Stockholm area.

The Swedish Co-operative stores (K-F) who were traditionally opposed to Sunday opening believed that at least for their smaller outlets Sunday opening was "a must to survive" (Goran Strom of K-F Retail). "Otherwise they would have to be closed. Many had been converted from other kinds of shops which were doing badly." K-F, according to the Whittaker report, had found no difficulty in employing people for Sunday working. "People are actually queuing to get a job", said Strom, "mainly wives and students".

A similar reaction was reported from the Swedish Retail Federation, which represents the small shopkeepers. "If it were not for Sunday trading 1100 small shops would not be open today," said Federation director Ernst Olaf Holm. Similar comments are



reported from other trade associations. The Union however remains opposed, saying extended hours have created social problems for their members, who find it difficult to organise family life.

Finance Ministry officials told Mr. Whittaker that in their view the decline in retail employment in Sweden had been slowed down by Sunday opening, prices had not been affected and that a return to Sunday closing would result in a reduction in the volume of trade. Nils Eric Naslund, the director of the Swedish Food Retailers' Association told the International Federation of Grocers' Association in Veron in April 1984:

"It must be underlined that the elimination of the law (restricting Sunday trading to exempt categories of goods) was looked upon with great scepticism and fear from a large proportion of retailers. They were afraid that practically all stores would meet the new freedom with opening hours day and night, creating a chaotic competition and leading to the dramatic close-down of a number of retailers. What happened, actually, was the direct opposite. Very few stores used the new freedom from the beginning, growing slowly but steadily over the years, and result, as I see it, from the fact that prolonged store hours have created new business, increasing consumption over the years. Another important fact is that free hours have proven to be a competitive tool for the small retailer. To me a larger freedom for companies to adjust their business hours to the needs of the consumers is a necessity of a modern society. The traditional store hours are adjusted to the old society, where the housewife stayed at home, taking care of the children and shopping during the day time. In my country, practically no one is at home during daytime any longer, which creates a new problem, actually, consisting of the fact that stores are empty between 9 and 4."

Insofar as the social changes Naslund identifies are also occurring in this country, the Swedish experience with Sunday trading seems to suggest much that is relevant here.



### 5.3 The Case of the United States of America

The United States provides a clear example of Sunday laws, based on religious prescriptions, being carried over into an officially secular society and then subsequently abolished on the grounds that such laws arbitrarily discriminate between one trade and another. Their debates of the early eighties find ready echoes in the present debate in England and Wales.

In many ways - church attendance, opinion poll evidence, the popularity of religious TV, the strength of the Bible Belt and so on - the USA is a more overtly religious country than the United Kingdom, many of whose religious traditions veer towards understatement. Moreover for various historical reasons, reflecting the Protestant settlement from Europe, the nature of the blacks' historical experience and the isolation of 'poor whites' in the South, religious fundamentalism is a far stronger force than here. So the American case is of particular interest for us, as it shows how religious commitment can exist alongside liberalised Sunday trading.

The roots of Sunday Trading legislation in the United States, the old "Blue Laws", can be traced directly back to the original puritan settlers. Laws forbidding trading on the Sabbath were introduced in Maryland in 1649 and Massachusetts in 1653.

These religion-based laws stood the test of time despite the American constitution's commitment to religious liberty. They were upheld less than thirty years ago by the United States Supreme Court, which ruled on May 29 1961 that although these laws had originated in religious practices, states might legitimately establish a common day of rest and limit secular activity on Sunday. Since then, however, a number of state Supreme Courts have declared the Sunday laws unconstitutional, while several state legislatures have deregulated Sunday trading.

In the early 1980s major retail stores, usually located in large shopping malls, began successfully to challenge the "Blue Laws" on the basis that they were discriminatory in favouring small convenience stores. These challenges were often then reinforced by legislative actions, based as often on producer as on consumer interests.

In a country as large and as complex as the United States, there are numerous variations between states, and even between counties and municipalities within states, thus providing a range of possible Sunday trading situations and varying degrees of enforcement. The overall trend however is towards liberalisation and full deregulation, with the majority of states having abandoned their Sabbath laws.

Table 2, based on information from the US National Association of General Merchandise Chains, press reports and other sources, is intended to draw a broad-brush, but reasonably accurate, picture of the condition of Sunday Trading law in the United States.



Since there are both State and Federal Supreme Courts, there are considerable problems in establishing the validity and effectiveness of local laws, particularly where these are enacted and enforced at town and county level.

