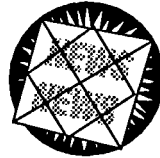


Newsletter

by Peter Clarke



Journal 70 in January 1991 reported the request to Co-operative Retail Services Ltd. from the Chief Registrar of Friendly Societies that it reconsider aspects of its relation to the Co-operative Wholesale Society Ltd., including the rules that the C.W.S. should appoint half the board of CRS and at CRS general meetings should have a vote equal to the entitlement for the entire individual membership. Since then, the CWS representatives on the board have been reduced from 8 to 3 and the elected representatives increased from 8 to 12; and the voting power of the CWS at members' meetings has been reduced.

A comprehensive scrutiny of the rule book is being made by the Rules Revision Committee of CRS and its final report may be available in the latter part of the year.

Sunday Trading

The pre-election period saw the unedifying spectacle of major traders, Safeways, Sainsbury and Tesco, leading the way in defying the law by trading on Sundays. It started before Christmas, because of "demand from customers" but continued afterwards thus proving the hollowness of the arguments. The Government allowed the situation to escalate, claiming there was nothing they could do. They did, however, refuse to indemnify Councils which were prepared to use their legal powers.

Councils needed this indemnity to protect them from claims for damages from retailers whom they prevented from trading on Sundays. This extra-ordinary situation developed because the case of B & Q versus Torfen Borough Council is now before the European Court. Sunday traders are confident that the Court will find in their favour. In other words the Court will rule that the 1950 Shops Act is in breach of EEC regulations on free trade. If the European Court so finds, the traders may claim damages for loss of trade from restraining local authorities.

Why, I wonder, do the Government and the traders expect such a ruling? Eleven of the twelve community countries have rules forbidding Sunday

trading. The Social Chapter of the Maastricht Treaty builds on those safeguards. France, for example, recently fined Richard Branson's Virgin Group £100,000 for trading on a Sunday in Paris. There was no talk of retaliation by Branson!

Co-op MPs expressed their dismay that the Co-op was forced to break the law and open on Sunday to respond to the competition.

The Government also refused to support the Shops Amendment Bill introduced in the wake of the controversy. This sought changes to the 1950 Shops act based on the principles promoted by the Keep Sunday Special Campaign. Though endorsed by one third of all MPs the bill did not become law.

National Federation of Housing Co-operatives.

All too sadly we have to record the death of the National Federation of Housing Co-operatives. The last Newsletter warned that the NFHC's funding problems might prove terminal.

This episode reminds me of the demise of the CDA in 1989/90 and the closure of the Co-operative Housing Agency in 1979. In such circumstances there are always individuals who could, should, have acted differently. However, it is a distraction to blame the individuals. Their failures must be placed in the wider policy context set by the government. If that context is hostile, then failure is inevitable.

In the aftermath of the closure two initiatives are being taken to create a phoenix. There are rumours of government funding for a feasibility study to link up housing Co-ops with the National Federation of Housing Associations (NFHA). Meanwhile former members of the NFHC's national committee are meeting to get a new organisation off the ground.

I believe that the new body should be independent of the NFHA, as such a link would merely turn back the clock to the 1970s.

The NFHC was born in 1981 out of frustration with NFHA which Co-ops saw as the mouth piece of the big associations; as small associations Co-ops have different interests. The experience in the 1990s would be the same.

Any new Co-ops body must, however, forge far better links with the retail movement than the NFHC did. Only the retail movement has the political clout needed to raise the profile of housing Co-ops, and it can help in other ways.

A European Co-operative Society by 1 January 1993?

The Commission of the European Community has now adopted a Draft

European Co-operative Statute. It has been sent to the European Parliament and the Governments of the Community for consideration. As part of this process the Socialist Group in the European Parliament will be convening a conference in May to discuss the statute. The third conference on the Social Economy in Lisbon will also consider the Statute. Meanwhile the hopes of the United Kingdom Co-operative Council have been fulfilled; a unified Co-operative view has emerged within the UKCC and has been forwarded to Brussels.

The Statute will accommodate the creation of European Co-operative Societies [SEC's], with a minimum share capital of £60,000, by two Co-ops established in different member states. Existing Co-ops with a subsidiary in another member state may convert into a SEC.

The Draft Statute is vastly better than the first draft which circulated in Britain, and deserves to be taken seriously by UK Co-operators. It contains a number of novel features. For example, whilst par value shares can be issued, non-par value shares may also be issued and non-voting shares. Shares in an SEC can be sold by the owner and may be held by banks as collateral for loans. The value of shares is to be determined in relation to the balance sheet but must be defined by Rules. Investors, who take a share holding but have no other interest in the SEC, may be granted "special benefits."

