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CLERK OF THE SENATE	

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

JOINT COMMITTEE ON THE
AUSTRALIAN CAPITAL TERRITORY.

REPORT ON TRADING HOURS IN CANBERRA.

THE JOINT COMMITTEE ON THE AUSTRALIAN CAPITAL TERRITORY.

The Committee was first appointed by the Resolutions of both Houses of the Parliament on 8th November, 1956. The Committee was re-appointed by Resolutions passed in the Second and Third Sessions of the 22nd Parliament.

The duties of the Committee are -

- (a) examine and report on all proposals for modifications or variations of the plan of lay-out of the City of Canberra and its environs published in the Commonwealth of Australia Gazette on the nineteenth day of November, 1925, as previously modified or varied, which are referred to the Committee by the Minister for the Interior; and
 - (b) examine and report on such other matters relating to the Australian Capital Territory as may be referred to the Committee by the Minister for the Interior.
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PERSONNEL OF COMMITTEE.

(April, 1958)

Chairman:

Senator J.A. McCallum

Members :

Senator A.G. Poke	Mr. C.G.W. Anderson, V.C., M.C., M.P.
Senator J.V. Ryan	Mr. J.B. Howse, M.P.
Senator V.S. Vincent	Mr. W.C. Coutts, M.P.
Senator I.A.C. Wood	Mr. J.R. Fraser, M.P.

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I. THE INQUIRY.

1. On the 26th September, 1957, the Minister for the Interior, the Hon. Allen Fairhall, M.P., requested the Committee to examine the problem of trading hours generally, and to report, in particular -

- (1) Whether trading hours (other than those prescribed by the Liquor Ordinance for the sale of liquor in hotels, clubs or restaurants) should be restricted by legislation.
- (2) If so -
 - (a) what principles should be followed in determining these hours, and
 - (b) if the principle of specific hours is recommended by the Committee, what those hours should be.

II. INTRODUCTORY.

2. Your Committee was asked to report whether Canberra's trading hours should be prescribed by legislation. In the Australian Capital Territory this would be effected by an Ordinance made under the Seat of Government (Administration) Act 1910-1955, and by regulations made under that Ordinance. As your Committee found in the affirmative the additional references made by the Minister required detailed consideration and answers.

3. Your Committee took evidence on this subject from representatives of a wide range of associations in the Canberra community and several private citizens. An invitation to interested parties to give evidence was made through the local press, and, in all, 27 witnesses were called and examined.⁽¹⁾

Historical.

4. Since 1st January, 1927, the permissible limits of retail trading hours in Canberra have been prescribed by an A.C.T. Ordinance, at present the Trading Hours Ordinance 1926-1931. Before that date trading hours in the Capital City had been controlled in accordance

(1) See Appendix for list of witnesses.

with the Early Closing laws of the State of New South Wales. When the Trading Hours Ordinance was drafted it had embodied in it many of the provisions of the relevant New South Wales law; it embodied the hours of closing provisions of the New South Wales Early Closing Act and also a Part of that Act which related to Shop Employees and Carters. A necessary provision was included in Section 3 of the Ordinance, that the Acts of the State of New South Wales specified in the First Schedule should cease to apply to the Territory.

5. The Early Closing Act 1899 - the first of such Acts passed in New South Wales - followed the agitation for many years in that State of the Early Closing Associations. Through public meetings, publications and deputations to Ministers, these Associations brought pressure to bear on the government of the day and upon private members. The party in power led by W.J. Lyne, and the Labour party which supported it, were sympathetic to the movement.

6. Previously, in 1898, the Minister for Public Instruction in the Reid Government (Mr. Hogue) had introduced into the Legislative Assembly the Early Closing Bill 1898. This measure, the first in this field to be sponsored by the government, prescribed a limit of 52 hours per week in the employment of shop assistants with a provision for an extra $2\frac{1}{2}$ hours on one day of each week all the year round; it provided also that there should be a half-day's holiday each week - the day to be selected by each employer - and that shop-assistants should not work longer than 9 hours per day except one day per week when they might work $11\frac{1}{2}$ hours. The Bill excluded from its provisions those business persons who owned their own establishments. The Minister in his second reading speech stated that the principal aim of the Bill was to protect employees. He said -

"It is not necessary for me to enter at any length into arguments impressing on honorable members the necessity for affording some relief to that large class of persons engaged in shops and kindred callings; but it must be within the knowledge of every one who has paid any attention to this subject that a large number of persons are engaged in shops during hours and under conditions which must seriously impair their health."
(Leg. Assembly. Debates 13th Dec. 1898. Vol. XCVI. P. 3157.)