There are also practical difficulties in obtaining up-to-date information in a changing situation across such a diverse country. Despite all these problems of classification, we believe this table indicates that the Blue Laws have largely lost their power and have either been abolished, or in a minority of cases dissolved into local options.

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TABLE TWO: SUNDAY OPENING IN THE UNITED STATES

Substantial or total restrictions (5 states)

**Maine** (open pre-Christmas; fines up to \$1,000 or 90 days imprisonment)  
**New York** (many exceptions, status uncertain, fines up to \$20)  
**North Dakota** (many exceptions, fines of up to \$500 per Sunday employee)  
**Oklahoma** (little enforcement, \$25 fines)  
**South Dakota** (little enforcement, \$10 fines)

Local Options (9 states)

Alabama	New Jersey
Florida	North Carolina
Kentucky	West Virginia
Maryland (many local exemptions)	Wyoming
Missourri	

Unrestricted, or only minor restrictions (37 states)

Alaska (Pawn shops)	Minnesota (automobiles, liquor)
Arizona (liquor 6 to noon)	Mississippi (since 1984)
Arkansas (since 1982)	Montana
California	Nebraska
Colorado (automobiles)	Nevada
Connecticut	New Hampshire (open from noon)
Delaware (liquor)	New Mexico
District of Columbia	Ohio
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Rhode Island (since 1981)
Illinois	South Carolina (since 1984)
Indiana (automobiles, liquor)	Tennessee (since 1981)
Iowa	Utah (since 1985)
Kansas	Vermont (since 1982)
Louisiana (since 1986)	Virginia (since 1988)
Massachusetts (from noon only)	Washington
Michigan (but Blue Law still on statute books)	Wisconsin (automobiles)

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Maine and New York provide instructive examples of the complexities that can be generated by granting exemptions. In Maine the law provides that no person may open a business on the Lord's Day or on Memorial Day, or Labor Day, Christmas Day or Thanksgiving, or on the following day (when the holiday falls on a Sunday). There are however numerous exceptions, including 'works of charity and necessity', garages and service stations, greenhouses, drugstores, ships chandleries, establishments selling novelties and souvenirs and stores with less than five staff and under 5000 square feet of selling space. The definition of a small store has, as might be expected, proved troublesome and a store is defined as a business representing itself to the public as a single business, regardless of internal departmentalisation, or sub-leasing, or operation in adjacent buildings.

New York prohibits public selling, but makes many exceptions including tobacco, milk, bread, eggs, ice, soda water, fruit, flowers, confectionery, souvenirs, art and antique items, food before 10 am. and so on. As one might expect in New York, with its substantial Jewish community, those who abstain from labour on their own Sabbath or other religious day of rest, are allowed to trade on Sundays, provided the business is conducted by the proprietor and his immediate family in such a way as not to disturb others.

States providing for local options produce situations of even greater complexity. Maryland, for example, takes up sixteen pages in the National Association's handbook. Option procedures have not been free of legal and constitutional difficulties and can result in artificial cross-jurisdiction trading, producing arbitrary winners and losers.

The American experience has been that these complexes of exceptions to a general ban on Sunday trading have proved unworkable. In many states there has been a movement towards full deregulation, although protection for employees has in some cases been built in to the Sunday legislation. In Georgia, for example, employers are required to make "all reasonable accommodations to the religious, social and physical needs of employees, who customarily worship on such work days". Similarly Illinois has a clause that every employee, with some specified exceptions, must have at least 24 consecutive hours' rest, notice of which must be conspicuously posted at the work place.

The American experience of deregulation provides some 'before and after' information. Judging by various press and other reports of the Massachusetts experience the main gainers are retailers of food and hardware and department store operators. The customers who particularly gained were couples who both worked, for whom Sunday was the only day available for 'big ticket' shopping as a family unit. The larger stores claimed that they had experienced a net increase in trade, although there was some smoothing of peak time and shifting from the quiet days. The increased trade appeared to be new money, although there may have been some



repatriation of spending that had previously gone out of state.

A survey conducted in 1981 for "Parade" Magazine based on 1300 interviews, suggested that the Norman Rockwell image of the traditional American Sunday was no longer valid. The 'New America', according to the survey, had a 'New Sunday': a busy day for doing things around the home, for family togetherness, for planning and making major purchases, for routine shopping, for catching up on the week's tasks. Driving this change was the increased participation by women in the workforce. Working wives, according to the magazine, had increased by 20% over the seventies and this was bound to change the structure of families and influence how they spent their time and made their decisions.

