

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

FIREARMS AMENDMENT BILL 2003

Amendments to be Made Pro Forma

On motion by Mrs M.H. Roberts (Minister for Police and Emergency Services), resolved -

That the amendments listed on the Notice Paper standing in the name of the Minister for Police and Emergency Services be made pro forma.

Pro Forma Amendments - Standing Orders Suspension

MRS M.H. ROBERTS (Midland - Minister for Police and Emergency Services) [3.07 pm]: I move -

That so much of standing orders be suspended as is necessary to enable the Firearms Amendment Bill with the amendments made pro forma as it has now been reprinted to be considered in detail forthwith.

MR R.F. JOHNSON (Hillarys) [3.07 pm]: As usual, members on this side of the House always cooperate with the Government when it has problems with its legislation. We have done it many times in the past three years and we will do it again. The Government has introduced a Bill that is a bit of a mishmash. It now must move amendments to cover the scope of the Bill -

Mr P.B. Watson interjected.

The SPEAKER: Order, member for Albany!

Mr R.F. JOHNSON: I gave the member for Albany \$5 yesterday to shave off his moustache, but he is still wearing it. I want my money back.

The Opposition gets a bit sick and tired of hearing derogatory comments from the Leader of the House about the Opposition not honouring deals and not cooperating with the Government. With regard to the time left for the National Party to speak on the KEMH report, we were a minute out and I apologise for that. It was a very emotional issue. The shadow Minister for Health obviously had some things he wished to say, which took longer than expected. We were looking for an extra minute. I am getting sick and tired of hearing derogatory comments from the Leader of the House against me and other members on this side of the House about not honouring agreements. The House has agreed that the House shall rise at 10 o'clock on Tuesdays, seven o'clock on Wednesdays and five o'clock on Thursdays. That agreement has been abused time and again, week after week. We are getting sick and tired of it. If the Leader of the House cannot manage the House properly, I suggest to the Premier that he replace him.

He should put in that position somebody who can deal with the Opposition. He should make the Attorney General the Leader of the House, because he and I get on quite well. If we have an arrangement, we stick to it. The Premier could give it to the Deputy Premier. When he and I have a deal, we stick to it and we are quite reasonable. We conclude the business of the House quite well. They are the two people I suggest should be Leader of the House. I have had nothing but aggravation from the current Leader of the House. He has had a couple of years of unprecedented cooperation from the Opposition, and from me in particular. I am getting a little sick and tired of the way he performs and refers to me and the Opposition in the running of the House. Whatever the Premier does, he should not give it to the Minister for Tourism because he would not have a clue how to run the House. However, the other ministers I have mentioned would be quite good. In making those comments, which I had to make because of the derogatory comments made by the Leader of the House during the previous motion to suspend standing orders, the Opposition will agree to the suspension of standing orders so that this legislation can be dealt with appropriately.

MR M.J. BIRNEY (Kalgoorlie) [3.10 pm]: I take this brief opportunity to echo the thoughts of the opposition leader of the House and make a quick point about what is happening with the motion. As the member for Hillarys has said, the Opposition is happy to accede to this motion to increase the scope of the Bill. We were told that the Government was seeking to introduce into the Bill a number of provisions that could not be inserted by way of amendment, because that would have increased the scope of the Bill. At face value it seems to be a reasonable request, albeit a fairly belated one. However, it is also fair to say that a helluva lot of the amendments that have been included in the Bill are simply corrections to atrocious drafting errors. The Bill was introduced into the Parliament last year. The Government has had the entire summer break to get the Bill right, yet we are now seeing some last-minute amendments, which basically move a word here and put a word there; realistically, it is dotting the i's and crossing the t's. It shows an appalling lack of management and leadership by the Government. I received only yesterday afternoon the amendments relating to antique firearms - there are quite a number of them - which gave me about half a day to peruse them. I simply make the point that, even though we will agree to deal with these amendments expeditiously, it reflects very poorly on the Government and its management and leadership abilities.

Extract from *Hansard*
[ASSEMBLY - Thursday, 4 March 2004]
p442a-466a

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Question put and passed with an absolute majority.

The amendments made pro forma were as follows -

Clause 2.

Page 2, line 9 - To delete “11(2)” and substitute the following -
“ 11 ”.

Clause 4.

Page 3, line 15 - To delete “paintball gun” and substitute the following -
“ firearm ”.

Clause 5.

