

Sunday Commercialism

Sunday selling at roadside stores and suburban shopping centers, often promoted by extensive display advertising, has been stirring up controversy in various parts of the country. Law enforcement authorities, pressed by “Save Sunday” crusaders to prosecute at least the principal offenders, have had to rely on ancient laws designed to keep the Sabbath holy by the standards of another day. These laws in many cases have proved inadequate to the task in hand. That task essentially is not to regulate personal conduct, as attempted by the blue laws of colonial times, but to curb or eliminate practices considered by some people either objectionable in themselves or unfairly competitive from a commercial standpoint. The question of Sunday closing still has moral overtones, but the business aspects are of growing importance. Sunday selling, meanwhile, continues on the increase, presumably because many families find it greatly to their convenience.

Efforts to enforce old but rarely invoked Sunday laws have led to litigation involving difficult questions in the relationship between church and state. High state courts have recently handed down important decisions in these cases. Convictions for Sunday selling and injunctions to restrain interference with such selling now appear headed for the U.S. Supreme Court and final verdicts on the constitutionality of the present statutes. Whatever the decisions, state legislatures already are being pressed to clarify and strengthen existing legislation affecting commercial activity on Sunday.

Agitation for Sunday closing of stores dealing in general merchandise has come alike from churches seeking stricter observance of the Christian Sabbath and from downtown merchants whose business is hurt by Sunday selling in outlying districts. Counter-pressure has been brought to bear by spokesmen for Jews and Seventh-Day Adventists, who observe Saturday as the Sabbath, and by retailers who do a large part of their business on Sunday. Others, including some religious leaders, are torn between distress at profanation of the Lord's Day and belief that Sunday closing laws encroach on religious liberty.

Mushrooming of Roadside Discount Stores

Prosecution of Sunday merchants has followed directly on mushrooming of “super-bargain” stores in the suburbs of large cities and along the highways. Most stores of this kind stay open on Sunday for business as usual. Their Sunday operations, which have grown tremendously during the past decade, differ completely from older forms of Sunday selling. Selling on Sunday used to be confined chiefly to drug stores, delicatessens, and roadside vegetable stands, and they were commonly tolerated even in states in which they were technically subject to Sunday bans on retail trade. The stores either were small and unobtrusive or provided articles of necessity; open for a few hours or longer, their Sunday activity did not intrude on the placid atmosphere associated with the day.

In contrast, the newer types of Sunday stores are big and showy; they sell a limitless variety of bulky merchandise—furniture, household appliances, clothing, etc.—and they draw crowds of customers. Splashy advertising, usually in full-page Sunday newspaper displays emphasizing price cuts, encourages family shopping expeditions. Discount houses were the first to promote Sunday selling, and their success drew other retail stores to neighboring sites. Supermarkets began to open on Sunday, and small roadside enterprises that formerly served only passing Sunday motorists expanded into full-scale retail establishments. Drug stores, usually exempt from Sunday-closing bans, turned themselves into virtual department stores and built up a large volume of Sunday business.

Main roads near some metropolitan centers became dotted if not lined with stores and parking lots which attracted increasing numbers of Sunday customers.

Most downtown stores could not meet competition beyond the city limits by opening their own doors on Sunday. Some were forbidden to do so under ordinances that did not apply in adjacent areas; even if there was no legal bar to opening, the downtown location was a handicap on a day when families took to the road. A number of big stores tried to meet the competition by taking telephone orders for articles advertised in the Sunday newspapers. Others opened branches in the suburbs to get the Sunday trade. But most city merchants in areas where Sunday selling of this type was new sought to mobilize church support in a campaign for prosecution of their competitors under old and long-neglected Sabbath laws.

No estimate of the size of the Sunday retail market has been made, but it is believed to run into billions of dollars, and there is every indication that it is spreading despite efforts to enforce closing laws. The expansion has occurred largely among discount houses, clothing, appliance, hardware, and food stores and among automobile dealers. A survey by the Super Market Institute of 1,200 markets opened in 1957 showed that 27 per cent did business on Sundays, whereas only 5 per cent of all supermarkets had remained open on Sunday in 1950, Sunday selling is most prevalent in the Far West, where there has been little agitation against it. The current marked expansion is taking place in the East and Middle West, where in many communities to open or not to open on Sunday has become a burning issue.

Before New Jersey enacted new restrictive legislation last year, it was estimated that Sunday sales along the main highways of that state amounted to \$100 million a year. One count showed that "there are possibly 50 out of around 600 highway merchants who sell \$1 million worth each annually on Sunday." Some stores did as much as 40 per cent of their total business on that day.