The survey reported that two thirds of respondents had purchased something the previous Sunday, that opening was more widespread than it had been a few years earlier and that a third of respondents would welcome even wider Sunday opening.

Since 1981, the pace of change has quickened. The case of Massachusetts is instructive. An alliance of business and labour was forged to press for the repeal of the Sunday trading laws to recapture jobs and trade being lost to neighbouring deregulated states. This left the churches without their traditional allies in the defence of the old-style Sunday.

On signing the law into effect the Governor, Edward King, himself a Catholic and opponent of the bill, was reported in the Boston press as saying: "I feel philosophically that a day to pause gives people a chance to be with their families, to attend church, and just to go through the day unrushed, with time to reflect and think about events of the past week. Yet I also feel philosophically that government should not involve itself so deeply in the day-to-day activities of a free thinking people." For the Governor however the clinching argument was an economic one: "A job is critical to the dignity of each individual; and a job is essential to the health of every family. In the final analysis, it is the increased job opportunities that led me to sign this bill into law."

Democratic Representative Timothy Bassett, who steered the reform through the Massachusetts legislature, wrote on the jobs issue in the "Boston Globe" and included the following remark: "College students hard hit by cuts in student loan program and urban youth hurt by summer job program cutbacks probably will be able to pick up an extra day's work each week". It seems likely that, particularly since the government has decided to freeze the nominal value of maintenance grants, students in this country will be increasingly seeking part-time jobs of this kind too.

Bassett's strategy was to build a coalition of business and labour, knowing that he had overwhelming popular support - 86% of communities had voted for repeal in a 1977 referendum - in order to override the powerful official opposition of the Catholic



Church. Bassett's manoeuverings resulted in the bill, in the colourful phrase of his opponents, whistling up out of committee like a low-flying goose out of the marshes. Bassett, incidentally, claimed that he owed his success to a coalition building course he had attended, which had been given by a visiting professor from Harvard, one Michael S. Dukakis.

South Carolina, prior to abolition of their Blue Laws in the early sixties, had an exemption which limited stores opening on Sunday to only three employees, leading to long queues and easy shoplifting. From their debate we have a J.C.Penney store manager quoting his founder as saying: "If a man can't find time to go to church twice on Sunday and once on Wednesday, then he's probably got more business than the good Lord meant him to have."



## 6. CONCLUSIONS

From the analysis and evidence reviewed in this paper, we conclude that there is a strong case for full deregulation of Sunday trading. The arguments against it are largely the product of special pleading or fallacious reasoning, although we do distinguish environmental problems, and the conscience issue for existing retail workers, as areas to which policy-makers need to pay attention. There is no doubt that Sunday trading has the potential to create noise, litter and congestion, but we believe that market solutions should be applied to these problems rather than rejecting Sunday trading. And we accept that there is a genuine difficulty for those existing shopworkers, who neither wish to work on Sunday nor seek alternative employment. Legislation guaranteeing time off and enshrining freedom of choice over Sunday working may prove necessary to avoid a compulsory transfer of well-being from one small group (reluctant Sunday workers) to the rest of society. However we believe that this problem is greatly exaggerated as evidence from Scottish retailers suggest that, at current levels of premiums for Sunday work, they have no difficulty in obtaining volunteers.

Indeed, we have argued that likely projections of Sunday trading, and the experience of other countries who have deregulated, suggest that many of the fears of the anti-trading lobby are unlikely to be realised. Sunday shopping may be expected to become significant in some areas, for some outlets; but in many fields it may have relatively little impact, except perhaps in the weeks leading up to Christmas. It seems likely, on the evidence we have surveyed, that Sunday will remain 'special' in some senses for the foreseeable future.

The benefits of Sunday trading, in terms of greater consumer choice and closer conformity with changing lifestyles, should require no further justification. However we believe that they will also bring a modest increase in sales, output and employment and that there will be no general rise in costs. Changes in the pattern of retailing will undoubtedly take place, but we argue that these will largely be accentuations of trends which are already occurring towards larger scale, out-of-town sites with higher productivity per employee - and which it would be foolish to try to frustrate. At the same time we have sufficient faith in the entrepreneurial abilities of small traders to believe that many of them will be able to carve out new niches for themselves and continue to cater for the special needs of particular groups of customers.

Because of the difficulties faced by reformers in this area, it is tempting to believe that there is a need to strike a compromise and move towards partial deregulation. We believe this would be mistaken. The government's previous defeat on this issue was partly due to its own mismanagement, partly due to chance events, and partly due to a very well-organised campaign by unrepresentative interest groups. We believe that such a combination of factors is unlikely to recur, and that advocates



of Sunday trading should press on with their battle for unrestricted Sunday opening.