7. When Parliament was prorogued in December, 1898, the Bill had not received its third reading.

8. The next step came in 1899 when Premier and Colonial Treasurer, Hon. W.J. Lync introduced the Early Closing Bill (No. 2). This measure worked from a basis different from that of its predecessor; it prescribed the hours of closing, viz:-

6 p.m. on four days a week
10 p.m. on a fifth day.
1 p.m. on a sixth day.

9. All classes of retailer were covered by its provisions. The Premier made it clear that the prime purpose of the Bill was to protect shop employees:-

"What I want to do is to alleviate the suffering which takes place now in keeping young people especially, and in some cases old people, standing on their feet, and at work for so many hours that it may result in injury to their constitution and health. ----. In the common interests of humanity every member of this chamber, and every one of the public outside, ought to consider this measure from that standpoint ----." (Leg. Assembly Debates 1st November, 1899, Vol. C. p. 1896).

10. This Bill passed both Houses of the Parliament, was assented to, and came into operation on 1st January, 1900 as the Early Closing Act 1899.

11. Two important aspects of this historical summary should be appreciated.

- (i) The N.S.W. Early Closing legislation was introduced and passed with the declared object of limiting trading hours so as to restrict the number of hours worked by shop employees.
- (ii) The major provisions of the 1899 Act - the generally prescribed closing times, the schedules for the exemption of certain categories of shops from the general provisions of the Act and the employment provisions regarding Shop Assistants and Carters - are the provisions subsequently embodied in the A.C.T. Trading Hours Ordinance 1926 and which remain part of that Ordinance today.

12. It is generally known that in the half century since the N.S.W. early closing legislation was first passed, Australian Parliaments - Federal and State - have taken legislative action to establish nation-wide arbitral machinery for the protection of employees in all branches of industry in the matter of their hours and conditions of employment. The prescription under this system of comprehensive industrial awards had, in many respects, superseded provisions of the Early Closing Acts in their aim to protect shop employees from exploitation in the matter of hours.

13. It should be appreciated too, that, as a consequence of the development of statutory arbitral machinery, the N.S.W. Early Closing Acts have now been superseded by the provisions of the N.S.W. Factories and Shops Acts. In 1936 the Stevens' Government introduced and the Parliament passed the Factories and Shops (Amendment) Bill which, inter alia provided that shops should close at the time fixed in the industrial awards for the cessation of work of employees in those shops. This is the provision operative in N.S.W. to-day and which controls that State's trading hours. Soon after this change in N.S.W. law there were proposals for substantial amendments of the A.C.T. Trading Hours Ordinance but the war intervened and the project was postponed as not being sufficiently important to spend time on at that stage.

14. As it stands at present the A.C.T. Trading Hours Ordinance prescribes a general opening time of "not before" 6 a.m. and closing times as follows :-

Monday and Tuesday	6 p.m.
Wednesday	1 p.m. or 6 p.m. (whichever time is chosen by the shopkeeper)
Thursday	6 p.m.
Friday	6 p.m. where the closing time on Wednesday was 1 p.m. 10 p.m. where the closing time on Wednesday was 6 p.m.
Saturday	1 p.m. where the closing time on Wednesday was 6 p.m. 10 p.m. where the closing time on Wednesday was 1 p.m.

The Local Problem.

15. The trading hours problem in the A.C.T. has arisen mainly as a result of the following circumstances :-

- (i) The large expansion of trading facilities in Canberra over recent years.
 - (ii) The development and existence of industrial awards prescribing "starting" and "ceasing" times for shop employees.
 - (iii) The incompatibility of N.S.W. and A.C.T. trading laws as they stand at present.
- (1) The large expansion of trading facilities in Canberra over recent years.

16. In recent years concomitant with the population increase of the Capital City, an unprecedented expansion of retail trading facilities has proceeded in accordance with departmental planning. This expansion has resulted in the establishment of many new trading organizations in the city and the extension of the facilities offered by some of the old established firms. Accompanying this expansion there has been a general intensification of competition in the retail trading sphere from which Canberra citizens have benefited by way of increased service.

17. Indicative of the new competitive spirit was the decision of a newly established trading organization - Chas. Rogers & Sons Pty. Ltd. - to open its doors for trade from 7 p.m. to 9.30 p.m. on Friday 21st December, 1956 (the Friday immediately preceding Christmas Day). This was an action quite within the existing provisions of the A.C.T. Trading Hours Ordinance. A representative of the firm informed your Committee that the venture proved very successful.

18. There was no further attempt to trade at night until Friday 1st March, 1957, when Chas. Rogers & Sons again opened their store. Since that date regular Friday night shopping has continued and your Committee has found that almost all retail trading establishments in the Civic Centre shopping area and a high proportion of traders in the remaining two shopping centres, Kingston and Manuka, now open for business on Fridays between 7 p.m. and 9 p.m.

