

RETAIL TRADING HOURS AMENDMENT BILL 2012

Second Reading

Resumed from 21 March.

MS R. SAFFIOTI (West Swan) [2.56 pm]: Yesterday, I was interrupted as I was going through the history of the retail trading hours debate in Western Australia. I will finish that before moving on to some other aspects of the bill.

As I said yesterday, throughout 2003 and 2004, the Labor Party not only undertook a review of retail trading hours in WA but also introduced legislation to this house to allow weeknight trading. That was blocked by the Leader of the Opposition at the time, the current Premier, and the Liberal Party. As a result, a referendum on the issue was held during the 2005 election. The Liberal Party recommended “No” and “No”. Of course, the Minister for Transport was the poster boy for the “No”, “No” campaign. More recently, in 2008, the Labor Party put forward a clear policy to electors in relation to extending retail trading hours. The now government, the Liberal Party, did not. My opponent at the election went around telling people that the Liberal Party would not change trading hours, but that the Labor Party was committed to Sunday trading. That was the issue. Again, in this chamber yesterday, the Premier said he always supported deregulation. Time and time again he opposed deregulation, and he opposed Sunday trading and he opposed weeknight trading. He was the Leader of the Opposition when the Liberal Party took the policy stance to reject our weeknight trading legislation and also was the Leader of the Opposition in the 2005 election campaign when the Liberal Party aligned with the “No”, “No” campaign. That is very, very clear. I will quote *Hansard* from 2003. Then Premier, Dr Gallop, asked —

What is the position of the Leader of the Opposition on trading hours?

Mr C.J. Barnett: We released it last week.

Dr G.I. GALLOP: How very interesting! ...

That policy said there would be a statewide freeze on further deregulation of retail trading hours. That was the position taken by the Liberal Party under Colin Barnett.

Ms L.L. Baker: That is not what he said yesterday.

Ms R. SAFFIOTI: That is not exactly what he said yesterday, but we are all aware of the Premier’s continual rewriting of history.

I also want to talk about Sunday trading. The Leader of the Opposition, the member for Rockingham, put Sunday trading on the agenda in January this year.

Mr T.R. Buswell: Has he ever opposed it?

Mr C.C. Porter interjected.

Ms R. SAFFIOTI: That is a nice laugh the Attorney General has!

Mr C.C. Porter: I’m glad you like it!

Mr T.R. Buswell: He has an even nicer smile!

Ms R. SAFFIOTI: It is very high pitched. I am sure my dog, Oscar, is barking wildly as we speak!

Mr C.C. Porter: I have a very good falsetto. We should sing together sometime.

Ms R. SAFFIOTI: I am sure you do. Whatever turns you on, Attorney General!

In relation to Sunday trading, I quote the Premier’s press release of 18 November 2008, which states —

The Liberal–National Government is not seeking to extend Sunday trading.

It is still my intention to sit down with Coles and Woolworths and the independents, consumer groups, representatives of the employees and industry to discuss a move towards extending weeknight shopping as the next step in deregulation.

We will look at fixing some obvious anomalies that exist with the current weekend trading hours, however, I respect the 2005 referendum result which rejected further deregulation on Sunday.

Yesterday the Premier said that the questions in the referendum were a joke and that the referendum was a joke, but in 2008 he said that he was going to respect it.

Ms J.M. Freeman: Say anything!

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Ms R. SAFFIOTI: Yes, he will say anything and do anything.

I then go to *The Australian Financial Review* of 24 September 2008, which stated that Barnett had said “Never on a Sunday”. It states that he said that the Liberal Party would not head down the path of Sunday trading. The idea that the Liberal Party has always been consistent in its policy on deregulation is absolutely false. The Liberal Party rejected weeknight trading in 2003. It was on the side of the “No”, “No” campaign at the referendum in 2005. It refused to put out a clear policy position at the election in 2008, but it is clear —

Mr V.A. Catania interjected.

Ms R. SAFFIOTI: The member for North West!

In the lead-up to the 2008 election the Liberal Party was not talking about Sunday trading. As I said, there were candidates all over the place rejecting Sunday trading. As late as this term, the Premier said, “No way Sunday.” To come into this place and pretend that the Liberal Party has been consistent all the time is absolutely ridiculous. I just have to acknowledge that we were not going to go through this history but some of the comments made yesterday were absolutely appalling. So there it is: as late as 2008 Sunday trading was a no-go for the Premier.

I now want to talk about some other issues on Sunday trading, because here we are. As many members of this chamber believe, views on Sunday trading have changed throughout the community. There are a number of reasons for that, I believe. One is the issue of fly in, fly out workers. Parents, mostly fathers, sometimes do not have time to go shopping with their children. I remember having a “meet the member” event in Ballajura last year and discussing a range of issues. A person came up to me and said, “Look, I support you on a lot of issues but in relation to Sunday trading, things have changed. I am a fly in, fly out worker. I want to be able to take my son to go and buy some clothes with him on a Sunday.” It is an interesting aspect that with the prevalence of fly in, fly outs and the changing ways of working —

Mr T.G. Stephens interjected.

Ms R. SAFFIOTI: I will let the member for Pilbara talk about changing fly in, fly out.

With people’s changed working conditions and with both parents working and under enormous time pressures throughout the week, sometimes Sunday is the time to go shopping. The member for Rockingham talked about how shopping is becoming an experience for him and his family. I know that a lot of families like going shopping together and I must say that a lot of the big shopping centres are catering for that with places for children to play in and all those other aspects. I therefore do believe that the community attitude to Sunday trading is changing. But of course there is the issue in relation to retail workers. I thought the Leader of the Opposition put forward a proper, sound argument when he said that we should ensure that workers are not forced to work on Sunday, and when he tried to get into those negotiations with the Premier, the Premier, wanting to continually play politics on this issue, rejected discussions and has now brought in this legislation. I think it would have been proper and wise for the Premier to sit down with the Leader of the Opposition and talk about those issues, because, frankly, the Premier has been all over the place on this issue. Why does he not sit down and try to sort through some of the key problems in relation to retail workers having to work on Sundays? There is the issue therefore of retail workers. There are issues to do with retail workers being able to catch public transport to shops, which I also think applies to weeknight trading as well, frankly, because a lot of services do not work up to 9.00 pm throughout the suburbs. There is an issue of safety, and this is more to do with weeknight trading. For example, if my daughter worked in a shopping centre and finished at 9.00 pm or 9.30 pm —

Mr W.J. Johnston interjected.

Ms R. SAFFIOTI: She is only two, but I am sure she will be very good. My daughter is very smart!

If I had a daughter of working age and she was going out to work and leaving a shopping centre at 9.00 pm, I would have some issues about her safety in getting to her car and coming home because lighting and security around shopping centres is an issue. That currently applies to a lot of workplaces, frankly, but the government and opposition have recently made changes to legislation. Lighting around shopping centres in particular is something that needs to be looked at. A lot of people do not go shopping at nine o’clock at night, frankly—limiting Sunday trading to eight o’clock would have been far better—so there are not a lot of people around after 7.00 pm and there are even fewer people around after 8.00 pm. The shopping centre car parks are deserted places at those times with a lot of places to hide. That is something that, frankly, needs to be seriously looked at.

[Member’s time extended.]

Ms R. SAFFIOTI: I want to speak briefly about the market and competition. I do think that we have considered retail trading hours legislation as one way of trying to limit market power.

Mr W.J. Johnston: That was the Premier's view.

Ms R. SAFFIOTI: It was the Premier's view yesterday but I am not sure about today, member for Cannington.

I think it has been demonstrated that using retail trading hours to limit market power does not work properly and that we need to look at other mechanisms. In WA we have the major supermarkets, Coles and Woolworths, and we have a strong third group, IGA supermarkets. There is debate about how local IGA supermarkets are, and I know that there is the issue of wholesalers versus retailers. However, I know that a lot of IGAs buy from local producers. Some have done very well in marketing themselves. They do buy local beef and they go to the markets and buy from smaller producers. As I have said on a few occasions in this house, my parents are orchardists. Our family has been going to the markets and selling our fruit for 48 years. Initially purchasing was very diversified; however, over time it has really been consolidated by the two majors, which are Coles and Woolies, and then the small fruit shops and specific IGAs. Some IGAs market their products very well; they promote freshness, they go to the markets and they buy the fruit and vegetables and they target particular consumers; moreover, they sell themselves to the public as retailing local fresh produce, and many people are attracted to their local IGA for that reason. Some, frankly, do not do that well. They have had the opportunity to reorientate themselves to that particular market but have not done so. I suspect with these changes to retail trading hours we will see some IGAs changing the nature of their shopping.

I remember going over to Victoria in 2003 to look at retail trading hours. One of the things I did was visit a lot of supermarkets equivalent to the IGAs. I went to one that did not have shopping trolleys, only small baskets. The people there said that they cater for the purchasers of 12 or fewer items. They cater for people who want to buy milk and bread on the way home from school or work but who do not want to go to a major shopping centre. They want somewhere local and convenient where they can get an easy car spot and where they can run in, get their goods and get out. They might even buy some pre-prepared dinners for that night. There is therefore a really big role to be played by a third player. As I said, I do not believe when we go shopping that we always want to park in a major shopping centre, walk a major distance to get into that major shopping centre and line up at a major Coles or Woolies. I think there is a real need and a role for a major third player. As I said, the store I visited in Melbourne—which was after a number of years of deregulation—reorientated what it did and how it sold itself, to be convenient and to have someone always at the cash register and also to sell things such as pre-cooked chickens and all those sorts of things. It meant that parents would often shop there on the way home from work or after picking up the kids or whatever. I therefore think there is a key role and a need, as I said, for a third player in relation to local suppliers.

