

Mr Tony O'Gorman; Mr Rob Johnson; Speaker; Ms Sue Walker; Mr Martin Whitely; Mrs Cheryl Edwardes; Mr John Bradshaw; Acting Speaker; Mr John Kobelke; Mr Dan Barron-Sullivan; Mr Brendon Grylls

RETAIL SHOPS AND FAIR TRADING LEGISLATION AMENDMENT BILL 2003

Second Reading

Resumed from 26 November.

MR A.P. O'GORMAN (Joondalup) [9.17 am]: I will make a brief contribution to this debate on retail trading hours. I was somewhat confused last night listening to the Opposition and the National Party supporting no further deregulation of the Retail Trading Hours Act. They seemed confused about what they want because, on one hand, they say there should be more competition but, on the other hand, they say we should block the freeing up of retail trading hours. This Bill has been put before the House following consultation with retail traders. I have spoken to the majority of retail traders in my electorate. I was approached by them when the review was announced. I am talking about retailers such as Foodland and Supa Valu - small grocery operators. They put their point of view to me on deregulation. They are of the opinion that deregulation is inevitable in the future; their problem is with the timing. They want a guarantee that there will be no deregulation until after 2005. I believe this legislation gives that guarantee; it gives grocery store operators in particular the opportunity to complete some of the work they have undertaken. They have always believed there would be no further deregulation until 2005. The work they talked about included the replacement of refrigerator cabinets etc, which have to be replaced because until recently most fridges and freezers in supermarkets have used the refrigerant R12, which is a chlorofluorocarbon that causes damage to the ozone layer. New refrigerants R134A and R123 are friendly to the atmosphere and do not damage the ozone layer. The grocery store owners had to invest a fair amount of capital to replace the fridges in their stores. They worked it out by amortising that capital cost over a period to satisfy themselves that 2005 would be a much better time to deregulate if deregulation was necessary.

I also canvassed my wider community and received a strong response. More than 85 per cent of those who responded supported not going any further with deregulation. However, national competition policy requires that we do something about it, and the current proposal is to move to 9.00 pm closing time on weekdays. Once the Premier made that announcement, I went back and consulted further with not only grocery stores, but also supermarkets, newspaper outlets, Brumby-style bakeries, chemists, hairdressers and other tenants of the small local shopping centres in my electorate, of which there are between 10 and 12. They did not want deregulation because they believed that if the grocery stores were faced with competition from the big two, they might go out of business. There are examples in my electorate of shops in small suburban shopping centres that have closed down because the supermarket they supported closed down. Those shopping centres have become centres for vandalism and a no-go area for many local residents. As I said, following the Premier's announcement, I went back to talk to the retailers in my electorate. When I walked through Lakeside Joondalup Shopping City the morning after the announcement was made, the retailers greeted me with high fives. They were extremely happy that we had come to a resolution and that there would no longer be any misinformation about the issue. They believed that 9.00 pm weekday closing was acceptable after 2005, and that Sunday should be preserved as a family day. A lot of retailers, particularly those in Lakeside Joondalup Shopping City, were looking for that. Some of the stores in Lakeside Joondalup Shopping City are cafe-type outlets, and they believe that if they had to operate on Sundays, their take-home profits would go down. They are happy that Sunday will be sacrosanct as a family day and that they can continue to go to their cricket, footy and soccer games. I support the legislation, as do the retailers in the electorate of Joondalup. They are very happy about it.

Mr R.F. Johnson: All of them?

Mr A.P. O'GORMAN: They are very happy about it. As I travelled through my electorate and spent time in each of the suburban shopping centres, I was welcomed, thanked and supported.

Mr R.F. Johnson: They will not welcome you in Mullaloo, which is your new electorate.

Mr A.P. O'GORMAN: I visited the shopping centre at Mullaloo. I was welcomed and congratulated for the Government's stand on this issue.

Mr R.F. Johnson: By the supermarket?

Mr A.P. O'GORMAN: Yes, by the supermarket.

Mr R.F. Johnson: I do not think so, my friend.

Mr A.P. O'GORMAN: Yes.

Mr R.F. Johnson: I do not think so.

Mr A.P. O'GORMAN: The member for Hillarys has it wrong.

Mr R.F. Johnson: No, no, no.

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Mr A.P. O'GORMAN: Yes, he has. They were very happy with the Government's proposal. It gives them the opportunity to organise their finances before the legislation comes into effect in 2005. With that, I conclude my remarks.

MR R.F. JOHNSON (Hillarys) [9.25 am]: I oppose this legislation and I do so on many different levels. It was interesting to hear the member for Joondalup say that he had overwhelming support from all the small retailers within his electorate. I think he will be in for a bit of a shock at the next election because I know that a lot of retailers in the present electorate of Joondalup, and the proposed electorate of Joondalup, are not happy with the Government's proposal to deregulate trading hours.

Today is an unusual day because members on the other side of the House are totally unsupportive of their union friends who are picketing Parliament House, while members on this side of the House have some sympathy for those public servants. Like the teachers who cannot get reach the Minister for Education and Training to sit down and negotiate, the public servants cannot get through to their minister and they desperately want to negotiate. It is a very unusual day. Conservative Liberal members are normally booed by unionists when they walk into this place. However, today the situation is different. I was welcomed with open arms. I was asked to wear a sticker. One person had a placard that read "Not happy Geoff." I told that person that I was not happy with him either.

Point of Order

Mr A.P. O'GORMAN: This debate is about retail trading. We should be talking about the Bill, which is important to my electorate.

The SPEAKER: The point of order is correct; however, some leeway is always given in second reading debates. I am sure the member for Hillarys is about to talk to the legislation.

Debate Resumed

Mr R.F. JOHNSON: The member for Joondalup is obviously sensitive about the comments I made because of his union affiliations, which may not last much longer. I sympathise with him because his preselection is coming up.

Mr A.P. O'Gorman: I am not a hypocrite like you.

Withdrawal of Remark

Mr R.F. JOHNSON: Mr Speaker, the member for Joondalup said "I am not a hypocrite like you." If I were pedantic, I would say that that comment contravenes the code of conduct.

Mr A.P. O'GORMAN: I withdraw the comment.

The SPEAKER: If members are going to breach the code of conduct, will they at least speak up so that I can hear them?

Debate Resumed

Mr R.F. JOHNSON: I have tuned in to the member for Joondalup's accent so I understand every word he says. However, I know some members have difficulty.

Let us get back to the Bill. I have shown my support and sympathy for the public servants who have surrounded Parliament House today. They and the Opposition know that the Opposition supports and sympathises with them and we all know where the Government stands. We are talking about workers and, contrary to what the member for Joondalup said, this Bill affects workers. Workers in the public sector deal with the public. Will their trading hours be changed? Will the place at which people renew their licences be made to stay open until 9.00 pm because it could be classed as a business? The Government is running this State as a business, although it is a very bad business. It normally starts with a big business and ends up with a small business. My problem with the legislation is that, as my colleague the member for Greenough said last night, only one member opposite has run a business. I refer to the member for Ballajura who ran a pharmacy, as he is a pharmacist by profession. Not one other government member has ever had to go out on a limb, borrow money and create employment to create wealth, yet they will enthusiastically pass a Bill that will have such an impact on small businesses - in which people have invested their life savings - because they believe it will create more competition. It will not create more competition in the long run -

Mr J.L. Bradshaw: It will create less.

Mr R.F. JOHNSON: Exactly. As my colleague the opposition Whip just said, it will create less competition. ColesMyer and Woolworths are the only ones that will benefit from this Bill and the deregulation of trading hours. Where do they come from? They do not come from up north. They come to Western Australia from the

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eastern States, and I can assure members that they do not come bearing gifts. They impose massive constraints on small business people in Western Australia. There are businesses in Western Australia that are owned by Western Australians. ColesMyer and Woolworths are not owned by Western Australians. Indeed, a lot of them are not even run by Western Australians. People are shipped over from the east to run those stores. Their state managers are often people from the eastern States. What promotional benefits are there for Western Australia? Not a lot. All this Bill will do over time is create uncertainty and unemployment for Western Australian residents, particularly young people. It will be a case of double jeopardy because the small family-owned supermarkets in Western Australia will not only have to compete with the Coles and Woolworths supermarkets being open until 9.00 pm on weekdays but also will have to suffer the tremendous impediment of this Government's industrial relations legislation. The small, family-owned supermarkets already need to consider carefully how many staff they can employ, because penalty rates apply on Saturdays and Sundays, which is when they employ a lot of young people to help them with the running of their business. Often mums who cannot work during the week because they are looking after their children take the opportunity to work on Saturdays or Sundays because dad is home and can look after the children. If that suits their family life, that is great. It gives them a bit of extra income to ensure that their children do not go hungry and they can put clothes on their backs and give them the opportunities that children deserve and need these days. The Government is not considering what this Bill will do to the family environment.

This Bill is only one step away from complete deregulation and Sunday trading for the major supermarkets. However, this Government does not have the guts to admit that to the people. It is trying to con the people by saying that all the Bill will do is allow supermarkets to trade between 6.00 pm and 9.00 pm on weekdays. The Government has said that that will create competition. It has said also that that will enable people who work during the day to go shopping between 6.00 pm and 9.00 pm on weekdays. People in the most populous part of the metropolitan area - the northern suburbs - can do that already. Many small businesses already stay open until 8.00 pm on weekdays, and some even stay open until 9.00 pm. This Bill will kill off the small delicatessens completely, and it will eventually kill off a lot of the smaller supermarkets. The member for Joondalup talked about a supermarket in his area that had to close. I know the one he was talking about. It is in the suburb of Connolly. The problem is that the bulk of the suburb of Connolly is a golf course - a very good golf course - so the number of residential properties is probably not enough to sustain the sort of suburban shopping centre that is found in many other suburbs. I am surrounded by suburban shopping centres - in Mullaloo, Craigie and Padbury. They each have a family-owned supermarket, which is the catalyst for the other shops to sustain a reasonable amount of business. This Bill will eventually kill off those small supermarkets, and that will have a flow-on effect to those other businesses.

Western Australia is a large State in geographical terms - in fact, we comprise one-third of the land area of Australia - but we are very small in population terms. I am not saying that at some stage deregulation will not be inevitable, because in years to come when the population of Western Australia reaches that of Victoria, I believe there will be a good opportunity for more deregulation to take place. However, this is not the time to do it. The only people who will benefit from this legislation are the Coles Myer and Woolworths of this world. Those companies already have an extremely dominant share of the market in Australia - far more than do comparable companies in America, the United Kingdom and Europe - so why should we be a patsy and allow that to happen in this State? Why should we be willing to just roll over and let the Coles Myer and Woolworths of this world tickle our tummy? That is what this Labor Government is doing. It appears to be beholden to the big end of town and the Coles Myer and Woolworths of this world. I thought the Government would be trying to help the working men and women of this State. I thought the Government would be helping us to try to support the families of this State.

When I immigrated to Western Australia - the best State, in the best country in the world - I thought we were a bit behind the times, because the shops closed at lunchtime on a Saturday; and on Saturday and Sunday afternoons the petrol stations were on roster. I thought those shopping hours were archaic, and that petrol stations should be open more often and should not be on a roster system. Therefore, I was pleased when shopping centres were allowed to open on Saturday afternoons, and when petrol stations no longer had to be on roster. That was a great move. That happened under a previous Labor Government, so it made a sensible decision on that occasion. However, I cannot for one second support the extension of trading hours that this Government is proposing at this time.

As another one of my colleagues on this side of the House said yesterday, it is not just the smaller retail shops that will suffer because of this legislation but also the local producers, such as those in the member for Wanneroo's area. At the moment the smaller shopping centres buy most of their products from those producers. Coles Myer and Woolworths buy most of their products from over east and transport them here. There will be a proliferation of that buying pattern, because Coles Myer and Woolworths dominate the market and can dictate the price they will pay for the goods that come into their stores. The smaller supermarkets cannot do that,

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because they do not have the buying power. One would think that because Coles Myer and Woolworths have that buying power they would pass on the benefits to consumers in the form of lower prices. They certainly do that to start with, but it does not last long, because once they have obliterated the competition they go in for the kill and increase prices. That is what happens in other countries in the world. We do not have other legislation in place to safeguard against unconscionable behaviour. I acknowledge that this legislation deals with that matter, and I support that. However, the provisions that deal with that matter are a bit wishy-washy, and without other safeguards they will not do a great deal of good.

I also have a concern about the proposed review after three years. I suggest that the review can go only one way. The review will not go back to the situation that exists today, with a restriction of retail trading hours. That will be absolutely impossible to do. The review will go to total deregulation. The minister knows that, I know that, this Parliament knows that, and the rest of the world knows that. Therefore, if this Bill passes through both Houses of the Parliament - the Government has the numbers to do that - let it be known that in three years, if this State is unfortunate enough to still have a Labor Government at that time, there will be complete deregulation of trading hours. It will be open slather. Shopping centres will be allowed to open 24 hours a day, seven days a week. That is the way the review will go. The Government is moving towards deregulation by stealth.

The Government's argument is that we signed the national competition agreement when we were in government. Of course we did. However, under that agreement, the public interest must be taken into account. Has this Government shown in any way, shape or form that it took the public interest into account when it submitted its application to the National Competition Council for that extra money? No, it did not. It sent the NCC a draft report that had been done in the time of the previous coalition Government. That report came from Treasury. The previous Government would not endorse that report; that is why it was still a draft. That draft report did nothing to show public interest; it was the complete reverse. What hypocrisy for the Government to try to say in its one and a half page letter to the National Competition Council that it was putting forward a public interest case. That draft report should have been destroyed for all it was worth. It was the reverse of a public interest case, and that is why we would not convert it from a draft to a final copy and send it. We have a duty to put forward the public interest case to the National Competition Council.

The first aspect of the public interest case is that Western Australia is the equivalent distance of another country from the eastern States. It takes as long to fly from the eastern States to Western Australia as it takes to fly from London to Moscow. Western Australia is like a different country and very often the eastern States treat it as a different country. The eastern States have the numbers in the federal Parliament. Western Australia is therefore always an afterthought because it does not have enough representation there. However, ours is one of the most important States in this country. It creates the largest amount of export earnings for this country. That applies particularly, Mr Speaker, to your electorate and to neighbouring electorates. It is a very important area. Can I seek an extension, especially as I am talking about your electorate quite favourably, Mr Speaker, and the good job that you do there.

[Leave granted for the member's time to be extended.]

Mr R.F. JOHNSON: In all seriousness -

The SPEAKER: I thought you were being serious.

Mr R.F. JOHNSON: I was being serious. I want to continue to be serious because this is a very serious issue.

I do not think that the members of the Labor Party who are in this Parliament have given this enough thought. They have tried to make out that they have turned over a new leaf; that they have followed Tony Blair's lead; and that they are friends of small business people. At the last election some small business people believed them. Some small business people have told me that they believed them. Unfortunately, we did not listen enough, which was a mistake on our part. Let me state quite clearly today that small business people know that Labor members are no friends of theirs. This sort of legislation confirms what I am saying. Small business people know that we are always their friends, but perhaps we stopped listening enough at the time. We are now listening with both ears. I can promise them that. Come the next election, I am sure we will find that small business people will be supporting Liberal candidates up to the hilt.

This Bill will be proclaimed in May 2005, which shows a gutless attitude on the part of the Government. If it is to do it, why not do it now?

Mr J.C. Kobelke: We made an election promise which we are keeping.

Mr R.F. JOHNSON: The Government is not.

Mr J.L. Bradshaw interjected.

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Mr R.F. JOHNSON: As the opposition Whip has said, the Government is putting forward legislation today that will break that election promise. The minister can use fancy words and say that the Government is keeping its election promise because it said that it would not deregulate trading hours during its term of office -

Mr J.C. Kobelke: We are not intending to.