19. Canberra citizens did not agitate for Friday night trading; it was initiated as a commercial venture by a single firm but your Committee is satisfied that it is widely popular with Canberra shoppers.

20. Friday night shopping has persisted in spite of Resolutions opposing the practice by the Canberra Chamber of Commerce - a Chamber which, your Committee was informed, is representative of 50% to 60% of traders in Canberra. Representatives of the Chamber expressed the view that should a coterie of shopkeepers, or even one large trader, decide to extend trading hours, other traders, in spite of resolutions of the Chamber of Commerce to the contrary, would feel obliged to provide identical service to the public.

(ii) The development and existence of industrial awards prescribing "starting" and "ceasing" times for shop employees.

21. As mentioned above, the A.C.T. Trading Hours Ordinance is based upon a N.S.W. Statute of 1899 and presupposes the existence of the employer - employee relationship existing at that time. The development of arbitral machinery under the foster-care of the State has provided shop-employees with an alternative means of ensuring protection from exploitation. The growth of an efficient system of award making has established arbitral authorities with statutory powers which in some respects are incompatible with the provisions of the Trading Hours Ordinance.

22. This was clearly illustrated in a recent dispute regarding hours of trading which arose between an association of traders known as The Kingston Traders' Association and the A.C.T. branch of the Shop Assistants' and Warehouse Employees Federation of Australia (hereinafter called the Shop Assistants' Union).

23. The Shop Assistants' Union, objecting to the decision of the Kingston Traders' Association to open shops for late trading in the Kingston area on Christmas eve, notified Commissioner G.A. Findlay of the Arbitration Commission that a situation likely to give rise to an industrial dispute existed. Commissioner Findlay, after a special hearing, ruled that "Any employee required to work overtime after 6 p.m. in the week commencing 23rd December, 1957 shall be paid treble

rates with a minimum payment at treble rates as for four hours worked provided that any such employee so engaged shall be given a meal break of 1 hour between 6 p.m. and 7 p.m. and such meal break shall be counted as time worked."

24. This ruling is of special interest to your Committee. It interests the Committee to find that it has been given in spite of Section 19 of the Trading Hours Ordinance 1926-1931 which provides that shopkeepers may open their shops until 10 o'clock p.m. on the week-day preceding Christmas Day. The Commissioner, through his ruling, it could be argued, virtually prohibited the employment of labour in shops after 6 p.m. on Christmas Eve and, as a result only 'family' shops in the Kingston area on that evening actually opened after that hour; shops in the other shopping areas were closed.

25. This threatened dispute illustrates clearly the problem presented by the existence of an Ordinance permitting a weekly span of 71 hours of retail trading, while at the same time, other forces, backed by statutory authority, have a responsibility to preserve the normal hours of employment of shop employees at 40 hours per week.

26. Moreover, the prescription in the Shop Employees award (The Retail Shop Employees (Australian Capital Territory) Award 1957) of "commencing" and "ceasing" times for shop employees exacerbates the problem. On the one hand, the Trading Hours Ordinance gives a shopkeeper the right to open his doors for trade, but on the other hand, should he wish to trade outside the award prescribed "commencing" and "ceasing" times, he is committed to the payment of overtime rates to his staff. Shop employees in Canberra receive overtime rates (time and a half) for their employment on Friday nights.

(iii) The incompatibility of the trading hours provisions of the New South Wales Factories and Shops Act and the A.C.T. Trading Hours Ordinance.

27. Trading Hours in N.S.W., with some exceptions, are fixed in accordance with Section 105(3) of the Factories and Shops Act 1912 (as amended) viz.:-

"The closing times for any class of shops, other than butchers' shops, hairdressers' shops and chemists' shops,

situate in a shopping district whether or not employees are employed therein, shall on each week day be such times as may be fixed by any award made after the commencement of this Act and for the time being in force under the Industrial Arbitration Act, 1912, as amended by subsequent Acts, for the cessation of the ordinary hours of work by employees in such class of shops in such district."

28. Generally speaking, the relative N.S.W. industrial awards provide for "the cessation of the ordinary hours of work" at 5.30 p.m. Monday to Friday and 12 noon or 12.30 p.m. on Saturday; the closing times of retail establishments throughout New South Wales are thereby fixed accordingly.

29. By way of comparison the A.C.T. Trading Hours Ordinance provides a spread of trading hours in Canberra more extensive than in neighbouring New South Wales towns and when advantage of this is taken by Canberra traders, dissatisfaction arises amongst traders in contiguous New South Wales trading centres. Friday night trading in Canberra has caused dissatisfaction amongst the retail traders of Queanbeyan. Evidence of this was given the Committee by the Town Clerk of the Queanbeyan Municipal Council. Your Committee has given consideration to this problem.