Over the past 48 years and in my lifetime, my parents and I have seen the market change from the producers' point of view. As I said, I have seen a consolidation in purchasing. Initially, it was a matter of taking the goods to market to get the best price. Now it is a matter of negotiating with the majors, and when the majors are not happy with us, we have a bit of a problem because we are out there competing with everyone else to supply to a limited market. As I said, I would like to see a third major supplier and retailer in the market. The key question was: how do we prohibit the market power of the majors? I think that is something that needs to be done more effectively at a federal level. I understand it is possible to draft legislation in relation to the way markets operate to, again, assist fruit and vegetable producers. In one way we have used our legislation as a way of promoting competition and limiting market size in retail trading, but I do not think it has been as effective as we would have liked. I think we will see changes in the retail industry as a result of Sunday trading and some good reforms where local IGAs will become more tailored. I think some IGAs will compete very effectively with Coles and Woolies—there is no doubt about that—but not all IGAs will be able to do that. Some will change the nature of their stores.

I have been disappointed with the government's response to other things Labor has raised, such as the lease register. I do not think what Labor outlined, I think two years ago, was outrageous. I think the idea of fairness for small businesses operating, particularly in shopping centres, is a key issue. I do not think we want our shopping centres dominated by the majors and chains where there are no mum and dad, family-run businesses. But that will be increasingly the case because of the enormous imposts shopping centres put on small businesses. Transparency in lease arrangements is very important. I cannot see why the government will not move on that ground. It is basically just a matter of providing information. When governments are reluctant to provide information to all the market players, it just does not make sense. A lot of what we discuss in economics is the need purely to have information so that people can make decisions. I think it is a bit unfair that small operators do not get the information they need to make business decisions about their future. As I said, when we talk about small businesses, there is a clear difference between the small business run by a national chain and the small business run by mums and dads. It is those mum and dad businesses that sometimes gets squeezed out and where the pressures of running a business are felt more acutely due to the effects on the whole lifestyle compared to the

task of just managing a store. I believe we should be doing more to provide information to all retailers in a shopping centre.

I will lastly talk about the shopping centres in my electorate and some of my constituents' views on Sunday trading. As we have all experienced in our feedback, views are still very mixed. I think Sunday trading is popular with some people and not with others, especially those who will work on Sundays, as this will impact on their lifestyles. Some retailers have said that they would like to open on Sundays and others have said that they do not want to. Of course, Sunday trading will have an impact on places such as the Malaga markets and other markets throughout the metropolitan area. I think community views are still pretty mixed, but the majority of public opinion is moving towards favouring Sunday trading, as I said, for the flexibility it will give families. I compare my time pre-kids to post-kids. Pre-kids, frankly, I was not as time poor as I am now and did not require weeknights and Sundays to buy the essentials we need. Now I am very time poor —

Ms L.L. Baker: Sleep poor.

Ms R. SAFFIOTI: — and sleep deprived. Like many working parents, I have become very time poor and need every opportunity to do the weekly shopping and hunting for the discounted nappies, which I try to do on a weekly basis. As I said, I think views are still mixed but my experience post-parenthood compared to pre-parenthood has changed. I think I can relate to a lot of working parents who might have, for example, an enormous number of sporting commitments on Saturdays. One issue that has been raised in previous debates on this issue is that we do not want to see a decline in the number of young people who participate in sport on a Sunday because they have to work. If employers are not forcing employees to work, that will not be the case. We should try to do whatever we can to ensure employees are not forced to work so that they have the flexibility to spend Sunday at home with their families if they choose or continue to play their sport or do whatever activity they like to do.

As has been said, this issue has been a political football for a number of years. I did not want to go through the history of who said what, but, given some of the comments I heard yesterday, I thought it was important to put on the record the history of this debate in Western Australia. Everyone in this house has probably held five positions on the issue. The idea that Liberal Party members can come in here and say that their stance has been pure is just wrong. We have heard mocking from some of the backbenchers who have not been around or who completely ignored WA politics until 2011.

Ms L.L. Baker interjected.

Ms R. SAFFIOTI: Exactly. Even up to 2008, after the last election, the Premier was still saying no to Sunday trading. No-one's stance is pure on this argument. People have been laughing and scoffing about our position. The Attorney General was laughing in his seriously high-pitched voice.

Mr M. McGowan: Squealing.

Ms R. SAFFIOTI: His squealing with excitement in his high-pitched voice was just ridiculous. The Leader of the Opposition showed a bit of maturity by saying, "Let's get this issue off the table; let's work and get it sorted." Frankly, it would have been good to have a discussion to assess some of these other problems that will emerge concerning what Bunnings and the Woolworths competitor —

Mr M. McGowan: Masters.

Ms R. SAFFIOTI: — will sell. Those issues will still be there. It would have been good to have a mature conversation around the table about whether we could have fixed a few of the other issues while we are at it, but, no, we had to continue to play politics on this until the legislation is passed. Frankly, what the Premier said is on the record—no to Sunday trading until post the 2013 election. The Leader of the Opposition offered the opportunity to get Sunday trading sorted, and that is what we are doing today. But people scoffing and squealing is absolutely ridiculous. Anyone who has been here for a few years will have seen what the Liberal Party has done with this issue over the past 10 to 13 years.

As I said, I think the community's views have changed. There is not an overwhelming majority, but a majority, of people who believe Sunday trading is required to make their lives easier. If this can make life easier for families in balancing their work, child care and other commitments, it will be a good thing. We should do whatever we can to protect retail workers; moreover, I believe this will provide families with flexibility in running their lives on a weekly basis.

MR E.S. RIPPER (Belmont) [3.18 pm]: Unlike the previous speaker, I now have a lot more time to go shopping should I choose to exercise that option. Indeed, for the first time for more than a decade, I can speak in this debate without the responsibilities or obligations of deputy leadership or leadership. I do not want people to make too much of that because I was confident very early this year that our party conference in the middle of the

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year was likely to endorse, uncontested, a position very much in favour of Sunday trading. Nevertheless, I am very pleased to say, as an individual member of Parliament, that I support this legislation.

Our debate has been about Sunday trading or no Sunday trading. That is the wrong way to frame the debate. We have Sunday trading now, except we have a form of Sunday trading that is anti-choice, anti-consumer and pro-vested interests. For 20 years in this state we have had a very poor public debate on shopping hours. What has happened is that vested commercial interests have exploited the community division on Sunday trading to establish commercial advantages for their own operations. All members in this house have been caught up in that sort of political debate over many, many years. We have been exploited by venal commercial interests seeking the advantage of having access to Sunday trading while denying it to other people.

The Retail Trading Hours Amendment Bill 2012 would have been an opportunity to sweep all that away. We could have had Sunday trading based entirely on open competition on a level playing field. We could have had Sunday trading based entirely on choice. We could have had Sunday trading that was entirely pro-consumers and entirely without advantage for vested interests. The bill could have been based on absolute freedom of choice for businesses to trade when they want to trade and for customers to shop when they want to shop. Unfortunately, the bill fails on those principles. This is another incremental change in the paradigm of the old politics on retail trading hours. And for what policy purpose? There was at least a public policy argument that Sundays should be for family, community group and sporting activities. There was at least a public policy argument to set against the principle of freedom of choice of businesses to trade when they want and consumers to shop when they want. Once the move has been made to Sunday trading between 11.00 am and 5.00 pm, what is the purpose of any remaining restrictions? What is the public policy purpose? What is positive at all about the remaining regulations once this bill is passed? What is the social advantage of IGA stores being able to trade at 9.30 on a Sunday morning while Coles and Woolworths cannot? What is the social advantage of IGA stores being limited to 18 staff once we have Sunday trading? What is the social advantage of Bunnings having a different trading regime from that of its new competitor Masters?

I will go through some of the restrictions that will remain. There will still be a division between special retail shops, which will have certain rules, and general retail stores, which will have other rules. Bunnings can trade between 7.00 am and 7.00 pm on Sunday, but Masters, because it wants to sell some whitegoods, will not have those trading hours available to it. It is still the case that a small retail shop can be owned by no more than six people, who can own no more than three shops and can have no more than 18 employees. Why do we bother with this sort of stuff? If we are to have Sunday trading, why have only six hours of trading on Sunday for general retail shops when major competitors that simply have a different business model based on franchising and a single warehouse operation will have broader hours?

I think the bill represents a major missed opportunity. There is a lot of concern in our community, which I sometimes feel is misplaced, about the market power of Coles and Woolworths. If we really want to get some dinkum competition for Coles and Woolworths, we have to let firms such as Aldi and Costco into the market. We have to create the market conditions for those firms to come in. Quite frankly, my understanding is that those firms are not likely to come into the market while we have just 11.00 am to 5.00 pm trading. Those people who are interested in more competition, a better deal for customers and lower prices should think about whether trading from 11.00 am to 5.00 pm is enough. My understanding is that we will not get Aldi and Costco while that is the case. Real choice and real dinkum, tough, robust competition will still be denied to Western Australian customers.