Mr R.F. JOHNSON: That is what the Government has done; it is deregulating trading hours during its term of office because it is putting legislation in place.

Mr J.C. Kobelke: That is rubbish.

Mr R.F. JOHNSON: The minister is playing with semantics but small business people will not be fooled.

Mr J.C. Kobelke: Under this legislation when will trading hours change?

Mr R.F. JOHNSON: In May 2005.

Mr J.C. Kobelke: Is that before the next election?

Mr R.F. JOHNSON: When was the decision made; when did the legislation come in; when will it be passed through this Parliament?

Mr M.P. Whitely: I was lobbying small businesses about making changes during the next term of government so that they could have time to adapt. You say that you support small business. Was I right to do that?

Mrs C.L. Edwardes: It was not that they wanted it.

Mr R.F. JOHNSON: Exactly.

Mr D.F. Barron-Sullivan: I have been to the electorate of the member for Roleystone and have spoken to owners of small businesses about that. They do not want deregulation. He should be representing them.

Mr M.P. Whitely: Who have you spoken to?

Mr D.F. Barron-Sullivan: I have had meetings with a number of businesspeople.

The SPEAKER: Members! I encourage members to have a conversation, but not in here. The member for Hillarys is contributing to the debate.

Mr R.F. JOHNSON: Thank you, Mr Speaker. The member for Roleystone will not be the member for Roleystone for very long. He is trying to snitch a seat somewhere in the south metropolitan area.

I want to remind the House of the Labor Party's former policy on retail trading hours. It reads -

Labor believes that the public interest is served by having a retail trading hours regime which provides the best possible diversity and market competition. Experience in the Perth central business district following the establishment of Perth and Fremantle tourist zones revealed approximately 50% of small businesses reported no improvement following the imposition of longer trading hours.

Further deregulation of trading would lead to greater market dominance and therefore less choice for consumers.

For these reasons, Labor will:

- **retain existing retail trading hours in the Perth metropolitan area; and**
- **retain existing retail trading hours outside the Perth metropolitan area except where the local authority and a majority of the local community and retailers request an extension of trading hours.**

Mr J.C. Kobelke: That is what we are doing in the life of this Government.

Mr R.F. JOHNSON: No, the minister is trying to be too slippery. His tactic is a snake oil salesman's tactic.

Mr M.P. Whitely: As Howard said with the GST, did we say never ever?

Mr R.F. JOHNSON: The Government should not have brought the legislation in during this term if it meant what it said during its election campaign. It should have waited until the next election, and then been honest with the people by saying to them that it would bring in legislation immediately for the deregulation of trading hours, because that is what its election promise would be that time round. However, what the Labor Party said last time was that it would not deregulate trading hours.

Mr J.C. Kobelke: In the four-year term of government - which was said very clearly and explicitly.

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Mr R.F. JOHNSON: The minister has never run a business in his life. He was a teacher by profession before he became a member of Parliament. I think he was teaching maths. Perhaps he should have had more expertise in English. He needs to look carefully at his promise and what it meant. This is another broken promise of the Gallop Labor Government. The Government is not implementing this legislation during this four-year term but it will be putting everything in place by getting the legislation through both Houses of Parliament, so it will be killing off opportunities for small business because it is not keeping faith.

Point of Order

Ms S.E. WALKER: I cannot hear the member on his feet. I am interested in his views because I will shortly speak on this Bill. If the member for Roleystone wishes to speak, he can get up and speak instead of shouting across the Chamber. I am wondering, Mr Speaker, if you could exercise your power and ask him to be quiet.

The SPEAKER: The point of order is correct. However, when interjections are sought by the member on his feet by directing comments at a particular member, there should be some allowance to respond with interjections that are sought.

Debate Resumed

Mr R.F. JOHNSON: Thank you, Mr Speaker. I want to go back for a couple of seconds to the Labor Party's policy. It does not say anywhere in the policy -

Mr J.C. Kobelke: You are selectively quoting.

Mr R.F. JOHNSON: I am reading from page 16 of the Labor Party's policy on retail trading hours, under the heading "small business - the way ahead". It sets out the paragraph from which I have already quoted.

Mr J.C. Kobelke: It says that these are the policies for the next four years.

Mr R.F. JOHNSON: Where does it say that?

Mr J.C. Kobelke: That is the preamble to all of the policies. It is the overriding preamble.

Mr R.F. JOHNSON: I am sorry. It is like the Labor Party's promise to spend \$40 million on Rottnest Island.

Mr J.C. Kobelke: It says that these are the policies for the next four years.

Mr R.F. JOHNSON: The minister is tricking people by saying that sort of stuff, because it does not say that.

Mr J.C. Kobelke: It was said publicly at the time.

Mr R.F. JOHNSON: Even if I take what the minister says as being true -

Mr J.C. Kobelke: It is.

Mr R.F. JOHNSON: - and let me say quite clearly that I do not - the Government is still tricking people by bringing the legislation into the House and getting it passed so that it will all be in place immediately after the next election. The Labor Party's policy was quite clear. Its policy is one thing and what it might say as an afterthought is another, but it said nothing about this happening during this term of government.

Mr J.C. Kobelke: Of course it did. The whole policy was put out as a promise for four years.

Mr R.F. JOHNSON: No, it was not. The Government's policy is stated quite clearly on page 16. It does not say anything about four years.

Mr M.P. Whitely: That is the time frame. Does it say never ever?

Mr R.F. JOHNSON: It does not say that there.

Mr J.C. Kobelke: No, because it was four years.

Mr R.F. JOHNSON: Does the Leader of the House think that the Government is being very honest with the electorate?

Mr J.C. Kobelke: Yes, because we told it explicitly at the time.

Mr R.F. JOHNSON: No, it did not. If the Labor Party was being honest, why did it not tell the public that it would introduce legislation during this period, but that the legislation would not be enacted until after Labor lost office?

Mr J.C. Kobelke: Because at that stage -

Mr R.F. JOHNSON: That would have been truthful. However, the Labor Party did not have the guts to tell them that. It was trying to con them. It said that it would not deregulate trading hours and that it respected,

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loved and supported small business. However, it did not have the guts to tell small business that it would bring in legislation during this four-year term to kill them off. This legislation will pass through both Houses of Parliament. This is a slippery, snaky Government, which I do not believe is being honest with the electorate. I promise that we will let them know at the next election. I would not have an argument with the Government if it had said that it would not deregulate trading hours in the first four years of its term but that it would introduce legislation for that to happen in the following four years. If Labor had said that, it would have been fine, because it would have been honest and open with the people. However, it did not do that.

Mr M.P. Whitely: Apply the same situation to the goods and services tax.

Mr R.F. JOHNSON: The member for Roleystone is desperately trying to knife in the back one of his colleagues in the southern seats, so he should keep quiet.

The SPEAKER: Perhaps the member for Hillarys should direct his comments to the Chair.

Mr R.F. JOHNSON: I always do, Mr Speaker; I just move around sometimes. That is a habit of mine. My time is nearly up and I will not apply for a further extension because I doubt I would be granted one. I will conclude my remarks by saying that small business people will not forget the slippery, slidey, snaky attitude and tactics of this Government on the deregulation of trading hours. This Government has not been honest with the people. It kept saying that it would not deregulate trading hours in the first four years of its term. However, it is deregulating trading hours, because it is bringing in the legislation to do that. It did not tell the public that it would bring in legislation, because it knew what small business would have done. During the last election campaign Labor members had business breakfasts down the Terrace and in suburban areas with small business people. They were conning them, because those small business people believed what they were told; that is, a Labor Government would not deregulate trading hours. The Labor Party said nothing about doing it during the following term or bringing in the legislation in this term to put it all in place, which will place the livelihoods of small business people and the employment opportunities of their staff in jeopardy. The Labor Party did not tell them that it would suck up to Coles Myer and Woolworths and make them its friends. Labor did not say that to any small business people during the election campaign because it knew that if it had, it would have lost their support and would not have received donations from any of those people. If the member for Joondalup thinks he will get a lot of support from small business people at the next election, he is living in cloud-cuckoo-land, because he will not. Small business people like political parties to be honest with them and to tell them what they are up to. Of course, they like them to try to ensure that legislation reflects what they see as being the best opportunities for their businesses and for employment growth. We should be honest. Small business is the largest collective group of employers in the whole of Australia, and certainly in Western Australia. This legislation will not take effect immediately, but the dirty deed will have been done during this term of government.

Mr M.P. Whitely: Are you going to undo it?

Mr R.F. JOHNSON: I will talk to the member for Roleystone if he ever makes it to the southern suburbs electorate. The member for Roleystone does not have the guts to stay in his area and try to find a seat there. He will try to snitch one of his colleagues' seats in the southern area. We watch that with great interest.

I oppose this Bill. There are one or two reasonable measures in the Bill that I support, but in overall terms the Bill is a disgrace. It is a subterfuge against small business in Western Australia. Therefore, I will oppose this Bill outright.

MR M.P. WHITELEY (Roleystone) [9.54 am]: I will be very brief, but I cannot let that unmitigated rubbish go unchallenged. What could be fundamentally more honest than flagging a change before an election and giving the people an opportunity to express their opinion on it at an election? If the people want a change of government and the Liberal Party has the guts to say that it will change a policy, the people are able to make a clear choice. It was absolute, unmitigated rubbish. It can be contrasted with the "never ever" promise John Howard made about the GST. He broke that promise by introducing a GST within three years of that commitment being made. That is staggering. The hypocrisy of the member for Hillarys knows no bounds. I simply wanted to put on record that it is an inherently honest approach to take a position to an election and to let the people make a decision on the merits of that position. If the people do not like it, they can vote us out.

MRS C.L. EDWARDES (Kingsley) [9.55 am]: The second reading speech the Minister for Consumer and Employment Protection gave when introducing this legislation states -

The Gallop Government is committed to providing greater choice and flexibility for consumers in relation to the hours that general retail shops can trade in metropolitan Perth.

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Nothing could be further from the truth. I will raise several issues. One is that Western Australia does not have the same level of mass market as the eastern States to be able to sustain a regime of longer trading hours. That means that the dollar will not go any further. The shops may open for more hours, but the amount of money spent will not increase. The report on the discussion paper indicated that the experience in the eastern States, following the deregulation of trading hours, was a greater level of demand. Therefore, it created employment and the like. What the report did not outline - I will go through some examples - were the costs that have been imposed on smaller businesses. Some have had to close, some have reduced their hours of trade, and some have definitely reduced the number of staff they employ. The issue for my electorate and for many people in metropolitan Perth, and indeed in Western Australia, is that this will not be good for consumers. Consumers may be given the opportunity to shop at later hours during the week, but they will not spend any more money.

The so-called increase in competition will have a marked impact on smaller businesses. The community of Kingsley is well served by Dewsons stores, which open on Sundays and until eight o'clock in the evening. The electorate also has Action and Coles stores. On Thursdays when Coles and Action stores are open, the patronage of Dewsons stores is reduced. That gives some indication that Thursday night trading already has an impact on the smaller supermarkets, as people go to the bigger stores. The view of many of the young people who work in those stores is that if that were to be the case right across the board, Monday to Friday, it would have a huge impact on the patronage of those smaller stores and could quite easily cost them their jobs. For many of those young people it is their first job. They gain a great many life skills and training, which stand them in good stead for the future. I was first employed at the age of 15 by Woolworths. That sort of employment stands young people in good stead for dealing with people in whatever sphere of life they follow in the future. Young people could lose their jobs in the local community. They might not be employed by the Action and Coles stores in the same area. My electorate will be impacted upon because if those stores continue to operate - experience in the eastern States has shown that some stores close down - they might reduce the support they give the community through the local parents and citizens associations and the football and cricket clubs. All good causes ask for help from their local Dewsons Supermarkets, and the supermarkets support them very strongly by organising quiz nights or allowing the charity to set up a sausage sizzle at the front of the store to fundraise.

The people of Kingsley do not want extended trading hours during the week; they want the current trading hours to continue. They like the fact that the local Dewsons stores support the local community by providing not only jobs but also cash or by very strongly supporting fundraising activities. The minister said that extended trading hours would provide greater choice and flexibility for consumers. Extended retail trading hours will not be of strong benefit to the community.

The Government got itself in a pickle on this matter. It thought it could tell the community that trading hours needed to be deregulated because national competition policy demands it. Foodland Associated Limited was concerned about the Government's proposal. In January 2003 FAL issued a statement that -

Government representatives have confirmed that National Competition guidelines do not impose on the State Government an obligation to change trading hours but rather to give consideration to a number of factors including the economic and social impact of any changes.

Indeed, the introduction of the "Review of Retail Trading Hours - Public Consultation Paper" outlines very clearly that -

The fundamental purpose of NCP is to introduce competition reform where it is in the overall public interest. It is not about reform for its own sake. Public interest is the basis for considering whether reform should be pursued.

The public interest includes any goal that the community aspires to and that is relevant to the legislation under review. Factors that are important in considering the public interest include, but are not limited to, the environment, employment, social welfare, regional development, consumer interests, business competitiveness and economic efficiency.

The Government has decided it wants to deregulate trading hours. Initially, the Premier said that the State would lose \$72 million if trading hours were not deregulated. The Government's discussion paper continually uses consumer demand and consumer surveys as the basis for the public benefit. However, that is only one factor among 10. The "Review of Retail Trading Hours" continues -

Retail trading hours restrictions are being examined as part of a commitment under NCP to review and, if in the public interest, remove existing legislative restrictions on competition.

My argument is that it is not in the public interest to deregulate trading hours in Western Australia. Even if the Government wanted only partial deregulation of the trading hours, it would have a huge detrimental effect on my local community. If the legislation had a huge detrimental effect on employment and on the contributions

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businesses made to the community in my electorate, it would be replicated across the metropolitan area, if not into the country regions.

I suggest that the Government failed to present to the National Competition Council a very strong public interest test. Indeed, the submission that this Government made was a laughing joke on the eastern seaboard because it was almost a *fait accompli*. The Government is saying that if Western Australia does not deregulate, it will lose money; therefore, it must deregulate. No consideration whatsoever was given to the public interest test. This Government has served the State very badly.

I refer to the points I made about extended retail trading hours not being in the public interest and I will explain why I support those views. The member for Joondalup said that he had spoken with the small business community retail sector in his electorate after the Government announced that it would extend retail trading hours in the evening to only nine o'clock. That would allow the big supermarkets, including Coles and Woolworths, to open on Monday, Tuesday, Wednesday and Friday until nine o'clock. He said that the people he spoke to supported that and were prepared to accept it. The Deputy Leader of the Opposition thought that was strange. He did not think that was the impression the small business community retail sector had given him, and so he spoke with the President of the Joondalup Business Association, Mr David Curry, who said that the association had not changed its position. It does not accept this Government's partial deregulation of trading hours.

I put it firmly on the record that the concerns that have been raised in my area are similarly the concerns that have been raised in the electorates of Joondalup and Wanneroo, and the new electorate of Mindarie. Members opposite can argue that they did not want deregulation and that they fought on their constituents' behalf, but that it is a *fait accompli*. That occurred during the industrial relations debates over the past couple of years. The public will not wear that argument. Those members are saying that the small retail sectors in their areas support it; they do not support it.

The member for Merredin spoke about the retail trading hours in metropolitan Sydney and Melbourne that have affected David Jones, Myer, Harvey Norman and the Westfield shopping centres, which include small business tenants. I will not repeat what the member said. Basically, research shows that there has been quite a change because of those hours.

An article in the February 2003 edition of *Retail World* under the heading "Tassie independents hard hit by unrestricted trade hours" states -

"A lot of impact on the small operators who rely on the going home trade."

