

RETAIL TRADING HOURS AMENDMENT BILL 2012

Second Reading

Resumed from 22 March.

MR M.P. WHITELEY (Bassendean) [11.53 am]: The liberalisation of trading hours, and particularly the issue of Sunday trading, has a very long and convoluted history in Western Australia. Many of us have changed our positions numerous times. When he was Leader of the Opposition, the current Premier's opposition to the liberalisation of trading hours was the catalyst for the Labor government's referendum. Labor then changed its position to reflect the results of the referendum. The former opposition leader became the Premier and he, of course, changed his position. The rollout of the precinct approach has led to this ongoing process of change from Labor and now we are in a position in which we have achieved a consensus and we are going forward from that.

One person who has held a consistent position through the whole of this debate is the secretary of the Shop, Distributive and Allied Employees Union, Joe Bullock, who has consistently opposed Sunday trading. The position of the National Party, as well as Joe Bullock's considerable influence within the Labor Party, which meant that the Labor Party has held his line until the circuit-breaker of the appointment of the new Leader of the Opposition, meant that it was not possible to get this legislation through. Therefore, Joe Bullock has been incredibly influential in this whole debate. What motivates Joe Bullock to be so influential in this debate has been a matter of some media concern. For instance, there was an article on 10 October 2009 in the "Agenda" section of *The Weekend West* written by Robert Taylor entitled "Shopping on a Sunday? God forbid says union boss". In the article, Joe Bullock acknowledges that, in part, his religious convictions informed him of his position, but he also said that the primary concern was the welfare of his rank-and-file members. The article also quotes former state secretary John Halden who said —

... I ... think the issue of shopping centre hours has more to do with God rather than anything else," ...

He is referring to Joe Bullock's belief that Sundays should be kept free of work as influenced by his religious traditions, which is fine; any individual is entitled to hold those positions. Joe Bullock certainly does not attribute his opposition to Sunday trading to his religious views; rather he argues that he is a servant of his union. In fact an article written by Ben Harvey, the former state political editor of *The West Australian*, on 1 March 2011 entitled "Union boss softens on shop hours", states —

Mr Bullock, who controls the WA ALP's Right faction through the voting rights accorded to his 20,000-strong union, said his opposition to deregulated Sunday trading was driven by the views of the union rank and file.

In the end, it does not matter whether it was his religious views or the wishes of his members that motivated his position; that was his position. However, I frankly do not believe that Joe Bullock does much that is motivated by the interests of his members; I think Joe does what it is in Joe's best interests. There are a number of colleagues within the union movement who are infinitely more qualified to talk about that than I am, but I have heard stories of sweetheart deals done to trade away the pay and conditions of his members to get the cooperation of employers and achieve near-universal union membership. I do not intend to talk about that at length, but obviously the more members that he has in his union, the more union fees he has, and the more influence he has within the Labor Party. I will not name those particular trade unionists who have been critical of his cosiness with business leaders, but nonetheless, if they are courageous enough, they can name themselves. I frankly do not believe that Joe Bullock is interested in his members' welfare; I think he is interested in the things that actually benefit him.

A fortnight ago I was alerted to an article in *The Australian Financial Review* from 12 November 2011 entitled "Remastered ceremonies". The article states —

Joe Bullock, a staunch monarchist, Catholic and right-wing Labor union powerbroker in WA, also seems to have developed a distaste for some matters ceremonial.

Word has only just filtered through to the Prince —

"The Prince" in this case being *The Australian Financial Review* equivalent of "Inside Cover" —

that at the garden party for the Queen in Perth a week or so back, Bullock did something rather odd.

Standing shoulder to shoulder with WA's elite, he staged a one-man silent protest, turning his back on the welcome-to-country ceremony.

Bullock was reluctant to chat to the Prince about it, saying he would not comment on either "the visit of the head of state to this country or the welcome-to-country ceremony" as his shop workers' union didn't have a position on it.

I spoke to the journalist who wrote that article, Peter Kerr, and he said that he had heard from three completely independent sources—they had nothing to do with the Labor Party; in fact, I believe one was from the Chamber of Minerals and Energy—who had seen Bullock turn his back on the welcome to country ceremony at the most important and significant event that occurred in 2011. What a complete lack of respect; what a complete and utter display of ignorance; what a complete and utterly ugly act from a very ugly man. He claims to be religious and motivated by religious intent —

Ms M.M. Quirk: He's not Catholic; he's not even Catholic. Get it right.