Financial Provisions

A statutory reserve has to be created equal in size to the capital of the SEC. Until such time as this is achieved 15% of the surplus must be paid into the reserve.

Upon dissolution of the SEC, after creditors and "designated beneficiaries" are satisfied, the assets have to be distributed either to other SEC's or Co-operative societies, or to one or more bodies having as their object the support and promotion of Co-operative societies, unless otherwise determined by Rule.

The Statute offers the option of a one or two tier board structure.

This Draft rules out the possibility canvassed at an earlier stage that 5 or more people, at least 2 of whom lived in another member state, could set up a SEC with a minimum share capital of £3,000. Also ruled out is a unified statute for the "social economy", i.e. Co-operatives, charities and mutual organisations.

I hope that the UK gives its approval. Labour is said to be in favour, but the Conservatives are thought to oppose the idea because it allows employees to become directors. This has always been anathema to the CBI and is the reason

for the UK government opposing the parallel European Company Statute. However, it should not stand in the way of the Co-operative Statute; UK law already allows employees to become directors of UK Co-operative Societies.

A New UK Co-operative Law?

Progress with the European Statute puts even greater emphasis on the need to modernise UK Co-operative law. So do recent allegations of fraud by Co-operative senior officials and directors and the publication of the Report of Lord Alexander's Committee on Legal Risk Review.

We cannot, of course, comment about the detail of the cases, but these allegations must be food for thought for the Chief Registrar of Friendly Societies. When Mrs Gilmore met the Parliamentary Co-operative Group just before Christmas, she made plain her duty to protect both the public interest and the members' interests.

The Alexander Committee was set up in the aftermath of the court case against Hammersmith and Fulham Council, which found that local authorities had no powers to undertake certain types of financial transactions. For example, interest rate swaps by Councils were *ultra vires* and they had no legal liability for the losses incurred. The decision unhinged the confidence of the financial markets, since its very basis has always been that contracts entered in good faith were enforceable.

Now the Alexander Committee has come to the worrying conclusion that while the Companies Act 1989 gives protection to companies many other bodies, including Co-operative Societies, are not covered. The only reassurance is that since this problem is shared by a wide range of other bodies, government must act. The other bodies include local authorities, building societies, credit unions and housing associations, nationalised industries, some statutory water and harbour companies and even some insurance companies and banks. Indeed pension funds might find themselves included if their trust deeds are not sufficiently broadly worded. The modernisation of UK Co-operative law is on the official agenda.

Prospects at ABCUL

We welcome Mr Michael Parkinson as Chief Executive of the Association of British Credit Unions Ltd. He takes over from Roger Lewis and joins ABCUL from the building society sector.

ABCUL represents 50,000 members in 200 credit unions. Credit unions are currently showing a 30% annual growth in assets.

The Registry of Friendly Societies has been insisting, of course, that all credit

unions were properly run and were filing returns. Now that these problems have been overcome, the limits on lending and shareholding have been revalorised (re-valued in line with inflation) and new credit unions are being encouraged. However, the Registry is still concerned that the average size of credit unions is too small. Some have barely enough members to form and elect a committee.

More than 100 local authorities are now supporting credit union development, many with paid credit union development officers.

Declan Jones, Director of Lothian Regional Credit Union Development Agency and a director of Scotmid Society is organising liaison among local authority credit union officers and development agencies. He can be contacted on 031-553 1409.

Meanwhile ABCUL has set up a sub-committee to look at new legislation for credit unions. It is due to give an interim report to the ABCUL annual meeting this summer, with a final report in 1993. Michael Parkinson hopes that, by then, credit unions will have demonstrated the case for new legislation to boost their role as locally controlled Co-operative credit institutions and allow them to compete with friendly societies and building societies. We wish him well.

Co-op Collectors - and Research

A lively and informative weekend was enjoyed by about thirty enthusiasts last January when the Co-operative Collectors' Circle was inaugurated. One question which vexed the conference was whether their work, often involving intricate delving into local and Co-operative archives was really research. If it is, can it be included in the Society's register of research?

I am assured by the committee of the Society that in accordance with the general invitation indicated in the Register 1991, published in Journal 73, enquiries from any collectors about the eligibility of their research for inclusion would be welcomed by Dr. P. Davis the Society's research correspondent. His address is International Centre for Management, Law and International Relations, University of Leicester, Fielding Johnson Building, University Road, Leicester LE1 7RH.

The Author

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