The widespread impact of Sunday selling on the business of conventional stores was made apparent by pleas for Sunday closing made in 1958 and again in 1959 by the National Retail Merchants Association and the Variety Stores Association, which together represent 20,000 retail outlets throughout the country. The N.R.M.A. noted that "Sunday openings create public relations problems for retailing." The Variety Stores expressed fear that "Sunday selling, now limited to a relatively few sections of the country will, unless checked, spread rapidly," and that "family, religious and business life of every community will be changed by Sunday selling."

Factors Stimulating Sunday Sales Growth

The upsurge of Sunday shopping is attributable to a combination of factors associated with basic changes in the character of family life—increased purchasing power, suburban living, a worldly approach to Sabbath obligations, and almost universal dependence on the automobile. In a motorized society the roadside has become the ideal site for retail operations because it is there that parking problems are at a minimum; and Sunday is a favored day for shopping, because it is then that the whole family has use of the automobile.

Growth of employment among married women, the custom of going for a ride on Sunday, the leisure available then to "look around," the availability of the father to help look after the children—all have enlarged the commercial potential of Sunday retailing. Shopping on that day, moreover, appears to have become a pleasurable pastime. Many persons are said to

have replied, when questioned, that they went shopping on Sunday because it was fun. Free hot dogs and coffee, play equipment for the children, and other attractions have added a carnival touch to some Sunday bargain centers.

However popular it may be, Sunday shopping on the order of that now often prevailing has evoked protests from influential segments of the urban community. Antagonism has been aroused not only among church leaders and city merchants, but also among citizens who feel that the traditional character of Sunday is adversely affected by the bustle and commercialism of the shopping centers. It has been asserted that Sunday shoppers create traffic jams and safety hazards. Labor unions in some communities have joined the crusade against Sunday selling on the ground that it imposes hardship on employees.

Church Campaigns Against Sunday Shopping

The Catholic Church in the past decade has taken leadership of the battle against Sunday commercialism, assuming a role that had been traditionally held by Protestant denominations. Protestant ministers continue active in local "Save Sunday" drives, and the 74-year-old Lord's Day Alliance still campaigns for stricter Sunday laws, but Protestant churches as a whole have not presented as solid a front as Catholic in demanding stiff civil penalties for Sabbath violators. Opposition to Sunday laws comes naturally from Jews and Seventh-Day Adventists.

Virtually every Catholic prelate in areas where Sunday selling is allowed has delivered sermons or issued special pronouncements favoring strong legislation to stop the practice. When the Advocate, official organ of the archdiocese of Newark, began a Sunday closing campaign five years ago, it solicited the views of New Jersey legislators on Sunday closing laws and published their responses in successive issues. This and other activity led eventually to revision of the state law.

National Catholic lay organizations have circulated pledge cards, automobile bumper stickers, and posters among opponents of Sunday selling and among stores which agree to close on Sunday. An instruction sheet on how to conduct a community campaign against Sunday selling, prepared by the National Council of Catholic Women, urges individuals to write letters to store managers stating that "you have no intention of initiating a boycott but you are asking your members to patronize on week-days those stores which remain closed on Sunday."

Bishop George J. Rehring of Toledo told his flock in a pastoral letter in April 1958 to "give extra consideration throughout the week" to merchants who are closed on Sunday, so they won't "lose out to their conscienceless competitors."

While Protestant leaders are equally concerned that the Lord's Day be properly respected, they are not of one mind on the best way to combat Sunday commercialism. The division of opinion was indirectly disclosed in a "study document" issued last June by the National Council of the Churches of Christ in the U.S.A. to guide member churches in dealing with "problems resulting from the increased trend toward economic activity on Sunday." The document noted that legislation to ban Sunday selling was "sometimes sought by economic forces as a means to remove ... competition, rather than for bona fide protection of Sunday as a religious day." It reported, moreover, that the "general consensus, coming from numerous areas where community-wide efforts against economic encroachments on Sunday have developed, points unquestionably to the greater value and dependability of solutions reached by voluntary agreement rather than by legislative fiat."

Community Conflicts Over Sunday Retailing

Where community pressure has resulted in tightening of Sunday closing laws and prosecution of Sunday merchants, it has been made effective by combining the efforts of Catholic and Protestant churches with those of local commercial interests, sometimes joined by local labor unions. In Cleveland these groups formed an organization, Sunday, Inc., which succeeded in getting warrants issued for arrest of "prime violators" of Sunday closing ordinances. Other retailers, however, have created an organization called Freedom Enterprises to work for repeal of Sunday laws.