The Minister's first reference - Whether trading hours should be restricted by legislation.

30. The majority of all witnesses, in answer to this question, expressed the belief that the statutory regulation of trading hours was desirable.

31. A diversity of views, however, was presented by witnesses representative of consumer interests. For some, the provision or denial of Friday night trading was of paramount importance; whether or not the accepted course should be defined in an Ordinance was immaterial. The majority of consumer witnesses held that trading hours should not be controlled by legislation; it was asserted that the profit motive should be allowed free play as a real determinant of trading hours and that, in addition, the desire of any shopkeeper to give service to the public should be untrammelled. The obvious interest of the consumer as such, being to get the goods he needs at the moment when he needs them, any curtailment of shopping hours

was doomed an abridgement of his liberty. It was held that the maximum service to the public should be given equal consideration with the rights of traders and employees.

32. Consumer witnesses also asserted that statutory regulation of hours of work had no object other than that of protecting the employee and that since the employee was sufficiently protected by his awards the statutory limitation of hours was an anachronism. Some Members of the Committee agreed with this view and a study of the history of labour legislation in the Australian States gave considerable support to their opinion. Limitation of hours by legislation preceded the regulation of hours, wages and conditions by awards.

33. Witnesses representing employers were in favour of an Ordinance to control the times of the opening and closing of shops. The view was expressed that without a statutory restriction upon trading hours, the profit motive guiding the decisions of individual traders, would act to the detriment of other traders. If one trader should extend his hours of business, others would react by providing similar extensions of service. It was claimed that ultimately, in these conditions, the general pattern of the community's trading hours would be destroyed.

34. The Canberra Chamber of Commerce, representing a wide range of employer interest, based its evidence upon replies to a questionnaire distributed to its members. Of the replies to one of the questions, viz.: - "Do you favour the control of trading hours by Ordinance?" - 86 members voted "Yes" and 65 voted "No". Although this questionnaire was an admirable attempt to gain a consensus of the opinions of the members of the Chamber on several facets of the trading hours problem, your Committee has had to discount the statistics given in evidence; only 60% of members of the Chamber answered the questionnaire and as the Chamber represents only 60% of entities in the trading community the statistics reflect the views of only 36% of Canberra traders. It is clear, nevertheless, that employers witnesses all favoured an Ordinance to prescribe permissible trading hours.

35. Witnesses representative of employees' interests advocated the retention of a Trading Hours Ordinance. They were emphatic that the orderly conduct of business, good relations between employer

and employee and good relations between competitors in the trade were promoted by statutory regulation of hours. They suggested that the Ordinance should be closely allied to the law relating to trading hours in New South Wales. This, it was suggested, would equalise trading conditions between the Capital Territory and neighbouring towns in New South Wales. To effect this, the witness representing the A.C.T. Branch of the Shop Assistants' Union (Mr. F.C. O'Dea) suggested that the machinery of the New South Wales Factories and Shops Act should be written into an A.C.T. Ordinance.

36. Your Committee has considered Mr. O'Dea's suggestion; but we believe that the Commonwealth Parliament has a special responsibility to consider the interests of the people of the Capital Territory. We do not believe that the adoption in toto of the New South Wales trading hours machinery would meet this end.

37. The existing New South Wales Factories and Shops Act makes specific provision for the border town of Tweed Heads to adopt some of the trading hours of nearby Queensland towns and your Committee is of the opinion that a similar provision would be best suited to meet the complaints of New South Wales traders over trading hours in the Australian Capital Territory.

38. From the evidence given, and from its own investigations, your Committee concludes that a Trading Hours Ordinance is necessary in the A.C.T. Some members of your Committee preferred no limitation by statute except on Sunday trading but the majority support the regulation, by law, of the day to day trading hours. Some witnesses were unable to give any definite reason for their faith in regulation of trading hours by Ordinance but the Committee was compelled to conclude that in the existing intellectual climate of Australia both employers and employees accept this type of regulation as a necessity in the organisation of retail trading.

The Minister's second reference - What principles should be followed in determining trading hours.

39. Not all of the witnesses examined suggested specific principles to be followed in the determination of trading hours, but one principle which clearly emerged was the right of the consumer to shop at times

convenient to himself.

40. Representing a large body of almost 2,000 public servant consumers, the A.C.T. Branch of the Administrative and Clerical Officers Association of the Commonwealth Public Service gave evidence on this question through its President (Mr. L. Tracey). The Association suggested that the prime principle of a Trading Hours Ordinance should pay "full regard to the position that a large proportion of the consumer public is unable to use the major part of existing hours which coincide with public service hours of duty". Supplementary to this the Association suggested:-

- "(i) that any curtailment of trading hours be along the lines of a later start to business hours rather than control of closing hours.
- (ii) staggering of hours.
- (iii) continued facilities of night shopping.
- (iv) non-interference with existing restrictions on Sunday and Saturday afternoon trading."