That is what will happen if trading hours are extended beyond nine o'clock. Where will people pick up a ready-prepared meal, fruit and veggies and the like on the way home from work? The operator who ran the Shorewell Everyday store lasted just two months after trading restrictions were lifted on 1 December. He said that the majors had killed the independent grocery trade in Tasmania, and he closed his doors. That will be replicated in Western Australia.

In March 2003 *The West Australian* conducted a survey of supermarket prices. It is often said that products purchased from Coles and Woolworths will be cheaper. However, this survey demonstrated that that is not true. In fact, overall, prices in the Dewsons Supermarkets were lower than the prices in Coles and Woolworths. Therefore, there is no benefit to the consumers. If Dewsons stores closed their doors and the monopolies of Woolworths and Coles took over an increased market share, the consumer would not benefit. The Government's proposal is said to provide greater choice and flexibility for consumers. However, it will reduce choice. Consumers would have more flexibility with the times in which they chose to shop. However, the choices of shops would be reduced, the prices would increase, young people would lose their jobs and the local school and community groups would not receive the same level of community support that they do today. Consequently, the community would not benefit. One man who holds no fear of extended trading hours is Adrian Di Lallo at the Midland military markets. He said that people will continue to shop at the markets on Sundays under deregulated trading hours. I have no doubt that they will do that. He is reported in *The West Australian* as follows -

However, many shopping centre retailers would close if forced to trade seven days a week due to costs like extra wages, . . .

That brings me to those costs. Although the Government is claiming that partial deregulation of trading hours will provide greater flexibility, it is completely the opposite from what it has done in industrial relations. Its industrial relations policy is hailed as being a "fairer go for all". I do not think the people who are striking today believe they are benefiting in any way from a fairer go. They believe they have been highly disadvantaged with their pay and conditions. The issue for the retailers is that the Government proposes to deregulate trading hours

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and at the same time increase penalty rates. Its industrial relations laws have caused more people to return to the award system and, as a result, employers' costs have increased. Why re-regulate the labour market in the face of a proposal to deregulate trading hours? It does not make sense. If the Government's policy is aimed at benefiting the public by improving choice and flexibility for consumers in the retail sector - I do not believe it will - it should have the same aim with industrial relations. This Government's policy has caused exactly the opposite. Even Retail Association Council spokesman, Nick Catania, was reported in *The Australian* in March this year as follows -

... 104 small businesses closed their doors in the six months following deregulation in Victoria in 1996.

The view of members opposite that deregulation has not had an impact on small businesses in the eastern States is being debunked by many people. Some concern was expressed about investment sentiment directed at Foodland Associated Ltd. FAL wrote to the stock exchange and asked to have trading suspended until the Government released its policy.

Negatives will flow from this legislation. Every time this Government plays games with issues such as deregulation, it has an impact.

[Leave granted for the member's time to be extended.]

Mrs C.L. EDWARDES: The Small Business Development Corporation made a submission on retail trading hours in April 2003. It expressed concern that penalty rates would have an impact. It suggested that if the Government wants to deregulate trading hours, it should at least implement some form of corresponding flexibility in wages policy for the retail sector. The SBDC suggested amendments to the State Shop and Warehouse (Wholesale and Retail) Award. Its research found as follows -

... that one area of particular concern affecting retailers' competitiveness following market deregulation was the prohibitive cost of labour, which is exacerbated by the high hourly rate for weekend and after hours employment under the industry Award. For very small shops in particular, the majority of retailers' trading extended hours reported working the extra hours themselves rather than employing more staff.

The review of the submissions on the consultation indicated that, from the experience of the eastern seaboard, there has not been much impact on family arrangements. The Government can put as much spin on this or any other issue as it likes to justify its position. However, to say there will be no impact on families is simply not true; there will be an impact on them. If retailers want to keep down the cost of wages so that they can continue to operate, what do they do? They bring in their family members. Who is working in the local deli at eight o'clock at night? Mum and dad while the kids do their homework at the back of the shop. The reality is that most consumers do not have any spare cash. They will have no more money to spend in a week of extended trading hours than they have to spend in a week at present. If trading hours are extended and wages are increased, it will have a huge impact on retail businesses because it will not be covered by extra income being spent. The SBDC review also states -

If retail trading hours are extended in this State, the SBDC believes that all efforts will need to be made to bring about the adjustment of the relevant industrial Award to reflect the fact that the retail industry is now a seven day occupation, with many employees (especially part-time or casual employees with weekday commitments) preferring to work outside standard hours.

That is the position I put when we were debating the industrial relations legislation. I argued that the re-regulation of industrial laws would have a big impact on part-time and casual workers. The latest September figures clearly support that. I will get to them shortly.

The other point the Opposition made is that the general working week is no longer a five-day week, based on the nine-to-five mentality enshrined in the new industrial relations legislation. If the Government gets its way, this legislation will make things even worse for the retail sector. It will deregulate trading hours, which will force shops to trade longer hours and pay higher penalty rates. What is the minister's view on the SBDC's recommendation that the Government should make some adjustments to the relevant industrial award? In response to a dorothea dixer from the member for Albany the minister said -

It is my clear view that penalty rates play a very important role. I would oppose a move to eliminate penalty rates. However, I accept that in a range of industries penalty rates may be excessive and restrictive on businesses' operations and need to be reviewed.

At the end of the day, the Government is not succeeding. The Government has provided a stack of money to organisations to review the awards. A case was referred to me last week with which the minister's department is

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dealing. A trucking company's employees must start at 6.30 and 6.45 in the morning. Under the award, the span of working hours commences at 7.00 am. Does the minister know what happens in that situation? Penalty rates apply from when the drivers start. They start 15 minutes earlier than the time allowed under the award and they attract penalty rates all day. Is that fair? Is that flexible working arrangements? That trucking company supplies to retail shops. Does the minister know what that impost will do to those suppliers and transport companies? This legislation will not affect only the shops; it will affect a wide range of other support sectors to the retail industry. Under the award, hours of work commence from 7.00 am. When employees start 15 minutes earlier, they must be paid penalty rates for the whole day. Nobody in their right mind would expect the law to have an impact like that in 2003, especially when people have been used to flexibility - which the Government wants to introduce under this legislation. It is a disgrace. It shows that this Government is out of touch with reality and with what is happening in the workplace. The Government thinks it can bring in reforms and deregulate trading hours because bosses who are earning lots of money, living in mansions and driving expensive cars can afford to keep paying out to the workers! Nothing could be further from the truth. Delicatessen and supermarket owners do not have big houses, they do not have money to waste and they will not have a business if this Government deregulates trading hours and continues with that deregulation in place of industrial laws.

The Small Business Development Corporation went on to specifically recommend that penalty rates should not be paid to employees within their first five days of work in a seven-day period, and that in a deregulated trading environment small retailers should not be expected to pay a penalty for restrictive labour practices. If the industrial relations legislation were part of national competition policy, the Government would lose more than the \$72 million that the Gallop Government said it would lose if it did not deregulate trading hours. It does not compute. It is essential that small retailers not be left to flounder between two pieces of inconsistent government regulation. Those retailers are in touch with the small business community.

I raise a couple of other examples. Mr Les Marshall of the Master Ladies Hairdressers Association said -

One of the industries most likely to be affected by the change to late night weekday trading is the hairdressing industry. This is because clients expect their preferred stylist to be available when an appointment is being made.

Mr Marshall said that if a hairdressing salon extended its trading for another four weeknights, the wages of a senior stylist would be \$881.70; that is \$45 to \$60 an hour for the first two hours times four, and \$30 to \$40 for the next hour times four; whereas without deregulation the wages are \$577.70. Extended trading on another four weeknights and Sunday would add another \$30 to \$40 times eight to that figure, taking it to more than \$1 100. Mr Marshall went on to say -

If the cost is passed on to the consumer this could see a \$45 cut and blow-dry cost more than \$70.

Where is the public benefit to the consumer? Deregulation of the hairdressing industry will not result in greater choice and flexibility. I support the notion that small businesses in large shopping centres must be protected and should not be forced to open extended hours. However, as Mr Les Marshall said, because trading hours will be available and shops will be open, people will expect their preferred stylist to be there. Therefore, there will be an impact on those small businesses.

There has been a 130 per cent increase in costs in the retail sector since it transferred to Australian workplace agreements under the federal system. The award today does not reflect their businesses. Employer-employee agreements are unworkable, as there is too much red tape for people to deal with and, as such, retailers have moved over to the federal system. However, many people cannot do that. Many people are confused about or unaware of their arrangements, even if they want to do the right thing, such as the trucking company I talked about earlier.

I want to raise the issue of part-time and full-time employment. The consequences of this Government's industrial relations laws, which have been re-regulated, have been a reduction in part-time and casual employment. The deregulation of trading hours will exacerbate that reduction and that will impact on women and young people. They are the people who will appear in the statistics. The September economic trend in the labour force data indicates that quite clearly. Western Australia's labour force data is quite volatile. The trends are not looking good, particularly for part-time and casual employment. In fact, the trend estimate of WA's employment growth in the year to October was just 0.6 per cent, which is the lowest annual growth since the financial year 1995-96. Although total employment rose by a modest 1.3 per cent through the year to October, part-time employment fell by 6.6 per cent and full-time employment rose by 4.9 per cent. The trend estimate of WA's part-time employment has fallen sharply since November 2002, but full-time employment has trended upwards only slightly since July 2003. There are therefore some real issues and trends coming through. One of

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the biggest issues is the loss of casual and part-time employment. The deregulation of trading hours coupled with the re-regulation of industrial relations laws will have an increased effect on the loss of those jobs. I want to say one other thing about the industrial relations laws, but I will do so on another occasion.

MS S.E. WALKER (Nedlands) [10.26 am]: I am pleased to be able to talk on this legislation. Anyone who wants to know how I feel about this legislation need only go to my web site to see that I oppose the deregulation of trading hours, and have opposed it for a considerable time. I feel very strongly about this issue and I feel very strongly about representing small businesses in my electorate. Not only do I feel that way but also do a lot of constituents in my electorate. An overwhelming number of consumers of small supermarkets - about 1 800 - filled in forms at the supermarkets to let me, as their local member, know that they were supporting their local supermarkets in the Nedlands electorate. The great tragedy of this legislation is the worry that this Government has given to small businesses and the people who have borrowed and put money into those businesses as a result of Labor's policy that was announced prior to the election.

Is this not a shame, Mr Acting Speaker (Mr A.J. Dean)? The member for Hillarys referred to the Labor Party's promises to the people of Western Australia on retail trading hours. I quote from the official Australian Labor Party web site, which states -

Further deregulation of trading would lead to greater market dominance and therefore less choice for consumers.

For these reasons, Labor will:

- **retain existing retail trading hours in the Perth metropolitan area; and**
- **retain existing retail trading hours outside the Perth metropolitan area except where the local authority and a majority of the local community and retailers request an extension of trading hours.**

I understand that the Bill will extend shopping hours in tourist precincts; we have no problem with that. We have no problem with an increase from 10 to 20 for the number of people on the shop floor. However, our concern is the hypocrisy and insincerity this Government has shown to small businesses, and the worry and trouble it has caused them since it came to power. On the basis of the promise in the ALP policy that I have just read out, some people purchased businesses, including supermarkets. I have a letter with me from a couple of my constituents, which states that on the basis of that promise they purchased a supermarket in my electorate. They said that it takes at least three years to build up a supermarket to reach a break-even point. It was upon that promise that the purchase was made and they have asked whether the Government will compensate them for their change in plans.

This is a tragedy really. I have asked in the House many times since I became a member of this place how many members ran a small business before they were elected. I come from a small business family. In fact, in 1973 I was first involved in small business in Perth in a shop called "Snob Boutique". Members who were around at that time may remember that name as part of a chain of boutiques that were managed by a fellow called Doug Cromb. We purchased a boutique from him on William Street. I loved going in and picking out clothes. Small business operators sometimes have to borrow money and extend themselves, and they work hard, are creative and put in long hours. They also employ people and use local goods. My family has always been involved in wholesale or retail business. Therefore, I understand the tireless and long hours businesspeople work.

On the Government's pre-election promise, people in small business purchased supermarkets that cost hundreds of thousands of dollars, looking to build them up into the future. They were told not long after the Government came to office that it would destabilise small business. Let us be honest: the Government destabilised this sector not long ago by threatening to introduce deregulation legislation. These small business operators have been under a lot of pressure and have been concerned and worried since that time.

Having been elected as the member for Nedlands, and given a commitment to represent the electorate, I quickly sought the views of local small business owners. The Liberal Party is very proud to support small business owners. That is one of the reasons I am a Liberal. The Liberal Party supports people with courage; it is about free enterprise and encouraging the individual. I am all for it. If people want to make something of themselves in this world, I am right behind them and support them.

I oppose this Bill because of the deregulation of trading hours. I support local supermarkets and businesses and my constituents. Three or maybe four people have contacted me supporting this change. There probably is a feeling in the community that some people would like unrestricted access to shops; however, not many feel passionate enough about it to come to my office and speak to me about it. I had no doubt about the matter after I attended a function at the Palms Centre in Subiaco attended by representatives of Coles and Woolworths and my

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local supermarkets. My web site expresses support for small business. A trolley wheeled in 1 632 letters from independent supermarkets and people from all suburbs across my electorate. I have not written back to them all. I do not have the resources in the office to do so. I have one full-time officer and one part-time research officer. If I could, I would write back to all those people and tell them to look at my web site.

I turn to a matter referred to by the member for Kingsley. Any perception that shoppers pay a higher price for goods as a result of the current policy was debunked by *The West Australian* survey. After visiting 15 supermarkets and comparing a basket of 16 items, the cost of goods was as much as \$5 cheaper in the independent supermarkets than the majors when the specials were included. Even without specials, some independents were still cheaper or less than \$2.18 dearer than the baskets in Coles or Woolworths.

The turnabout by the Gallop Government is devastating news for small business. People have invested money. People will be severely handicapped by this policy because major retailers like Coles and Woolies will dominate the market. When I attended the function at the Palms Centre in Subiaco, I was frankly astounded by the level of arrogance of people who represented those companies. It was a shame really. If they wanted to persuade anyone in the room - despite some people having fixed views - they should not have acted in that way. I felt they treated Western Australians with contempt.

Mr J.C. Kobelke: Which companies were these?

Ms S.E. WALKER: It was Coles and Woolworths. I could be corrected, but I am sure they were representatives from those companies. Some had come from the eastern States. I felt they were very arrogant, and so did my constituents who attended the meeting. I listened to the Coles representatives. I received a letter from Coles. I strongly support my local supermarkets such as Dewsons because of the assistance they provide to the community. Therefore, the community supports them. That is a very important point. As I have been around the electorate since becoming the local member, I have seen a lot of the good work done by local businesses, particularly supermarkets - Dewsons is one example. I say on my web site that Rosalie Primary School has a big fair every two or three years. In the middle of the playground stands an enormous cage containing food donated by local supermarkets as a raffle prize. It comes down to corporate versus community.

During the time that the Gallop Government started to destabilise this industry, I was visited by brothers James and John Kelly, who, with their wives, own Dewsons in Nedlands and Supa Valu in Shenton Park. I believe they have sold one of those supermarkets now, but who can blame them? They forecast that up to 40 jobs would be lost at their two supermarkets if deregulation occurred. They said that the push for deregulation is coming from major chains, such as Coles and Woolworths. For example, the Kellys operate a local, family-owned business that employs 130 people, including university students. There are obviously many university students around Nedlands. The Kellys sell over 1 400 local growers' and producers' goods at no charge to the producers. I refer to producers who cannot sell their goods through the major chains. I understand that if local growers had to put their goods in Coles or Woolies, their products would not be in the most visible position in the supermarkets. Dewsons also uses local tradespeople in their business, such as cleaners, carriers, refrigeration mechanics, electricians, financial advisers, information technology services people, accountants, lawyers, repairers and maintenance workers. It supports local charities, schools and sporting bodies. Dewsons regularly sponsors Constable Care, the Lions Club, the Salvation Army, Father Brian's Crisis Care, the Hackett Playgroup and many other small charities. It has donated a computer to East Claremont Primary School and supported Dalkeith Primary School and Dalkeith Tennis Club, and the company's profits stay in Western Australia.

