

YES!
to
FREEDOM OF CHOICE
in
SUNDAY SHOPPING!

presented to
The Standing Committee on Administration of Justice
on BILL 115

by Robert Metz
on behalf of
FREEDOM PARTY OF ONTARIO

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YES! --- TO FREEDOM OF CHOICE IN SUNDAY SHOPPING!

Introduction:

Once again Ontarians are confronted with dramatic evidence of this government's hostility to their fundamental freedoms and of this government's continued movement in a political direction that has proven itself socially and economically destructive to every political jurisdiction that has tried it. This time, the evidence is presented as Bill 115, which contains amendments to the Retail Business Holidays Act (RBHA) and the Employment Standards Act (ESA) presented under the guise of "employee protection."

From the outset, Bill 115 is tragically flawed even by the terms of its own reference, and more importantly, like the RBHA and many of the provisions of the ESA, the bill is unsupportable in matters of principle, equity, fairness, and justice. It is an utterly destructive piece of legislation in terms of its contribution to a healthier economy and to the prosperity of Ontarians everywhere.

The Wrong Principle:

In the explanatory notes accompanying Bill 115, it is stated that "Part I of the Bill establishes the principle that retail business holidays are common pause days..." when in fact, Bill 115 actually does the very opposite.

By definition (Websters New Twentieth Century Dictionary, unabridged), a "principle" is a "fundamental truth, law, doctrine, or motivating force, upon which all others are based."

When a Bill enacts into law forced Sunday closings on the retail business sector, but chooses to exempt retail business establishments which (1) "sell prepared meals" (2) which "rent living accommodations" or (3) which "are open to the public for educational, recreational or amusement purposes" --- and which gives a host of discretionary powers to politicians --- it is clear that there is NO "principle" of a common pause day involved behind the legislation, since the law is applied arbitrarily and inconsistently, and since it does not apply its so-called "principle" equitably.

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However, Bill 115 does establish another negative principle, perhaps most familiarly expressed as the "divine right of kings". In the absence of a ruling monarchy, it has now been updated to mean the "divine right of politicians."

Provincial and Municipal Dictatorship:

Consider that the subjective nature of Bill 115 is absolute. The Bill grants to the province the exclusive privilege of "prescribing tourism criteria," the establishment of "procedures" and the setting of "fees for processing applications." Arbitrarily, the Bill even allows the government to "prescribe different tourism criteria for different classes of retail" and even "may permit the opening of retail business establishments on some holidays and not on others."

On the municipal level, Bill 115 grants to municipal councils the right to establish yet another set of "procedures", and the right to set even more "fees for processing applications." Then, as if to emphasize the dictatorial nature of the Bill, the municipality "is not required to pass the by-law even if the tourism criteria are met, and is granted absolute power in the matter since "the council's decision is final."

In the event an employer should be ordered to "compensate" an employee as a result of contravening the proposals set out in Bill 115, an "employment standards officer shall determine the amount of the compensation" --- though no specific process is actually mentioned as to how the officer might determine that amount. With minimum fines of \$500 for a first offence against the Act and a \$2000 minimum fine for any subsequent offences, it appears our socialist government has discovered yet another clever means of redistributing other people's hard-earned money.

How subjective and undemocratic can you get?

Punishment Without a Crime:

One is forced to ask what could possibly be considered so threatening about Sunday sales to warrant such draconian responses on the part of the government.

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To illustrate my point, consider my own personal experience. About five or six years ago, I was the victim of a violent assault. My assailant, who attacked me without provocation, was fined \$50 upon conviction of the offence. It seems disgraceful, to say the least, that a criminal offence involving an act of violence would merit a \$50 fine while the perfectly honest, peaceful, and voluntary activity of Sunday shopping merits minimum fines of \$500 and \$2000! Whose perverted and obscene sense of justice is this?

The worst possible consequences of retail sales on a Sunday include the creation of jobs, the spending of more dollars in Canada to support the local economy, and a healthier business environment.

Not Justice, But Persecution:

No, Bill 115 does not even represent a feeble attempt at justice. It has been so designed as to discriminate against and persecute a select class of retailers for blatant political gain.

In reality, arbitrarily restrictive government legislation, like the RBHA itself, exists to put power into the hands of politicians by removing the right to freedom of choice from the citizens they claim to represent. Sunday closing laws deny freedom of choice to consumers, to those willing to work on Sundays, and to retailers wishing to serve their customers on a Sunday.

Sunday Closing Laws Violate Rights:

There is no supportable justification for Sunday closing laws to exist in a free country. Canada's Charter of Rights and Freedoms supposedly "guarantees" that "Everyone has the following fundamental freedoms: (Sec.2a) freedom of conscience and religion;" and "(Sec.2d) freedom of association."