Mr M.P. WHITELEY: I am only quoting. There is no doubt he has strong religious convictions and I am not making references to whether he is high Anglican or Catholic; it is what *The Australian Financial Review* said. Nonetheless, can we imagine the disgust and outrage if I came to this place as an agnostic and flipped the bird at the Speaker while he read the Lord's Prayer. Can members imagine the outrage and disgust if someone showed that complete lack of respect during a religious ceremony? This behaviour is absolutely intolerable. It is intolerable for a person in his position. Some people are not critical. I do not hold this view—in fact I am 180 degrees against this view—but some people hold the view that welcome to country should not be conducted. People can hold that view if they choose, but when actually attending an event of such status, and turning your back as Colleen Haywood, an eminent Western Australian, delivered the welcome to country, is disgusting and disgraceful behaviour. If you do not have the good manners to behave when you accept the invitation, do not accept the invitation. It is probably because this article was in *The Australian Financial Review* that it has been overlooked, but it is conduct that is unbecoming to somebody in such a significant position. It is conduct that is unbecoming to the secretary of a major union in this state. It is conduct that is unbecoming to a vice-president of the Western Australian Labor Party. If we believe the rumour mill—I think there is ample evidence out there—he is someone who is an aspirant for not just a position on the Senate ticket but for the number one position on the Senate ticket.

I know the Labor Party. I am not religious; I am an agnostic—the Labor Party is the closest thing I have to religion. I know this is completely inconsistent with its values. I now know that it is out in the open —

Mr J.J.M. Bowler interjected.

Mr M.P. WHITELEY: I would appreciate silence, please.

I now know that it is out in the open that my party will not tolerate this behaviour. I call on all good members of the Labor Party to call for Bullock's resignation as vice-president. I know that the Labor Party, being full of good people, will not tolerate this. I am only asking the ALP to do what the Australian Football League does. The AFL does not tolerate that sort of behaviour. We saw an incident in South Australia, which is arguably a far lesser consideration, which resulted in a recruiting officer from the Adelaide Crows losing his position. If it is good enough for the AFL, it is certainly good enough for the ALP. I ask all to ignore not only Joe Bullock's position on Sunday trading but on all issues. This is a man who basically lacks the respect that is necessary, and lacks respect for the common standards of decency.

I know my own party will do the right thing. I know it will, because the Labor Party has led the charge on these sorts of issues. The Labor Party has been the party of reform, it has been the party of inclusion, and there is no room for these sorts of attitudes within my great party. I know that even senior people within his own factional group, people such as Stephen Smith and Gary Gray, and even Michelle Roberts in our own Parliament, will stand and say, "This is unacceptable. You've gone too far, Joe. We're not listening to you anymore. You're an irrelevance." It is up to good people to condemn Bullock. It is up to good people to say, "We don't want to listen to you anymore, Joe. The fact that you may have direct control, because of your position, of a significant proportion of state executive votes is an irrelevancy." I am sure good people within the Shop, Distributive and Allied Employees' Association will rise up against this as well. But, even if they do not, I am sure the majority of the Labor Party will take appropriate action.

I am glad that we have actually got to a position on retail trading hours. I am glad that Joe Bullock has become the irrelevance in this issue that he so richly deserves to be.

MR D.A. TEMPLEMAN (Mandurah) [12.05 pm]: Mr Speaker, I am sure my comments to this bill will not potentially be as controversial as the former speaker!

Several members interjected.

Mr D.A. TEMPLEMAN: I seek your protection, Mr Deputy Speaker, given my current voice ailment!

I will make some brief comments regarding the Retail Trading Hours Amendment Bill 2012, and I am pleased that the Premier is here. I support this bill even though it effectively does not impact on the City of Mandurah, because the City of Mandurah is located outside the metropolitan area.

Mr C.J. Barnett: It is a country town, as we all know!

Mr D.A. TEMPLEMAN: It is located outside the metropolitan area and therefore —

Mr C.J. Barnett: It's almost outback!

Mr D.A. TEMPLEMAN: Therefore, Premier, as per legislation and regulation, it is the local government that determines trading hours in Mandurah, which are sanctioned by the minister. I need to make that point. I know the Premier and I have an ongoing good-humoured banter about this, but it is actually a fact.

