

RETAIL TRADING HOURS

Motion

HON MAX TRENORDEN (Agricultural) [11.35 am] — without notice: I move —

That this Council does not support the extension of retail trading hours until there is a legislative and regulatory framework in place which supports and encourages a fairer marketplace, enabling small business to be competitive.

The first thing I want to do is thank the Leader of the National Party and the National Party itself for arguing for this time on the agenda in this place. It allows our party and other people in weeks to come to put positions that were not available to be put prior to the change to the standing orders.

We have major problems in retail in Australia. Let me run through a quick list: rents are rising; outgoings are rising; sales are declining; margins are declining; 50 per cent of all small businesses end up bankrupt, bust or lost; businesses have been lost; high wages are at risk; the Western Australian lifestyle is also at risk; law and regulations are constantly increasing; and there are a range of planning issues. Extending trading hours is just to extend all of those issues mentioned above; it extends all those problems.

Hon Simon O'Brien: How? Are you going to tell us?

Hon MAX TRENORDEN: I know to tell members. I actually have 13 minutes and 20 seconds to tell members that. I do not want to spend too much time not telling you that, so I am going to get into it.

All of that is on a collision course. You do not have to be Einstein to work out that those facts that I have just read out lead to a substantial collision. It cannot physically continue. I want to talk about some of those issues straight-up as the minister just asked me to. Let us talk about wages and extended hours. Extended trading hours extend the penalty costs to small business. It will all depend on which small business a person is in, but it does do that. We are concerned about regional areas as well, because retail is a major employer of regional people. Those people are important to us. The fact that they get paid salaries is important to us. Those small businesses are also important to us as well. Businesses in the metropolitan area are important to us as well; I am not saying there is any difference. Those issues are on a direct collision course and need to be sorted out.

Members opposite have all voted for extended retail trading hours. What they have done is vote to change penalty rates. Let me give a couple of examples. Mr Andrew Stewart, a professor of law at the University of Adelaide, who helped draft Fair Work legislation, has cast a shadow over the future of weekend penalty rates in the retail and hospitality sectors. He says that employers could make a strong case that these rates in some sectors do not necessarily help. Professor Stewart, one of the architects of the current legislation, said the survival of penalty rates should not be taken for granted. He says employers had previously failed to change the higher penalty rates, largely because they had failed to show how workers could benefit from a change in penalty rates. Professor Stewart said a shift to a higher weekday rate and a lower weekend rate, for example, could benefit both workers and employers. That is an undeniable fact; that is where we are going and it is on a direct collision course with ALP members' own policy position. We have not heard Labor Party members say how they will handle that. We are concerned. As I said, retail is a major employment factor in the regions, so our people will be affected by this. Not once have I heard a person from the opposition, from the leader down, say how it will deal with this wages situation. I will read what Mr Shorten, the federal minister, in recent times said. An article from *The Australian Financial Review* states —

Business says the refusal by the union movement to accept lower wage increases for higher superannuation will cost it \$20 billion and reduce employment.

...

Mr Shorten assured the business community it would not face higher wage bills because workers would accept lower wage rises given their increase in super, meaning that the cost to business would not change.

If members believe that, they are in fairyland! The article continues —

The ACTU's outgoing secretary, Jeff Lawrence, said there was unanimous support among the delegates at the meeting yesterday that there would not be any trade-off.

That is, the trade-off between superannuation and wages. Let us face it, when we listen to the community debate, we hear that people need to pay their mortgages and increased power bills. There are all those issues, so do we think that people will say, "My superannuation benefits are more important than feeding my family?" They will not. There is no question that that is going to be the case.

Hon Max Trenorden; Hon Simon O'Brien; Hon Philip Gardiner; Deputy President; Hon Kate Doust; Hon Ken Travers

Small businesses make up 96 per cent of business operators in Western Australia; in 2009, there were more than 200 000. It has been demonstrated in recent times that the biggest expenses of large retailers, such as David Jones and Myer, are rental costs and employee wages. Many people who are professionals in this area argue that those issues are on a collision course. Something clearly has to give: either we finally get more turnover and more profit into our shops or we cut rents, wage costs and outgoings generally. We cannot do that ourselves and the National Party is not suggesting that we bring in legislation to do that. National Party members are saying that we have to bring clarity and an open attitude to the market so that people who are going into small business can make those decisions. Retailer and former Reserve Bank of Australia board member Solomon Lew recently said that rents cannot keep rising as sales are decreasing and, at the same time, wages are increasing. That is pretty obvious. There probably is no more respected retailer in Australia than Solomon Lew. We cannot ignore what he is saying.