41. The Association's reference to the anomalous pattern of our conventional shopping times emphasises a problem fully appreciated by your Committee. For most of the week the shops are open for trade when a large proportion of the working population is engaged in its daily labour. It is to be expected, therefore, that trading times outside the normal working hours will be the busiest and most profitable times for shopkeepers and the most convenient times for customers. The popularity of Saturday morning trading, and now, in Canberra, Friday night trading, gives adequate confirmation of this. A majority of your Committee agrees with the suggestion advanced by the Association and consequently the Committee has based one of its principles upon it.

42. The supplementary principles suggested by the Association have been considered. Numbers (i), (ii) and (iii) presume for a Trading Hours Ordinance a function differing from that which your Committee contemplates. They presume that an Ordinance prescribes the actual hours of trade and that it is mandatory upon all shopkeepers to trade at those hours. Your Committee considers that the function

of an Ordinance is to prescribe the permissive limits of trading hours and that within those limits a trader should be free to please himself whether he opens at a later hour, staggers his hours of trading or opens at night. We believe that the interests of the trader, under competitive conditions will induce him to trade at hours convenient to customers. It is submitted by your Committee that it is not the function of a Trading Hours Ordinance to control a trader in these decisions. Suggestion No. (iv), has been considered and has influenced our decision regarding Sunday trading.

43. Employers' witnesses, although advocating the retention of a Trading Hours Ordinance, did not specify to your Committee the principles upon which they considered it should be drafted. In evidence given, traders presented a diversity of views on the proposed provisions of an ordinance (see Minister's third reference) which implied a diversity of views on principles. One witness suggested that traders should be given a weekly span of hours in which to trade and be perfectly free to open the doors of their shops at whatever time they choose within that span. This system would permit a wide variety of trading hours throughout the city, although the provisions of employees' industrial awards would, no doubt, have a levelling influence. On the other hand, some employer witnesses advocated strict uniformity in trading hours and others a retention of the hours which prevailed before the introduction of Friday night shopping.

44. On behalf of employees the President of the A.C.T. Trades and Labour Council, Mr. F.J. McCauley, suggested that trading hours should be prescribed on "the grounds of necessity and convenience of the people as a whole, and of employees in the undertakings which would be serving these people." Your Committee is in complete agreement upon the observance of the principle of the "convenience of trading hours to the people as a whole", but a code of trading hours based
upon the vague principle

of "necessity", could be unduly restrictive upon traders and customers alike.

45. Mr. McCauley suggested further that his Council recommended - "the principle of the 5 day working week of 40 hours which it hoped to see really in operation". Your Committee does not question the right of employees in the retail industry to a 40-hour week which operates in other industries, but the enjoyment of this right must be reconciled with the right of customers to shop at times convenient to themselves.

46. Upon consideration of the evidence taken, your Committee proposes the following as the principles upon which an A.C.T. Trading Hours Ordinance should be drafted :-

That -

- (i) the regulation of retail trading hours should aim to protect the interests of employees and employers.
- (ii) retail trading hours prescribed in an Ordinance should give adequate opportunity for the provision of the greatest possible service to the public and set a pattern for a standard of commerce befitting the National Capital.

The Minister's third reference - If the principle of specific hours is recommended by the Committee, what these hours should be.

47. The second principle recommended by your Committee necessitates the prescription of retail trading hours by Ordinance. In consequence we have considered the Minister's third question and have recommended hours of trade which are consistent with that principle.

48. In evidence before your Committee the President of the Trades and Labour Council, Mr. F.J. McCauley, recommended trading

hours of "9 a.m. to 6 p.m. Monday to Friday with one hour for employees for lunch" and that "any establishment which wanted to, might open on Friday night - provided that double time rates were paid to employees - between 6 p.m. and 9 p.m." The Council further recommended that Saturday morning shopping "could be finally done away with".

49. Retail traders, on the other hand, suggested a variety of trading times. The Kingston Traders' Association and the Manuka Shopkeepers' Association suggested a revision of trading times to provide later opening and closing of shops on week days; this would enable customers to shop until 5.50 p.m. or 6 p.m. Both Associations preferred an extension of Saturday trading until 12.30 p.m. and the discontinuance of Friday night trading. The Manager of Charles Rogers and Sons Pty. Ltd., Civic Centre, preferred traders to be limited only by the necessity to observe a weekly span of hours, whereas the proprietor of another Civic Centre store, Mr. Stanton of Georges, favoured a system which would not permit of Friday night shopping. Traders, however, were unanimous in stressing the necessity to preserve, by Ordinance, the right to trade on Saturday morning; they claimed that this period provided a convenient shopping time for customers and without it Canberra traders fear the loss of considerable custom to the nearby N.S.W. trading centre of Queanbeyan, where Saturday trading from 9 a.m. to 12.30 p.m. is permitted.