Although Mandurah is not directly affected by this bill, as we sit outside the metropolitan area, the City of Mandurah has now pre-empted what will happen when this bill is passed. The City of Mandurah, on learning that the Labor opposition will support a change to retail trading hours specifically in terms of Sunday trading, has now moved to reassess its current assessment of trading hours in the City of Mandurah. We have an interesting situation in which the City of Mandurah's trading hours allow Sunday trading for some, but not all, Sundays. This has been the practice for many years. For example, Sunday trading is allowed up until the end of April, the end of the school holidays, and then we go to a system in which there is no Sunday trading until another public holiday or the next set of school holidays. I have to agree that this is an ongoing bone of contention and is confusing.

Mr C.J. Barnett: Do you think your shoppers will go to Rockingham during that period?

Mr D.A. TEMPLEMAN: I think that has always been a danger, yes. I think that is why the City of Mandurah has pre-empted this change. Now that the City of Mandurah has advertised that it will conduct another consultation with businesses and with the general population, I believe very strongly that the City of Mandurah should immediately move to Sunday trading throughout the year. There is no sense in allowing our competitors, particularly to the north at the City of Rockingham, to take an advantage over us. I strongly support the city. I hope it will put in the change very quickly.

The Premier may be interested to know that very early in the 1990s—it was 1991 or 1992, from memory—for a very short period, Mandurah had 24-hour trading. I was not a city councillor then, but the City of Mandurah inadvertently approved 24-hour trading. In response, the Coles store in the CBD immediately opened 24 hours. I remember very vividly shopping at Coles in central Mandurah at 11.30 one night. I think it was a Wednesday or a Thursday night. The only people who were there were me as a customer, two checkout attendants, two shelf packers and a security guard. I cannot remember the exact period we had 24-hour trading, but it seemed like we only had 24-hour trading for 24 hours because, almost immediately, the City of Mandurah revoked the change it had passed! It was within two weeks, or maybe even days, that we no longer had 24-hour trading. It was a very short-lived experiment. However, Sunday trading now is a different matter. I will be honest and say that when I was a City of Mandurah councillor in the 1990s, the issue of Sunday trading was a very big debate. The council, I suppose, was particularly conscious of the concerns people had about the impact on small business, particularly the concern about giving a greater share to the predominant businesses in the market, Coles and Woolworths. However, things have changed. Whilst I still have concerns about the impact on market share, and in particular the impact of giving the big players the chance to potentially wipe out any independent provider, we also need to look at the nature of our population.

I have been travelling by train all this week and I have seen on that train many of my constituents, who live in Mandurah but who work in Perth, travelling back home at all hours of the evening. Many do the rush-hour commute. Many travel on the train back home to Mandurah at eight o'clock at night, and many certainly travel after 7.00 pm. The nature of our Western Australian community has changed, including in the Peel region. The large number of commuters who jump on that train, or even jump on the freeway if they are game, and travel north has increased rapidly, as well as the fact that the Peel region now has the highest number of fly in, fly out workers outside the metropolitan area. There is now therefore a huge number of fly in, fly out workers who commute through Perth Airport to mining operations in all parts of the north west, and even interstate, but who call the Peel region home. The nature of those work demands is that their requirement for access to more flexible shopping hours has increased.

One of the big arguments that has been used for not allowing Sunday trading is the impact it can have on sporting groups and on family life. There are some valid concerns there. My personal view is that we have seen the trend in recreation, for example in the past 10 years, change rapidly. Both the attraction for patrons to attend and for residents to actively participate in sporting events have resulted in far more sports played at night. The figures from the community sporting and recreation facilities fund for many communities, be they in the country or the city, indicate that most major sporting facilities are lit. That allows not only training at night, but also the capacity to hold games at night. In the City of Mandurah our major hockey stadium is and has been lit for 10 years. Our major soccer stadium is lit and allows night soccer games. Our premier football stadium at Rushton Park, which has also gone through a major renovation, is of course lit. The trend for people participating

in active sports should always be encouraged. The trend is that more and more of them will occur at night. A lot of the junior sports will continue to be played traditionally on Saturday morning. Netball with the Mandurah Netball Association, of which I am patron, is played all day on Saturday. Those sports will always occur on Saturday, particularly with kids and young people, but I believe a lot of participation sport will continue to be played at night. So, although concerns have been raised, the move to allow Sunday trading in the hours between 11.00 am and 5.00 pm takes into account those people in our community who wish to be involved in religious services on Sunday morning. That is very appropriate. But this bill is a step forward; it is a modernisation of what is occurring in our community. I believe it is demand driven. At the 2005 referendum 54 per cent of Mandurah people in my electorate said that they did not want Sunday trading at all, but a lot can happen in seven years.