Additionally, the right to open on Sundays is further reinforced by the legal rights and equality rights sections of the Charter, to wit: "(7) Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice," and "(15)(1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination..."

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YES!

TO

FREEDOM OF CHOICE

IN

SUNDAY SHOPPING!

SUNDAY SHOPPING IS NOT JUST A SINGLE ISSUE!

YES! to INDIVIDUAL CHOICE:

Everyone should have a choice when it comes to Sunday shopping! But in order for **Some** people to have their freedom of choice, it is important that they respect **Other** people's freedom of choice as well. Those who do not wish to shop (on **Any** day of the week) have no right to impose their choice on others. And vice-versa.

That's why **Political Referendums**, and 'local options' will never be able to accommodate everyone's choice. With freedom of choice, consumers can "vote" with their dollars **Every Day Of The Week!**

What could be more fair than that?

YES! to SELF-RESPONSIBILITY:

Freedom of choice and responsibility go hand in hand. No matter what choice individual retailers or consumers may make with respect to Sunday shopping, the benefits or consequences are theirs to reap. One person's freedom of choice, when responsibly exercised, **Never** imposes an undue obligation on others.

Retailers and consumers who **choose** Not to participate in Sunday shopping are doing so out of conviction. Let's make sure their personal "convictions" don't result in the legal "convictions" of others.

YES! to PRIVATE PROPERTY RIGHTS:

Sunday closing laws violate fundamental principles of private property rights. Certain retailers are being told that, every Sunday, they will not be permitted to exercise their right to the peaceful use of their property.

Think about it. How would **You** feel if someone suggested you should not be allowed to turn on your TV set or drive your car on a Sunday?

When politicians can tell retailers what to do with their property, simply by "passing a law", then there's nothing to stop them from "passing a law" to prevent **You** from using **Your** property.

Like homes, retail stores belong to their **Owners**, not to anyone else.

YES! to INDIVIDUAL JUSTICE AND EQUALITY BEFORE THE LAW:

Justice demands that **Every** citizen be treated equally before the law. No matter how you look at it, Sunday closing laws just don't work.

With all the exceptions, regulations, and selective restrictions outlined in Ontario's **Retail Business Holidays Act**, there isn't a person alive who could reasonably argue that the law is "equally bearing upon all."

And the only standard that fills that bill is called **Freedom Of Choice**.

Let's be fair to everyone and abolish the **Retail Business Holidays Act!** Even if 99% of Ontario Consumers refuse to shop on Sunday, that's no reason to treat the remaining 1% like "criminals".

YES! to FREEDOM OF RELIGION:

On December 18, 1986, the Supreme Court of Canada ruled that Ontario's Sunday closing laws represented a "justifiable" infringement of our **Freedom Of Religion**, even though Seventh Day Adventists, Jews, Moslems, Atheists, and Agnostics (among others) are not Sunday worshippers.

When the ruling was announced, many church groups and religious leaders actually applauded the decision. Worse, some have even organized to **Fight Against** freedom of choice in Sunday shopping by favouring a law that openly violates **Freedom Of Religion!** Imagine that!

Among many other things, individual freedom depends upon a clear separation of church and state. Remember, no one is being asked to give up their faith or the practice of their religious convictions. Freedom of choice merely requires us to respect the right of others to **Their** beliefs and convictions.

People with differing religious convictions and people with no religious faith have a right to their freedom of choice too.

After all, that's what **Freedom Of Religion** is all about!

YES! to FREEDOM OF ASSOCIATION:

Ontario's Sunday closing laws not only prevent customers from freely associating with retailers, but they also limit the number of staff allowed to serve the customer on Sundays.

But there's no reason why those who **Want** to work Sundays (students, the unemployed, those with obligations on other days of the week) should be denied their right to that choice as well. Similarly, those who want to **Shop** on Sundays have rights too.

At least, that's the way things **Should** be.

YES! to FREEDOM OF SPEECH:

Recently, retailers have actually been charged for allowing the public to "browse" in their stores and shops on a Sunday.

As absurd as it may seem, Ontario's **Retail Business Holidays Act** effectively makes it illegal to "discuss the sale" of items that are prohibited from being sold on Sundays.

A visit to your local gardening centre during the summer, for example, may reveal posted signs on lawn furniture and certain home gardening accessories that say something like: "Sorry, we are not permitted to discuss the sale of this item on a Sunday."

Should talking about patio furniture be considered a crime?

YES! to FREE ENTERPRISE:

It's funny how there are so many more people who **Talk** "free enterprise" than there are people who actually **Practice** it.

It's funny because among the biggest **Opponents** to Sunday shopping are business groups and retailers themselves, including many who claim to uphold the principle of free enterprise. Still, they want the government to interfere with the peaceful operation of businesses that do not belong to them, and are lobbying politicians to fine and jail honest, peaceful businesspeople who merely happen to view their business obligations to their customers differently.