As a political class, we have missed an opportunity. We should sweep away all these stupid regulations. Once the Sunday trading debate is resolved, and it will be resolved by the passage of this legislation, there will be no social policy advantage whatsoever in the remaining regulations.

Mr I.C. Blayney: Do you really think that Aldi and Costco will be a competitive force against Coles and Woolworths?

Mr E.S. Ripper: I think that is the experience in other states. I am not certain that they would come, but we are not creating the optimum conditions that would encourage them to come. So we will not get those entrants to the market that would provide the competition we should have.

What is the government's excuse for not simply repealing all the regulations? As far as I can tell, the government's excuse is that this bill is an easier change to implement than completely modernising and overhauling the legislation. Because completely modernising and overhauling the legislation would mostly involve repealing it, I think the government's excuse is absolutely pathetic. Where are the reform credentials of this government? Where are the free market credentials of this government if it does not take this opportunity offered by the Leader of the Opposition to have the maximum reform possible on this particular topic? What could be simpler than simply removing all the regulations? The government wants to modernise and overhaul the

legislation and have some long consultative and drafting process—five drafts or something. It should just repeal it, and that would be sufficient to take maximum advantage of the opportunities for reform offered in the Leader of the Opposition's announcements earlier this year.

I think this bill has four failures. Firstly, as I have already outlined, the bill fails to provide full choice to consumers. The bill fails to provide full protection to consumers against the interests of certain commercial operators who will still have advantages. The bill fails to give consumers the full benefits of competition. The second failure with the bill is that it does not protect taxpayers. We will still have these stupid regulations. If a single cent of taxpayers' money is spent on enforcing these regulations, it will be an absolute travesty. Is the minister telling me that if Harvey Norman decides to open at 10 o'clock on Sunday morning, he will send his inspectors out, wasting taxpayers' money and the inspectors' time, to prosecute Harvey Norman for daring to open at 10 o'clock? Surely we will not spend a single additional cent of taxpayers' money on that sort of activity. The government should guarantee that it will do away with those positions in the Department of Commerce that have responsibility for regulating this unnecessary red tape. If the government truly believes in getting rid of red tape, it should not spend a single cent on administering the remaining regulations.

The third failure with the bill is the failure to protect and advance the interests of small business during this period of transition. I negotiated with the Premier for weeknight trading on the basis that a Small Business Commissioner would be appointed, and on the basis that shopping centres would be required to establish lease registers. The Small Business Commissioner has only just been appointed—on 17 January. The agreement that I reached with the Premier was in mid-2010. So it has taken all that time to establish and appoint a Small Business Commissioner. As far as I see, that initiative has had no impact whatsoever. I therefore hope that the government will give some robust strength to the operations of the Small Business Commissioner to assist small business in this change.

The agreement on lease registers has been completely ignored by the government. The agreement was that shopping centres would be required to establish lease registers. The shopping centres do not want to do that. A much better idea would be for the government to operate these lease registers. People ought to be able to go to Landgate and find out what businesses are paying to lease shops in shopping centres. Imagine a real estate market in which a person could not find out what houses are being sold for in a street in which he is thinking about purchasing a house. That is the position that small businesses are in when they think about whether to lease a premises in a shopping centre. We ought to level the playing field by making that transparent and giving them more information so that they will be in a better bargaining position.

Before I go on, I want to talk a bit more about small retail businesses. Small retail businesses are facing some significant challenges in the current environment. The first challenge is Sunday trading, and, indeed, the ongoing challenge of weeknight trading. The experience in other states is that deregulation of shopping hours increases the number of retail small businesses. But it also changes the nature of those businesses that are successful. Therefore, there will be winners and there will be losers among the small business community as a result of deregulation.

The second challenge that retail businesses face, small and large, is the poor state of consumer confidence in this country, and in Western Australia. That lack of consumer confidence is driven by skyrocketing utility costs. It is also driven by poor international economic news.

Mr T.R. Buswell: What about federal policy development, though? It apparently happened when the GST came in as well.

Mr E.S. RIPPER: I am sure the minister is better placed than I to go into that, and he may well do so in his response. But let me stick with my analysis and we will hear from the minister in due course. Nevertheless, I would not rule that out as a factor.

The third challenge that small businesses are facing is online retailing. Online retailing is growing and growing in popularity, and small businesses are being exploited by customers coming in, checking out the goods, looking at them in a physical sense, and then racing off and ordering them online, having had the free service of the retail business.

The fourth challenge that retail small businesses face is the level of rent being charged by commercial landlords. I think commercial landlords are out of touch with the real circumstances confronting small businesses. It is time for commercial landlords to have another look at their rents. They are gouging small businesses, and they are operating as though retail businesses were not facing those four challenges that I have been talking about.

What I want to know is: Does the government have a response to those issues? Where are the programs to assist retail small businesses through these transitions? Why does the government not campaign against rents in the same way that it campaigns against penalty rates? I think the government is misrepresenting the impact on small businesses of having to pay penalty rates for workers. I think the government is making too much of that issue.

The real problem confronting small businesses is the rents that are charged by commercial landlords. The government is simply ignoring that problem. I believe the government should establish a special strategy for retail small businesses to assist them through this time of great challenge and great change.

Finally, I want to talk about the position of workers. I do not think that workers have been protected by this legislation in the way they could have been. I say at the outset that I have been very disappointed about the way in which the public debate has ignored the legitimate concerns and interests of workers in the retail sector.

[Member's time extended.]

Mr E.S. RIPPER: Why should the interests and needs of workers not have an honoured place in the public debate? What has happened is that their interests have been fobbed off as somehow the personal power interests of a particular union secretary. Well, that union secretary is elected by tens of thousands of retail workers, and he has a right to speak on their behalf.

Mr T.R. Buswell: When was the last contested election that he was involved in?

Mr E.S. RIPPER: There was a contested election some years ago, but, in any case, I go to the meetings of Shop, Distributive and Allied Employees Association delegates, and I see large meetings of people genuinely engaged in debating their issues. I see a democratic organisation. I do not necessarily want to go into that too much, but what I do want to say is that this whole paradigm of the union boss and the veto is just a way of diminishing the legitimacy of workers' concerns and interests in this debate.

Mr T.R. BUSWELL: Is it true, though? Does there exist a veto?

Mr E.S. RIPPER: No. There exists an interest, which ought to be taken into account.

When we come to the question of workers, I think the government could have addressed the question of not compelling retail workers to work on a Sunday. I am very disappointed that the government has apparently shown no interest whatsoever in looking at that question. It may be that given the federal government's takeover of industrial relations under John Howard, through in my view abuse of the corporations power, that makes it difficult for the government to introduce a rule that retail workers cannot be compelled to work on a Sunday. What I want to know is: Did the government even ask the question? Does the government have any legal advice? Would the government be prepared to share that legal advice with the house so that we can make an informed decision about that particular issue? My understanding is that the major employers do not need to compel their workers to work on a Sunday. There are plenty of casual workers who are prepared to put up their hands—particularly for the penalty rates—to work on a Sunday. So I think the government could have reached at the very least a memorandum of understanding with major employers on the question of Sunday trading. I think this legislation could have been accompanied by a formal agreement between the Premier and the major employers in Western Australia that trading hours reform would be accomplished with an understanding that the major employers would not be requiring workers to work on a Sunday. Unfortunately, the government has shown no interest in that issue.

I might say that the government has misrepresented the issue of penalty rates. We on this side of the house will strongly resist any attempt to demonise the penalty rates paid to low-paid workers in the wake of this reform. I just point out to the government that it attacks the penalty rates applied to low-paid workers, while saying absolutely nothing about the bonuses that well-paid corporate executives, and bankers in particular, receive.

Therefore, the government cannot go on about the penalty rates that add a smidgin extra to the wages of low-paid people while at the same time ignoring the bonuses that add huge amounts to the remuneration of people who are already well paid indeed.

Mr C.J. Barnett: Fair enough, I hear what you're saying, but the point I was making—which I don't think was represented exactly truthfully as what I was saying—is that often the high penalty rates, say on a Sunday, are enjoyed by casual part-time student workers and the like. What I think is unfair is that the full-time permanent retail worker who would normally work Monday to Friday is getting a far lower hourly rate compared with part-timers and casuals on a weekend. I think you should be paid more for out-of-hours and particularly Sunday work, but I don't think the gap should be so much. So what I was suggesting is that the standard hourly rate should be higher and the penalty not so great. That is what I'm advocating because they are low-paid workers.

Mr E.S. RIPPER: That is interesting. I think other people, particularly the member for Cannington, are probably best placed to provide information to the house on this, but of course one of the things that often happen in enterprise bargaining negotiations is that a higher basic rate is traded off for some reductions in, particularly, penalty rates or arrangements that might apply to a Sunday.

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Mr C.J. Barnett: What I find odd about the unions' position is that I would've thought their advocacy would've been greater for the permanent workers Monday to Friday, rather than the casuals on the weekend. I always find their position odd.