Page 3, lines 18 to 30 - To delete the lines and substitute the following -
“

After section 8(1)(m) the following paragraphs are inserted -
“

(ma) by a person who, at a venue that is approved and properly constructed and maintained for the playing of paintball, is in possession of, handles or uses a prescribed paintball gun or prescribed paintball pellets -

(i) with the permission of the owner of the paintball gun; or

(ii) if the owner of the paintball gun is an approved club or other approved organisation, as a member of that club or other organisation;

”
.”
”
.”

Clause 7.

Page 4, line 24 — To insert after “with” the following -
“ a licence under ”.

Clause 8.

Page 5, line 9 - To delete “that Minister”.

New clauses.

Page 6, after line 16 - To insert the following -
“

10A. Section 8 amended

(1) Before section 8(1)(n) the following paragraph is inserted -

“

(mc) by a person who is in possession of, or carries, but does not use, an antique mechanism firearm;

”
.”

(2) Section 8(2) is amended by inserting before the definition of “approved” -

“

“antique mechanism firearm” means a muzzle loading firearm (including a percussion lock handgun that is muzzle loading) that uses black powder to propel a shot, bullet, or other missile;

”
.”

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

10B. Section 9A amended

- (1) Section 9A(2) is amended by deleting “A Firearm Collector’s Licence or an” and inserting instead -
“ An ”.
- (2) After section 9A(2) the following subsection is inserted -
“
 - (2a) A Firearm Collector’s Licence is valid for a period of 3 years from the day on which it was issued or last renewed unless that day was before the day on which the *Firearms Amendment Act 2003* section 10B came into operation, in which case it is valid for a period of 5 years from the day on which it was issued or last renewed.”.

Clause 11.

Page 7, lines 10 to 15 - To delete the lines and substitute the following -

- “
- (2) Section 11 is amended -
 - (a) if, when this Act receives the Royal Assent, section 365 of the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* has come into operation, by inserting after subsection (4) the following subsection -
“
 - (4a) The Commissioner is not required under this Act or any other Act or law to disclose information relied on under subsection (3)(c) unless the disclosure is required under the *State Administrative Tribunal Act 2004*.”.
 - (b) otherwise, by inserting after subsection (4) the following subsection -
“
 - (4a) The Commissioner is not required under this Act or any other Act or law to disclose information relied on under subsection (3)(c) unless the disclosure is required under section 22AA.”.
 - (3) If, when this Act receives the Royal Assent, section 365 of the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* has not come into operation, when that section comes into operation section 11(4a) is amended by deleting “section 22AA.” and inserting instead -
“ the *State Administrative Tribunal Act 2004*. ”.
- ”.

New clauses.

Page 7, after line 19 - To insert the following -

- “
- 12A. Section 15 amended and transitional provision**
 - (1) Section 15(1) is amended by deleting “heirloom, or sentimental” and inserting instead -

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

“ or heirloom ”.

(2) After section 15(2) the following subsections are inserted -

“

(3) For the purposes of this Act, a handgun manufactured after 1946 can form part of a genuine firearm collection only if -

(a) it is owned by a person who is, in the opinion of the Commissioner, a student of arms as defined in subsection (4); and

(b) the handgun is within the scope of that person's interest as a student of arms.

(4) In subsection (3) -

“student of arms” means a person who can be shown to have a prolonged and genuine interest in the study, preservation, or collection of firearms.

(5) In considering whether a firearm has significant commemorative value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to a particular event in history.

(6) In considering whether a firearm has significant historical value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to a particular period in history.

(7) In considering whether a firearm has significant thematic value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to the development, manufacture, or use of firearms.

(8) In considering whether a firearm has significant heirloom value to a particular person, the Commissioner has to take into account any special significance that the firearm has because it was owned or possessed by a direct or indirect member of that person's family.

(9) In considering whether or not it would be appropriate for a person to obtain, or continue to hold, a Firearm Collector's Licence, the Commissioner may take into account any information provided about that person by a person or body designated under section 15A as an accredited society of collectors.

”.

(3) The amendments made by this section do not affect the validity of a licence or permit that a person already holds under the *Firearms Act 1973* on the day on which this section comes into operation, but on or after that day the grant, issue, or renewal of a licence or permit has to be in accordance with that Act as amended by this section.

12B. Sections 15A and 15B inserted

After section 15 the following sections are inserted -

“

15A. Accredited societies of collectors

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

- (1) The Commissioner may, in writing, designate a person or body, whether incorporated or unincorporated, as an accredited society of collectors for the purposes of this Act.
- (2) For a person or body to be an accredited society of collectors -
 - (a) it has to be incorporated under the *Corporations Act 2001* of the Commonwealth or the *Associations Incorporation Act 1987*; and
 - (b) one of its purposes has to be to facilitate the study, preservation, or collection of -
 - (i) handguns in particular; or
 - (ii) handguns and other firearms.
- (3) The regulations may specify other requirements for a person or body to be an accredited society of collectors.
- (4) The Commissioner may, by notice in writing given to an accredited society of collectors, cancel its designation as an accredited society of collectors for the purposes of this Act.