On top of this is the increase in superannuation. The moral argument about increasing the superannuation contribution from nine to 12 per cent, particularly for someone such as me who was in that industry for quite a few years, is that it is a good thing to do as an overall task, but that \$20 billion a year has to be paid by someone. That is the obvious outcome of the federal government's current proposal. A really important argument is that of the roughly 2.4 million small businesses in Australia, only 720 000 will be eligible for a company tax deduction. Therefore, two-thirds of small businesses in Australia will get no compensation for the increased superannuation levy that will cost \$20 billion a year. That has to be recognised.

We have the other question of rents. Again, we need to talk about the superannuation industry. One of the reasons we have to talk about the superannuation industry is that it represents the biggest slice of property owners in the market. The superannuation industry is kidding itself that it is trying to retain growth and capital assets and also tell us that everything is okay. However, we know, because there have been not one or two but countless reviews done since the 2008 global crash, that the turnover in those businesses is just not there. Those people who know, or believe they know, about these things say that it is not coming back. The world has changed. The retail attitude of consumers has changed forever. Therefore, those properties do not have the value that they used to have, so those owners cannot ask tenants in shopping centres to keep paying rents that are not related to the market. Those rents are not related to the turnover of the shopping centres, or whatever property it is. That simply has to change; there has to be a realistic attitude from the superannuation industry and property owners that rents have to go down.

This was debated in this place some time ago and I thank the minister and Hon Ljiljana Ravlich for the movement that has happened on developing a lease register. I do not have time to read them all, but there are plenty of quotes by federal parliamentary committees, the Productivity Commission and a range of others that I could quote from today that say there is secrecy over rents that is not sustainable, not fair and is too protective of big businesses. What the open lease register—which is what Hon Phil Gardiner and I pushed in this house some months ago and which hopefully we are all talking about now—means is that the small business operator, or the person who wants to go into small business, can obtain a fair rental because they can look across the spectrum and see what other people are paying in rent. We are not saying that they should be protected, because everyone has and should have the right to make their own decisions, but they should be able to make those decisions based on reasonable, fair and transparent information, which is not currently the case. We give the minister accolades for that, so he does not have to pick on me when he gets —

Hon Simon O'Brien: You should do so more often, then!

Hon MAX TRENORDEN: Exactly.

Quickly, because I am running out of time, I will talk about online trading. We cannot ignore online trading. Just a few months ago, both Myer and David Jones said that they were buying a lot of perfume at the same price as you or I could pay for it on the internet. That is unsustainable for David Jones and Myer, but it is not unsustainable for the public. Why would we go to those stores to buy those products? The whole question of turnover and online shopping is important because Ernst and Young in a report this year stated that electronics purchases valued at less than \$1 000 were 11 per cent cheaper online. Therefore, people who shop online on average get electronics 11 per cent cheaper and clothing and apparel 23 per cent cheaper. People are not foolish, so they will use those options. As much as we all want to debate the issue of the pressures on people's lives, one of the sensible ways to change those pressures is to find a cheaper way to live and a cheaper way to operate. Taxation laws, superannuation laws, security laws, power costs and security charges are all part of that. A major part of this issue does not just relate to rent and wages; it comes down to us. We play an enormous role in regulating and forcing costs onto the retail industry, and that should be recognised.

The only growth sector in the retail commercial area is franchising. We need to make franchising an open, transparent activity and good for everyone, big or small. We are a strong supporter of the Small Business

Commissioner. Hon Phil Gardiner and I met with him yesterday. We voted for the legislation in this house. We want to give the commissioner a range of new powers and new teeth to ensure that the vital industry of retailing in Western Australia can exist in a transparent manner.

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [11.51 am]: I want to turn to the motion before us. I contemplated what this debate is about when trying to frame my remarks today. The motion raises concerns about a different legislative and regulatory framework being put in place that supports and encourages a fairer marketplace, enabling small business to be competitive. That is what it relates to. The obvious implication—it was taken further by Hon Max Trenorden in his remarks earlier—is that the current framework is inadequate, it is not as fair as it should be and small business is not presently competitive. It also strongly states, without qualification, that in such an environment as exists now we should not support the extension of retail trading hours. I think I have fairly characterised the motion. That is how I have interpreted it from the point of view of what I bring to this debate in the brief amount of time available to me. I ask members to forgive me if I do not canvass all the matters —

Hon Max Trenorden: You've only got eight minutes.