50. Representatives of the National Council of Women, Mrs. N. Randall, Mrs. H.G. McConnell, Mrs. V. Pickering and Mrs. H.R. Peisley, and association which claimed to present the viewpoint of "a true cross-section of the 10,000 women in the A.C.T.", stated in evidence that "they were strongly of the opinion that the present shopping hours - which include both Friday night and Saturday morning shopping - should continue." On behalf of the Council they suggested that the roster system of employment should be instituted to reconcile with the 40 hour week the great facility offered by both Friday night and Saturday

morning shopping periods. The witnesses emphasised the convenience provided by both periods to families, especially housewives, to women office workers, hostel dwellers, young married or engaged couples and to tourists. In addition they emphasised the inconvenience caused to customers through the practice of butchers closing their trading premises for an hour at lunch time.

51. Mrs. Mary Stevenson, Chairwoman of the Australian Capital Territory Tourist Advisory Board informed the Committee that her Board had resolved on June 5th, 1957 "---- that in the opinion of Members of the Board the present trading hours from the point of view of the tourists are reasonably satisfactory and that in any move to alter the present Ordinance this should be borne in mind." At the date of this resolution "the present trading hours" included both Friday night and Saturday trading periods.

52. Your Committee received noteworthy evidence from several private citizens presenting their individual points of view as consumers. Whereas Mr. J.L. Mulrooney advocated the need for an Ordinance providing trading times of 9 a.m. to 5.30 p.m. Monday to Friday and 9 a.m. to 11.30 a.m. Saturday, Messrs. P.D. Day, F.J. Wing and Dr. E.D.L. Killen advocated the removal of all statutory restrictions upon trading times and so permit determination of hours in response to the forces which are applied through the social groups concerned in retail trading.

53. In consideration of all the evidence given and in consideration of the statutory prescription of trading hours your Committee found that the legitimate demands of the customer, the trader and the employee could be satisfied by some modification of the existing Trading Hours Ordinance. This Ordinance is not unduly restrictive and for many years trading has been determined not by the Ordinance itself but by the convenience of shopkeepers and their employees and the hours of shopping have been considerably fewer than those permitted by law. This has been an advantage in that it has allowed the experiment of night shopping to be tried without the repeal of, or the infringement of, the Ordinance. The majority of the Committee agrees that

the Trading Hours Ordinance should preserve for shopkeepers the opportunity to experiment with their daily trading hours for the purpose of determining those trading periods which give maximum satisfaction to customers.

54. Your Committee concludes that it is not desirable for an Ordinance rigidly to tie the permissible hours of shopping to the employees' award provisions of forty hours a week nor to prescribe and enforce an inflexible time-table of shopping hours. Instead, we recommend that the Ordinance retain its existing function of prescribing permissible hours of retail trading and that retailers should decide, in response to customer demand, and after agreement with their employees, what portion of those hours they should use. The interests of customers is best protected by competition amongst traders.

55. Accordingly, your Committee recommends that, except for variations and exemptions to be stated below, the Trading Hours Ordinance prescribe the following times within which shops shall be permitted to trade:-

Opening times :

That no shop may open before 6 a.m., except that a newsagent may open at 5.30 a.m. on Sundays for the sale of newspapers.

(This is the existing "Hour of Opening of Shops" provision of the Trading Hours Ordinance 1926-1931.)

Closing times :

Monday to Friday : 6 p.m., except that on one of those days shops may be permitted to trade until 9 p.m. (This day to be determined by agreement between the trader and his employees.)

Saturday : 12 noon.

56. It will be noted that your Committee has excluded from its recommendations that provision of the existing Ordinance (Section 13) giving shopkeepers an option to choose Wednesday afternoon or Saturday afternoon and evening closing; we consider that this provision no longer relates to current trading practice.

57. Your Committee took evidence from the President, Mr. C.A.J. Winter and the Secretary, Mr. J.A. Burns, of the A.C.T. Hairdressers' Association. These representatives informed your Committee that

although members of their Association were unanimous in stressing the need for an Ordinance to control trading hours they were divided on the question of the most suitable closing time to be prescribed for their trade. They emphasised the undesirable existence in Canberra of a number of unlicensed hairdressers and the threatened growth of this number should a Trading Hours Ordinance impose too strict a limitation upon hairdressing times; this would make it inconvenient for many people to get hair cutting done by licensed tradesmen.