I took the opportunity to look at what Coles does for the community in Western Australia. To be fair to Coles, it raises money for charity. The company wrote to me in April 2003, and in referring to the WA community, it wrote -

... Coles Supermarkets raised more than \$500 000 in 2002 including;

- \$120 000 for Channel 9's Appealathon
- \$80 000 for the Royal Flying Doctor Service ...
- \$76 000 for SIDS (Red Nose Day)
- \$67 000 for Daffodil Day ...
- \$40 000 in two weeks for victims of the Bali bombings and the RPH burns unit
- In partnership with Foodbank provided food from more than forty supermarkets and supported
- The Salvation Army Christmas Appeal.

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That is great for Western Australia. However, members can see right away that it does not operate at a local level. The wider community feels strongly about this, because people know that local supermarkets touch their lives. Coles could say that it touches people's lives, but it is not on a local level. It is not as tangible as with local retailers.

Mr D.F. Barron-Sullivan: Coles provides those amounts to charity. On their own, it sounds like a lot. However, when you consider that nationwide Coles turns over almost \$28 billion, I suggest that in proportional terms the small business sector contributes much more to local charities.

Ms S.E. WALKER: Indeed. It is minuscule in comparison. Also, in the current world of globalisation and terrorism, the community loves the supermarket. People gravitate to shopping centres. Baby boomers are selling up. They want to walk down to buy their bread and milk and visit the coffee shop. Local shops give soul to a suburb. I will support my local supermarkets and my constituents will support their local supermarkets. That is how they want me to vote, and that is fine with me. I assessed this issue very early on and I put it on my web site. I am very proud to support those businesses in my electorate, and I will keep fighting for them on that basis.

I also have a letter from the WA Independent Grocers Association, which I support, because it represents more than 700 independent supermarket operators and grocery outlets throughout Western Australia. Those stores have a combined turnover of \$1.2 billion per annum, employ in excess of 15 000 people and conduct some 1.25 million customer transactions a week. That is an enormous contribution to Western Australia. The WA Independent Grocers Association is very concerned about the introduction of this Bill and, in particular, the proposal to change metropolitan trading hours, which would enable stores to trade up to 9.00 pm on weekdays four weeks after the next state election. Its letter indicates that it has researched demand for late-night trading in Sydney and Melbourne. I do not know whether the member for Mitchell, the lead speaker on this Bill, touched on this matter in his contribution to the debate, but I was very interested in the statistics and I will read them out. A table in the letter, which I am happy to table, shows the actual times that the major shopping centres and their specialty retail tenants - anchor tenants such as David Jones and Myer-Grace Bros, and stand-alone home wares stores such as Harvey Norman - close their businesses. On Mondays, Tuesdays and Wednesdays in metropolitan Sydney and Melbourne, Westfield shopping centres close at 5.30 pm, David Jones closes at 5.30 pm and so do Myer and Harvey Norman. On Thursdays all those stores have late-night trading until 9.00 pm and on Fridays they all close at 5.30 pm, with alternative late-night trading if they wish. Clearly these centres and retailers, all of which have turnovers far in excess of their Perth metropolitan equivalents, find no consumer demand past the normal closing times now operating in Western Australia. It is the view of the WA Independent Grocers Association - it is well known in the community - that the only retailers that will take advantage of these extra hours will be Coles and Woolworths supermarkets. The only reason the two retail giants would open after 6.00 pm on weeknights would be to take as much market share from independent operators as they possibly could. According to me and the people in my community, it is not in the public interest, because, in this day and age, people want to feel they are part of a community.

[Leave granted for the member's time to be extended.]

Ms S.E. WALKER: In May this year when the debate on this issue took place, a lot of articles appeared in local newspapers, the *Business News* and *The West Australian*. Interestingly, an article in *The West Australian* of 20 May 2003 by journalist Gay McNamara, which is headed "Piles of letters back independent shops", states -

The State Government will today get nearly 50,000 letters opposing deregulation of trading hours.

The WA Independent Grocers Association will place the 48,545 letters in two one-metre high piles on the steps of Parliament House.

A few Labor backbenchers became very concerned about that. I spoke to one backbencher - I will not name his electorate; I do not want to embarrass him - who received at least 3 000 of these letters from consumers and independent supermarkets in his electorate. It is a shame that more Labor members have not spoken on behalf of their constituents. If I am receiving these letters from my constituents, they certainly are receiving them from their constituents. I am sure that the backlash will come at the next election.

I also refer to Mr Fred Fairthorne, who operates Farmer Jack's outlets in Subiaco and Woodlands. Subiaco is in the electorate of Nedlands but Woodlands is not. In an article in the *Claremont-Nedlands Post* he is reported as saying -

The big shopping centres want the national supermarkets because their tenancy instantly adds to the resale value of the property.

The article goes on to say -

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The state government has announced it will abolish the trading-hour advantage small supermarkets with 10 or fewer employees now enjoy.

Failing to do so will be in breach of federal competition policy and will cost the government \$70 million in payments.

We now know that is not correct; it is not \$70 million at all. That is a furphy. It continues -

Independent operators say the change will cost them about one-third of their turnover and force many to close, as has happened in NSW and Victoria.

I have received a very comprehensive document on how deregulated trading hours affected Tasmania. I do not have time to read it out, but suffice to say it was devastating. I also refer to an article about James and John Kelly, who at the time the article was written owned Supa Valu in Shenton Park and Dewsons in Nedlands. It states -

Mr Kelly expected a drop in business of about 25% if extended or deregulated trading hours were introduced, which would mean job losses of about 30 to 40 staff.

He said several university students were employed as casuals and some of their positions would be among those in jeopardy.

A lot of university students are employed in these supermarkets and many students look to employment to supplement their Austudy payments. It would be a shame if these jobs started to go. The article continues -

"All our profits stay in WA," Mr Kelly said.

"Coles and Woolworths' profits go out of state to the east and to shareholders.

The article went on to say that petitions could be found at many local supermarkets. As a result of that, there has been an enormous response from the public on this issue. I think I have already spoken about this matter in Parliament. As I said, I have detailed it on my web site. I oppose the Bill. I have read the member for Mitchell's very comprehensive and well thought-out speech and the excellent policy that he has written on the issue. I reassure my electorate and my constituents that I am their local member and fully support them on this issue. I oppose the Bill.

MR J.L. BRADSHAW (Murray-Wellington) [10.47 am]: I also oppose the Bill. It is a disgrace that it has been introduced in this House after the Labor Government made the promise in the lead-up to the last election that it would not deregulate trading hours. For it to say that it will not happen until after the next election and that it has not broken an election promise is a furphy. It should go to the next election saying that it will deregulate or change trading hours and let the people decide at the next election -

Mr M.P. Whitely: How can you spell it out in detail better than in legislation? They will judge it from the legislation.

Mr J.L. BRADSHAW: They will.

Mr M.P. Whitely interjected.

The ACTING SPEAKER (Mr A.J. Dean): Member for Roleystone, the member for Murray-Wellington has the call.

Mr M.P. Whitely interjected.

The ACTING SPEAKER: Is the member domestically deaf?

Mr J.L. BRADSHAW: There is a difference between what John Howard did and what this Government is doing. John Howard said that he would never introduce a goods and services tax, but he went to the election saying that he would introduce the GST.

Mr M.P. Whitely interjected.

Mr J.L. BRADSHAW: There is a difference. That is what I am saying. The Labor Party should go to the election saying that it will change trading hours.

Mr M.P. Whitely interjected.

The ACTING SPEAKER: Member for Roleystone! The member for Murray-Wellington will address the Chair.

Mr J.L. BRADSHAW: To keep saying that it is competition policy is a furphy, because there is a public interest test involved. In the overall picture, it will not pass the public interest test because it will hurt a lot of people who have invested their money in small businesses. Members have already demonstrated in this place what

Mr Tony O'Gorman; Mr Rob Johnson; Speaker; Ms Sue Walker; Mr Martin Whitely; Mrs Cheryl Edwardes; Mr John Bradshaw; Acting Speaker; Mr John Kobelke; Mr Dan Barron-Sullivan; Mr Brendon Grylls

happened in the eastern States when trading hours were deregulated. Partially deregulating trading hours until nine o'clock each night is virtually deregulating trading hours in general. The survival of many of those smaller businesses is dependent on those midweek after-hours services. Once Coles, Woolworths and other major multinationals are able to open at those hours, people will flock to those supermarkets rather than the smaller businesses. The effect on the shopping strips will be much the same if the Supa Valu Supermarkets and Dewsons stores are lost from the community. This will have a dramatic effect. If people cannot buy their groceries at the local shopping strip, they will not go there to do their other, associated shopping. I remember when the pharmacy in Waroona was to shut down in the 1970s. At that stage I ran the pharmacy in Harvey. The fellow who ran the pharmacy in Waroona rang me and asked if I wanted to take it over. I could not find someone to work in that pharmacy, so it shut down for three or four months. I eventually found somebody to work for me and reopened it. The shopkeepers in Waroona were so thankful for that because people who go into town to get prescriptions and other pharmaceutical products would do other shopping while they were there. The pharmacy had a major effect on the other shops in Waroona. The loss of a supermarket would have an even bigger effect because if people are not able to go to a centre to do their main shopping, they will not be in the area to do associated shopping at the specialty stores. The Government's actions represent a sad state of affairs. It is a step in the wrong direction. As I said, these people's investments will be affected. The legislation will result in reduced turnover and businesses going broke. Some businesses will not receive enough turnover to justify their existence, so they will shut down. The Government will not compensate those people for the loss of their business, goodwill and investment, even though, under the circumstances, it should.

The Government also wants to allow liquor stores to trade on Sundays. That is a similar situation. Those businesses were purchased on the condition that trading days were Monday to Saturday and not Sunday. Similarly, people have bought hotels knowing that they are expected to operate seven days and nights a week. If the Government allows liquor stores to open on Sundays, will it compensate the hotels for their loss of goodwill and profit? Will the Government make the liquor stores pay that compensation or the difference in turnover? Of course it will not. The Government must ensure fairness in the system when it starts deregulating hours and allowing people to trade outside the conditions that applied when they bought their business.

There are only so many dollars to go around. The Government will allow for more trading hours, but the same amount of money will be available to be spent in the retail sector. That will put more pressure on those small businesses that cannot afford to pay people to work in the store. They will either have to work the extra hours themselves or get their children to work those hours. What will that do to family life? It is dramatically cruel. I certainly do not support this legislation.

This legislation will result in a duopoly by the multinationals. It will have a flow-on effect for producers of fruit and vegetables. A fellow in Yarloop who grows vegetables deals with either Coles or Woolworths. When the organisation wants to sell a product on special, it will ring him and tell him what price it will pay him for that product. The only choice he has is to not supply the organisation, but that would mean that he would have to get rid of his produce elsewhere. The multinationals dictate. I doubt whether Dewsons, Foodland Supermarkets or Supa Valu does that. I do not know; however, he has never complained to me about those sorts of organisations. The large chains are ruthless. One of the dairy producers developed a new yoghurt flavour. A certain amount of money was paid to put it on the shelf in a store, but the store then removed one of the producer's other flavours from the shelf. Those organisations are unbelievable and ruthless.

If the Government wants to deregulate hours, why does it not introduce some antitrust laws to keep those companies honest? The people will not benefit from Coles and Woolworths stores dominating trade in Western Australia. As has been pointed out, the money will go over east or overseas; it will not stay in Western Australia. Coles and Woolworths do not provide the same level of local community sponsorship and support as do Dewsons, Supa Valu and Foodland - the stores that are part of our suburbs and country towns. Those stores put money back into the community because they are generally run by people who live in the community. This legislation will have a dramatic effect.

As I said, I do not support this legislation. It is disgraceful. This Government has broken an election promise. It is time that it put a stop to this legislation. It should take the policy to the next election as a part of its platform. It should let the people decide. The member for Roleystone is probably right; people will make a certain decision at the next election because the Government has introduced the changes in this way. It will have some effect at the ballot box. The member hopes that people will have forgotten about this in a couple of years. However, I am sure that many of the businesses that supported Labor at the last election will not support it at the next one.

MR J.C. KOBELKE (Nollamara - Minister for Consumer and Employment Protection) [10.55 am]: I thank members for their contribution to the debate. I will not try to respond to the specific matters that people have raised, but I will try to cover the broad general issues. This is a highly contentious area of retail trading in which

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there is a range of quite diverse interests. We might appropriately call some of those vested interests. Those people quite rightly seek to protect those interests, and we expect them to do that. Others seek to advance their interests, perhaps to the advantage of others. However, in doing that, sometimes people on all sides say things that go beyond what is true or, by using only some of the facts, totally misrepresent what is already a complex issue. That has been evident in this debate. A number of speakers have used information that is clearly not correct. The problem is in trying to move beyond that ignorance and misinformation so that we can have a rational debate.

We entered into a major debate because of the potential loss of competition payments. Although that debate got a bit extreme at times, it was on the whole quite productive. All the views were adequately aired. People gained a much better understanding of the interests of various sectors. Based on that, the Government made a call, the result of which is the legislation before us. I put to members opposite that the Government took on board that very wide-ranging debate, looked very seriously at the interests of all players and arrived at a compromise; therefore, we are not about to fiddle with it. The Opposition might believe that it can get the numbers in the other House to knock out the bits it does not like and keep other bits that it likes. However, if it does that, it may find that the Government will reject the whole legislation, even though that will have the potential to create even more uncertainty. This is already a compromise. I do not expect the Government to look kindly at amendments that seek to advantage one group at the expense of others after it has sought to get a balance.

Members opposite used the word “deregulation” very loosely and sometimes incorrectly. This legislation is not about deregulation. In fact, this legislation will increase regulation in some areas. It is a very heavy-handed form of regulation. This Bill has nothing to do with deregulation, although people have used that term in all sorts of loose ways. The legislation will increase the normal hours of retail trading by 12 hours a week, or approximately 19 per cent. The legislation will create an extension of hours. In talking about the issues, we should try to make sure we are factual and truthful. The Opposition - the Liberal Party - is totally misrepresenting the issue. It not only uses the term “deregulation” to refer to a situation that is not one of deregulation but also misrepresents the facts of the matter. The Leader of the Opposition was reported in the media some months ago as saying that he could not honestly say to people that there would not be changes over time. That was quite a fair and honest statement. He has perhaps moved away from that. However, changes in trading hours will occur. The Deputy Leader of the Liberal Party, the member for Mitchell, is on record in the *Hansard* of three or four years ago saying that he espoused increased trading hours. Now he is totally opposed to it.

Mr D.F. Barron-Sullivan: You know that was in relation to Saturday afternoon trading, which was the debate at the time in Bunbury. I can show you correspondence that was sent out that year to our chamber of commerce indicating that I was vehemently opposed to Sunday trading.

Mr J.C. KOBELKE: What about the shopping centre at Eton? Did the member espouse trading on Sundays at the Eton shopping centre?

Mr D.F. Barron-Sullivan: No, that happened before I was elected.