If you believe in **True** free enterprise, then be aware that those businesses lobbying to deprive **YOU**, the consumer, of your right to choose, are your enemies adopting a misdirected and dangerous course of action not your friends. They want to restrict the businesses who prefer to serve you on your terms, while demanding special privilege protecting them from competition. . . and that's **NOT** free enterprise.

The "free" in "free enterprise" refers to **Freedom From Government Intervention** and from the **Political Intervention** of one's fellow citizens.

YES! to THE FAMILY:

There's no doubt that there are many families who prefer to spend their Sundays as a day of rest, but consider this: There are also families who like to **Shop** together; there are families who like to **Work** together; and there are even families whose members would rather have nothing to do with each other.

And let's not forget, there are families who **Depend** on the income they earn on Sundays.

Just like individuals, families have differing needs, preferences, and lifestyles.

Freedom of choice accommodates **Every** family.

YES! to COMMON SENSE:

Some people believe that the freedom to shop on Sundays will "force" retailers and their employees to work on Sundays. It just isn't so.

The idea that one's commitments, responsibilities, and obligations constitute "force" is not only misleading, but entirely inappropriate and improper. People who choose to work in retail have **Obligated Themselves** to serving the customer, not the reverse.

And that kind of "obligation" is what **Self-Responsibility** is all about!

There are other people who seem to believe that Sunday shopping will mean that retailers and their employees will be forced to work seven days a week!

It just isn't so.

Just because **Stores** may happen to be open seven days a week doesn't mean that people will have to work "seven-days-a-week". Just as now, most people will still have **Two** days per week on which they will not have to work.

Better still, for in retail, Sunday openings can provide a greater margin of flexibility in scheduling of work hours. That means retail employees who have not been able to have **Two Days Off In A Row**, because of forced Sunday closings, may now have that option.

Common sense scheduling along with an increase in the work force, will usually see to it that even those who work on weekends will have the opportunity to book many of their weekends off.

And always remember, freedom of choice means that any retailers who want to remain closed on Sundays still have the freedom to make that choice. In fact, they can close their stores on **Any** day of the week.

YES! to INDIVIDUALISM:

Imagine a world where every store opened at the same time, sold the same products, charged the same prices, looked the same, and was run by people who all acted the same.

What a terrible world that would be.

Thank goodness we live in a society enhanced by individuality, variety, and difference.

Isn't that what the Sunday shopping issue is really all about?

YES! to A NEW CHOICE, NOW!

All Three of Ontario's traditional political parties are **Opposed** to freedom of choice in Sunday shopping. They believe that someone other than **You** should have the right to control **Your** choice on a Sunday.

Even so, David Peterson and Joan Smith are **Right** when they say that Sunday shopping shouldn't be a provincial matter. And our municipal leaders are also **Right** when they say that Sunday shopping shouldn't be a **Municipal** matter. Unfortunately, they all believe the choice belongs to anyone but you!

Freedom Party believes that the **Purpose Of Government** is to **Protect** our **Freedom Of Choice**, **Not** to restrict it.

Whether you're a **Retailer**, an **Employee**, or a **Customer**, when it comes to when you shop, it should be **Your** choice.....even on a Sunday!

FREEDOM PARTY

... YOUR NEW CHOICE NOW!

FREEDOM PARTY BELIEVES THAT THE PURPOSE OF GOVERNMENT IS TO PROTECT OUR FREEDOM OF CHOICE, NOT TO RESTRICT IT.

SEND TO FREEDOM PARTY, P.O. BOX 2214, STN. A, LONDON, ONT. N6A 4E3

YES, I SUPPORT FREEDOM OF CHOICE IN SUNDAY SHOPPING. I ENCLOSE A TAX-CREDITABLE CONTRIBUTION OF \$10 \$25 \$50 \$100 \$250 other Expiry Date _____

(Payable to Freedom Party) _____

I'D LIKE INFORMATION ABOUT FREEDOM PARTY, SUNDAY SHOPPING, INDIVIDUAL RESPONSIBILITY AND FREEDOM OF CHOICE

PLEASE SEND ME _____ 'I ♥ SUNDAY SHOPPING' BUTTON(S) @ \$1.00 EACH PPD, I ENCLOSE \$ _____.

I'D LIKE TO SUPPORT BARRY MALCOLM IN HIS LONDON NORTH BY-ELECTION CAMPAIGN

NAME _____

ADDRESS _____

CITY _____ POSTAL CODE _____ PHONE # _____

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FREEDOM OF CHOICE
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(OR BRING IT TO OUR OFFICE PERSONALLY, 364 RICHMOND ST., 3RD FLOOR, DOWNTOWN LONDON)
 FREEDOM PARTY OF ONTARIO IS OFFICIALLY REGISTERED

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Sunday closing legislation also violates fundamental principles of private property rights: retail business and property owners have been told that, every Sunday, they will not be permitted to exercise the right to the peaceful use of their own property and that, regardless of how they may feel about it, and without their consent, they must relinquish the normal use of their property or face legal consequences that very few real criminals would ever have to face.