Hon SIMON O'BRIEN: Indeed. I do not have the time on this occasion but there will be other occasions. I know that Hon Max Trenorden had a good meeting with the Small Business Commissioner yesterday, and I hope that opened up a whole new line of dialogue that will increase mutual understanding in that regard.

I do not want to talk about lease registers and franchising today; they can be debated another day. I will touch on them only in passing in courtesy to respond to and acknowledge the fact that Hon Max Trenorden has raised them. I have already discussed with the member the powers available to the Small Business Commissioner with franchising. The agency of that brand-new position will be brought to bear to assist in dispute resolution and also in the provision of advice to government about the nature of problems that may or may not exist—I am sure some do—in that field. Again, I will come back to the issue of the lease register. I will not talk about consultation papers and all these things that I have undertaken to do and I have in train just now except to make one observation. The member described his concern about how regulations, legislation and further regulation just adds more and more costs that small businesses, small retailers in particular, have to bear. I cannot agree with the member. From all that I have seen, a lease register, whatever its merits, will relieve that situation. All of the advice available to me, which should be available to the member as it is certainly available to those who are dealing with government from every perspective, is that regardless of which model register this faction or that faction wants to pursue, it will amount to considerable cost to all stakeholders. It will add regulation and it will add cost. It is hard to determine what benefit will accrue to many of those stakeholders. That is a debate for another day.

We are left with the contention that the retail trading hours amendments as proposed via a bill I have taken through cabinet and which may find its way through cabinet in due course —

Hon Max Trenorden: It should do.

Hon SIMON O'BRIEN: Yes, it should do, although not with the help of the member's colleagues. Those amendments will probably be opposed because some members think they will adversely affect the environment in which small businesses currently operate, it will make them less competitive and the marketplace will not be as fair. With the greatest of respect, the facts are quite different. I was taken by one comment that Hon Max Trenorden made. I think he said "our people will be affected by this". I do not know whether he was referring to the ALP's constituency or the National Party.

Hon Max Trenorden: I am just talking about people who live in the regions.

Hon SIMON O'BRIEN: The facts relating to retail trading hours are as follows. The current restrictions exist in the metropolitan area; they do not exist in the regional areas. North of the twenty-sixth parallel it is open slather; retailers can open their retail shops, big or small, whenever they like. Small business continues to operate in those areas.

Hon Jim Chown: Successfully.

Hon SIMON O'BRIEN: Yes, successfully. Outside the metropolitan area, south of the twenty-sixth parallel, regional variation orders are in place in umpteen different shires.

Hon Jim Chown: Twenty-four local government areas.

Hon SIMON O'BRIEN: Yes, they operate in a couple of dozen local government areas. Guess what? Small business continues to flourish in those areas as well.

Hon Max Trenorden: Minister, I drive around those areas and there are shops in every country town.

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Hon SIMON O'BRIEN: The honourable member is quite right in his observation when he points out—I thank him for interjecting because it is something I should have acknowledged upfront—that there are small businesses doing it hard. They are responding to the challenges of a post-global financial crisis world and they are dealing with competition from internet retailers and a range of other uncertainties that exist. To some extent, that has always been the landscape for small retailers. That is just the nature of the marketplace. The fact is that the member acknowledges—I share this view—that in certain places small business in particular is doing it tough.

Hon Max Trenorden: Our argument is that there is a declining market.

Hon SIMON O'BRIEN: The market in Western Australia, if anywhere, is growing.

Hon Max Trenorden: It is declining.

Hon SIMON O'BRIEN: But it is also changing at the same time. There are opportunities but there are also perils and pitfalls for those who do not want to adapt and respond to change in like kind. The point is—this is in the motion that we are debating today—that while small businesses in different places have problems, it is not because of amended trading hours. The substance of the member's message today, which dealt with the actual motion, was that we cannot lay the problems at the feet of more deregulated trading hours because they have those deregulated trading hours in those areas that he is concerned about. Small businesses anywhere can operate 24/7 if they want to. It is not a problem. The problem here is competition and that is seen as putting small business out of business or risking doing that. In Albany, Bunbury, Busselton, Harvey, Kalgoorlie, Boulder, Katanning, Mandurah and a range of other places, including the Shire of Northam that the member represents—all of the area north of the twenty-sixth parallel—there is a greater or lesser degree of deregulated trading hours and small business continues to do business there. Sure; they have some difficulties, but they are not brought upon them by the extension of retail trading hours.