Any half-way solution would probably produce further anomalies as retail and social conditions continue to change. Exemptions of particular classes of goods would tend to become increasingly discriminatory as time went on. Exemption by size (favouring small firms) would produce artificial disincentives to efficiency in retailing. Fixing opening hours in a rigid way - only mornings, or only afternoons - would be arbitrary, and favour some customers rather than others. The idea of local options, superficially attractive to those who believe in choice, seems not to have been very successful in the USA, and clearly has the potential to divert trading and employment from one jurisdiction to another, at the cost of economic efficiency.

We have been particularly impressed by the way in which partial deregulation in the United States and elsewhere has led on to further liberalisation. Given the lessons of this experience, we strongly advise the advocates of Sunday trading to continue to push for complete deregulation as the key to the gains which they rightly expect from increased consumer choice.



## NOTES

1. See the lead story in the Sunday Express January 28 1989
2. K Marx Capital Volume One, Penguin 1976 p.375
3. R Harris 'Closing Time for Democracy' in R Harris and A Seldon Shoppers' Choice Institute of Economic Affairs 1984
4. See P Regan 'The 1986 Shops Bill' Parliamentary Affairs April 1988
5. Among the most prominent being the John Lewis Partnership
6. See P Regan, op cit
7. See S Brown 'The Impact of Religion on Northern Ireland Retailing' Retail and Distribution Management November-December 1986
8. The Guardian January 27 1989 reports a National Consumer Council poll suggesting nearly two-thirds of the population are in favour of reform.
9. Externalities arise when the costs or benefits of economic activities are not fully reflected in market prices; market power exists when either sellers or buyers face little competition and are able to charge higher prices or obtain goods for lower prices than would be the case in a fully competitive market; public goods are commodities which are not supplied in adequate quantities in a free market because their characteristics of non-rivalness and non-excludability tempt too many individuals to take a free ride and resist paying their share of costs. Although economists are agreed on these definitions, they differ considerable in their estimates of the scale of market failures, and what should be done about them by governments which are prone to failures of their own.
10. See S M Jaffer and C N Morris Sunday Trading and Employment Institute of Fiscal Studies 1985
11. See Josephine Fairley 'Mall Practice' Evening Standard Magazine February 1989,
12. See M A Clements 'Sunday Trading: Is Partial Deregulation the Answer?' Retail & Distribution Management March-April 1982
13. See 'Shops Legislation' : Report by Executive Council to 1982 Annual Delegate Meeting of Union of Shop, Distributive & Allied Workers
14. Recently some free market exonomists have argued for the issue of so-called 'licences to pollute', which could be



traded and which would provide market incentives for low-pollution producers and disincentives for heavy polluters.

15. Christopher Townsend and Michael Shluter Why Keep Sunday Special? Jubilee Centre Publications 1985.
16. Echoing the 'Wages Fund' fallacy of the nineteenth century, the argument that capitalists had a fixed fund available to support labour and that expenditure on machines subtracted from that fund.
17. Gary Becker 'A Theory of the Allocation of Time' Economic Journal September 1965.
18. Josephine Fairley 'Mall Practice' op cit p36
19. J A Kay, C N Morris, S M Jaffer and S A Meadowcroft Effects of Sunday Trading: The Regulation of Retail Trade Hours Institute of Fiscal Studies Report Series No 13 1984.
20. S M Jaffer and C N Morris Sunday Trading and Employment op cit.
21. J A Kay and C N Morris 'The Economic Efficiency of Sunday Trading' Journal of Industrial Economics December 1987.
22. Ibid p128
23. Terry Burke and J R Shakleton The Likely Impact of the Deregulation of Sunday Trading on Consumption and Employment Polytechnic of Central London 1986.
24. Amin Rajan 'Economics Agenda' Guardian February 19 1986 p24
25. Christopher Townsend and Michael Schluter Why Keep Sunday Special? op cit.
26. See Terry Burke and J R Shackleton The Likely Impact of the Deregulation of Sunday Trading on Consumption and Employment op cit.
27. Terry Burke Opening Intentions of Forty Major Retailers mimeo 1985
28. Terry Burke Sunday Trading in Scotland Polytechnic of Central London 1988
29. Nigel Whittaker Sunday Trading - Lessons from Sweden Woolworth Holdings plc June 1984