More Persecution:

On an operational level, Bill 115 is a potential management nightmare even for retailers who, having somehow magically met the whimsical criteria set by two different levels of government, still manage to be operating on a Sunday. Under "Notice of Refusal", the Bill grants an employee the right to refuse an assignment to work on a Sunday as long as he gives the employer 48 hours notice --- even if the employee has previously accepted that assignment!

It would be impossible to adequately condemn or further comment on the nature of such an absurd law. Consider that most retail managers plan their staff scheduling far more than 48 hours in advance. With the general understaffing that the retail sector is already experiencing, the confusion and uncertainty caused by such a provision will only cause even more unnecessary conflict and tension between employers and their employees. The only possible purpose of such a provision is to further persecute retailers who manage to get around the Sunday closing laws.

Bill 115 refers to an employee's refusal to work on a Sunday as "the Right to refuse work." It is no such thing. What it really does is take away the employer's right to refuse employment.

Why should an employee who refuses to work --- for whatever reason --- be granted the right to continued employment when that right should justly belong to those who are willing to work? Where is the moral, ethical, or even plain common-sense justification in forcing an employer to retain an obviously unwilling employee when there are more than enough willing individuals in need of Sunday employment? What about the rights of those who are unemployed -- or under-employed --- as a result of Sunday closing laws?

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The REAL Issue:

Bill 115 is, like the legislation it is attempting to enforce, a complete travesty of justice. As is typical with virtually all "social" legislation, Bill 115 does not deal with any real issue.

The real issue, that is, what's at stake in the Sunday shopping controversy, is our individual freedom of choice --- and the rights and responsibilities that go along with that freedom. "Sunday shopping" is merely a political event, and is one of many similar "events" that have been created by continued state infringements on our freedom of choice.

Political issues and events are entirely different things, and one of the first things we have to learn is how to distinguish one from the other before we can even hope to be able to focus our energies on the issue. After all, if we can't even identify an issue, then how can we ever hope to do anything about it?

"Sunday shopping" isn't the issue. Freedom is.

The REAL Principle:

The principle at stake in any political debate essentially boils down to this choice: Do we want to live in a society based on the principles of CONSENT, or do we want to live in a society based on the principles of FORCE? Is it morally acceptable for some of us to be allowed to force our choices upon others, or should all individuals be free, within the context of a non-coercive voluntary framework, to make their own choices for themselves?

This is not a choice open to compromise. Force and consent are opposite principles. They cannot be mixed.

Tragic Legislation:

The real tragedy behind Bill 115 and the legislation it attempts to force upon a select minority in this province is that it once again attests to the shameful and blatant disregard our elected officials continually exhibit towards our fundamental freedoms and rights.

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We never thought we'd see the day when earning one's livelihood through gainful employment would be considered a crime, but that's exactly what Sunday closing legislation attempts to do.

What has happened to our once-free, competitive, and prosperous province? It used to be that we rewarded those in our community who worked overtime and extra days to get ahead. We had the right and incentive to work harder to make a better life for ourselves and our families.

Political Interests:

Regrettably, political interests have decided that the only "competition" they have any interest in is that between various left- and right-wing lobby groups and parties who all want to claim credit for the privilege of robbing us of our freedom to choose -- on a Sunday.

On the political left, organized labour groups protest against the freedom to trade on Sundays because they fear the prospect of having consumers dictate to labour (as they do to business), and not the reverse, which is what they want. On the political right, some businesses who think they deserve government "protection" also don't like being dictated to by the consumer, so they support legislation against other business people who see the profit to be made by doing so.

What both sides have in common is the belief that someone else's freedom of choice somehow imposes an obligation on them -- but what really motivates them is a greed for the unearned: they both want the market to be put on "hold" until they are willing to participate. Because they've chosen to stay home and "rest", they would deny the economic benefits created by working on Sundays to the very people who create those benefits --- all in the name of claiming their "fair share!"

YES! To Freedom of Choice in Sunday Shopping:

Freedom Party strongly opposes all Sunday closing legislation because:

Freedom Party believes that the purpose of government is to protect our individual freedom of choice, not to restrict it.

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Governments and politicians of supposedly free nations have no right to impose the values and choices of others on any of us. Whether an individual chooses to remain home, to work, to shop, or to attend the church of his or her choice, we believe that that choice belongs only to those individuals --- even on a Sunday.