58. The witnesses representing the A.C.T. Branch of the Administration and Clerical Officers' Association referred in their evidence to the limited amount of time available to public servants to attend barbers' shops. A Canberra citizen, Mrs. R.L. Hill, informed the Committee of the difficulty experienced by many mothers in arranging for the cutting of young children's hair in school term. All the evidence points to the desirability of a provision in the Ordinance to enable hairdressers to extend their trading hours if they so desire. Accordingly, your Committee recommends that the Trading Hours Ordinance provide that hairdressers may trade up to 9 p.m. each day, Monday to Saturday.

59. We recommend also that the provision in the existing Ordinance of special closing times for Newsagents - Monday to Friday 8 p.m. and Saturday 1 p.m. - and for flower shops and billiard rooms - Monday to Saturday 11 p.m. - be retained.

60. Your Committee considered the question of Sunday trading and recommends that, except for the exemptions recommended below, Sunday be prescribed by Ordinance as a non-trading day. Sunday is the day which traditionally, and by the wish of most Australians, should be set apart for religious observance, rest and recreation. General trading should therefore be prohibited but retailers who provide for the immediate wants of families and travellers should be permitted to trade.

61. Consideration has been given to the supply of the day-to-day family needs and the availability of essential supplies for the traveller and the tourist. Your Committee believes that in our present day society it would be a harsh and unwarranted restriction upon the community generally to limit the sale of some goods within a specified span of trading hours. We consider therefore that certain goods should be exempted from the general trading hours provision of the Ordinance. These are the goods which a housewife may suddenly require to meet family meal requirements or which may be required by the tourist or traveller. In this category we include the supply of meals, food prepared for eating, the urgent pharmaceutical needs of any individual, the non-alcoholic beverages sold in milk-bars, cafes and restaurants, the supply of fruit and vegetables, smokers' requisites, petrol, oil and spare parts for motor vehicles and the services and goods supplied by an undertaker. It is your Committee's view that no trader should be prohibited by law from supplying these goods and services at any hour. It is therefore recommended that the sale of the following categories of goods be exempted from the hours of trade provision of the recommended Ordinance :-

- (i) Prepared meals (this includes the prepared meals sold in hotels, motels, restaurants, dining rooms, fish shops, cafes and tea shops.)
- (ii) Food prepared ready for eating (this includes food which might urgently be required by a housewife, tourist or traveller to meet meal requirements; it is not meant to include ingredients for cooking but does include tinned foods, frozen foods, tea, coffee, cocoa - or preparations for making coffee, cocoa and chocolate drinks - sugar, bread, pastry, cakes, biscuits, butter, jam, honey, milk and cream.)
- (iii) Pharmaceutical needs (this category is exempted from the trading hours prescribed to enable the urgent medicinal, toilet and cosmetic needs of any person to be met without restriction.)

- (iv) Non-alcoholic beverages (this includes the milk fruit drinks, aerated waters, tea, coffee and cocoa drinks.)
- (v) Confectionery, ices and ice cream (this includes all classes of manufactured sweets and chocolates, flavoured ices and the several varieties of ice cream.)
- (vi) Fruit and vegetables.
- (vii) Petrol, oil and spare parts for motor vehicles (this category is included to enable motorists' requirements in an emergency to be met at any time without a breach of the law by the trader.)
- (viii) Smokers' requirements.
- (ix) Services and goods supplied by an undertaker.

SUMMARY OF RECOMMENDATIONS

Question 1.

Whether trading hours (other than those prescribed by the Liquor Ordinance for the sale of liquor in hotels, clubs or restaurants) should be restricted by legislation.

Committee's Recommendation : Yes.

Question 2.

If so, what principles should be followed in determining these hours.

Committee's Recommendations :

- (i) the regulation of retail trading hours should aim to protect the interests of employees and employers.
- (ii) the retail trading hours prescribed in an Ordinance should give adequate opportunity for the provision of the greatest possible service to the public and set a pattern for a standard of commerce befitting the National Capital.

Question 3.

If the principle of specific hours is recommended by the Committee, what those hours should be.

Committee's Recommendations :

Opening Times :

That except for the sale of exempted goods no shop may open before 6 a.m., but a newsagent may open at 5.30 a.m. on Sundays for the sale of newspapers.

Question 3.Committee's Recommendations : (continued)Closing Times:

That, except for variations and exemptions to be stated, shops shall not remain open after:-

Monday to Friday: 6 p.m., except on one of these days when shops may be permitted to trade until 9 p.m. - this day to be determined by agreement between the trader and his employees.

Saturday : 12 noon.

Variations :

(i) Newsagents shall not remain open after:-

Monday to Friday : 8 p.m.
Saturday : 1 p.m.

(ii) Flower shops and billiard rooms shall not remain open after :-

Monday to Saturday : 11 p.m.