Dr M.D. Nahan: It is very interesting that they voted against something they had.

Mr D.A. TEMPLEMAN: They had a hybrid system of Sunday trading.

Dr M.D. Nahan: Yes, but it was more deregulated. Didn't they see there was an anomaly in voting against something that they had actually voted for and accepted?

Mr D.A. TEMPLEMAN: They would claim they had not even voted for it and that the City of Mandurah had imposed it on them. Because Mandurah is a non-metropolitan city, it is the City of Mandurah that makes the decision. But most people in Mandurah vote with their feet in terms of participating. Sunday trading at the key properties in Centro Mandurah shopping centre is very popular and will continue to become even more popular if we have more consistent hours.

The problem we have now is that after April, under the current City of Mandurah regime of trading hours, we will not be able to go shopping on Sunday until the following public holiday or school holiday period. That, as I said earlier in this contribution, is confusing. If the metropolitan area moves to deregulated hours, as proposed in this bill and as we assume will occur, why would Mandurah allow itself to be non-competitive? I therefore believe the City of Mandurah should move to pre-empt this bill. It already has in terms of its consultation, but the reality is that the nature of the community in my electorate has changed rapidly in 10 years. When I as a City of Mandurah councillor in the 1990s argued against deregulated hours, it was a very different place, quite frankly. My community has changed rapidly. I have mentioned that we have a high number of commuters to Perth and to the north for work and that their hours commuting contribute to the time they are not spending with their families or doing the things they want to do. The number of people who call Mandurah and the Peel region home but fly in and fly out to work is rapidly increasing; their needs, therefore, need to be considered, along with the needs of the broader population.

I support this bill and I support the change it will create. I hope the City of Mandurah, in its pre-emptive move, will do that quickly and put that in place before this legislation becomes law and we have these changes to retail trading in the metropolitan area.

MR W.J. JOHNSTON (Cannington) [12.19 pm]: I am very pleased to rise and discuss the issue of trading hours again. The other day I was very interested to hear the Premier explain to the chamber that he had always been in favour of deregulation. I find that statement very interesting. I have here with me an extract from the Liberal–National coalition's 2005 election policy for small business. It is worthwhile making sure the record of the Parliament accurately records the position that the now Premier took to the election when he was opposition leader. I do not do that because I am saying that the Liberal Party should be locked into a position it took in 2005. All political organisations and all people—everybody, all of us—develop and change our position as things go along, but the one thing I want to point out is this idea that the Premier has always been in favour of deregulation, because it is simply not true. The Liberal Party, under the leadership of the now Premier, said —

Labor's deregulation agenda was exposed for all to see when the Government back flipped on its own policy and took the extraordinary step of publicly supporting the 'yes, yes' case.

That is, the "yes–yes" case in the 2005 referendum. The document reads, further along —

The Coalition believes that Labor's plans to change trading hours would be disastrous for small business in Western Australia ...

Further along, it reads —

Many small businesses are owned and operated by individual families and have a very small number of employees. Deregulation will force these small businesses to operate for excessive hours to compete with larger retailers on both weeknights and weekends. This workload will be unsustainable for many small businesses and lead to their closure.

The document goes on —

The Coalition supports retaining the status quo on the issue of retail trading hours.

The status quo in 2005 was trading until six o'clock on weeknights and trading on Sundays only in the tourism precincts of Perth and Fremantle. I will talk about this in a little more detail, but I want to put on the record and make it clear that it is not the case that the Premier has always supported deregulation. As I say, people can change their minds; that is fine. If one is presented with more evidence or circumstances change, it is probably pretty important to change one's mind. The Premier once said in this chamber that we should not go back and read our own speeches, but the other day I went back and read a speech I made in this place on 18 August 2009 on the trading hours bill we were then debating. It is interesting; I could read that same speech today, because nothing in my speech of 18 August 2009 is contradicted by the opinions I hold today. I will get to that in a moment.

I will quote the Premier from the *Hansard* of 1 June 2005. He stated —

The recent trading hours debate in this state was nothing to do with consumer choice, even though it was portrayed to be about choice—it was about market share.

That was part of his argument about the market being balanced between large and small retailers. On 24 November 2005, the Premier stated in this place —

... in the retail business, particularly the retail grocery business, there is an issue of not only trading hours but also market dominance. It is to the advantage of Western Australian consumers and Western Australian producers that we have more competition in our retail grocery business than is the case in other states. I limit my deregulatory zeal by the desire to retain a competitive market. There is no point in deregulating if, at the same time, competition is reduced. It is a pointless move. The fact that the two retail chains in this state have 60 per cent of the market share compared with 80 per cent elsewhere is a preferable result for Western Australia.