Mr J.C. KOBELKE: The fact is that the member espoused increased trading hours. I will not get into the detail of it. For the Opposition to say no change at all does not sit with reality. In his contribution today the member for Hillarys totally opposed the legislation. He said that deregulation would come, but not yet. His argument is that there will be a widening of trading hours sometime in the future, but that Perth is far too small for it so we do not want it now. Small businesses know and understand that there will be changes - a bit this way and a bit that way, whatever it might be, who can foretell. However, everyone who is honest and sensible knows that retail trading hours will, through pressure from one source or another, be varied, modified or changed from time to time. This talk of no change is simply dishonest. As I said, if we are to consider the needs of small business - the Government certainly is, and this Bill has a lot of very good things in it for small business - then the first thing we must do is to be honest. A lot of the contributions from members opposite were clearly not honest. The Opposition did not objectively lay out the issues and then clearly take one side or the other, which is what we should be able to expect. It did not lay out the issues and deal with them in a fairly reasoned way. If we are to look after small business, it is incumbent upon us to be as honest and as active as we can be in this very complex area. I will briefly go through a range of the issues that have been touched upon without burrowing down into too much of the detail, because that would take too long.

We recognise that the interests of small business, large business and medium-size business may be, in various ways, in conflict; we take that on board. That is why this package seeks to give a balance that is fair to all. If the balance is tinkered with, people should not expect that we will accept that tinkering and go forward with a piece of legislation that is biased - as we would see it - and therefore perhaps not provide a fair balance for all the players. Clearly, in any area in which there are a range of different interests and different sized players, there are

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real issues; no-one denies that. We have taken up, and are continuing to take up, with the federal Government the issue that if there is unfair market power, we want to support the Commonwealth in doing something about it. Where there is uneven market power in terms of unconscionable contracts, the legislation will help with negotiations between players; it will put that into the Fair Trading Act. We recognise that problem and we have tried to deal with it. We also recognise that this legislation will not solve all the problems. However, we are doing what is possible at the current time and we will work with other people to try to do more to address the present imbalances and the unfairness by providing a means of negotiating a position between various partners.

Then there is the issue of consumers. The member for Nedlands was the only member to acknowledge that consumers want extended trading hours. There have been umpteen surveys to show that there is a demand from consumers to extend trading hours. This legislation will not satisfy all of them, but it does proceed in a measured way. I make it absolutely clear that in making a decision like this, it is my view - I think I speak for the Government on this point - that it is not a case of the majority rules. There might be clear evidence that the majority of voters want extended trading hours. However, if that will negatively impact on sections of the community and on small business, we are happy to draw a line, through regulation, and say that that is the call of the Government. We are clearly drawing a line and saying that we do not believe the community will benefit from open slather trading on Sundays. We do not believe there should be 24-hour trading on any day. We are making a decision that balances the interests of all these groups and also addresses the wants of the community. Objective evidence shows that opening up trading hours creates more economic activity. I do not accept the argument by Coles, Woolworths and others that the increase will be huge - I think their numbers are very suspect. However, I have been convinced that an extension of trading hours will lead to more money coming into the retail sector - it might be half a per cent; I do not think it will be a huge factor. However, I am personally convinced, having looked at a huge amount of data, that we are likely to get more economic activity. The biggest single employer in Western Australia is the Burswood International Resort Casino. It is a fantastic facility that generates a lot of tourism. It wants increased trading hours. That will not put more people through the casino, but it sees increased hours as a good thing for tourism. Clearly, some interests in the community see an economic advantage in extending trading hours. However, the Government is keen to balance that against what it does to our quality of life - the hours that people work and whether people will be able, by and large, to designate a day of week to get together with their family or make a commitment to sport.

The member for Mitchell alluded to the fact that he supported the Saturday afternoon extension and that it had broad community support. However, we all know the huge impact that that had on sporting teams that used to play on Saturday afternoons. Many people who played sport could no longer do so. It adversely impacted on individuals, families and the community. Therefore, we have made the call that we do not believe there is a need for further trading on Sundays for very good social and family reasons. That is part of this legislation. We seek to get that balance so that we can protect the quality life of Western Australians.

As I have already touched upon, other sectors have a real interest. The member for Murray-Wellington quite rightly alluded to the suppliers. They have a vested interest in what happens here because relocation will advantage some and disadvantage others. I think the member said that, on the whole, it might disadvantage local suppliers, and he is probably right. However, there are some local suppliers who would be advantaged by it, although they might be the minority. There is a range of interests that we think this package of legislation has addressed in a balanced, fair and reasonable way.

Mr J.L. Bradshaw: Do you think the deregulation of service stations really helped?

Mr J.C. KOBELKE: That is another question that I will touch on briefly. The figures I saw sometime ago were quite mind boggling and suggested that across Australia over a 30-year period - I cannot remember the exact date - 15 000 service stations had closed down, most of which were small businesses, through the removal of the regulatory regime on petrol. The other side of that story is that the cost of petrol in Australia, if we remove all the taxes and charges, is about the cheapest in the world - apart from the cost in a few Gulf States and so on. This is because our distribution system is fairly lean, hungry and quite efficient. That is what we have to balance. We are dealing with a range of economic and social pressures that will create change. To deny that is to be dishonest.

Mr E.S. Ripper: At least we do not have that stupid rostering system anymore.

Mr J.C. KOBELKE: I do not want to get sidetracked on the issue of petrol; it is a huge and vital issue but it is not of great importance to this legislation. It is picked up in some aspects of the legislation, but the main theme we are talking about here -

Mr D.F. Barron-Sullivan: We will talk about that later because it actually is of importance.

Mr J.C. KOBELKE: I said that it is picked up in the legislation.

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Mr D.F. Barron-Sullivan: It is but this legislation leaves it open for a lot of involvement by some of the major chains in fuel retail.

Mr J.C. KOBELKE: That is a point that I am sure we will take up when we go into consideration in detail.

I have tried to briefly touch on the fact, without boring down into the detail, that there is a range of significant factors of interest groups and complexities in this issue. Quite rightly, people can hold different points of view from the Government; we accept that they do and have every right to. Those other positions are often well founded and well based. However, in a situation as complex as this, the Government has properly gone through a thorough public consultation process and has arrived at a decision that seeks to balance those interests and, most importantly, deliver the best possible outcome for the community as a whole. That is what this package is about. It is not a package that can be tinkered with to pick up some of the goodies and leave out the other things that some people do not want because they seek to serve the interests of only one sector of the many interest groups that are involved.

The issue of the Government's fulfilling its election promise has already been debated. I will briefly go over those promises. The Liberal Party promise at the last election - I think this has been the case for two elections - was to not change trading hours. I repeat: its promise was to not change trading hours. However, the fine print said that it would not be done without consultation. It made a promise not to change trading hours until after the next election when there would be consultation. Nobody really knew what that was, except that members of the Liberal Party told everyone they were not going to change trading hours. We were much more honest and said that we would not change trading hours for the life of this Government, because we knew all these things I have been talking about - the pressure for change and the dynamics that exist within all the other States. Every other State has largely gone to a deregulated system with Sunday trading. Western Australia is the only State that has held out, because we believe there are important issues for this State which mean we should have a regulated regime that still restricts the major companies from trading on Sundays and outside the standard hours. Western Australia is the only State that still has that situation. We knew there would be change and our clear promise was publicly stated many times: that is, for the life of this Government that would be the policy, and we are sticking to that policy. We always knew there would have to be a review, and the subtext clearly was that the review must take place and that a change would not occur until after the next election. It was clear that we would have to put a proposal to the people, whether by legislation or policy, prior to the next election. Because of the threats to competition payments, we had the option of letting the situation ride until the next election, saying that we would change after the next election, and taking the cuts to the competition payments, which would impact on the delivery of services to schools, hospitals and the Police Service. This review cannot be divorced from that; it cannot be done without a public debate, which we appreciate causes uncertainty, which to small business is a huge problem. However, on balance we thought it best and fairest to have a public debate so that if we did nothing and copped a loss, people would have had a chance to have their say. It was right and proper to do that. This legislation totally fulfils our election promise, that there will not be a change during this four-year period; however, it is envisaged that from May 2005 there will be an extension of trading hours to 9.00 pm on weeknights.

If the Liberal Party and opposition parties believe what they say, and if they are honest in saying that they have the support of small business in the community, they should allow this legislation to go through both Houses, because it will certainly put in place the good things they want, and then go to the next election running a campaign that if they win, they will, within a few weeks, come straight into Parliament and introduce legislation to not allow that extension from May 2005. The Burke Government did it back in 1983; it made a promise and then came straight into Parliament and introduced legislation on the control of petrol prices. I am not sure, but I think that was the issue. Parliament convened only for that one issue and it did not resume for months afterwards. If the Liberal Party is honest and believes it has public support, it has the option of letting this legislation go through, clearly stating its arguments against the legislation, because in the other place it has a major say in the numbers, and then running a campaign at the next election that if it wins, it will put the matter through Parliament and not allow that extension from May 2005. As we know, legislation is in place setting the date of the election at February 2005. Even if that does not happen, the election must be held by February or March, so there is ample time for the Opposition to do that. If those opposite are honest and not just misleading, they have that clear option of nailing the flag to the mast and saying that they believe that is what the community and small business want, and they can campaign on that basis at the next election.

Speaking of honesty, the Deputy Leader of the Liberal Party made comments about what had been stated by the Australian Consumers Association. I have not checked them; I have accepted that the quotes were accurate. He used them to justify why there should be no change to trading hours. He did not allude to the fact that the ACA made a submission to the public debate. The submission is freely available on the Internet. The ACA made the following conclusion -

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ACA believes that governments should not restrict the opening hours of shops in any way. Consumers have a right to shop when they choose and all traders should be free to respond to consumers' behaviour.

ACA believes that the experience in states that have deregulated shopping hours is overwhelmingly positive.

I am not saying that I support that. However, we must deal with small business, and the other sectors that see this as important, in an honest and proper way. The Liberal Party has not been doing that. To quote the ACA at some length about how its data can be used to justify not extending trading hours when its submission is to move to total deregulation is not an honest analysis of the ACA's position. Through this whole process, members on this side have believed that small business is critical to the State and that this issue is critical to small business. The Government has been open and honest with small business and will continue to be that way. I hope that the Liberal Party changes its form and decides it wants to deal with this matter in an open and honest way. It has the option; it can allow this legislation to go through the Parliament and make it an issue for the next election. The Government will be happy with that; it will fight it on the hustings because it believes the balance in this proposal serves the interests of the wider community and is fair to all sectors competing over trading hours.

It is absolutely critical for small business that we give it the greatest degree of certainty that we can. I accept that this debate creates uncertainty, which is a problem for small business. Some small business people may have been trying to buy or sell a business and that uncertainty could have cost them money. I accept that; it is regrettable. The Government is very keen to provide that degree of certainty with this legislation. That is why there will be a review three years after this legislation comes into place. Small business will know there will be no changes until May 2005 followed by a three-year period in which there will be no change. It means that changes cannot be made by stealth through regulation. The changes will have to come before the Parliament. It is a fair balance and recognises that this is a contentious area with a lot of pressures in which changes of one form or another will happen. Everyone accepts that. It gives a reasonable period of certainty and proper process so that people do not suddenly have major change inflicted on them without any chance of coping. The certainty that this Bill provides is absolutely crucial to small business.

There is also an issue of legal uncertainty. During his contribution, the Deputy Leader of the Liberal Party claimed that he did not accept that. It is certainly the legal advice provided to the Government. Therefore, this legislation is important to ensure that small businesses currently availing themselves of extended trading hours will not have that taken away by court action that could overturn the regime put in place by regulations that in some cases appear to be ultra vires.

The bigger issue is that this debate will not go away. Anyone who thinks that he can simply put his head in the sand by saying that there is no debate on trading hours is not being honest. Every other State has moved on this. We believe there are good social, community and economic reasons to move to total deregulation. That is the very clear position espoused by the legislation before this House. However, that will not stop the debate. If this legislation is held up in the other place, knocked out or amended in an unacceptable way, the uncertainty will continue. It will just fan the debate. I remind members opposite what the Liberal Party did in South Australia. Similar to the Liberals here, it took a very strong position and accepted no change to trading hours. I believe one proposal was to allow shopping centres to trade on just six Sundays a year. My understanding is that the South Australian Liberal Party did not even accept that; it opposed it. The Liberal Party knocked out the legislation in the South Australian upper House and within weeks changed its policy to total deregulation. In a matter of weeks, it went from a policy of no change at all to trading hours to total deregulation. A couple of years ago the Western Australian Liberal Party talked about opening up trading hours and moving towards deregulation. Many Liberal members who are still on the front bench can provide plenty of evidence of that. The member for Hillarys has admitted that deregulation will come, but not yet. The issue exists. If this legislation is not passed and these matters are not settled for the periods specified in the Bill, public debate will erupt again. Clearly, vested interests are happy to drive that public debate and to spend a lot of money lobbying and advertising. If that happens, uncertainty will be created again. It is very important to small business that we lock this matter away for the periods contained in the legislation so that people have a degree of certainty. We will have more time to go into these issues in the consideration in detail stage.

This is an important issue for the whole community and it has very real ramifications for particular sectors. It seeks to look after the interests of small business in a range of ways because small business plays such a vital part in the Western Australian economy in the wealth it creates and the employment opportunities it provides. The Government believes that this Bill preserves the interests of small business in the best possible way. This area is hotly contested, and we know that changes will occur over time. I hope the Liberal Party will deal with this Bill in a more rational way, rather than political grandstanding and going through the mantra of supporting

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small business. The Liberal Party will not help small business by not speaking the truth and not making sure that we give it the certainty that this legislation will provide. I understand that the Liberal Party has a different point of view. However, it should be honest about that and put the details together, rather than selectively quoting and using part facts to support its mantra that it is behind small business when, in fact, it is seeking to run a political line and not deal with the real issues. This legislation is a fantastic outcome in what is a difficult area because it balances all interests. I certainly commend the Bill to the House and seek the support of all members for its progress through here and the other place.

Question put and a division taken with the following result -

Ayes (28)

Mr J.J.M. Bowler	Mrs D.J. Guise	Mr M. McGowan	Mr J.R. Quigley
Mr C.M. Brown	Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper
Mr A.J. Carpenter	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr A.J. Dean	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr J.B. D'Orazio	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Dr J.M. Edwards	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Dr G.I. Gallop	Mr J.A. McGinty	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)

Noes (16)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr R.F. Johnson	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr B.J. Grylls	Mr P.D. Omodei	Dr J.M. Woollard
Dr E. Constable	Ms K. Hodson-Thomas	Mr P.G. Pandal	Mr J.L. Bradshaw (<i>Teller</i>)

Pairs

Ms A.J. MacTiernan	Mr A.D. Marshall
Ms J.A. Radisich	Mr R.A. Ainsworth

Question thus passed.

Bill read a second time.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement -

Mr D.F. BARRON-SULLIVAN: The Minister for Consumer and Employment Protection has indicated that division 3 in part 2 of the Bill, which will come into operation on 2 May 2005, is the crucial component of the Bill. Division 3 deals with the deregulation, or the extension - or however we want to phrase it - of trading hours and will enable shops to trade until 9.00 pm on Mondays, Tuesdays, Wednesdays and Fridays. That is the most contentious part of this legislation, in addition to the review clause. It also provides for an extension of the number of people who can be employed in a small retail shop from 10 to 20 during general business hours. The argument that the minister, the Premier and others in the Government have been putting is that by having this division take effect on 2 May 2005, there will be plenty of time after the next election for us to rush back to the Parliament and change it if need be. In fact, the minister said during the second reading debate that the Liberal Party should be honest and should support this Bill through the Parliament, and that we can then make an election issue out of the Bill if that is what we want to do. However, we have a slight difficulty at the moment, because, as we speak, the latest that an election can be held in this State is 8 May 2005. There could be an election six days after this provision comes into force. I cannot see how, six days after an election, we can all rush back into the Parliament, jump into a time machine and fix the whole thing. The first question is, therefore, how on earth did the minister come up with 2 May as the date? As the minister knows, I am also the shadow Minister for Electoral Affairs, and from advice given to us by the Electoral Commissioner, I have 8 May emblazoned in my mind as technically the last day on which Western Australians could go to the polls. I am therefore wondering how on earth the minister arrived at 2 May, because it does not sit comfortably with the other comments he has made.