With that in mind, I cannot support the motion that Hon Max Trenorden has moved today. I thank him, though, for raising it. It is an important vehicle for the discussion of an important topic. In due course, I hope we discuss it and bring some changes into law. That is something that will be welcomed by the vast majority of Western Australians, which includes Western Australians in every single region represented in this house of Parliament.

HON PHILIP GARDINER (Agricultural) [12.00 pm]: I am very happy to rise to speak to this motion. Among the things Senator Barnaby Joyce has said, although I do not agree with everything he says, one of the things that rings in my ears is that every big business began as a small business. Small business is a very important component of our economy. As Hon Max Trenorden said, 96 per cent of businesses are small businesses. I am not sure of their rate of employment but 96 per cent of this state's economy is based on small business. Some of us in this chamber may have been involved in small business. Those who have been will all know how tough small business is. Be it retail, manufacturing, transport, services or farming, it is tough. People in small business work inordinately long hours and they face continuing pressure because most small businesses do not have the cushion of capital to enable them to operate more easily. That is the nature of small business, whereas big businesses have a much greater resource with market share, scale and so on.

Small businesses have a tough time. This motion seeks to make sure that small business has as much of a level playing field as possible with the larger-scale businesses. That is the point, minister. It is about having a level playing field. Take the case of shopping hours about which the minister commented. I think he said it would not make a difference. It will make a big difference unless we get the package and framework right. If we take just one aspect and change it, it may be totally inconsistent with other elements of the environment under which that small business is operating. We propose to the minister that that will be the case if we deregulate shopping hours. It might be fine if there is a level playing field, but what we will not have is a level playing field.

Hon Jim Chown interjected.

Hon PHILIP GARDINER: Just listen. Maybe it is not now, but that is not an excuse to do nothing, Hon Jim Chown.

Hon Jim Chown: We are doing something.

Hon PHILIP GARDINER: We are doing bits, if anything. If Hon Jim Chown examines the matter closely, he will find that we are doing bits, but he has to open his mind to what the package will be. The package must involve much more than simply deregulating shopping hours. Let us take overheads, and look at a small business that will be under a deregulated retail trading environment. That small business will be trying to compete with the larger businesses. With the extended trading hours, small businesses will have to put on extra staff to make sure they have people to serve their customers and some businesses will have to put on extra security, all at penalty rates.

Hon Jim Chown: They don't have to.

Hon PHILIP GARDINER: I know they do not have to, Hon Jim Chown, but they do if they want to compete.

Hon Jim Chown interjected.

Hon Max Trenorden: You just want to protect the big.

Hon PHILIP GARDINER: If the member wants to protect the big businesses, he can keep on going, but it is not fair competition. When we get down to analysing it, there are a whole lot of areas across this state and the country generally where the competition is not fair. Let me give members the case about the lease rental value register. I heard that a lease register would never work because, I think it was the Small Business Development Commission—I may be wrong about the source—told government that its members did not want a lease register. As happens with a lot of surveys, the results depend on the questions. If a question is, “Are you in favour a lease register”, any people with a rental agreement with termination dates and everything else being fully exposed would not want it. That is absolutely true. But how far away are we from what is actually going on and what can be done to get a lease rental value register? Disclosure of rental value is different from disclosure of all lease elements. The information that is the most sensitive is the termination date. When termination dates are made public, all kinds of games can go on. When a bigger competitor learns a lease termination date it can offer a higher rental to the shopping centre and take out the other fellow.

Having been in pretty big business myself I know what the objective is of big business. The objective is to control the market. If a business can do that, it will get greater prices, if we like, for whatever service or product it is selling. Any big business will try to take out its competitors. That is something I will come to in a minute regarding the Australian Competition and Consumer Commission and the Trade Practices Act, because predatory pricing is a very well-accepted means of commercial practice, if we like, to increase the dominance in the particular market. It is natural when trying to control the market that businesses owners will do everything to rid themselves of competitors. Unless they are thinking about what big businesses do to be in that big business frame, they will not care about the fairness of the competitive playing field.

When it comes to the deregulation of trading hours, the labour costs for small businesses that are trying to compete with the bigger businesses will be effectively overheads. We can assume for the time being that labour costs for big businesses will be roughly the same. But they will have much more flexibility to impose more direct costs, not overheads. Those of us who have been in business all know what it is like trying to meet overheads all the time. It is tough because the gross margin is a contribution to either overheads and/or profits if we make enough, but we have to cover our overheads first. If they are going to keep rising —

Hon Jim Chown: It’s core business.

Hon PHILIP GARDINER: Core business! Let us have as close a level playing field as we can, Senator Chown—I mean Hon Jim Chown.