That was in the context of debate around trading hours. The point being made in that debate by the Premier and others was that the status quo on the trading hours arrangement advantaged small business.

It was also interesting to read a quote from the Premier in the *Hansard* of June 2005 —

It is curious, is it not, that, in the trading hours issue, Labor backed the national retailers?

That is, by introducing weeknight trading. I am happy for the Premier to change his mind, but he should occasionally accept that it is appropriate to note the fact that one has changed one's mind; and if he did not change his mind, why was he not being honest?

On 10 June 2003, the Premier referred to a matter of public interest that had earlier been moved by the National Party and had been supported by the Liberal Party. It read —

That this House calls on the Gallop Government to honour its election commitment to:

- (a) retain existing retail trading hours in the Perth metropolitan area ...

In that debate, the member for Cottesloe stated —

The small businesspeople in the public gallery, their customers and the community will not cop lies to the electorate.

He was arguing against the decision of the Gallop government to introduce weeknight trading, which the now Premier voted against; he said that it was a lie to the community. It would be interesting to know why, if the Premier has always supported deregulation, he did not think it was worth telling the people of Western Australia in 2005 that that was his position. The only conclusion I can draw is that it was not his position. The fact that he publicly opposed changes to the trading hours means that it was his actual position. It is perfectly reasonable for him to change his mind—not a problem—but he should tell us why he changed his mind.

Again, during the same debate on 10 June 2003, he stated —

... I will be very prepared to speak about the small traders in Napoleon Street and the Claremont business district.

That was a very clear indication that he opposed trading hours because of the problems it might create for small traders. Again, on 10 June 2003, he stated —

That is why the MPI was moved by the member for Merredin on behalf of the National Party and in cooperation with the Liberal Party and the Deputy Leader of the Opposition. The matter of public interest stated that —

That this House calls on the Gallop Government to honour its election commitment to:

(a) retain existing retail trading hours in the Perth metropolitan area ...

The MPI was moved by the opposition parties with the support of the Independents to call on the Gallop Labor Government to honour its election commitment.

He then noted that he had spoken for a couple of minutes. If he was then condemning the Labor Party for what was said to be a backflip, while at the same time thinking that trading hours ought to be deregulated, it does not make any sense. I am happy for the Premier to change his mind; I have no problem with that, but he needs to be honest about it.

I do not want to dwell on the past in respect of these issues, but I think it is important that the Premier be honest with the people of Western Australia, because either he was not being honest when he made that comment, or he was not being honest between 2001 and 2008.

A couple of comments have been made about the regimes for trading hours in Rockingham and Mandurah. It is important to understand why Rockingham and Mandurah are entitled to trade on 13 Sundays per year and why that is such a longstanding arrangement. That arrangement started because they were holiday destinations. For periods over the summer and during the school holidays, those cities were allowed to trade on weekends, because once upon a time Rockingham and Mandurah were not dormitory suburbs; they were holiday destinations. It is a facile and irrelevant argument to say that, because Mandurah and Rockingham had special arrangements, the people who live in those areas could not oppose Sunday trading; that is ridiculous. They were granted special arrangements so that they had an advantage; that was the purpose of those arrangements. Indeed, that is exactly why the then Premier, Richard Court, introduced the special trading precincts in Perth and Fremantle. The whole point of introducing those special trading precincts was to give them an advantage, particularly for the city, because the retail arrangements in Perth city in the 1980s and 1990s were collapsing, the city was becoming very sterile and the retailers were not able to make a living. The Liberal government tried to give an advantage to retailers in the city, because it wanted a vibrant retail environment in the central business district. Premier Richard Court wanted to introduce extensive change, but in the end there was change only in the CBD precinct, with a few other minor changes. Extensive debate went on at that time. An employer organisation did a survey about the attitudes of retail employers in the CBD to Sunday trading in the suburbs. The retail employers in the CBD fell into two groups. The employers that were part of a chain of stores and part of a larger group that had operations in the suburbs supported Sunday trading in the suburbs. The small business retailers in the CBD that did not have shops in other locations opposed it. That was natural, because they were voting to support their economic interest.