Mr E.S. RIPPER: Indeed. The unions' position on not compelling workers to work on a Sunday is really about the interests of their permanent workforce, because there are people who want to work on a Sunday. I just point to the fact that most people in retail are not very well paid. Therefore, do not attack their penalty rates and other aspects of their pay because these are basically people who have a lot less money than the average person in our community. We should not undermine their standard of living as we discuss things such as penalty rates in the wake of this reform.

I see four failures in the legislation. It is basically a missed opportunity that has not delivered consumers the full benefits of choice and competition. I do not think that taxpayers are protected against the costs of administering completely unnecessary regulation. I think that the government could have done a lot more to protect and advance the interests of small business in the transition period, given the challenges that small businesses face. The government has been, in my view, uninterested in protecting workers from the need to work on a Sunday.

I will make one other point; that is, only three public holidays are protected in this legislation. The government should have another look at that. Public holidays are an important part of our society and it is very good for workers and their families if they can access public holidays. Only three public holidays are protected. The government should look at protecting more public holidays, if not through this legislation, then by ministerial order. Even though Christmas Day is protected as a non-trading day, Christmas Eve is not. I do not think we should tolerate a circumstance in which workers may be working until nine or 10 o'clock on Christmas Eve, given that they want to enjoy Christmas Day the next day. Equally, I do not see why workers in the retail sector should work until all hours on New Year's Eve.

We can have choice and competition and open free trading and we can have a few decent protections for family and community life without compromising our purity on freedom of trade and freedom of business. With those remarks, I wholeheartedly support this legislation. However, I believe that this is a major missed opportunity; we will continue with the old stupid paradigm on retail trading hours for a little longer with even less on the other side of the ledger to justify the continuation of completely unnecessary red tape.

MR V.A. CATANIA (North West) [3.45 pm]: I rise to speak on behalf of the National Party to put forward its position on the Retail Trading Hours Amendment Bill 2012; namely, that we oppose the bill because we believe that the referendum held in 2005 was an indication that people do not want deregulation of trading hours.

Mr W.J. Johnston interjected.

The ACTING SPEAKER (Mr J.M. Francis): Member for Cannington!

Mr W.J. Johnston: I'm just making —

The ACTING SPEAKER: Member for Cannington! I am not in a namby-pamby mood today. I will start calling you. The member has not asked for an interjection; let him start.

Mr V.A. CATANIA: The member for Cannington has got the thinnest tongue in this chamber, I think, when it comes to doing what he has to do to stay here and making sure that he adheres to those factions and those faceless men who control the Labor Party.

Anyway, this bill is very, very important.

Point of Order

Mr W.J. JOHNSTON: Mr Acting Speaker, point of order.

The ACTING SPEAKER: If you are seeking my attention, member for Cannington, on a point of order, it ought to be worthwhile.

Mr W.J. JOHNSTON: I respect your direction to me not to interject and I am doing my best to do that, but if the member does not address the bill, it is very hard for us not to make interjections. Therefore, I request that you direct him to speak to the bill.

The ACTING SPEAKER: Okay. Member for North West, continue.

Debate Resumed

Mr V.A. CATANIA: As I said, the National Party does not support this bill. The reason is that two pieces of legislation protect small business—namely, the Retail Trading Hours Act and the Commercial Tenancy (Retail Shops) Agreements Act. Obviously, the bill before the house radically changes one of those planks, the Retail

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Trading Hours Act, that protect small business. I believe that this is what Coles and Woolworths want to see; they want to dominate the retail market and this bill goes a long way to ensure that they can dominate the retail sector in this state. The Leader of the Opposition and other members spoke about the commercial tenancy act and the protection it has for small businesses to open or not during the week, but in reality it does not. I say this because there are clear problems with the way that small business and big business tenants in this state are charged variable outgoings in shopping centre leases. The sections that state that a small business tenant cannot be forced to open are made redundant if the variable outgoings have only been incorporated into the semi-gross rents of small business tenants. That is happening in shopping centres at the moment. Whereas before they had obligations to report variable outgoings, this is not the case if small businesses move to a semi-gross rent. How do I know this? My lease in the Carnarvon shopping centre is exactly that; there is no way of knowing how much a business will be charged if it chooses not to open during the week. Therefore, saying that the commercial tenancy act provides that protection for small business is, I think, quite a farce.

As I said, the National Party does not support this bill for many reasons. The history of this debate is long and thick. We can see from the debate so far how both sides of the house have accused each other of supporting or not supporting deregulation of trading hours. The reality is that the National Party has not changed its view on trading hours.

Mr P.B. Watson: You have!

Mr V.A. CATANIA: Members opposite laugh and say that I have, but I think they should go back and look at some of the letters that I wrote to them, when I was on their side, saying that we should not deregulate trading hours. Several members interjected.

Mr V.A. CATANIA: I think members should go back and look at who is changing their minds. Is it the Labor Party? Is it the Liberal Party? I think members will find that the only party that has not changed its mind is the National Party. It is interesting that members opposite say how bad this bill is for people who work in the retail trade, how hard it is to stand and work those long hours and how we must protect the workers and small business. The reality is that if members do not believe this bill protects small business or will harm workers, do not vote for it. Members should ensure that they negotiate an outcome with the government through the Premier and the Liberal Party—this is not a Liberal–National bill; it is a Liberal Party bill—that will provide those protections to small business. I agree with the member for Belmont that a government lease register is needed to protect small business and to give people entering into the small business realm an indication of how much it will cost and who pays what. As I have said in this house before, if members look at a Coles or Woolworths lease, they will find that those businesses will be paying somewhere around a couple of hundred dollars a square metre, but the mums and dads who venture into the small business realm by opening a shop in a shopping centre will pay up to \$7 000 a square metre. It is important that we publicly name and shame the shopping centres that do sweetheart deals with anchor tenants—namely, Coles and Woolworths—to ensure that mums and dads get a fair go. Members talk about the protection afforded by the Commercial Tenancy (Retail Shops) Agreements Act, and that a shop owner will not be penalised if they do not want to open on a Sunday, but does a shopping centre in Western Australia want to have its shopfronts closed? The reality is that shopping centres want to have every shop open because it projects a good image.

Mr T.R. Buswell: In the shopping centre in Carnarvon, where your office is, I think the Woolworths opens on Sunday —

Mr V.A. CATANIA: That is right.

Mr T.R. Buswell: — and not many of the other shops open.

Mr V.A. CATANIA: No, and that is interesting, and I will touch on that, minister, because I have in front of me the opening hours of all the shopping centres in regional WA. The list shows that the only shops that are open are Coles and Woolworths; the rest are shut.

Mr T.R. Buswell: But based on your argument, the rest would have been kicked out many times over.

Mr V.A. CATANIA: If the minister goes to these shopping centres he will see that there is huge turnover of shops in there.

Mr T.R. Buswell: What was the last one kicked out by the landlord of a shopping centre in Carnarvon for not opening on a Sunday?

Mr V.A. CATANIA: The coffee shop.

Mr T.R. Buswell: Kicked out?

Mr V.A. CATANIA: Yes.

Mr T.R. Buswell: What is the name? We'll give them a call.

Mr B.S. Wyatt: Minister, you might want to check that; you wouldn't want to believe a word he says.

Mr T.R. Buswell: No, I accept that; I think it's a valid point.

Mr V.A. CATANIA: But the whole point, minister, is that these new contracts do not have the variable outgoings itemised so that people know the costs. The costs are now being grouped together, and people who sign these leases do not see those costs that they will incur whether or not they open. Shop owners will still have to pay a share of the costs of the lighting and security whether or not they open. I have spoken to a few shop owners, and that is already occurring. Members might want to have a look at what has happened in the Galleria, where Coles and Woolworths have opened and some of the other shops that have or have not opened have been hit with the added costs for lighting, security, air conditioning and energy costs of the shopping centre being open. They have been passed on. Coles and Woolworths do not have to pay those costs.

As I said, if members opposite believe that the protections are not there for small business or the employees who will have to work on Sundays, they should not vote for it; negotiate an outcome that will provide those protections. Do not say, "I have concerns that this bill will have a negative impact, but I am going to support it anyway." I think that would be very hypocritical. As I said, the only political party in this chamber that has not changed its view is the National Party. It was interesting to see who was in the corridors of Parliament before the Leader of the Opposition and other members gave their speeches, lobbying to ensure that he could put his view across—one of those faceless men of the Labor Party, being the secretary of the Shop, Distributive and Allied Employees Association. It is quite interesting that the Leader of the Opposition was taking orders outside this chamber from the union—it is unbelievable!

Several members interjected.

The ACTING SPEAKER (Mr J.M. Francis): Member for Albany!

Mr V.A. CATANIA: It is unbelievable that the Leader of the Opposition had the bill open, going through, with the union, what he should say and what he should not say. I find that quite amazing! Perhaps the Leader of the Opposition should ring him up on the phone over there and ask him what question to ask across the chamber during question time!

Mr M. McGowan: Are you saying I should not have had a conversation with him?

Mr V.A. CATANIA: So the Leader of the Opposition did have a conversation with him while holding the bill?

Mr M. McGowan: I saw you walk past! You hid your face, as I noticed!

Mr V.A. CATANIA: With the bill!

Mr M. McGowan: You hid your face, considering he's your great friend!

Mr V.A. CATANIA: With the bill! "What next? What next shall I say?"

Several members interjected.