Hon Kate Doust: Is there something you haven’t told us; is there a vacancy coming your way?

Hon PHILIP GARDINER: Sorry. Maybe that is right; that may help. We have to have a level playing field, but we will not get it under our current system. It comes back then to what the wages will be. We have to change the way penalty rates apply so that they come down. Sure, wages will be higher outside normal hours. I do not believe we should have regulated penalty rates because that disproportionately disadvantages small businesses because it is added to their overheads as opposed to what happens in big businesses. That is one of the regulations we must change.

Hon Ken Travers: What about the poor worker; what about them?

Hon PHILIP GARDINER: The poor worker? I accept that the workers who are banking on penalty rates will get less money. The evaluation has to be on what will give us a better economic effect. Sure, some adjustment will need to take place, but we need to make it a level playing field. If we have deregulated hours, it does not make sense to apply penalty rates. They need to be looked at and renegotiated.

The other body that can influence some of this is the Australian Competition and Consumer Commission. That is just another part of this package and framework that we need to consider if we are going to have something that allows small business to compete on a much more level playing field. In America there is the Sherman act, which most of us would have heard about. Under that act, big businesses that become too dominant can actually be broken up. We have nothing like that in Australia. On the federal scene there are other elements like that and also to do with cooperative law, which at last is uniform across Australia. I know that Hon Simon O’Brien is aware of cooperatives and how that corporate structure works. It is a corporate structure that is rarely used but is very important for small business, as is the franchising structure. There are structures in place, but they need uniformity across the country. That would then allow small businesses to work together to become a vital and sustainable part of our commercial practice.

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The DEPUTY PRESIDENT (Hon Col Holt): Members, we are dealing with non-government business and the question is that the motion be agreed to. Does the mover wish to make—the Deputy Leader of the Opposition.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [12.10 pm]: Thank you Mr Deputy President. I thought that given that this is —

Hon Simon O'Brien: I didn't think you were replying today.

Hon KATE DOUST: I just thought that as it was backbenchers' time I would wait for a few more backbenchers to get up and share their views on this issue.

Hon Simon O'Brien: Well, sit down and let them.

Hon Ken Travers: They didn't jump.

Hon KATE DOUST: Nobody jumped. I waited and waited. I thought Hon Jim Chown was going to get to his feet and share his views. I am sure he has some very clear views on this matter.

When I first looked at this motion I thought that National Party members were going to use it as an opportunity to critique their coalition colleagues in the Liberal Party for not addressing these issues over an extended period. I listened to Hon Max Trenorden. I agreed with him on a number of issues. We have reached a point over time where there are a number of serious concerns about the retail sector, and Hon Max Trenorden canvassed those. I have always thought that it is a bit of a dog's breakfast. I must say that when I listened to Hon Max Trenorden's speech today, I thought it was a bit of a dog's breakfast as well. I really was not too sure what he was getting at; he was chopping and changing. He talked about all the problems faced by retailing and then he skipped to the other side of the country and talked about our good friend Bill Shorten, who is doing a fabulous job in the federal government. He then talked about issues with superannuation and then he came back and had a bit of a go at us. He then started talking about wages. Hon Max Trenorden alluded to an impact in the regions but did not actually explain what that impact would be. I thank Hon Simon O'Brien for reminding Hon Max Trenorden that extended trading hours have been in place in those regional areas for an extended period, and in particular above the twenty-sixth parallel, where they have been able to trade 24 hours a day, seven days a week since the 1980s; in fact, prior to my time as a union official. I used to organise in that part of the state and we used to see our members at all times of the day or night.

I was not too sure whether Hon Max Trenorden was raising these issues in here because the National Party has absolutely failed in raising them with their Liberal coalition members and has failed to get them to come to the party on this. The only reason we are going to be dealing with legislation in due course is that the Premier has always had such a strong and public position on trading hours. Ever since he worked at the Chamber of Commerce and Industry of Western Australia he has been very clear on his view on trading hours—he is a 24/7 man. I cannot see that changing. The referendum did not change that view. He might have gone quiet for a while, but at every opportunity he has been pretty consistent and pretty determined. Of course he is going to want to bring through this policy and deliver it in the form of legislation. What the National Party has failed to do in its relationship with the Liberal Party is to bring it to heel and to get it to acknowledge its concerns. The National Party went into this coalition, this partnership, this family relationship with the Liberal Party.

Several National Party members interjected.

Hon KATE DOUST: National Party members failed to get them to take their side. They did not make this a condition of coalition or partnership. Now the National Party is attacking us as part of its failure.