One thing that has not been much debated is the impact that Sunday trading in the suburbs has had on Myer and David Jones. They are the two flagship retailers in the CBD, with both having large stores in suburban locations. Myer has a large store at Westfield Carousel Shopping Centre, which is in my electorate. We know that the introduction of Sunday trading will lead to significant capital investment in the large shopping centres in the suburbs. It is well known that Westfield will invest, for example, in Carousel Shopping Centre with the arrival of Sunday trading. I imagine it will do the same at Westfield Whitford City Shopping Centre. I imagine AMP Capital Shopping Centres will expand Garden City Shopping Centre, which is the number one retail centre, with Carousel being number two. I cannot remember who owns Karrinyup Shopping Centre, but I imagine it will expand its operations with Sunday trading. People will stop trading in the city and move to retail outlets in those expanded shopping centres. We know that this will happen because of what has happened in places around the world that have extended trading—the central business districts have emptied out. There has to be something special to retain CBD trading. I remember 25 years ago visiting Philadelphia in the United States, which is a very large city. Apart from a few delicatessens and small grocery stores, there was basically nothing in the CBD in terms of retail. Indeed, if we look around the world, Tokyo, for example, has been able to maintain its retail trading precinct in the CBD—I forget what it is called—because it has special trading arrangements.

One of the things we must understand is that there will be a transfer of trading from the CBD to the suburbs. I am not saying whether that is a good or bad thing—I do not care—but there will be an impact, and one of those impacts will be on tourists. There will be fewer shops in the tourism precincts in the city after Sunday trading is introduced in the suburbs. Whether or not we like it, retail businesses rely on local people to shop to survive. Tourism is the cream, not the coffee. This will lead to less retailing in the city, which will have consequences for the tourism industry. As I said, I am not saying whether that is a good or bad thing; rather, I am making the point that it has not been properly analysed.

I am a former union official, organiser and industrial officer for the Shop, Distributive and Allied Employees Association of WA.

Mr V.A. Catania interjected.

Mr W.J. JOHNSTON: The member for North West pipes up, yet he is only a member of this place because of the support of the Construction, Forestry, Mining and Energy Union, the Australian Workers' Union, the Transport Workers Union of Australia and the SDA. I remember the member for North West coming to see me when I was the secretary of the Labor Party. He thought he was being squeezed out of the upper house and asked whether I could do something for him. Let us be honest.

Mr V.A. Catania: How does that relate to the bill?

Mr W.J. JOHNSTON: The member was the one who raised this. If he wants to stick his head up—guess what? Let me quote the great National Party former leader, Ian Sinclair, who said, “When I see a head, I kick it”. That is the attitude of the country party, the National Party. If the member for North West puts his head up—guess what? He comes in here on a stolen seat and then talks. That is a good idea! He is a hypocrite.

Withdrawal of Remark

The ACTING SPEAKER (Mr J.M. Francis): Member for Cannington, that comment was unparliamentary. I direct you to withdraw.

Mr W.J. JOHNSTON: I withdraw.

Debate Resumed

Mr W.J. JOHNSTON: It is interesting that the member for North West was elected on the policy of supporting weeknight trading hours to 7.00 pm, the extension of trading hour precincts to the suburbs —

Mr V.A. Catania: But not Sunday trading.

Mr W.J. JOHNSTON: Rubbish!

Mr V.A. Catania: Have a look at the policy.

Mr W.J. JOHNSTON: That is right. Is the member saying that he was not elected on the basis of allowing Sunday trading?

Mr V.A. Catania interjected.

Mr W.J. JOHNSTON: No, it was not.

[Member's time extended.]

Mr W.J. JOHNSTON: The Labor Party's position was very clear. We said we would allow Sunday trading for brown goods and furniture. That is what we were elected on. The policy was quite clear; it said we would have the Sunday trading precincts of Armadale, Midland and Joondalup.

Mr T.R. Buswell: What is a brown good?

Mr W.J. JOHNSTON: A brown good is a television or a stereo. White goods are fridges and stuff like that. These are terms used in the industry. When I left school I never thought I would get to know so much about the retail industry, but after all those years of representing working people —

Mr T.R. Buswell: I worked for Coles; I rose to senior junior casual.

Mr W.J. JOHNSTON: Senior junior casual! I digress. The member for North West took me away from the meat of the debate.