Mr V.A. CATANIA: It is interesting; the opposition makes all these accusations about donations and all that, and here are the faceless men giving the instructions to the opposition! Shame on them! Members opposite should get their own thoughts and stand there and actually say what they believe in —

Several members interjected.

Mr V.A. CATANIA: —because to date the opposition has said one thing and done another.

Mr P. Papalia: He is put in Parliament by his dad's connections and has the gall to stand here and accuse us of being manipulated!

The ACTING SPEAKER: Member for Warnbro, you are on three strikes—it is not funny. I am going to call you for the fourth time, member for Warnbro. I am not going to ask you to leave the chamber. I am not going to name you, but I am going to call you for the fourth time.

Mr V.A. CATANIA: As I said, outside in the corridors we see the Labor Party being told what to say and given its orders. It is interesting that we see the faceless men around the corridors of Parliament House —

Mr M. McGowan: Are you saying it was inappropriate that I had a conversation with him? Is that what you are saying?

Mr B.J. Grylls: Only if you were taking instructions, Leader of the Opposition.

The ACTING SPEAKER: Leader of the National Party!

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Dr M.D. Nahan: It depends what you do and what strings were attached!

The ACTING SPEAKER: Member for Riverton! Leader of the National Party, I am going to call you for the first time today. Member for Albany, I am not going to name you, but I am going to call you for the fourth time today. Member for Victoria Park, I am going to call you for the third time today. Member for Riverton, stand still! For interjecting while you were not in your seat, I am going to call you for the first time today.

Mr J.E. McGrath interjected.

The ACTING SPEAKER: Member for South Perth, I am going to call you for the first time today. Member for North West, continue.

Mr V.A. CATANIA: I will not razz the opposition because, if I do, we will not have anyone left in the chamber by the end of the day! I think I have said enough about the lobbying in the corridors of Parliament House about what the opposition should say. It is very interesting to see that play take place outside the chamber.

Trading hours in regional WA have often been raised in this house, and everyone says that regional areas have deregulated trading hours. I have said in this house many times that the reality in Karratha or Carnarvon is that the only two stores open are Coles and Woolworths; the rest of the shops are shut. The only shops trading are Coles and Woolworths. I will go through some of the stores that are open: in South Hedland, Coles opens from 7.00 am to 8.00 pm every day except Thursday, when it is open until 9.00 pm; in Karratha, Coles is open from 7.00 am to 9.00 pm every day; in Broome, it is open 7.00 am to 9.00 pm every day; and in Kununurra, it is open 6.00 am to 9.00 pm. That is the situation with Coles in those towns.

Point of Order

Mr W.J. JOHNSTON: As I understand it, we are debating the Retail Trading Hours Amendment Bill 2012. As Madam Acting Speaker would know, this bill does not apply to the towns of Carnarvon or Broome, or the towns being mentioned by the member for North West, as they have had deregulated trading hours for half a century or three quarters of a century. I am not quite sure how the comments relate to the bill.

The ACTING SPEAKER (Ms L.L. Baker): Thank you, member. I am hoping that the member will relate this to the bill at hand when he stands again.

Debate Resumed

Mr V.A. CATANIA: Thank you, Madam Acting Speaker. I will. What I am trying to get to is that the deregulation the house is trying to put through for metropolitan Perth has not worked in regional WA because you only see Coles and Woolworths open on a Sunday. It is interesting that the member for Cannington has changed his view on this. I am trying to relate that we have Coles and Woolworths in shopping centres opening and other smaller retailers remaining closed. The reality is that the deregulation of trading hours only relates to allowing Coles and Woolworths to open on a Sunday. Members can laugh and joke —

Point of Order

Mr T.R. BUSWELL: I am sitting here trying to listen to the debate. I am aware of the standing order that says that members should be heard in silence. To be frank, the member for Warnbro, on four calls now, continues to interject. It is very difficult for me as the minister to hear what the member has to say. Perhaps a little peace and quiet under the Chair's instruction may assist.

The ACTING SPEAKER: Thank you, minister. I quite agree with you. Indeed I was having trouble listening to the conversation from the member up the back as well. Please try to keep the interjections down to a dull roar—that is on both sides of the house. Will the member for North West take his feet again, please.

Debate Resumed

Mr V.A. CATANIA: Thank you, Madam Acting Speaker. I am getting good exercise here—up and down!

As I said, if members look at trading hours in regional areas, they will find they are reflective of what will happen here in Perth. The sad part about it is small businesses will suffer if they do not open. The protections are not in place for small business owners who choose to spend time with their families, to perform their religious duties on a Sunday, or to play sport. If they choose to do that, they will be penalised in not opening their shop. That is what we see in regional WA. That is what members will see in Perth.

I now refer to the market dominance that Coles and Woolworths have on retail trade. If members look at the primary producers—this is particularly happening in Carnarvon —

Ms R. Saffioti interjected.

Mr B.J. Grylls interjected.

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The ACTING SPEAKER: Members, rather than the two of you having an argument across the chamber, I would really like the member who has the call to continue with his contribution to the debate. If members want an argument, take it outside. It sounds like I am at a pub on a Saturday night!

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan, I call you for the first time.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan, I call you for the second time.

Mr V.A. CATANIA: They are laughing about the laugh that the Treasurer had, but the squeal that I am getting over there is really making it hard to speak at the moment.

The ACTING SPEAKER: Member, I suggest you keep on target with the debate.

Mr V.A. CATANIA: As I was saying, if members come to the horticultural area of Carnarvon, they would see the issues the primary producers face when dealing with Coles and Woolworths. One could say that this has been going on for a long time. The major retailers are able to have these contracts in place in which they basically tell the producer how much they will pay for produce. That has had an effect on the horticultural industry. It does not provide the certainty that is needed. It shows that the buying power that Coles and Woolworths have can destroy a grower's viability in coming to them to say, "We might buy these tomatoes at \$3.00 a kilo"; suddenly tomorrow they will turn around and say, "We're only going to give you 88c." This is a common occurrence in the horticultural district with primary producers. If there is dominance by Coles and Woolworths, they dominate the retail market. They dictate what will be paid to primary producers, whose costs are going up to produce their fruit or vegetables, yet their prices are going down and the consumer is paying a high price for fruit and vegetables. Some checks are needed. How do we do that? The only way to do that is by limiting the market domination of Coles and Woolworths and allowing other players to have a slice of market share. IGAs do a wonderful job by buying local produce. We need to ensure that we can supply the IGAs with local produce instead of Coles and Woolworths squashing the primary producers, which has a negative effect. We end up buying fruit and vegetables from the eastern states or overseas. It is a real concern to primary producers in Western Australia, and it is a real concern to the National Party, that Coles and Woolworths have this domination. This legislation is there only for these two giants of the retail trade.

If members have concerns, I urge them to follow the National Party line. It is a line the party has been very strong on; it has not moved. We are here to protect small business. We are the only party protecting small business. I think every other member who has stood opposite me has highlighted concerns. If members do not believe that this bill will fix some of those issues, they should not support it. Negotiate an outcome that will provide those protections for small business and for workers. The National Party does not support, and will not support, the deregulation of trading hours. That is how people voted in 2005. The National Party went to the 2008 election on that platform. We will go to the next election, in 2013, with a platform of no deregulation of trading hours. We believe that we are the party to look after small business. We are the party that will provide that security to ensure that we have prosperous and vibrant primary producers and small businesses in this state.

MR B.S. WYATT (Victoria Park) [4.08 pm]: I enjoyed that contribution from the member for North West—the man who will stand up on behalf of the National Party for small business because, ultimately, the member for North West gets to shop at Centro Victoria Park on a Sunday! That is where I see the member for North West on a Sunday—wandering around Woolworths at Centro Victoria Park as part of the expanded special trading precinct. I dare say to the member for North West—one of my constituents—that he should bring in a piece of legislation to ban Sunday trading in regional Western Australia. He could do that comfortably in the knowledge that it will not impact on him because he spends his Sundays shopping at Woolworths in Victoria Park! I have seen him there. I have seen many members of Parliament at Centro Victoria Park on a Sunday. I thoroughly enjoy shopping at Centro Woolworths on a Sunday; no doubt the member for North West enjoys his time shopping on a Sunday at Woolies as well! One day I might even see the Minister for Commerce himself. The minister might come down to Woolies at Centro on a Sunday where I know the member for North West, conveniently living in a special trading precinct, is able to shop on a Sunday! I do not recall any placards being held by the member for North West expressing outrage that Woolies was able to open on a Sunday in Victoria Park. I do recall him scuttling out with a trolley full of groceries as he wandered his way home, furious at the ability to shop on a Sunday—furious at the ability to shop on a Sunday! So, if the member for North West is going to come into this place and go on like that, he should at least have the decency to stay home on a Sunday and not shop in my Woolworths at Centro Victoria Park on a Sunday afternoon.

I just say, as a supporter of this legislation, that I think it was the minister who extended the special trading precincts and that was a good idea but ultimately it exacerbated the problems.

Mr T.R. Buswell: It exposed the farce.

Mr B.S. WYATT: Correct. It actually highlighted the problems we had with the special trading or tourism precincts—whatever they were called before. What it did in Victoria Park was place an arbitrary boundary around Duncan Street in Victoria Park. The boundary captured the Centro shopping centre—where the member for North West loves to spend Sunday afternoon shopping—but excluded down the road the Victoria Park shopping centre, so that Coles was unable to open on Sunday. Those smaller stores around Woolies were able to open on Sunday whereas those down around Coles were not.