Several National Party members interjected.

The DEPUTY PRESIDENT: Order, members!

Hon KATE DOUST: Thank you, Mr Deputy President.

Hon Ken Travers: I have never seen them get so excited!

Hon KATE DOUST: I know. This is because they do not like to be reminded. They sit here silently in most cases.

Hon Sue Ellery: At the cabinet table.

Hon KATE DOUST: They sit at the cabinet table and they refuse to speak up. They did not make this a condition of their relationship with the Liberal Party to get into government—to take those cabinet positions or the parliamentary secretary position. They have sat there silently. They have said, "Fine; we're not going to vote for it". I was pleased to hear Hon Max Trenorden say that he supports the franchising legislation. I am pleased to see that he has had that epiphany, because down in the Assembly his party did not support the franchising

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legislation; it did not support the changes that back small business and that provide an open and accountable way of conducting business and support for small business. The National Party did not support that.

Several members interjected.

Hon KATE DOUST: We have re-read that bill into this chamber. We now expect the National Party members in this chamber to deliver on what they have talked about today. We will bring on that bill in due course.

Hon Sue Ellery: Some days you want to be the opposition and some days you don't. You've got to make up your mind. Do you want to be at the cabinet table or not?

Hon KATE DOUST: I thank the Leader of the Opposition for that help. We will bring that bill into this chamber. We fully expect Hon Max Trenorden to gather his colleagues and support Labor's franchising bill.

Several members interjected.

The DEPUTY PRESIDENT: Order, members! The rules of debate are very clear. The member on their feet has the opportunity to speak. All other members should listen.

Hon Sue Ellery: I'd better leave.

Hon KATE DOUST: Out you go; you told me to behave myself!

Hon Simon O'Brien: You're getting a bit overexcited.

Hon KATE DOUST: I have a bit of the flu, so if I am raising my voice it is because I am concerned I will not have a voice. This is an issue that does get me very passionate. I have spent the bulk of my working life in the retail sector. I am very concerned about the implications for people working in that sector. When I heard Hon Philip Gardiner talk about the impact on small business, I thought, "Wait for it, wait for it; it's going to happen," and sooner or later he talked about penalty rates. At the end of the day, that is the one thing we always know people will talk about. They say, "Let's open up the shops so that consumers have the access". That is fine, but at the end of the day they want to target shop assistants—they target the workers. The one thing we are very concerned about, and which our leader has talked about, is that whilst we want to get this issue bedded away so that it is not a political football all the time, we want to make sure that people working in the sector who give up their Sundays are appropriately remunerated for doing so. The one thing we need to do is to ensure that people get paid appropriately. We now have a situation in which people are struggling to pay their bills. Let me tell members that as much as people work hard to get better benefits for shop assistants, they are not getting the top-rate dollars that some people in our mining sectors and others are getting. Those people who are supporting families find it pretty damn tough to pay their bills, feed their kids and pay their mortgages. What the National Party is saying is, "Let's look at changing that system. Oh well, it might be hard, but sometimes you've just got to cop the pain so that small business can continue." I say to National Party members that that is not fair, it is not appropriate and it is unreasonable. Why should people working in that sector have to pay the penalty? There have to be other ways of doing it.

I agree with the National Party; issues like rents and leases and all those things are vital and important. The National Party is in coalition with this government. The National Party should be doing its job by putting pressure on this government to address those issues. We look forward to the National Party supporting us when we canvass those issues and deal with it in legislation. National Party members should not come in here and talk about the dog's breakfast in the retail sector and cloak that as an attack on shop assistants and penalty rates and talk about flexibility, because they are —

Hon Max Trenorden: What are you going to do about it?

Hon KATE DOUST: What is Hon Max Trenorden doing about it? He is in government; he is sitting on the government benches. He should go and sort it out with the government. He should not come whinging to us; we are the opposition. The National Party refused to come into coalition with us. We could have resolved these issues. National Party members should get off their seats and talk to the government and fix it; do not whinge in here. Do not come in here and try to cut the wages, working conditions and aspirations of shop assistants. National Party members are on the wrong train. If they want to come in here and talk about issues associated with the types of products that can be sold, I agree that that is an issue. If they want to come in here and talk about leasing arrangements and lack of transparency, I agree that there are issues there. If they want to talk about rents paid by retailers in shopping centres, I agree that there is an issue there. There is a significant issue with franchise agreements. The National Party refused to do anything to address those issues in the other chamber.