The second question is a very simple one on the commencement, and is probably a broader question; that is, if this legislation is sent down the toilet by the upper House, will this in effect constitute Labor Party policy in the

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lead-up to the next election? If the minister is unable to get this legislation through the Parliament, are we in effect looking at the Labor Party's policy on trading hours in the lead-up to the next election?

Mr J.C. KOBELKE: The date of 2 May was chosen I think as the first week following Easter, to avoid the changes coming into effect before Easter. That was the key element in picking that date. The second element was to give time, if the calamitous situation arose and the Opposition was elected to government, for an incoming Government to change the legislation. The member is suggesting 8 May as the last possible date. That may be technically correct but it does not fit with the practice and the expectation. Elections have always been held in February or early March, I think since the last war, other than the December 1996 election, which the last coalition Government called. An election has certainly not been held later than March during the whole of that period. We certainly do not envisage any other time; in fact, there is evidence of that in a Bill currently before the House that is intended to fix the date as the second or third Saturday in February. There is clearly every intention that the election will be held in February, or March 2005 if that legislation does not go through, in which case an incoming Government would clearly have about two months following the election in which put that legislation through Parliament. It is clearly a viable option if the other ducks come into line with the winning of the election.

The other issue raised was the Labor Party's policy for the next election. It is my clear intention to have this as policy, but policy formulation for the next election has not advanced to the stage at which we have ticked off on things. That must go through a process. The detail on election policy will be announced some time next year. However, I will be arguing strongly - I am reasonably confident with some success - that this should be our policy for the next election.

Mr D.F. BARRON-SULLIVAN: I thank the minister for clarifying that second point. It is certainly my understanding. The minister would hardly bring legislation into the Parliament that was not in tune with Labor Party policy.

Mr J.C. Kobelke: The point I am making is that from election to election parties are always open to changing their policy. This is an advancement on the policy we had at the last election. I hope that it will be the policy for the next election, but it will have to go through the process in the party that determines that.

Mr D.F. BARRON-SULLIVAN: We have confirmed today probably one of the first and most important election issues on small business. I believe that the battleline has just been drawn. The minister has made very clear his position that this will be Labor Party policy. We are making it quite clear that we are utterly opposed to this deregulation of trading hours. The minister and I have just drawn a line in the sand on a very clear election issue for small business. However, with the greatest respect, I make the point about the 2 May commencement date of part 2, division 3 that the minister will not decide when the election is called.

Mr J.C. Kobelke: That is true.

Mr D.F. BARRON-SULLIVAN: I agree that legislation containing a fixed-term provision is before the Parliament, but there is no certainty that it will get through the Parliament. We all know how fickle this process is. At the moment, an election could technically be held on 8 May 2005. That is my advice. That decision would ultimately rest with people other than the minister or me. All I am saying is that his whole argument that the Liberal Party should now toe the line and agree to the legislation and only make an issue of it during the election campaign, so that if it wins the election it can knock it out, falls into a heap because, strictly speaking, a situation could arise in which an election is held after the commencement date of this legislation. The minister is welcome to try to amend this Bill. The Opposition will not support the Bill anyway, so it is six of one and half a dozen of another. I just point out that we have reached the second clause of the Bill and the Opposition has already demolished a key argument that the Labor Party has put up on the handling of this Bill. We have now revealed that this will be Labor Party policy at the next election.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 3 amended -

Mr D.F. BARRON-SULLIVAN: I will begin by raising this matter in the debate on clause 4, although I will wait until clause 11 to deal with it in more detail. This provision contains some definitions. I will focus principally on motor vehicle shops. The legislation will exclude car dealerships and so forth. Will the minister put on the record why the Government ultimately decided to exclude car dealerships from extended trading hours? I put on the record that the Opposition is supportive of that. We supported the Motor Trade Association of Western Australia's point of view on this matter and the view of the various vehicle dealerships that we canvassed on this aspect. We are very supportive of the fact that trading hours should not be extended for that industry. I would like the minister to provide the Government's reasoning for this decision and, specifically,

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where in the assessment of this matter the public interest test point of view was covered in the dealings with the National Competition Council.

Mr J.C. KOBELKE: It is my understanding that the setting of retail trading hours for the motor vehicle industry and in country areas was not taken up as part of the review; that is, the Government was clearly of the view that they would remain the same. Clause 4 deals with a drafting matter of shifting where these definitions appear and how they are referenced. It does not make any change. The intent, going through other parts of the Bill, is to preserve the current arrangements, because the Government has received some advice that the change that was made to the trading hours for motor vehicle shops could be ultra vires. We are simply seeking to confirm that.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 10 amended -

Mr D.F. BARRON-SULLIVAN: Clause 6(1)(a) proposes to insert the following paragraph into section 10(3) -

(a) motor vehicles, or goods or services prescribed for the purposes of this paragraph, . . .

Is a list available of the goods and services that are prescribed that relate to this matter?

Mr J.C. Kobelke: Motor vehicles are mentioned in the Retail Trading Hours Act. Currently, the Act does not prescribe other things that cannot be sold from retail shops.

Mr D.F. BARRON-SULLIVAN: This clause seeks to amend section 10(3)(a) of the principal Act, which deals with whether a retail shop can be regarded as a small retail shop that can trade 24 hours a day, seven days a week. The Government wants to replace existing paragraph (a) which states -

only goods or services that are prescribed for the purposes of sale at a small retail shop are sold or provided at the retail shop;

with -

motor vehicles, or goods or services prescribed for the purposes of this paragraph, are not sold or provided at the retail shop;

This measure would provide an exclusion clause. I understand that a place that sells motor vehicles could not be open for 24 hours a day, seven days a week, and I have indicated support for that. What other goods and services would preclude a shop from being deemed to be a small retail shop and therefore would have the advantage of extended trading hours?

Mr J.C. KOBELKE: The amendment to section 10(3)(a) of the principal Act will provide greater certainty. It precludes motor vehicles from being sold from small retail shops. The other part, as I understand it, remains as it is.

Mr D.F. Barron-Sullivan: What is that?

Mr J.C. KOBELKE: Currently, there are no goods that cannot be sold.

Mr D.F. Barron-Sullivan: Why has that provision been put in there?

Mr J.C. KOBELKE: It was in the original Act. If a product suddenly arrived on the scene and it was decided that this was the appropriate way to deal with it, to preclude it from being sold in small retail shops, it is open to the Government of the day to do that. Historically, that provision was used to preclude certain things, but it has not been used recently.

Mr D.F. BARRON-SULLIVAN: I refer to clause 6(1)(c), which is about the number of people who can work on a premises at any one time. Section 10(3)(bc) of the Act states -

not more than 5 persons (inclusive of the eligible persons who own and operate the retail shop) work in the retail shop at any one and the same time; . . .

The minister would be aware that the owner of such a shop might be on the premises carrying out administrative work, doing bookwork and so forth. However, because the owner is on the premises of the shop, he is counted as one of the five persons in the shop. Clause 6(1)(c) will change the number of persons from five to 10, and the owner in this case would be included in that number. The owner might have a small office in the corner of a Dewsons store or it could even be another specialty retail shop or whatever. While the owner does the administrative work, such as catching up on tax, calculating goods and services tax or whatever, he is included as one of the people working in the shop. I have visited a number of retailers who have gone to the extent of renting premises away from the principal store so that when they do other work, they are not physically on the

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premises of the shop. An owner might use the office in the shop for other work. He might be doing work that is related to another business arrangement or he might be doing personal work. However, while he is on the premises of the shop, he is counted as one of the 10 people involved in the operation of the shop. Has the Government given any consideration to excluding the people who own and operate the retail shop from that number? In effect, the clause could provide that a retail shop could have 10 employees or 10 staff, or whatever. That would at least get around that anomaly. Another obvious point about the changes made in this legislation to the number of persons in a retail shop is that there is still a considerable restriction on the owners of small shops. I would like to know whether any consideration has been given to excluding the owners of the shops in that respect.

Mr J.C. KOBELKE: The clause that we are dealing with does not relate to the matter the member has raised, but it is an important matter and I will address it. Let us deal with what the legislation does. The current requirement in the principal Act under section 10(3)(bc) is that not more than five persons, inclusive of the eligible person who owns and operates the retail shop, work in the retail shop at any one and the same time. That number has been changed by regulation to 10 so that small retail stores can now employ 10 people, including people who own and operate retail shops. However, it is possible that that could be overturned on a legal challenge, which would mean that many of our supermarkets would not be able to function. Nevertheless, we are looking after them by making sure we change the number from five to 10 to avoid a legal challenge.

The member quite rightly raises the issue that many small retailers have raised with me; namely, that because they are included in the number on the floor - we are currently working on 10 and enshrining that in this legislation - that is a major restriction on the running of their business. As the member for Mitchell quite rightly said, they must do administrative work and other things and, therefore, cannot be actively involved in helping customers or in other work that must be done while the store is open. This provision applies regardless of whether the store is open. The restriction applies even when the store is not open. It is a matter of whether we can do something to assist management. We are aware of this and we are including an extension in the legislation so that, from 2005, during normal trading hours small retail stores will be able to have 20 people on the floor, including management. We are not changing this provision, in which the figure is inclusive of the eligible person who owns and operates a retail shop. I think that is what the member was alluding to. That would be another way of going about it. We have progressed it by, from 2005, increasing the number of employees allowed from 10 to 20 during standard retail hours. That will obviously be an advantage to small business owners who are unable to do their administrative work on site because of the present restriction, which provides that no more than 10 people can work in a store at one time.

Mr D.F. BARRON-SULLIVAN: I know exactly what it means. When the minister refers to "tightening up on things", it goes back to his assertion that the provisions of the retail trading hours exemption orders, particularly the one in 1994 that increased the number of people who can work in a shop from five to 10, might be subject to a legal challenge.

To enable a retail shop to be regarded as a small retail shop, this Bill provides that there can be no more than 10 people, inclusive of the owner, working in the retail shop at any one and the same time. That means now that on Sundays, if I own and operate a Dewsons store and I am on the premises - I might be in my office catching up on other work or whatever - I can have only nine people working in the shop. Nothing will change under this legislation. Why did the minister not think about taking out the qualification that the number, being confirmed at 10 in this Bill, must be inclusive of the eligible person who owns and operates the shop? That would mean that on Sunday, a business owner could go into his corner office in the shop and catch up on work or check the fruit and vegie bins or whatever without having to be counted as one of 10 employees. If the Government is keen for supermarkets to compete with the Coles and Woolies of this world, it must assist them to expand their businesses. This legislation will not allow that. The ceiling of 10 people penalises small business people who want to do administrative work on the premises. It has forced some of them to acquire offices elsewhere. I know of one person who owns a supermarket on one side of the road and a converted house on the other side of the road, which he uses, presumably with council approval, for his office. If he has an accountant helping him out in the shop, he can have only six or seven employees operating the shop. Surely it would be fair to delete that qualification. I am getting the impression we will not achieve that today; nonetheless, I make the strong point that it is a very firm restriction on the small business sector.

Mr J.C. Kobelke: The small retailers who came to us with this very issue did not propose your solution. Their proposal was to increase the number to 20. That is why we have done that. Clearly, they would like it to happen now. However, we promised we would not make any major changes - it might be judged as a minor change; but it is still a change - until after the next election. The small retailers' request will be implemented, but not until after the next election. They might have liked the figure of 20 to apply at all times, but for the sake of balancing

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the various interests, it will apply only during normal retail trading hours. It largely meets the requests made to us by those businesses.

Mr D.F. BARRON-SULLIVAN: I make the point very strongly - I think that the minister just alluded to it - that the status quo does not meet their requests. Many of them would like open slather. They made it clear that they would like the increased number of 20 to apply at all times, not only during general business hours.

I refer to proposed paragraph (be) in subclause (1)(e) on pages 4 and 5, which states

no owner of the retail shop is related, in the opinion of the chief executive officer, to an owner of another retail shop -

That is understandable. However, the part in which I am really interested reads -

that is in such close proximity to the first-mentioned retail shop that, in the opinion of the chief executive officer, those retail shops are to be regarded as occupying the same location;

Have there been some perceived problems in that regard?

Mr J.C. KOBELKE: I am advised that these provisions are already in the order. Including them in the Bill so that they become part of the Act will provide clarity. According to the notes I have, parliamentary counsel has amended the wording of this provision as it appears in order to clarify it.

Mr B.J. GRYLLS: Will the minister explain to me exactly how this provision will work? Are fair trading officers going around to supermarkets doing head counts of the staff? How is this policed and what has been the result of this policing?

Mr D.F. Barron-Sullivan: Also, by way of interjection, will the minister give us an indication of how often certificates have been cancelled as a result of this?

Mr J.C. KOBELKE: My advisers are helping with the legal side; they are not involved in the inspectorate. I will seek advice on how often and when the last such certificate was cancelled.

In response to the question about the role of the inspectorate, inspectors go out on inspections at various times, largely on the basis of complaints. I received a letter of complaint from a store - obviously the rival of another store - that I passed on to the Department of Consumer and Employment Protection. I understand the inspectorate did a bit of a hit on a range of stores on the basis of that complaint and it found a high level of compliance. From memory - because this occurred some months back - the inspectors found one store in about a dozen stores inspected that had one member of staff over the limit. Obviously that store was warned and there would have been follow-up inspections to see whether it was complying.

Mr R.F. JOHNSON: I will make a small contribution to the debate on this clause, because it is an important issue. The store mentioned by the minister may well be in my electorate. I will tell the minister about what happened to that store, because it should be reflected in the legislation. An inspector attended one of the local supermarkets and conducted a physical head count. One of the owners of the store, who is a sleeping partner basically, had called into the store to see his relative and to use the phone because there was a family health problem. That owner was included in the head count, which put the store one over the limit. The owners of that store were threatened with losing their permit to trade, although they had been trading for the past few years without any problem at all. The minister must take that issue into account in this clause. Owners of properties should be excluded from the head count. Up to 20 retailers are asking for that, and I would support them. Perhaps some of the inspectors might need to be a little less zealous in their actions. In a case involving one person over the limit, and in which a good explanation is given, that explanation should be accepted and people should not be impeded in their opportunity to trade.

Mr J.C. KOBELKE: It is difficult to get the balance right when seeking to ensure compliance with the Act. In the rare circumstance the member suggested, I assume the operators did not have the certificate withdrawn. If the same play was tried again two weeks later, the inspector may think it was not an excuse of substance.

Mr R.F. Johnson: The threat was put to them.

Mr J.C. KOBELKE: That should be the case. Otherwise, it might be said that the group of people were relatives and friends who happened to be there at the time. It could be said that they were picking up rubbish as an act of a good citizen.

Mr R.F. Johnson: He was on the telephone to his mother who was sick at the time.

Mr J.C. KOBELKE: That is an emotive explanation. The fact is that certificates are given so a small shop can trade and receive the advantages involved so long as they comply with the conditions. Operators know that to be

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the case. If they contravene the conditions, they put the approval certificate in jeopardy. The issue is whether the department handled that one-off case with special circumstances in a sensitive way. No-one has suggested it has not done so. The member interpreted it as a threat. However, if it were more than a one-off event and people were found to be in further contravention, they would jeopardise their certificate.

Mr R.F. Johnson: It happened the other way around. The threat was there, but I think the case was put to the department. I am glad to say that I believe the department accepted that it was an unusual circumstance and not the normal running of the shop. Normally, no more than 10 employees, including the owners, would be on the floor. As he was on the telephone, and it could be proved he had come in and gone out so as not to use a public telephone, the department accepted that explanation. There was no real adverse effect. However, they were concerned about the threat as they were positive it was going to happen.