The issue that needs to be discussed is the one that I raised when we previously talked about this issue; namely, the rights of retail workers. In the debate about trading hours there is often discussion about connecting penalty rates and trading hours. The Premier said—I do not have the direct quote—that he did not understand why the union would argue for penalty rates that generally went to casuals who work on the weekends, as opposed to full-time staff who work Monday to Friday. As I said, I do not have his direct quote in front of me, but that is an issue that was properly raised. Firstly, if we look at the pharmacy award that applies in Western Australia—it is the first award I negotiated—we agreed to a 22 per cent increase in the base rate, but allowed ordinary hours to be worked from 6.00 am to midnight on any day of the week. We did exactly what the Premier said we should do. The workforce in the pharmacy sector is not as casualised—there are casuals, I am not saying there are not—because it does not have the intensity of the large shops, and the difference between trading hours is less intense. In other words, there are not the massive peaks and troughs of, say, Kmart or Coles outlets. Even today 30 per cent to 35 per cent of a Kmart store's trade is done on Saturday. Clearly, labour follows work, and that is where the intensity of labour can be found. The trading pattern of a pharmacy is much flatter. Of course, there are peaks and troughs, but the trading patterns of pharmacies are not as large as the trading patterns of larger retailers, which means that they have a lesser percentage of casual and part-time employees and a higher percentage of full-time workers. Pharmacies regard full-time employees as part of their competitive advantage because they know where everything is, whereas the casual staff of a different store might not know where everything is. We

did exactly what the Premier said. Indeed, Saturdays in Western Australia are not subject to penalty rates. At least they were not under the old shop award. I do not know about the new federal award. The shop and warehouse award under the state act rolled into the base rate an amount for working on Saturday mornings and an amount for working on Saturday afternoons. It was not a penalty rate. There were three rates in the award.

The ACTING SPEAKER (Mr J.M. Francis): I am listening intently. Perhaps the Leader of the House may want to stop distracting the member for Cannington.

Mr W.J. JOHNSTON: I am sorry. I do not mind them talking; it was just a bit loud.

There were three rates—one rate for working Monday to Friday, one rate for working Monday to Saturday morning and one rate for working Monday to Saturday afternoon. However, it was not a penalty rate—it was the rate. That changed the basis of the calculation for penalty rates for casual workers, and it changed the basis for the rate for part-timers. It was a new way of doing things, and it did exactly what the Premier said. A full-timer who worked Tuesday to Saturday was paid a higher rate than a full-timer who worked Monday to Friday, but the casual rate for the Saturday was lower than it would have been had there been a straight penalty because there was no penalty for working on Saturday; it had been eliminated. It was actually doing exactly what the Premier said; that is, transferring the benefit to full-time and part-time employees and away from casuals. It was a savings provision and nobody was worse off, but it was a provision that encouraged full-time employment.

Going back to when I was with the union, which is now a long time ago, there was an agreement with the Coles supermarket chain called Project 38 in which every job that could be done by a full-timer was identified. The union demonstrated—in fact, it was Joe Bullock the secretary of the Shop, Distributive and Allied Employees Association in this state who did the work—by going through a series of Kmart stores and analysing the labour cost structure how the company could save money by using full-timers instead of part-timers and casuals. It was a win-win. It was better for the employees because there was more full-time work and it was better for the company because it had a lower labour cost.

Dr M.D. Nahan: What about kids?

Mr W.J. JOHNSTON: With respect, I think maximising full-time jobs for people who have a mortgage and children and need to pay for the necessities of life —

Dr M.D. Nahan: Put themselves through university—live!

Mr W.J. JOHNSTON: Full-time employees are the backbone of Australia's economy. If the member for Riverton is in favour of precarious employment, he should stand up and say so. I am in favour of full-time employment. I am in favour of decent jobs that pay decent wages in decent conditions. That is what I am in favour of.

As a result of Project 38, Coles instructed its management staff to determine when a part-time employee left what the opportunities were for offering full-time employment. The union and the companies in this sector know what they are doing. They know how to negotiate these issues. They know how to sit down and come up with a win-win agreement. All the major retailers are unionised and they all have agreements that suit the needs of their businesses. They do not need a politician to tell them how to run their business because they know how to run their business. The union does not need advice from politicians telling them how to represent their members because it knows how to represent its members.

Mr T.R. Buswell: I'm not disputing what you are saying. I think retail is one area in which there has been a long, long association. Would you therefore apply that same argument to this issue about who does and who does not work on Sundays? I think you are entirely right in what you have said, but I imagine that in a mature and sensible way both these parties could work through that issue.