Members of the National Party should not come in here and talk about cutting shop assistants' wages as a way of assisting small business, because in my working experience whenever employers and the Liberal Party and National Party talk about flexibility in the workplace it is always about attacking the worker and cutting back

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wages. The definition of flexibility to members opposite is cutting wages; they never look at other ways of shifting the parameters and other ways of doing business. If that is how members of the National Party want to cloak its argument, it is an appalling way of doing business. National Party members need to go back to this minister and the Premier, who have been hell bent on driving this agenda, and to their ministers and their parliamentary secretary, who have negotiated their way into the cabinet table, to sort this out with them. National Party members should not come in here and attack us. This system has been in place for a long time. Employers in the regions have been paying penalties for years and should continue to, so that their workers can have a fair and decent wage for the work they are doing. It is vitally important work. It is a serious job. It is something that people build a career and a lifestyle on. I am very disappointed in Hon Philip Gardiner over what he has proposed and for trying to attack the wages of and opportunities for people in that sector. The National Party should be very ashamed of the way it has conducted itself. If that is the way the National Party is going to address these issues, it is appalling: members of the National Party are not doing their job and they have sold out the people who are working in the sector in their regions.

We will have ample opportunity for a more extensive debate in due course, and I hope we can persuade the government that shop assistants need to have their rights protected when they work on Sunday.

HON KEN TRAVERS (North Metropolitan) [12.22 pm]: I am amazed that the members on the other side who were ready to argue by way of interjection do not have a contribution to make in this debate. This is supposed to be government members' time yet only two members of the government have got up to speak, and the other backbenchers are silent. This highlights the problems. Hon Kate Doust is absolutely correct about the problems that we have. The Leader of the National Party in this place talks about dysfunctional government. We have a government that is charging ahead with retail trading hours reform, and we have National Party members in this place who make speeches off the cuff about what is wrong as a result of the decisions made by their government but who then challenge Labor members to outline what we would do to change it. All of the protections in that legislation, including such things as the lease register, were included by the Labor Party because we saw the inevitability of what would happen to trading hours because of the actions and decisions of this Liberal–National government. We sought to provide protections to small businesses by putting in those protections. Even after we had agreement from the Premier on retail trading hours, he tried on a regular basis to welch on those agreements. National Party members need to take a long hard look at themselves. They sit in that government; it is their government that is doing this—no one else's government. The National Party is a member of the government that is implementing these changes. It is the Labor Party that has supported protections for small business, and there have been many protections. We have even supported protections for franchisees in small business and the government has removed those. The Labor Party will stand up for small businesses, as we will stand up for the workers in those small businesses to get a fair return for their efforts. We are the only party in this chamber that does that. Members on the other side will always look to screw over small business or their workers. We will stand up and defend both groups.

HON MAX TRENORDEN (Agricultural) [12.23 pm] — in reply: The debate to this point has shown that retail trading hours are a real mishmash and that members have not applied their minds to the issue. We are saying to the opposition that this place is meant to be a house of review and our responsibility is to look at what is a really key part of the social and commercial fabric of Western Australia. For 50 years the retail sector has shown growth and aptitude so that everyone can gain. Since 2008, which some members opposite do not seem to understand, the world has changed—not only Western Australia but the world! Members can see from review after review in western countries that the world has changed. My argument with the minister is that although he can say that the markets are increasing statistically, he can pick up today's newspaper and see for himself what is the price of a TV set and he can work out the margins that are left for the retailers when they pay the outgoings like power, rent and salaries.

Hon Ken Travers: And who put the power bills up? It is your government!

Hon MAX TRENORDEN: That is right, and also your government! The estimation is that the federal government's carbon tax will add at least another 10 per cent on to those bills.

Hon Ken Travers: For which they will be compensated!

Hon MAX TRENORDEN: Can Hon Ken Travers tell me how a small business operator will be compensated?

Hon Ken Travers: They will be compensated.

Hon MAX TRENORDEN: Hon Ken Travers has not told us how! The federal government has not told us how.

Hon Simon O'Brien: If you cannot trust the Gillard government, who can you trust!

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Hon MAX TRENORDEN: Exactly! I will say one word to members opposite—Queensland! People are uncertain. We have a different world out there. We have two problems here: the biggest one is rentals, which are not transparent. If we want to buy a house anywhere in the metropolitan area, we can find out the sale price of every house in the area, what the house is on the market for and how the market is changing. That information is available to any Western Australian. We can make our decisions, based on that information, on what we are prepared to offer for a house. If we ask for a rental price in a shopping centre in Perth, we cannot get that information.

Hon Ken Travers: And we agree with you.