Mr T.R. Buswell: Member, I tried to get it extended to Cannington but the State Solicitor's advice denied us that opportunity. It could have merged with the Armadale line.

Mr B.S. WYATT: There would have been the same problem; it would have moved it further out. It completely distorted the local market so that small businesses were competing against each other on a completely and utterly unequal playing field. This legislation, thankfully, will deal with that and enable small businesses in my electorate to compete on an equal footing with those that are currently able to open.

Many parliamentarians—the member for West Swan in particular—have gone through the history of this matter. There is no doubt that nobody has clean hands on this issue, it seems, if we look back historically. However, not long after I became the shadow Treasurer again, one of the first events I went to was the launch of a book titled *The CCI Story: A history of the Chamber of Commerce and Industry of Western Australia and its founding bodies*. It was quite a launch on a Sunday morning—the Sunday morning before I caught up with the member for North West and went shopping with him that Sunday afternoon in Centro Victoria Park, where he lives! I went to the launch of the book, which has an entire chapter headed “Chapter Eight” with the subheading “Closed Shops—The Great Trading Hours Debate”. It is an interesting history. It goes back as early as settlement, 1829. I will quote from page 149 of the book, which states —

From as early as 1829 when the Swan River colony was settled, right up until properly representative government in 1891, the founding governor James Stirling and his successors had ordered shops closed on Sundays in accordance with laws in the British homeland such as the Sunday Observance Act 1677 and, more contemporarily, the Act for Better Observance of the Lord's Day.

I thought to myself that I might look at the Sunday Observance Act of 1676. The CCI got the incorrect date; it was actually the Sunday Observance Act 1676. This is an act that no doubt the member for North West, living in Victoria Park, follows assiduously in between trips to Centro to shop at Woolworths! I will read out a couple of interesting paragraphs, as they show the history of this issue and how controversy around shopping hours has been around literally for centuries. I quote—Hansard will love this—from the very first paragraph of the Sunday Observance Act 1676 —

... Person and Persons whatsoever, shall on every Lord's Day apply themselves to the Observation of the fame, by exercising themselves thereon in the Duties of Piety and true Religion, publicly and privately; and Tradesmen, that no Tradesman, Artificer, Workman; Labourer, or other Person whatsoever, shall do or exercise Artificers, and' any worldly Labour, Business or Work of their ordinary Callings, upon the Lord's Day, ...

Obviously that ban initially on Sunday, the Lord's Day, was strongly religious related. The penalty is —

Mr T.R. Buswell: Beheading!

Mr B.S. WYATT: In a minute—you wait! The quote continues —

... and that every Person being of the Age of Fourteen Years or upwards, offending in the Premises shall, for, every such Offence, forfeit the Sum, of Five Shillings, ...

Interestingly, at paragraph II it was a greater offence to travel on the Lord's Day. Paragraph II states —

And it is further enacted That no Drover, Horse-courser, Waggoner, Butcher, Higler, their or Drovers, Horse any of their Servants, shall travel or, come into his or their Inn or Lodging upon the Lord's Day

...

The offence for that was 20 shillings; so it was actually a greater offence. Bear in mind that this is back in 1676. Unfortunately, the member for Cockburn is not in the chamber with his little calculator to tell me what that equals today.

Mr T.R. Buswell: The member for Pilbara would remember.

Mr B.S. WYATT: He was bound by this act and he may have indeed passed it! The member for Pilbara conveniently comes into the chamber as we are talking about his first legislation as a young legislator.

To open on the Lord's day there was a penalty of five shillings, but there was a penalty of 20 shillings for travel on the Lord's day. However, for those butchers in this place, I will read from paragraph III —

... nothing in this Act contained shall extend to the prohibiting of dressing of Meat ...

People could still dress their meat on that particular day, thankfully. But clause IV—the Attorney General would be interested to know this, bearing in mind how slow sometimes our justice system is—states that people could not be prosecuted unless they were prosecuted within 10 days after the offence was committed. So, when people had travelled and gone down to the inn, they had to hide from the authorities for 10 days to avoid any prosecution.

However, this next part is perhaps the most interesting part of this legislation, and the minister might want to consider it in terms of perhaps encouraging people to abide by laws. Paragraph V reads —

... That if any Person or Persons The Hundred whatsoever which shall travel upon —

The ACTING SPEAKER (Ms L.L. Baker): Member, can I just please ask the members who are having discussions to take them outside, because not only is it very straining for your voice, but also I cannot hear a thing that is going on. Thank you.

Mr B.S. WYATT: Thank you, Madam Acting Speaker. Paragraph V reads —

... That if any Person or Persons The Hundred whatsoever which shall travel upon the Lord's Day shall be then robbed, That no Hundred or the In-habitants thereof shall be charged with or answerable for any Robbery so committed, but the Person or Persons so robbed shall be barred from bringing, any Action for the said Robbery; any Law to the contrary notwithstanding Nevertheless, ...

That is going to keep people at home, I would have thought.

Mr P. Abetz: Do you want to know the reason for that?

Mr B.S. WYATT: Yes; I am curious.

Mr P. Abetz: The reason for travel was that you required horses for travel and in the Ten Commandments the animals also had to rest on the Saturday. That's the history of it. Now we have motor cars.

Mr B.S. WYATT: Madam Acting Speaker, I know that you for one would be appreciative of that particular law. More importantly, I say to the member for Southern River that if I were to catch him out on his horse on a Sunday on the Lord's day, I could go over with a nulla-nulla and whack him on the head and not be charged for anything! I quite like that. That will keep the member for Southern River indoors if anything will!

As we can see, this issue of Sunday trading goes back a long way to the Sunday Observance Act 1676. Whilst I refer with some mirth to some of this old legislation, it does highlight that this controversy around the hours in which we trade goes back a long way. The controversy still exists; there is no doubt about that.

I want to refer to one more piece of legislation. Again I thank the CCI for its wonderful "Chapter Eight" of the history of the CCI. In 1898—this is during the Western Australian Parliament, so it probably was in the time of the member for Pilbara!—the Early Closing Act was passed. This really set out simply that shops would be open between 6.00 am and 6.00 pm. In some detail it explains why. However, the second reading was of interest. Of course, in the second reading we get a bit more of the meat and the reasons behind why legislation is introduced; although it was the reverse with that legislation in that it was protecting effectively bigger store owners from smaller operators. Things have changed quite considerably in light of what we are doing with this bill. I again highlight what has been said about this issue in the past—not with mirth, because this is reflective of some of the poorer practices of the time. I want to quote the second reading speech delivered by Hon A.B. Kidson in the Legislative Council, because it is interesting historically. It states —

My object in fixing the hour of opening is that there is a tremendous amount of undue competition in connection with a certain class of persons—not Europeans—who open at all hours, commencing as early as four or five in the morning. Before dealing with further provisions in the Bill, I would like to point out that its object is twofold. First, in the interests of the employers, it proposes to do away with a large amount of what I call undue competition from Asiatics.

...

There is a large amount of competition from those Asiatics. I have said before, and I say it again, that this competition is very excessive. I do not know how it is in Perth, but in Fremantle several large places of business have had to close in consequence of this undue competition.

...

It has been brought to my personal knowledge that places are kept open by Asiatics until midnight, and one o'clock in the morning. I ask hon. members to consider if they wish that sort of thing to continue. It will simply mean that most of the other shops will have to be closed.

I will read one final quote of Hon A.B. Kidson on the Asiatics. He said —

I wish to point out that not only have European storekeepers to stand undue competition from this cause, but these Asiatics are carrying on their business at practically no cost. It does not cost them anything to live.

I do not know why that is the case, but apparently it does not cost the Asiatics anything to live. The 1898 legislation was designed to protect larger businesses from entrepreneurial and hardworking Asiatics, as the honourable member said at the time, and to protect European business owners. Interestingly, Mr Kidson went on to say —

Six o'clock in the country is too early for shopkeepers to close—so, at any rate, I am told. Power is therefore given under this Bill to extend the time from 6 o'clock to 7.30.

Even as far back as 1898, regional WA had the capacity to keep its shops open for longer than the cities could. I know that the member for North West will be absolutely furious about that. It is an interesting point that the reasons we have had legislation limiting opening hours have ranged from religious reasons—certainly from the Sunday Observance Act 1676—through to the reasons behind this bill, the Early Closing Bill 1898, which gave protection to large stores owned by Europeans from the increased competition from the increase in immigration. We must bear in mind that this bill was passed in 1898, which was four short years before Paddy Hannan found gold in the goldfields. So members can understand the context of this bill in the history of Western Australia. The population of Western Australia was changing quite dramatically. Gold had already been found in Halls Creek, so there was an influx of people from other parts of the world—non-European people, to quote the honourable minister—into Western Australia. Therefore, legislation was introduced to protect those large city establishments.