Mr W.J. JOHNSTON: Yes. If we look back at the arrangements for Sunday trading entered into around the country by way of enterprise agreements, all contained a provision whereby the people employed at this date do not have to work on Sundays. I do not think it a bad thing to give people the right to decide whether they work on Sundays. Although we had a lawyer running the case, I was an industrial officer involved with the trading hours arrangement under the shop and warehouse award in which double-time was arbitrated as the penalty rate for Sundays in Western Australia—which was actually an application by the Chamber of Commerce and Industry. One of the issues that persuaded the commissioner to not accept the application of the employers was the employer argument that it was not about wage costs but about flexibility. We said that if it was not about wage costs, we should settle that matter and asked: flexibility for whom? We built in a provision to allow employees to say yes or no to working on Sundays by keeping it as non-ordinary time in general shops. In hardware shops, they can work ordinary hours on Sundays under the old shop and warehouse award. Again, I am 10 years out of date and I do not know what is in the federal award; I have not read it. My point is that in a proper environment, giving people the right to say no is important. South Australia is legislating trading hours at

the moment, and through an agreement between the Labor government, the employers' chamber of commerce—or whatever it calls itself in South Australia—and the union, extra public holiday hours have been added from 6.00 pm to midnight on Christmas Eve and New Year's Eve. As public holidays are overtime, they get a higher rate of pay and more choice. It is important to give people choice.

There is misunderstanding about working in the industry; for example, Easter is a four-day break for everybody except for a shop assistant because Saturday is a regular work day. They can have a public holiday on Friday, the shops shut on Sunday and a public holiday is held on Monday, but they still have to come to work on the Saturday. Therefore, a shop assistant does not get four days off when everybody else in the community does. Again, given a provision stating that Sunday is an ordinary day, Easter Sunday is not a public holiday. Therefore, people will enjoy a Friday public holiday, spend Saturday and Sunday at work, and have Monday as a public holiday. That is not right; it is not fair. Exactly as I said in August 2009 when we debated the previous trading hour changes, I stand for people who work in industry, and I am not embarrassed to do that. I stand for giving people fairness. People should be told, particularly existing employees in industry, that they should have a choice. The member for Riverton raises the question about casual people working their way through school et cetera. One of the problems with this legislation is that there will be substitution: employers will be able to substitute full-time Monday to Friday employees for their existing Sunday staff; that is exactly what will happen. A general retail shop, for example an IGA, that opens on a Sunday cannot at the moment have staff work on that day other than at overtime rates. IGA stores will now be able to replace Sunday employees with employees from their Monday to Friday workforce.

Mr T.R. Buswell: Why do you say you cannot have them work on a Sunday?

Mr W.J. JOHNSTON: Because it is not ordinary hours, but now it will be.

Mr T.R. Buswell: Under which award—the state award?

Mr W.J. JOHNSTON: They are not ordinary hours for an IGA. The only people who have ordinary hours on Sundays are pharmacies and such places. The normal IGA stores are not covered, unless there has been some significant change in the past few years, by ordinary hours on a Sunday for those workers.

Mr T.R. Buswell: Under which award is that?

Mr W.J. JOHNSTON: It is the national retail award. As I have said, I have not read that award; I am only going on what I understand. Nevertheless, that is one of the problems. Also, the number of shops that will be open on Sundays will change. Another issue is: who has contemplated working on a Sunday? Those people working in a Kmart or a dress shop in the Carousel may not, when they took their job, have even contemplated working on Sunday. These are important issues, and people have a right to be heard on those issues. Sunday work will suit some people, but it will not suit others. Penalty rates are important and need to be protected, but so does the right for people to have a say in their employment arrangements. If there is insufficient protection for them, we have an issue to confront.

MR A.J. WADDELL (Forrestfield) [12.48 pm]: I suspect that my comments on the Retail Trading Hours Amendment Bill 2012 will be interrupted by other business, but, hopefully, I will have the opportunity to resume my speech later.

Retail trading is an interesting debate, and many members have provided the history of this issue; therefore, I will not go into that history. I will say that my views on the matter have waxed and waned as I have spoken to those who represent one or the other side of the argument. It seems to me to be one of those intractably tricky problems and that no-one will ever be 100 per cent happy with what Parliament decides. We have before us today a bill proposing Sunday trading.

Immediately that sets off warning bells to me about other problems that we have, particularly in my area. The one I want to talk about is the fact that many people who live in my electorate are employed as retail workers work outside my electorate. At present, many bus services do not run on Sundays. They are extraordinarily restrictive on weekdays and do not run in the evenings, but they do not run at all on Sundays. If any of these workers are reliant upon public transport to get to and from work, I suspect they are in for a world of pain.

Debate interrupted, pursuant to standing orders.

[Continued on page 1652.]