Exemptions :

The following categories of goods shall be exempt from the hours of trade provisions of the Trading Hours Ordinance :-

- (i) Prepared meals (this includes the prepared meals sold in hotels, motels, restaurants, dining rooms, fish shops, cafes and tea shops.)
- (ii) Food prepared ready for eating (this includes food which might urgently be required by a housewife, tourist or traveller to meet meal requirements; it is not meant to include ingredients for cooking but does include tinned foods, frozen foods, tea, coffee, cocoa - or preparations for making coffee, cocoa and chocolate drinks - sugar, bread, pastry, cakes, biscuits, butter, jam, honey, milk and cream.)
- (iii) Pharmaceutical needs (this category is exempted from the trading hours prescribed to enable the urgent medicinal, toilet and cosmetic needs of any person to be met without restriction.
- (iv) Non-alcoholic beverages (this includes the milk fruit drinks, aerated waters, tea, coffee and cocoa drinks.)

Exemptions : (continued)

- (v) Confectionery, ices and ice cream (this includes all classes of manufactured sweets and chocolates, flavoured ices and the several varieties of ice cream.)
 - (vi) Fruit and vegetables.
 - (vii) Petrol, oil and spare parts for motor vehicles (this category is included to enable motorists' requirements in an emergency to be met at any time without a breach of the law by the trader.)
 - (viii) Smokers' requirements.
 - (ix) Services and goods supplied by an undertaker.
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ACKNOWLEDGMENTS.

Your Committee greatly appreciated the assistance given by all witnesses and the officers of the Department of the Interior who provided valuable evidence and information.

Your Committee also records its thanks to the officers of the House, Dr. G.S. Reid and Mr. J.A. Pettifer, who respectively acted as Clerk to the Committee.

John A. McCallum
JOHN A. MCCALLUM,
Chairman.

Canberra,
29th April, 1958.

25.

DISSENT.

Saturday Morning Trading.

Believing in a 40 hour week, worked in five days, we dissent from the decision of the Committee retaining Saturday morning shopping. It is our view that the requirements of the public would be adequately met with the hours provided for shopping to 6 p.m. on Mondays to Fridays.

However we accept the clear indication that the public desires Friday night shopping to continue and we accept the majority decision of the Committee to retain one night for optional late trading, provided that penalty rates of double time are paid to employees required to work after 6 p.m. on that day.

A.G. Poke

A.G. POKE

W.C. Coutts

W.C. COUTTS

J.V. RYAN

J.R. FRASER

J.V. Ryan *J.R. Fraser*

APPENDIX.List of Witnesses.

Brown, F.J., Representing the Manuka Shopkeepers' Association.

Burns, J.A., President of the A.C.T. Hairdressers' Association.

Carman, S.H., Legislation Officer, Department of the Interior.

Chandler, C.W., Secretary of the Kingston Traders' Association.

Costello, J.A., An Officer of the Department of the Interior.

Cowden, R.D., Secretary of the A.C.T. Employers' Association.

Crossman, R., Representing the Administrative and Clerical Officers' Association (A.C.T. Branch).

Day, P.D., A Canberra citizen.

East, S.G., Secretary of the Canberra Chamber of Commerce.

Gale, K.J., Manager, Chas. Rogers and Sons Pty. Ltd., Canberra.

Hill, Mrs. R.L., A Canberra citizen.

Killen, Dr. E.D.L., A Canberra citizen.

Mackie, D.R., President of the Kingston Traders' Association.

McCauley, F.J., President of the Australian Capital Territory Trades and Labour Council.

McConnell, Mrs. H.G., Representing the National Council of Women of the A.C.T.

Mulrooney, J.L., A Canberra citizen.

O'Dea, E.C., Representing the Shop Assistants and Warehouse Employees' Federation of Australia (A.C.T. Branch).

Pickering, Mrs. V., Representing the A.C.T. Branch of the National Council of Women.

Peisley, Mrs. H.R., Representing the A.C.T. Branch of the National Council of Women.

Randall, Mrs. N., President of the A.C.T. Branch of the National Council of Women.

Smith, R.B., Town Clerk of the Council of the Municipality of Queanbeyan.

Stanton, N.G., Manager and Co-proprietor of George's Specialty Piece Goods Store, Civic Centre, Canberra.

Stevenson, Mrs. M., Representing the Australian Capital Territory Tourist Advisory Board.

Tracey, L., Representing the Administrative and Clerical Officers' Association (A.C.T. Branch).

Wallace, A.W., President of the Canberra Chamber of Commerce; and President of the Manuka Shopkeepers' Association.

Wing, F.J., A Canberra citizen.

Winter, C.A.J., President of the A.C.T. Hairdressers' Association.