In Portland, Ore., a Family Day Observance Committee, formed by Catholic, Protestant and business groups and headed by a Methodist minister, wrote to 1,800 merchants in the area, urging Sunday observance. In St. Louis a Coordinating Committee Opposed to Sunday Retail Selling campaigned for more vigorous enforcement of existing bans. The Citizens Committee for Sunday Closing in Newark, and similar groups in other New Jersey communities, raised money to promote their cause on the eve of local referenda on the issue.

A recent American Jewish Committee study supported the view that "Save Sunday" campaigns are most successful when the downtown business community joins with the churches to eliminate Sunday commercialism. The study cited two unsuccessful efforts by church groups working alone: the Greater Miami Ministerial Association and the Greater Miami Council of Churches gathered 12,000 signatures on a petition for a proposed Sunday closing ordinance, but the ordinance was rejected by municipal legislators; an attempt by Pontiac, Mich., pastors to get the question of all-day Sunday closing of taverns submitted to the voters failed last year for lack of the number of signatures necessary to put the question on the ballot.

Commercial interests of communities sometimes conflict with the demands of church groups. On the eve of a community-wide straw vote on Sunday closing in Spartanburg, S. C., last summer, a large company announced that it would not go ahead with plans for a multimillion-dollar expansion of its establishment unless assured that it could go on a seven-day-week operation. Among the reasons Gov. George Dewey Clyde of Utah gave for vetoing a strong Sunday closing law last year was that it would jeopardize the state's seasonal food-processing industry and might force abandonment of continuous operations in the state's copper mines.

In some places a local Sunday closing order has simply had the effect of sending shoppers along the highway to a point where Sunday selling flourishes. This is what happened when a ban was imposed two years ago in Paramus, N. J. Roadside merchants within the limits of Paramus asked the state supreme court for an injunction against enforcement of the prohibition, but their plea was turned down. Because of inequities of this kind, pressure for stronger Sunday closing laws has moved from local communities to state legislatures.

Laws and Litigation on Sunday Closing

The first decree to impose civil restrictions on Sunday activities was promulgated in 321 A.D. by the Roman emperor Constantine; it banned all work, except by farmers, on the Lord's Day. Sunday observance laws were common on the continent of Europe and in England both before and after the Reformation. All of the original American colonies had laws requiring church attendance and forbidding work, travel, sports, and commerce on

the Sabbath. Fines, whippings, and confinement to the stocks were the usual penalties. The laws were most strictly enforced in Puritan New England and least observed in the Anglican South. After the Revolution, most states moderated the provisions of the Sunday laws, but they retained prohibitions on buying, selling and labor, except for necessity or charity, and on hunting, fishing, and the like.

As the secular spirit grew dominant in American society, enforcement of Sunday laws tended to become lax despite periodic agitation on the subject. However, the practice of closing up shop on Sunday, reinforced by the recognized need of industrial workers for one day of rest in seven, remained firmly entrenched in law and custom. A trend toward further liberalization of Sunday laws gained headway after the Civil War. In the present century there has been marked relaxation of bans on commercial sports and entertainment on the Sabbath, at least during afternoon hours not coinciding with the usual time of divine services. Some states have given localities the right to decide what to allow on Sunday, with the result that Sunday activity has become freer in populous metropolitan centers than in the more conservative small towns or in country districts.

Liberalization of the Original Sunday Laws

Frequent amendment of Sunday laws, coupled with the tendency of lawmakers to retain obsolete provisions in the absence of concerted demands for their removal, have left the statutes a confusing mixture of what can and what cannot be done on the Lord's Day. Commonwealth Attorney William Hassam told the Arlington County (Va.) Board last Jan. 16 that he would try to enforce the Sunday law of Virginia more rigidly if its provisions were clearer. A Cincinnati police court judge last year characterized Ohio's Sunday law as "inequitable, anachronistic, and a hodgepodge of inconsistencies."

Many changes have been made in Sunday laws to meet demands of commercial interests for exemptions that were widely favored by the public. Such exemptions have applied to railroads, public utilities, communications services, automobile repair shops, newspaper plants, drug stores, restaurants, certain types of manufacturing plants, and vendors of cigarettes, candy and other small items. Some of the exemptions seem far removed from the classification of necessity or charity. North Dakota, for example, exempts not only public utilities and feed merchants but also bootblacks and popcorn stands. Massachusetts in 1957 made an exception for frozen custard stands—about the 70th modification of a law which originally penalized "whoever on the Lord's Day keeps open his shop, warehouse or workhouse, or does any manner of labor, business or work, except works of necessity or charity."