Mr J.C. KOBELKE: In some cases put to me, inspectors have discovered stores not being in conformity with the requirements of the certificate, people have been warned, and that was the end of the matter. There is the alternative scenario of a store being warned three times in two years, and the inspector turning up again and getting the same excuse of ringing the sick mother-in-law, or something.

Mr R.F. Johnson: It was the only excuse used.

Mr J.C. KOBELKE: A case was related to me - it is not necessarily the case referred to by the member for Hillarys - in which an excuse of that form was used with a serial offence. In those cases, the department is likely to make it clear that the operators will lose the certificate if they do not conform to the law.

Mr B.J. GRYLLS: The minister committed to get some extra information on policing. I hope it can be forwarded to the National Party as well as the Deputy Leader of the Opposition. Has the minister come across examples in which businesses are understaffing to try to maintain the numbers on the shop floor below the required level?

Mr J.C. KOBELKE: I have not personally come across such a situation, but managers and owners of stores have told me that often they are either under great pressure to provide the service and keep the store running because of the limited number of staff or, more importantly, these operators cannot expand to compete with Coles or Woolies down the road. That is a situation of some balance. People receive a trading advantage in hours on the basis of being small operations, but, to enhance their business and pick up more customers, they might want to open a deli section and need people serving, but they cannot provide those staff. That is the difficult situation they face. Again, that is reflected in the increase from 10 to 20 in the number of people who can be on the floor during normal hours. They also get caught when they must fill shelves etc. Those people are all included. It means that they will have greater flexibility to make sure that their business is running well and perhaps they will expand the number of lines or the style of service they offer so that they can be in a stronger competitive position. That is clearly why we included the provision to increase the number of people those shops can have on the floor during standard hours, which will apply when the changes take effect in 2005.

Mr D.F. BARRON-SULLIVAN: I refer to subclause (2), which will amend section 10(3a)(a) of the principal Act. New subparagraph (ii) states -

does not own or operate, either alone or together with any other person, more than 3 retail shops except as a shareholder in a listed corporation . . .

Where will that new subparagraph be incorporated? Can the minister indicate how restrictive that provision will still be? If a person is a shareholder and owns a number of shops, how many shops is that person limited to? To what extent does that limit a person's ability to own a number of different shops?

Mr J.C. KOBELKE: Although the subclause appears long, all that will change is the number. The current provision in the Act will remain the same. The subparagraph will read "more than 3 retail shops" instead of the current "more than 2 retail shops". It expands the number of retail shops that can be owned and still be classified as small retail shops.

Mr D.F. Barron-Sullivan: That is purely to clear up any ambiguity about the 1994 order.

Mr J.C. KOBELKE: Yes.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Sections 12A to 12E inserted -

Mr D.F. BARRON-SULLIVAN: This is an interesting clause in a number of respects. Proposed new section 12B refers to the trading hours for motor vehicle shops. That relates to the matter we touched on earlier. I

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reiterate that the Liberal Party will support what is, in effect, a no-change situation. Proposed new section 12C is the crucial part of this legislation. It is one line that states, "A small retail shop may be open at any time." Obviously that is the part of this legislation that enables the small retail shops - the Dewsons and so forth - to open any time of the day, seven days a week if they wish, in accordance with the other provisions of the legislation. Proposed new section 12D also is quite interesting. It relates to trading hours for special retail shops. It indicates that a special retail shop must be closed until 6.00 am and from and after 11.30 pm. Can the minister give me an indication of what sorts of shops might fit into that category? I seem to recall - I might be wrong - that an approach was made by retailers of adult products to be classified as special retail shops so that they could trade until late at night. I presume that all sorts of interesting goodies are sold in those shops.

Mr J.C. Kobelke: Like video stores and Bunnings.

Mr D.F. BARRON-SULLIVAN: I was thinking of sexual aids and things like that. I understood that an approach had been made. Can the minister tell me whether, apart from Bunnings and so on, any other categories of special retail shops would be open until 11.30 pm?

Mr J.C. KOBELKE: Under the current regulations, businesses in that category include art and craft shops; souvenir shops; pharmaceutical shops; domestic development shops such as those dealing with swimming pools, spas and patios; marine craft shops; video shops; duty-free shops; motor vehicle spare parts shops; sports venue shops; newsagents and booksellers; and hotel tourist shops. They are the 11 headings in the current regulations.

Mr D.F. Barron-Sullivan: In November 2001 you released a statement that adult product retailers would not be eligible to be classified as special retail shops. They obviously wanted to trade until 11.30 pm. I assume that there is still no intention of giving them that approval.

Mr J.C. KOBELKE: If adult product stores qualify as a small shop because they meet the ownership and structure criteria, they could trade those hours. However, if the shop is part of a corporate entity, it would not receive the exemption to be given to a small shop and would have to seek that trading opportunity in other areas.

Mr D.F. Barron-Sullivan: What was the reason for denying adult product retailers special retail shop status? Was it simply that you did not want big Barbarellas supermarkets cropping up everywhere and trading until at 11.30 at night?

Mr J.C. KOBELKE: I was not convinced of the merit of the case or that there was a demand for which extended hours were necessary.

Mr D.F. Barron-Sullivan: Under the Government's legislation, those stores will receive an almost 20 per cent increase in trading hours. They will be able to trade until nine clock at night, will they not?

Mr J.C. KOBELKE: If this legislation is approved as we hope, the general retail hours that will apply from 2005 will mean that on normal weekday nights - Monday to Friday - those stores will be able to trade until 9.00 pm.

Mr D.F. Barron-Sullivan: Do you envisage that the passage of this legislation might encourage the establishment of supermarkets based on the sale of sex products and so on?

Mr J.C. KOBELKE: This legislation would have no effect on the current situation.

Mr D.F. Barron-Sullivan: Except that the legislation goes some way towards complying with what those retailers were seeking in 2001.

Mr B.J. GRYLLS: I seek some clarification of proposed section 12E(2) on page 11, which refers to a trading period 28 days before or after a public holiday. Could the minister expand on that?

Mr J.C. KOBELKE: In the past, ministers have given trading hours exemptions to allow Sunday trading; for example, prior to Christmas. There was no restriction over what period that could take place. It was theoretically possible that there could be two months of Sunday trading prior to Christmas. Ministerial orders have been used to provide a range of extensions to trading hours that legal advice now says are wrong and could be overturned if challenged. Many parts of this legislation fix things in a more rigid way; however, we still want to retain some flexibility as there will be particular types of retail changes or special events. We will retain the minister's power to give exemptions. The specific reference of 28 days is to constrain the minister.

Mr B.J. Grylls: To that period?

Mr J.C. KOBELKE: Yes. A minister will be able to allow special Sunday trading in the 28 days before the public holiday - Christmas Day. He will also be able to allow a store to trade on a Sunday in the 28 days after Christmas. That has been provided because stores might want to hold a special post-Christmas sale. The proposed subsection is a new constraint on the ability of the minister to give exemption by orders.

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The minister is advised by a retail committee. The minister is not bound to accept its advice but I generally tend to accept it. The committee debated how many days before and after this Christmas stores should be allowed to trade to hold sales. I am yet to sign off on its decision. It is not envisaged that a lot will wish to use the Sunday trading provision within the 28 days after a public holiday, except for the sake of uniformity, and it will provide some restriction on the powers of the minister. It will allow those exemption orders to be given by the minister for only 28 days before or after a public holiday.

Mr B.J. Grylls: Do you envisage the public holiday part causing a problem if you decide that a special event does not fall within 28 days of a public holiday?

Mr J.C. KOBELKE: The opportunity exists for major shopping centres to apply for a permit. The current rule we work to - it is just a policy rule - is that we allow a shopping centre one day a year on which it can run some charity or carnival event in its area. On that basis, I and previous ministers have allowed a shopping centre to have a gala day or a charity day once a year. Shopping centres know that and plan around it, but it is done under a permit; it does not come under this provision.

Sorry, I think I was incorrect earlier. I alluded to the fact that a decision had not been made on Christmas trading. Of course, that has been done. The issue that I am still dealing with involves Anzac Day and what we do before or after the public holiday. The trading hours for Christmas this year have already been determined. I did not accept the request for special Sunday trading after Christmas - we put all the Sundays before Christmas.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Section 14 replaced by sections 14, 14A, 14B and 14C -

Mr D.F. BARRON-SULLIVAN: Earlier I alluded to this clause, which deals with fuel retailing. I am very grateful for the briefing that was arranged by officers who are advising the minister today. My concern relates to a matter that I put forward at that briefing, so I am not sure whether they will be able to provide further information.

The essence of section 14 of the principal legislation is that a petrol station can be open at any time, day or night, seven days a week. Some restrictions are set out in proposed section 14A. Proposed subsection (1) states that a person cannot -

... sell or allow to be sold at the filling station any thing that is not -

(a) fuel or a requisite;

The definition of the word "requisite" includes batteries, tyres and other things that concern vehicles. Proposed subsection (1)(b) is interesting and states -

one of the goods prescribed for the purposes of this paragraph;

Does the minister have a list of the goods prescribed in that proposed paragraph? I assume that nothing has changed and that it is quite a lengthy list of products. My understanding is that, for example, a filling station could not sell a Sunday roast but it could sell a 500 gram, prepackaged barbecue or sirloin steak or whatever it might be.

Mr J.C. Kobelke: Up to 500 grams.

Mr D.F. BARRON-SULLIVAN: Yes. That list of prescribed goods is very extensive. It would not take much imagination to create a situation in which a typical supermarket could isolate the goods not on that list down to one end of the supermarket and close off that section outside the general retail trading hours. In effect, a very large supermarket with a filling station attached could be operated 24 hours a day, seven days a week. A number of fuel companies - Caltex is probably leading the charge - have set up what are called C-Stores. I know that in some areas on the eastern seaboard they are competing, almost head to head, with supermarkets. What concerns me is that a situation might arise in which a major retailer, such as Coles or Woolworths, could secure the premises of a petrol station on what is, in essence, the same shopping centre site or whatever. They might even be able to get the site adjacent, or as close as safety regulations will allow, to the supermarket itself. A Woolworths filling station could end up selling just about everything that a Woolworths supermarket sells, except the items that are not on that list. Was any thought given to making this proposed clause a bit more restrictive so that a situation does not arise in which some of the major chains could, with a bit of crafty work and readjusting of supermarket designs in some areas, have supermarkets that operate 24 hours a day? If that were the case, the implications would be quite horrendous.

Mr J.C. KOBELKE: This legislation does not change the current arrangement in respect of the schedule of goods that can be sold from small filling stations, general filling stations or prescribed filling stations, that is, a

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truck stop. The member alluded to the fact that a major shift is taking place in other parts of Australia, and I assume it will come here sooner or later, whereby the connection between the sale of petrol and supermarkets will create new dynamics and pressures and a market dominance that we would be very worried about. I am conscious of that and I am monitoring it, but this part of the legislation is not making any change to affect that.

Mr D.F. BARRON-SULLIVAN: I know the minister is not making any change. I am asking why the minister has not considered making any change. He mentioned that what is happening in other States could happen here, with the major chains getting into petrol retailing. They are involved in it now. We all know that Woolworths set the pace. Coles has recently negotiated with Shell, although I do not know what the arrangements will be in this State with the multi-site franchising arrangements; I have been told indirectly that they will be incorporated as part of the overall arrangement. Woolworths is now dual-badging with Caltex as part of a fuel retailing strategy in conjunction with its other retail marketing arrangements. It has been put to me that it would not take much imagination for a lawyer or one of these major corporations to work hand in hand with the people who design the shops to use this clause to enable a Woolworths or a Coles to open 24 hours a day, just by excluding some items from sale. They would not be able to sell the Sunday roast but they would be able to sell pre-packaged meat. The way the supermarket trade is going, pre-packaged products - such as salad, meats and things - are very much on the increase. The old fruit and vegie bins are still present, but there is a different sort of marketing emphasis. Throughout Australia, Coles and Woolworths will soon be in command of around 30 per cent of all petrol sales. If that is combined with this situation, the major chains could find a loophole and start working around this legislation and, in effect, create their own deregulated trading environments. Has that been brought to the minister's attention and has he given consideration to tightening this legislation? When the original legislation was drafted, no-one anticipated that this sort of thing might happen. I am suggesting that in order to protect the genuine intent of this legislation, it may be appropriate to tighten this proposed section to some extent.

Mr J.C. KOBELKE: The purpose of the Bill is to provide for current trading arrangements, not to deal with hypothetical situations. Changes are clearly taking place in this area - we are conscious of that - and I am concerned about what they could be, but it is not appropriate to draft legislation at this stage trying to deal with a problem that has not fully emerged. We do not want to circumvent what might or might not happen by putting something into the legislation. The other aspect is that the prescribing of what can be sold from filling stations is done by regulation. Therefore, even without changing the legislation, we have the ability to move if a problem arises. We saw that people were seeking to circumvent how the legislation would work because it still has a very detailed regulatory regime over retail trading hours, what can be sold and the size of shops etc. If people were seeking to use the definition of "filling station" to undermine the clear intent of the Act, we would have to amend the Act. It may be that, some time before such a threat is mounted - we would need to look at the threat to work out how to respond - we could change the goods that are prescribed for different types of filling stations. That might help us get around a looming problem.

Mr D.F. Barron-Sullivan: If Coles or Woolworths tried to use this provision to open beyond 9.00 pm on a weeknight, for example, would the Government be prepared to scale back on the items that could be sold?

Mr J.C. KOBELKE: If a major supermarket sought to subvert the intent of the legislation, we would have to take action. The member mentioned that it might be Coles. We could end up with filling stations being rebadged as Coles and convenience stores in line with current convenience stores. When does the range of goods and size make it a small supermarket and when do we act? Those are the sorts of issues on which we must keep an eye.

Mr D.F. BARRON-SULLIVAN: I am glad that the minister acknowledges the problem because it is happening the other way around. There will be dual badging and extensive ancillary sales at fuel stations. In effect, there will be an encroachment into the supermarket trade that way. Caltex is engaged in this and Shell will be. Who knows what will happen five years down the track? The Caltex and Shell badges may drop off and be replaced with Woolworths and Coles badges.

Clause put and passed.

Clauses 12 and 13 put and passed.

Clause 14: Section 41 amended -

Mr D.F. BARRON-SULLIVAN: I am concerned that, in his wrap up of the second reading debate, the minister referred to the review arrangements that relate to clause 14 of this Bill as coming into operation three years from 2005. My reading of the Bill is that, when read in conjunction with section 41 of the principal Act, the review will take place three years from the time at which this Bill comes into effect. Clause 2 of this Bill refers to the commencement date. I see that as the date on which this legislation is proclaimed. Assuming this legislation

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passes this House soon and is sent to the upper House, the legislation could be passed by the Parliament either late this year or early next year. In that case, the review would take place in the 2006-07 financial year. Is the minister able to clarify that, because he indicated it would be three years from 2005? I will not go into too much detail about what was said during the second reading debate but, suffice to say, the Liberal Party will not support this review clause because the way it is written re-energises the current review clause in the principal Act, which is section 41 - "Review of Act". It states -

- (1) As soon as is practicable after the expiration of the period of 5 years following the coming into operation of this Act -

That is, the principal Act of 1987 -

the Minister shall cause an investigation and review to be conducted, and a report to be prepared as to -

- (a) the operation of this Act;
(b) the operation of the Committee; and
(c) the need for this Act to continue in operation.