The Chamber of Commerce and Industry of Western Australia's book titled *The CCI Story: A history of the Chamber of Commerce and Industry of Western Australia and its founding bodies* is an interesting read because the CCI goes through the history of the controversial shopping hours debate. I note that yesterday the Premier described the question that was put in the referendum and he said that the wording was ridiculous. He may be right, but it is interesting to note that the Premier voted for those words to be put in the referendum. The CCI sets out the history of this wonderfully well. The then Premier, Hon Geoff Gallop, put the question: are you in favour of trading hours in the metropolitan area being extended to allow general retail shops to trade until 9.00 pm Monday to Friday? A second question asked whether people were in favour of the shops being open for six hours on a Sunday. The bill went to the upper house and Hon Dee Margetts, the Greens, the Liberals and the Nationals changed the first question to: do you believe that the WA community would benefit if trading hours in the Perth metropolitan area were extended? Yesterday the Premier said that the question being put in the referendum was ridiculous, but he was the Leader of the Opposition when the Liberal Party joined with the Greens to change that question to the very ridiculous words that the Premier now despises. It is an interesting history. The CCI's history points out that, for the referendum, the coalition went to the poll arguing for the status quo.

I commend to members the book setting out the history of the Chamber of Commerce and Industry because it also sets out an interesting history of the disaggregation of Western Power. I dare say that the Premier will not spend too much time reading *The CCI Story*, because it highlights some of his contradictions on a number of policy areas over time. It also highlights the fact that the Premier was the former CEO of the organisation that ultimately became the CCI. It is an interesting history of this matter.

The whole idea of people working 9.00 am to 5.00 pm Monday to Friday and having their weekends off has changed very dramatically. In my electorate, where the member for North West shops on Sunday, people's working habits have changed and this flexibility allows people to create time for their family on other days if they so wish. Family time is no longer necessarily on a Sunday or a Saturday; it may be on other days. The member for Pilbara has spoken and the member for West Swan spoke about the impact of fly in, fly out arrangements on the changing family dynamic in the metropolitan area in particular. Obviously, the opposition supports this legislation. It is timely because the creation of the extended trading precincts had an incredibly distorting impact on my local economy in Victoria Park, and this will remove that impact and allow small businesses to compete with each other largely on an equal footing.

[Member's time extended.]

Mr B.S. WYATT: I mention one final thing. The member for Belmont, in a sterling performance this afternoon, talked about the lease registers. Perhaps that may be one way to at least offer small businesses some information

and transparency. It is something that the Premier should consider, because even back on 24 November 2005 he was heavily critical of the Australian Competition and Consumer Commission and the fact that it should be involved to ensure that competition was maintained. I am not sure whether the Premier has since written to the ACCC on this issue. He was then the Leader of the Opposition and he was heavily critical when he said —

... the other fabric of our economic structure is being rapidly eroded and it is reasonable to expect the ACCC to play a role in supporting smaller competitors.

I am curious to know whether the Premier has written to the ACCC to see what role it can play in protecting the smaller competitors, as he calls them. It is unfortunate that the Premier is not here so he cannot answer that question by way of interjection, but no doubt the minister will stand and respond to that particular point when he gives his reply to the second reading debate.

I commend the Leader of the Opposition for bringing this issue before the house and creating an environment within which this item could be dealt with before the next election. It was an excellent move by the Leader of the Opposition. I am delighted that the Premier grasped the opportunity presented to him by the Leader of the Opposition, because this legislation will end that distortion in my electorate's economy. I know the member for North West will be delighted that he will be able to shop in Victoria Park at not only Woolies, but also Coles, and make the most of Sunday trading in the area in which he lives.

MR P.B. WATSON (Albany) [4.29 pm]: I support the bill, but the only reason I support it is that it will give people in country areas an opportunity to make their own decisions. I am against seven-day-a-week trading in regional areas for various reasons. One of the main reasons is that I am very involved in the sporting community in Albany. We find that when there is Sunday trading we have a lot of problems finding volunteers for events such as football, cricket and all the sports kids play on Sunday morning. Some people want to go to church on Sunday. Things are a lot different in regional areas. I am quite happy for the city to have retail trading seven days a week but in regional areas we should be able to make local decisions. I will get to the local decision in a moment.

It is interesting to hear the member for North West commenting on seven-day-a-week trading. I have with me a document headed "Save our shops: The nationals plan to protect small business". It indicates that one of the recommendations is that endorsement for the Nationals in a coalition will be conditional upon a guarantee that shopping hours in Western Australia will not be deregulated.

Several members interjected.

Mr P.B. WATSON: The member for North West would not know about this because at that stage he was a member of the Labor Party. He knew only the Labor Party policy.

Mr P. Abetz: It's not a coalition.

Mr P.B. WATSON: It is not a coalition? That is interesting. The document states that endorsement for the Nationals will be conditional on a guarantee that shopping hours in Western Australia will not be deregulated. That is another broken promise by the National Party—another broken promise.

Mr P. Abetz: It's not a coalition.

Mr P.B. WATSON: Members opposite can say whatever they like. I can understand the member for North West not being involved because he was voted in by Labor supporters under Labor Party policy. He was sitting beside me every day, and he would say, "The Nationals are in my seat; Brendon Grylls was in my seat yesterday." I have a list of all the horrible things the member for North West said about the National Party.

The ACTING SPEAKER (Ms L.L. Baker): Would you kindly direct your comments through the Chair.

Mr P.B. WATSON: I was.

The ACTING SPEAKER: You were not. Thank you.

Mr P.B. WATSON: He was interrupting. I thought I was talking through the Chair but I had this little rat noise on the side. As I said, I have been a very strong advocate against seven-day trading. The Albany Chamber of Commerce and Industry —

Mr T.R. Buswell: They just endorsed seven-day trading.

Mr P.B. WATSON: I will explain what happened, minister. There was a very strong debate in the community. The CEO of the Albany Chamber of Commerce and Industry—I am a member and I was never asked, nor were a lot of other members—came out very strongly in support of seven-day trading.

Mr T.R. Buswell: Is that Graham?

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Mr P.B. WATSON: It is Graham Harvey. He came out very strongly in favour of it. I was approached by a lot of the smaller businesses who said they had not been asked. Graham Harvey went along to the meeting when the council voted. He argued very strongly for seven-day-a-week trading without asking the members of the chamber of commerce. The interesting part is that the council passed seven-day trading, but then said they would not start it until people were surveyed.

Mr T.R. Buswell: I do not want to interrupt, but under the act they have to do that. When the local government approaches the minister it has to show there has been a formal consultation process.

Mr P.B. WATSON: There is another little twist.

Mr T.R. Buswell: As there always is.

Mr P.B. WATSON: The council said, "We'll do a survey, but we don't have any money, so we have to wait for the next budget to see whether we have the money for the survey. I see the Minister for Local Government having a chuckle.

Mr G.M. Castrilli: I didn't say a word.

Mr P.B. WATSON: Most chambers of commerce and industry would say, "Let's ask our members what they want." The city would ask the business community what it wants. I doorknocked all the businesses in the big shopping centres that were affected, and 85 per cent said they would not open their shops on Sunday anyway. We have been told by the chamber of commerce that people in Katanning go down the main road and ask, "Will I go to Perth or Bunbury? We'll go to Albany now because they have seven-day-a-week trading." If this bill is passed and I think it will be passed, I want to find out how many people turn the corner and come to Albany. At Christmas time, holiday time and long weekends we can have seven-day-a-week trading. I do not mind if something is introduced after everyone in the community has been consulted. But on this issue in Albany, neither the chamber of commerce nor the City of Albany asked anyone. It was pushed by the chamber of commerce. I cannot think of anyone else in town who wanted it.

Mr T.R. Buswell interjected.

Mr P.B. WATSON: The shops are already opening. My concern is about the small shops in the shopping centres. I do not agree with the member for North West on much, but the only retailers who will benefit from this are Coles and Woolworths.

Mr T.R. Buswell: And the people who go shopping.

Mr P.B. WATSON: Every one of the small shops in Albany can open on Saturday and Sunday because when the boats come in the passengers go shopping.

A member interjected.

Mr P.B. WATSON: Yes. The shops in the main street are open. Buses take tourists up and down the streets, but the rest of the time they are not open. A lot of small businesses in Albany are run by families.

We have talked about wages paid to people on Sunday. I am not a great believer that people should be paid double time on Sunday, but the retailers should look at negotiating enterprise bargaining agreements so that staff are paid better wages overall and so that people can be rostered on Sunday. I have told our local businesses that the opportunity is there to have EBAs. Retail staff are the lowest paid workers in our communities. When Coles and Woolworths open on a Saturday and Sunday they pay their staff under an EBA that does not provide for penalty rates. The main thing is to protect their staff.

As I say, I am not against seven-day trading in the city. My main concern is people in my electorate. I do not know whether only people who do not like the idea of it have come to me, but I do not think one person, minister, has come into my office and said they like it. As I said, I will support the bill. I attend lots of quiz nights in Albany. If organisations approach Coles and Woolies for donations, they get nothing. If they approach small businesses, they are the ones who donate the voucher or the bottle of wine. Once they go, as I have seen occurs in other towns that have seven-day trading —

Mr T.R. Buswell: Give me an example of where that has happened?

Mr P.B. WATSON: Over east.

Mr P. Abetz interjected.

Mr T.R. Buswell: We have had seven-day trading in Busselton for, I do not know, 10 years.

Mr P.B. WATSON: The member for Southern River says 85 per cent of small businesses close after seven-day trading starts.