Some states repealed their general Sunday laws and substituted bans on specific activities. Arkansas, Iowa and North Carolina are among states which have followed this course in the past decade. California repealed its basic law as far back as 1883 and now forbids only boxing and wrestling on Sunday; Colorado, whose general law was repealed in 1916, now has a Sunday ban only on barbering, boxing and pawnbroking. Arizona forbids only barbering; Montana keeps dance halls and pool rooms as well as barber shops closed. A few other western states have minor restrictions of a like nature on Sunday activities.

A majority of states retain general bans on Sunday selling, and around a dozen of them exempt storekeepers who observe another day as the Sabbath. But Sunday selling by the exempted merchants is not unrestricted. The Massachusetts law allows Jewish stores

which close on Saturday to sell only kosher meat on Sunday, and only between the hours of 6 and 10 A.M.

Inconsistencies in Existing Sunday Statutes

The curious patchwork of Sunday law resulting from the numerous exemptions is illustrated by the following partial list of provisions in the New York law: Bread and cakes may be sold on Sunday but not uncooked meat; butter and cheese sales are prohibited after 10 A.M. unless sold in a delicatessen, where sales between 4 and 7:30 P.M. are legal. Tobacco may be sold but not pipes, tires but not automobiles, newspapers but not books. Wrestling, boxing and polo are prohibited, but baseball, basketball and hockey are allowed after 2 P.M., subject to local law."

The inconsistencies of Sunday laws have suggested to their opponents the tactic of demanding enforcement of the existing statutes in their entirety against all violators. Sunday merchants near Cincinnati made such a demand recently as the first gambit in a campaign for repeal. When theater owners in Spartanburg County, S. C., barred from Sunday showings, demanded that the law be applied against all violators, police launched a drive that netted 1,000 arrests on three Sundays last summer. Several magistrates complained of overwork, the sheriff said he needed more manpower, and one judge noted that it cost the state \$25 to collect a \$1 fine. In this case the law stayed on the books, but enforcement lapsed and Sunday selling continued. The late Sen. William Langer (R N.D.) had a different experience more than 40 years ago. As attorney-general of North Dakota in 1917, he was one of the first to engage in wholesale enforcement in a successful move to compel the legislature to revise an obsolete Sunday law.

Recent Legislation Affecting Roadside Stores

Recent Sunday legislation, like some of the earlier revisions, has been directed at specific enterprises; in the present instance, targets are the large roadside stores, usually discount houses, which sell major consumer goods on Sunday. New Jersey enacted a law in May 1959 which prohibited Sunday sales of clothing, home and office appliances and furnishings, lumber and building materials after Nov. 15 in counties whose voters approved the ban by referendum in the November election."

The question was placed on the ballot in 15 of the state's 21 counties, and was acted on favorably in 12 counties. The law prescribes penalties of \$25 for a first violation, \$25-\$100 for a second, \$100-\$200 and 30 days in jail for a third, and \$200-\$500 and imprisonment for from 30 days to six months for a fourth violation. In the counties where the ban applies, it has not closed down some of the big stores on Sundays, but it has limited their sales to small personal items. A new Pennsylvania law, approved last August, forbids Sunday sales of clothing, furniture, house-wares, appliances, hardware, tools, building supplies, clocks, watches, luggage, musical instruments, recordings, toys and furnishings. Penalties for a first offense were increased from the \$4 prescribed by the old law to \$100.

Ohio revised its Sunday law in 1959 to eliminate antiquated provisions and to make exemptions more explicit. The exemptions now include public transportation, recreation, sports, exhibitions, and state and county fairs. The Wisconsin legislature, on the other hand, rejected proposals to modernize that state's basic law and added a ban on Sunday sale of automobiles. The Utah legislature passed a strong Sunday bill but sustained the governor's veto of the measure.

Sunday legislation will continue to be a hot issue in some state legislatures. The Maryland General Assembly is due to consider this year a proposal for a stiff prohibitory law, with certain specific exemptions, which was recommended last March by eight of nine members of a special governor's commission. Virginia's House of Delegates passed a bill on Feb. 8 that would ban Sunday selling of clothing, housewares, furniture, hardware, farm equipment, food items that have to be cooked, and other specified items. The bill is aimed at supermarkets and department stores that have managed to stay open under an existing law prohibiting operation of non-essential business enterprises on Sunday.