Hon MAX TRENORDEN: The member has, and Hon Ljiljana Ravlich has also been very good in this argument, I agree. However, we have to consider how it will work. We will bring legislation into this place on these issues. That is why we have raised the debate. The National Party is concerned about franchising, but rather than support the Franchising Bill 2010 in the other place, we would prefer to put that issue to the Small Business Commissioner, who was sitting in the public gallery earlier in the debate. We are talking to industry now about where that focus should rest. We are saying it should rest with the commissioner.

Hon Ken Travers: In the meantime, your government is doing these things. We have been trying to get the government to put these things in place and it is your government that is failing. Do not blame us! Look at your own government!

Hon MAX TRENORDEN: We are having a discussion with the minister right now, I would think. The other side of the argument is that one of Labor's own architects of the federal law on work practices has said that it is unsustainable. What do we need to do when one of your own people—someone who put all that together—is saying that cannot be sustained? The other issue that members opposite have totally forgotten is that many people are saying to us that they want the opportunity to work on Saturday and Sunday and to change the working relationship because of the nature of families. There are people who are happy to work on a Saturday, Sunday and Monday. However, the issue of juggling that for a small business person is difficult. A business that has 100 or 200 employees finds it much easier to do that juggling. But how does a small business with five employees cover the extra hours? The other issue that earlier interjections ignored is if small businesses choose not to open, they pay the outgoings anyway. It is the case, Hon Jim Chown, that if a small business in a shopping centre does not open, which is its right, it still pays the outgoings. About 75 per cent of the lease space in shopping centres is held by the anchor tenant, who pays approximately 25 per cent of all costs. Where is the level playing field? If someone takes a lease in a shopping centre and puts their house, their marriage and everything else on the line, all of us in this room support that because we like that enterprising attitude. All we ask is for those people to be given reasonable information about making that decision. For example, is it appropriate for someone to set up their shop in the Galleria shopping centre or should they take a smaller turnover and go to a strip shop nearby? We want them to make those decisions. We have no issue about protecting small business owners. Everyone who goes into a business should make their own decisions and sail by the seat of their pants like everyone who preceded them. However, they require information. We are talking to the minister about that and we are grateful for that.

Hon Ken Travers: I am glad you've finally got it on the agenda. We've been talking about it for years, Hon Max Trenorden. Your Premier welched on the deal.

Hon MAX TRENORDEN: Our Premier?

Hon Ken Travers: Yes, your Premier—the man you made Premier, Hon Max Trenorden. You personally made the choice. Your colleagues did not want him, but you did. You gave him to them. You foisted him on them.

Hon MAX TRENORDEN: Oh, dear! I feel better by the moment. I am a most powerful man and I really appreciate the power that I have and I hope that I wield that power with great —

Several members interjected.

The DEPUTY PRESIDENT: Order, members! We have had a good go at it. Hon Max Trenorden will address the Chair.

Hon MAX TRENORDEN: I think I will have to stop speaking soon because I need to bolt over and tell my wife how powerful I am and how lucky she is to have married such a powerful man and to ask whether she will give me any considerations in my argy-bargy with her and the operations of my household, which I have to say I do not do too well in!

We appreciate the opportunity to raise this issue. We say to those in the Labor Party, the Liberal Party, the Greens, who are not here, and ourselves —

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Hon Kate Doust: It is unusual because they normally are and you normally aren't.

Hon MAX TRENORDEN: I agree with a lot of what Hon Kate Doust said in her speech —

Hon Ken Travers: Don't tell it to us. Sort it out in your government. We agree with you; we always have!

Hon MAX TRENORDEN: I am talking at the moment to Hon Kate Doust. One of the arguments that she put to me is correct. My speech is all over the place, and part of the reason for that is —

Hon Ken Travers interjected.

Hon MAX TRENORDEN: We will not go there.

This is a massive issue. We have built regulation, tax laws and a whole raft of things with the right intention for the past 50 years in a market that was constantly growing. Every record, not some of the records, says that market is in decline. Therefore, not only is the market in decline, but so are the margins of the people involved in those markets. The conditions that we are talking about are on a collision course. We make those decisions on the conditions of a shopping centre and how it will operate and we make planning decisions about strip shops and shopping centres. We make those decisions about security and power. We cannot say that there is a market out there and small business should adapt to that. We cannot, because we make those decisions. Some of these changes have to be made by industry, but some of the really important changes have to be made by reviewing the legislation to ensure it is fair—not so that someone gets protection against someone else, but so that it is fair.

Motion lapsed, pursuant to standing orders.