Mr T.R. Buswell: That is their choice.

Mr P.B. WATSON: Camera House in Busselton.

Mr T.R. Buswell: Sorry?

Mr P.B. WATSON: I do not know; I just got told.

Anyway, minister, Busselton is different from Albany; Albany is different from Geraldton. In regional areas we have the opportunity to make that decision. I do not agree with the decision by the City of Albany but I respect it. I just do not like the way the city and the chamber of commerce went about it.

MR P. ABETZ (Southern River) [4.38 pm]: I would like to make a contribution to the debate on the Retail Trading Hours Amendment Bill 2012. Philosophically, as far as I can see, there are two competing issues. One is that we want to give people as much freedom as possible. If Joe Bloggs wants to open his business 24/7, he should have the freedom to do that. The moment Joe Bloggs employs other people, it is no longer an issue of just Joe Bloggs' freedom; it is also about the freedom of his employees. The fact is that in our western society under the influence of the Judeo-Christian faith, we have had a six-day working week and Sunday rest and in the Jewish community the Sabbath, Saturday, as the day of rest. That is something that sets western society apart from nearly every other culture. It is something that has given our western society a very definite structure and it is something that many people still value. I remind the house that, according to various surveys, between 10 and 15 per cent of people in Australia attend church on Sunday at least once a month. A significant group of people still consider Sunday to be a special religious day. Others do not, and that is their perfect right and freedom.

When the issue of extended retail trading hours came up, I wanted to know what my electorate thought. My job is to represent my electorate. I put the question on the community surveys that I send out. It was interesting to note that 55 per cent of the people who have responded over the past few years are in favour of Sunday trading and 45 per cent are opposed, but those who are opposed are very strongly opposed. Since I have been the member for Southern River, I have probably had no more than three emails or letters urging the extension of trading hours; in my electorate it is a total non-issue. I have probably received 100 or more emails and letters from people who are very strongly opposed to the extension of trading hours. We need to recognise that there is an issue in the community and that a lot of people are very strongly opposed to it, and I will come to the reasons for that in a moment.

I also knocked on the door of just about every shop in my electorate, which is not that difficult to do because I have only a few shopping centres in my electorate. Every shop owner in my electorate, apart from Coles and Woolworths, was opposed to extended trading hours. They said that they could not afford to pay the penalty rates and that they would have to work longer hours if they were forced to open.

Mr A.P. O'Gorman: What about rent costs?

Mr P. ABETZ: That is another issue that they raised, and I will come to that later.

Thankfully, the legislation will only allow shops to open, and shopping centres will not be able to force them to open. But there is still great fear among the shop owners in my electorate that subtle pressure will be applied by shopping centres to force them to open. That does not appear to have eventuated with the extension of evening trading hours. I have spoken to the managers of shopping centres and they have taken the view that it is only for Coles and Woolworths. They are more than happy for the other shops not to open in the evening. In my electorate, Sunday trading before Christmas last year turned out to be a total flop. Some shops in the shopping centres had total daily takings of \$200. When they have to pay penalty rates for operating on Sunday, that does not make economic sense.

I recently spoke about Sunday trading to a Singaporean lady who runs a coffee shop in one of the shopping centres. She said that she ran a coffee shop in Singapore seven days a week. What she loves about Perth is that she has a day of rest and that she can spend Sunday with her family and relatives and she can invite her friends over. She did not understand why people want to do what is done in Singapore, as that is what attracted her to Perth.

While I was in one of the shops asking the owner about her thoughts on Sunday trading, there were two young ladies doing some shopping, and so I engaged them in the conversation. When the shop owner said that she did not want to open on Sunday, they said that they wanted Sunday trading. I asked these two young ladies where they work and they told me that they work in a shop. I asked them whether they were happy to work on Sunday, and they said that they do not want to work on Sunday, but they want the shops to be open on Sunday. I pointed out to them the anomaly of that view.

Another concern I have with the Sunday trading provision is that the experience in Tasmania and Victoria shows that having extra trading hours does not increase turnover per month; it simply spreads it over more hours.

Shopkeepers are concerned that it will increase their overall costs because they will be trading for more hours. Another concern they raised was that, ultimately, Sunday trading will make the biggest difference for Coles and Woolworths. All the shops in the shopping centres in my area have said that they will not open on Sunday.

Mr A.P. O’Gorman: So you’re going to vote against this bill.

Mr P. ABETZ: I am not saying that at this point. I will keep members in suspense!

It is not as much that people are vehemently opposed to Sunday trading as it is that they see it as a means of giving greater market share to Coles and Woolworths. That is very strongly opposed within my electorate. People do not want to give Coles and Woolworths a greater market share. One of my concerns is that small food manufacturers cannot get a foothold in Coles and Woolworths, because they want national suppliers. IGA stores are the only significant outlet for a small food manufacturer to get a leg into the manufacturing industry. An interesting example of that is the lunch box banana. If I am correctly informed, IGA talked to the banana growers in Carnarvon, who advised IGA that all their small bananas were being wasted. IGA thought that was terrible and it wanted to help some fellow small business people, so it came up with the idea of selling small bananas as lunch box bananas. Coles and Woolworths were not prepared to buy small bananas. The result is that the lunch box bananas now command a premium over ordinary-sized bananas, whereas they used to go to the rubbish tip. I think it is absolutely vital that we maintain a vibrant and strong small food industry and that we enable small food manufacturing businesses and smaller suppliers to get a leg into the market.

Another concern I have about Sunday trading—the member for Albany mentioned this—is that the experience in Victoria and Tasmania shows that it results in a significant downturn in people’s involvement in Sunday sports. We want kids to engage in sports for exercise and to combat obesity, yet we are moving in a direction that, as the experience in the eastern states has shown, results in a decrease in involvement in sports. Clubs find it hard to get volunteers. A lot of older teenagers take the opportunity to work on Sunday.

Mr T.R. Buswell: What an absurd statement! What are you basing this on?

Mr P. ABETZ: They are the facts.

Mr T.R. Buswell: Sure; I’ve heard your facts before.

Mr P. ABETZ: They are the concerns that have been raised. I am hopeful that many shops in other parts of the state will do the same as the shopkeepers in my electorate are saying they will do; that is, they simply will not open on Sunday.

Ms R. Saffioti: Are you supporting the bill?

Mr P. ABETZ: I am not clarifying that at this stage. I have reservations about the bill.

Mr T.R. Buswell: Grandstander! Stop wasting our time, then.

Mr P. ABETZ: The other point that I think is really important —

Mr J.R. Quigley: You’re saying all these things, but you’re still going to vote for the bill.

Mr P. ABETZ: I did not say that I was going to vote for the bill.

Several members interjected.

The ACTING SPEAKER (Ms L.L. Baker): Members, Hansard is having trouble hearing the speaker. Please limit your comments.

Mr J.N. Hyde: The minister just accused you of grandstanding. How do you respond to that?

Mr P. ABETZ: I missed that.

The ACTING SPEAKER: Member for Perth, I call you for the third time. Please do not interject.

Mr P. ABETZ: I believe my role in this chamber is to represent the people in my electorate and give their views a voice.

The other thing I want to mention is that although we are not moving to the total deregulation of trading hours at this stage, as we do move towards that, it is critical that we also engage as a government in levelling the playing field. For example, I have had an IGA supermarket owner tell me that if he could pay the same price per kilowatt hour for electricity as Woolworths is paying, he would save \$82 000.

Mr A.P. O’Gorman: Stop hitting the guy at the bottom! Hit the guy at the top! You’re supposed to be a Christian! Hit them all!

Mr P. ABETZ: That is another issue. If the IGA owner could pay the same price for electricity as Woolworths is paying, he would save \$82 000 a year. There are huge anomalies.

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The other issue that was mentioned by the member for Joondalup is tenancies. That is another issue altogether, and I do not believe we should get into that at this point. But that is another issue that needs to be addressed if we are to have a level playing field, because, as the member has said, the big supermarkets are paying much less per square metre than other retailers are paying.

We also need to recognise that, as we move towards the deregulation of trading hours, there will be shifts in where people shop. The manager of Livingston Shopping Centre in Canning Vale has said to me that she cannot see that Livingston Shopping Centre will be a busy place on a Sunday, because the shopping centre is not big enough to be a place where people will go on a Sunday for an outing, whereas perhaps Galleria or Carousel, which are massive shopping centres, would fit that kind of bill. Therefore, as time goes on, the smaller shopping centres will lose more trade. So we need to be aware that there will be some significant shifts as we proceed.

The other issue that people in my electorate have raised with me—my electorate is one in which there are a lot of young families—is the impact that this would have on family life. For those who might like to go shopping on a Sunday, it might be all well and good. But some of the people who work in those shops—some of the employees in Woolworths, for example—have expressed to me their desire not to work on Sundays. Hopefully, those positions will be filled by casuals who want to work on Sundays and as time progresses there will be equilibrium.

The move is towards Sunday trading. The argument has been put that we need to get with it and be modern and have Sunday trading. I was in Paris not long ago. In Paris, everything is closed on a Sunday except for the cafes and eating houses. Paris is a massive tourist destination. So I think we can have a strong tourism economy without necessarily having all our shops open on a Sunday.

Debate adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.