That is a typical provision put in place when new legislation is introduced. What worries the Liberal Party and many people in the small business sector is that the clause specifically refers to the need for the Act to continue in operation. We do not support deregulation; we have made that quite clear. This clause leaves the door open for total deregulation. It accepts the fact that a situation may arise in which the Retail Trading Hours Act will not operate. That is the premise of the review. Section 41(1)(c) reads -

the need for this Act to continue in operation.

It does not refer to the need to amend or toughen it up, to consider the extent of retail competition in Western Australia or anything as sophisticated as that. If, of course, a decision were made as a result of the review by the minister - I will touch on that in a moment - there would be no protection for small business, no regulation of trading hours and car dealerships would be able to open at two o'clock on Saturday morning and Coles and Woolworths would be able to open 24/7. We would have a very different situation. The Opposition is extremely concerned about this issue. The bottom line is that if we are happy with a regulated environment, why carry out such a review?

The other point is that it is the minister "who shall cause an investigation and review." We have seen the review process of trading hours that the Government undertook during the past 12 months. I assure the minister that the small business sector has absolutely no confidence whatsoever in the way the Government has handled this matter. The Government prepared absolutely nothing in the way of a public interest test for the National Competition Council. Rather, it sent a report that argued for total deregulation. The small business sector can be excused for being more than a little bit cynical about the Government's approach. This clause pens up the potential for the total deregulation of trading hours. The minister may not agree with what I have said and he may say that it is nice to have a review and other fluffy things. However, there is no need for a review. If we believe in having a regulated regime for trading hours, there is no need for the provision that a review look at the need for this Act to continue in operation. Will the minister clarify when the review will take place? He is welcome to use rhetoric in support of his proposal for a review of the Act. The Opposition's position is fixed on this matter. We shall divide on it when it is put to the vote.

Mr J.C. KOBELKE: I hope to give the member for Mitchell well-reasoned and convincing arguments, not rhetoric. Even an opposition member supported the review on the basis that we have to accept that one group or another will continue to push for change in this area and, therefore, it is appropriate to determine whether the legislation is meeting the needs of those groups.

Mr B.J. Grylls: Only one group has pushed for change.

Mr J.C. KOBELKE: No. Small business wants increased numbers on the floor. Different groups want different things. Therefore, it is appropriate that the legislation be reviewed. The review will take place in three years so the member is quite right, it will not happen before 2006 and it might continue in 2007 and 2008. After that time, the next election will be in 2009, so a review would take place at the end of the next period of government. If changes revealed major deficiencies, we might have to move more quickly. Generally, we envisage that, on the basis of the review, all political parties would be able to decide whether changes would be needed. The member must keep in mind that the review will not enable the minister of the day to make changes by way of regulations. The impact of the Bill before the House is to cement the arrangements in place. The review is not a threat or excuse for the Government of the day to do something that is unpopular. The impact of this Bill is to

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require future substantive changes to come back to both Houses of Parliament. The system will be locked down. It is appropriate to have a review. If we removed section 41(1)(c) from the Retail Trading Hours Act, would the member for Mitchell support the review?

Mr D.F. Barron-Sullivan: I would like to do work on it, because you would have to put in the provisions that would be reviewed. There would also need to be a firm commitment in the wording of the provisions that consideration would not be given, even after the review, to abolishing the whole legislation.

Mr J.C. KOBELKE: The member for Mitchell wants to make a strong political point, but I want to marry it with reality. This Government will not be like John Howard, who said that there would be no goods and services tax. Future Governments will make changes. I am a strong supporter of regulation and that is evident in the range of areas on which the Opposition has attacked me, particularly those I put in place in the area of labour relations. Therefore, it certainly cannot be said that I am a person who believes that we should always deregulate. If the member for Mitchell believes that the implication in paragraph (c) is that the review will drive us towards deregulation, then I will be happy to look sympathetically at a wording that will remove that implication. On the other hand, I will not go to the point of saying that we will have a review, but the review can look only at certain things. The review should look at what is required at the time to make sure the Act is working properly and meeting the needs of the broader community, and at how it impacts on particular sectors in this vital area. The review is absolutely crucial. We believe a review in three years will allow sufficient time for these changes to be up and running and for people to make an assessment of these changes. It also fits well into the electoral cycle, because the Government and the Opposition will have a year prior to the next election to consider the review and determine whether the situation should remain as it is or whether they should propose changes.

Mr D.F. Barron-Sullivan: The question of whether we will support an amended version of the review clause is somewhat academic, because the minister has indicated that he is not prepared to sectionalise the Bill.

Mr J.C. KOBELKE: On an issue such as this, we can perhaps reach some agreement, because the review does not impinge directly on the interests of any major sector; it is fairly independent of that matter. It is a different situation with the extension of trading hours. If the Opposition were to propose an amendment to knock out extended trading hours, a lot of other things, such as allowing business to employ extra people on the floor, would be affected. We would not be willing to accept an amendment to that part of the Bill if the counterbalancing parts were not evened up. I do not regard the review as being a contentious issue between the various sectors. Therefore, I will be happy to look at whether we can finetune how the review will be conducted.

Mr D.F. Barron-Sullivan: I do not believe in making policy on the run.

Mr J.C. KOBELKE: No. We can do that next year. This matter will not come on for debate in the other place until next year.

Mr D.F. Barron-Sullivan: We oppose the review clause, for the reasons I have expressed. I am happy to talk with the minister about how we can make the clause a bit more sensible, but in the end I think it will be an academic argument.

Clause put and a division taken with the following result -

Ayes (27)

Mr P.W. Andrews	Dr G.I. Gallop	Mr J.A. McGinty	Mr E.S. Ripper
Mr J.J.M. Bowler	Mrs D.J. Guise	Mr M. McGowan	Mrs M.H. Roberts
Mr C.M. Brown	Mr S.R. Hill	Ms S.M. McHale	Mr D.A. Templeman
Mr A.J. Carpenter	Mr J.N. Hyde	Mr A.D. McRae	Mr P.B. Watson
Mr A.J. Dean	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr M.P. Whitely
Mr J.B. D'Orazio	Mr R.C. Kucera	Mrs C.A. Martin	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Mr F.M. Logan	Mr M.P. Murray	

Noes (16)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr M.G. House	Mr P.G. Pandal
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr R.F. Johnson	Mr T.K. Waldron
Mr M.J. Birney	Mr B.J. Grylls	Mr B.K. Masters	Ms S.E. Walker
Dr E. Constable	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr J.L. Bradshaw (<i>Teller</i>)

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Pairs

Ms A.J. MacTiernan
Ms J.A. Radisich

Mr A.D. Marshall
Mr R.A. Ainsworth

Clause thus passed.

Clauses 15 and 16 put and passed.

Clause 17: Section 12 amended -

Mr D.F. BARRON-SULLIVAN: In fairness to the minister I did not drag things out on clause 16, because I think we had the debate on that earlier. I put on record that we could have been a little more consistent and assisted the small business sector by expanding the number of people who could work in a small retail shop from 10 to 20 for all hours of the week.

Clause 17 is undoubtedly the most contentious part of this legislation from the point of view of the Liberal Party and the small business sector. This is the main provision which provides for an extension of trading hours for general retail shops to 9.00 pm on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, in addition to the current extended trading on Thursday nights. I do not want to reiterate all the arguments that were put forward during the second reading debate but, in the minister's own words, the clause provides for an additional 19 per cent of retail trading hours. It will enable Coles and Woolworths in particular to expand their market share quite dramatically.

The members for Merredin and Nedlands, and perhaps others, have examined the situation in Sydney and Melbourne after deregulation and have found that other major retailers, such as Harvey Norman and Myer, do not open these extended trading hours in any event. The demand for this is coming squarely from Coles and Woolworths. There might be some peripheral support from the retail sector, but from my dealings with retailers throughout the State, I can confirm that the overwhelming viewpoint is that there should not be an extension of trading hours on weeknights. We have also provided an analysis, which we spoke about in the second reading debate, of the economic situation that is likely to arise as a result of this deregulation of trading hours. We looked at the situation in other States and even overseas. We found that the end result is not a particularly good one for consumers either. The minister said that this is a compromise position. I presume he is indicating that the Government would really like to have gone further than this, but it had to compromise.

Mr J.C. Kobelke: The compromise was between the other players. We were not compromising; we were seeking to get a balance between the competing interests.

Mr D.F. BARRON-SULLIVAN: It sounds to me like an elephant, which is a horse designed by a committee! The Liberal Party has made it abundantly clear that it will not support this provision. I go on record as stating that because the minister has indicated that he expects this to be the Labor Party's position in the lead-up to the election, and because we have heard other Labor Party members, including the member for Joondalup today, expressing their support for this position, the Liberal Party will be making this one helluva issue in the run-up to the next election in 2005. We will be working alongside small business and will continue to develop policies in conjunction with the small business community. If ever there were an area of distinction in small business policy between the Labor Party and the Liberal Party, this would be it.

I will not take up any more time. All the arguments have been made. Again, this is the second and probably the last specific provision on which the Liberal Party will divide. We want to record our very strong opposition to what the Government is attempting to do.

Mr J.C. KOBELKE: I will briefly put on the record why the Government believes this to be the best way to provide additional shopping hours in metropolitan Perth. The member for Kingsley made it clear that work arrangements have changed in a number of ways. People now tend to work more nonstandard hours and therefore want to access shops at times at which they have not been open in the past. The issue was which model should be proposed. Surveys were conducted by different people at different times. In more than one survey it was shown that the extension of evening shopping hours during the week was popular, sometimes only marginally and sometimes clearly more so. That needed to be balanced, as well as whether extended trading hours should be provided on only one or two nights. There are difficulties in terms of the nights on which trading should be extended and whether the extension should be restricted to different areas on different nights. It was considered that it was better to extend trading hours on all weeknights until 9.00 pm.

It is not envisaged that all stores will open. That will not be dictated. However, if there is a market for longer trading hours, and there will be in some areas, stores will open during those extended hours. There may be certain product lines that people will want to buy. For example, people who have worked late might want to go

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to a supermarket to buy a prepared meal. A number of supermarkets in an area may not offer those sorts of services. A range of areas will open up. The stores will seek to meet the needs of their customers. The extension of trading hours will open up new business opportunities.

The alternative was to consider Sunday trading. Other States have gone to Sunday trading. The issue with Sunday trading was the impact on families, and that many people would have to work seven days a week, particularly those who run small businesses and who have few or no staff. In terms of the impact on the community, that was the social affect that meant it was preferable to extend trading hours during the week. In brief, that is the reason the Government thinks that the demand for additional shopping hours will be best met by providing extended trading hours during the week. That clearly does not suit everyone.

This matter will be contested between the various retailers. That connects through to why the Government will extend from 10 to 20 the number of employees allowed on the floor of small shops during normal trading hours. Again, those stores will be able to meet those challenges as new product lines open up and as they seek to attract more customers. They will need extra people to keep the stores running. That is what is likely to happen as a result of the extension of trading hours during the week. Some big regional centres may try it for a while and decide to extend trading hours on only one or two nights. A range of different options is likely to open up. It will provide the opportunity for retailers to meet the needs of a changing market and provide additional trading hours so that there is greater choice. The Government thinks that this will be very popular and hopes that the people who currently consider it to be a problem, particularly some small businesses, will see it as a market opportunity through which they will be able to grow their businesses.

Mr B.J. GRYLLS: The National Party is also strongly opposed to this clause, which seeks to extend weeknight trading hours to 9.00 pm. The National Party has mounted this argument for more than 12 months, since the Labor Party originally moved to completely deregulate trading hours in Western Australia. We maintain our opposition to any extension of trading hours in metropolitan Western Australia because of the issues we have outlined. These changes will result in Coles and Woolworths - multinational companies - taking market share from the smaller, independent supermarkets. That will not increase competition but reduce it. I put on the record my own and my National Party colleagues' strong opposition to the extension of weeknight trading hours. I ask the minister what he believes the affect will be on independent retailers when Coles and Woolworths will be able to open for extended times. Does the minister agree that in Western Australia Coles and Woolworths have only 61 per cent market share whereas in the eastern States they have 80 per cent market share? What does the minister consider will be the result for small businesses in the independent retail sector when Coles and Woolworths are allowed to trade during those extra hours?

Mr J.C. KOBELKE: I expect the impact on small and large businesses will not be significantly different from the current competition forces. The introduction of the connection between retail and petrol marketing will have a much bigger impact on those businesses. Some people have perhaps forgotten that the changes made under the last coalition Government closed down a huge number of corner delis. When that extension was put through - we now have advice that it was perhaps ultra vires and is therefore open to challenge - many little delis were closed down and medium size and small supermarkets took over the trade. A huge rationalisation occurred in the suburbs around Perth. Competition simply means that one store takes over another. These changes are happening all the time.

Mr B.J. Grylls: Do you agree with those changes?

Mr J.C. KOBELKE: They are the result of market forces. It is not a matter of agreeing with them. Sometimes they lead to enhanced services and at other times one is sympathetic that a business cannot compete and goes by the way. The member would have seen that occur in many country towns in his electorate, when different pressures, including population change, adversely affect small businesses and it becomes a vicious circle because the people who run those businesses close down and move out of town. Those types of factors impinge on the market anyway. I do not consider that this change will have a major effect on that. Some small businesses could be a threat to the majors for a range of reasons, including, for example, the proximity of the major competitors or the particular clientele that the business has built up. Some departmental people observed the changes that had taken place in Melbourne as a result of extended trading hours. I was told of an example of a small store in Melbourne that was doing well. I acknowledge that some were not and had been impacted negatively by the changes. However, one small store grew because it provided personal service. I do not know whether it was because of the charm and the personality of the manager and the staff, but it made sure it had a very direct and personal relationship with its customers. It understood the needs of its customers and was doing very well as a result. Clearly, any change provides opportunities and challenges. However, that is driven by a range of other social and economic factors that impact on this sector of the retail market. I honestly do not believe that the extension of trading hours will have a major impact of itself; it will be due to a range of other factors. This

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legislation will open the opportunity for stores to find new markets and to grow their customer base. Some stores will be under threat. As some stores pick up extra customers, others will lose them.

Mr B.J. GRYLLS: The eastern States' example has meant that Coles and Woolworths have taken some of the market share from the independent retailers. Does the minister believe that will happen in Western Australia as a result of this legislation?

Mr J.C. KOBELKE: That is already happening due to the use of petrol vouchers by Woolworths customers, for example. Most members would have some concerns about the move of the market share from the independent stores to the majors. That will continue unless other factors come into the marketplace. I would not like to predict whether it will be a small creep or a rush. However, I do not think these changes will cause a major shift in that market share.

Mr B.J. GRYLLS: Does the minister believe that the move by the major supermarket chains - Coles and Woolworths - to control the retail grocery market, the retail fuel market and the retail liquor market will have a negative effect on the small business sector across the State?

Mr J.C. KOBELKE: It is posing a challenge. There is a threat that the smaller independent operators will find it difficult to survive. If they were driven out of the market, that would have a negative impact on small business and on consumers. It means that they would be likely to have fewer choices. If the supply base to the major retailers became too narrow, clearly they would be in a semi-monopolistic position and that would be to consumers' detriment.

Mr B.J. Grylls: Why are we legislating to let that happen then?

Mr J.C. KOBELKE: We are not.

Mr B.J. Grylls: You just said that it would increase the market share for Coles and Woolworths.

Mr J.C. KOBELKE: The member for Merredin did not listen to what I said. I said that was happening anyway; these changes will be part of that mix. I expect the major retailers to continue to increase their market share for a range of other reasons.

Mr D.F. Barron-Sullivan: Do you think it is a bad thing?

Mr J.C. KOBELKE: I just indicated that if the shift continued in that direction in small degrees, I would not be particularly concerned about it but if the major retailers became totally dominant - I do not know to what extent we would determine that - that would be a bad thing.

Debate interrupted, pursuant to standing orders.

[Continued on page 13830.]