15B. Information from accredited society of collectors

- (1) If an accredited society of collectors expels any of its members, it is required to notify the Commissioner in writing of the expulsion of the member, identifying the member and the reason for the expulsion.
Penalty: Imprisonment for 2 years or a fine of \$8 000.
- (2) The notification may include information that the Commissioner might consider relevant to the question of whether or not the member who is expelled is a fit and proper person to hold a Firearm Collector's Licence.
- (3) An accredited society of collectors that is requested at any time to do so may provide to the Commissioner any information that the Commissioner might consider relevant to -
 - (a) the question of whether, for the purposes of this Act, a firearm would be, or form part of, a genuine firearm collection; or
 - (b) the question of whether a person is a fit and proper person to hold a Firearm Collector's Licence.
- (4) Neither an accredited society of collectors that gives the Commissioner any notification or information under this section nor a person involved in the giving of that notification or information is liable in civil or criminal proceedings because of the giving, or the person's involvement in the giving, of the notification or information in accordance with this section if it was in good faith.

”.

12C. Section 18 amended

Section 18(4) is amended as follows:

- (a) in paragraph (a), by deleting “a Firearm Collector's Licence or”;
- (b) by inserting after paragraph (a) a paragraph as follows -
“
 - (aa) a Firearm Collector's Licence that is to remain in force for a period of less than 3 years is the prescribed fee reduced proportionately by one - thirtysixth for each month or portion of a month;”.

”.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

”.

Clause 13.

Page 7, line 25 – To insert after “subsection (1ae)” and substitute the following –

“ or section 19AA ”.

New clause.

Page 10, after line 30 - To insert the following -

“

13A. Section 19AA inserted

Before section 19A the following section is inserted -

“

19AA. Certain offences of lesser severity

- (1) If a person who has been the holder of a Firearm Licence, Firearm Collector’s Licence, or Ammunition Collector’s Licence does, while that licence has expired but is still capable of being renewed under section 9A, anything that is an offence under this Act but would not have been an offence if the licence had been renewed immediately after its expiry, that offence is not an indictable offence but is triable summarily and is punishable by a fine of \$2 000 instead of the penalty that would otherwise apply for the offence.
- (2) If a person commits an offence under section 19(1) and the only firearm or ammunition concerned is, or is for, a prescribed paintball gun, that offence is not an indictable offence but is triable summarily and is punishable by a fine of \$2 000 instead of the penalty that would otherwise apply for the offence.

”.

Clause 15.

Page 11, line 6 - To delete the line and substitute the following -

“

- (1) If, when this Act receives the Royal Assent, section 365 of the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* has not come into operation, the following section is inserted after section 22 -

”.

Page 12, after line 15 - To insert the following -

“

- (2) If, when this Act receives the Royal Assent, section 365 of the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* has not come into operation, when that section comes into operation section 22AA is repealed.

”.

Clause 16.

Page 12, lines 16 to 26 - To oppose the clause.

Clause 17.

Page 13, lines 17 to 19 - To delete the lines and substitute the following -

“

- (d) by deleting the summary conviction penalty provision and inserting instead -

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

“

Summary conviction penalty:

- (a) in a case to which paragraph (a) applies: Imprisonment for 3 years or a fine of \$12 000;
- (b) in a case to which paragraph (b) applies: Imprisonment for 2 years or a fine of \$8 000.

”
.”
”
.”

Page 14, lines 6 to 8 - To delete the lines and substitute the following -

“

- (e) by deleting the summary conviction penalty provision and inserting instead -

”

Summary conviction penalty:

- (a) in a case to which paragraph (d) applies: Imprisonment for 3 years or a fine of \$12 000;
- (b) in a case to which paragraph (e) applies: Imprisonment for 2 years or a fine of \$8 000.

”
.”
”
.”

New clause.

Page 14, after line 28 - To insert the following -

“

17A. Section 23A amended

Section 23A is amended as follows:

- (a) by inserting after “19(1)” -
“ to which section 19AA applies ”;
- (b) by deleting “23(5)(c),”.

”

New clauses.

Page 17, after line 8 - To insert the following -

“

19A. Section 23D amended

- (1) After section 23D(1) the following subsection is inserted -

“

- (1a) An offender may be punished summarily under this section for an offence under this Act triable on indictment if, after the provision of this Act in respect to which the offender is charged, a summary conviction penalty is specified for the offence.

”

- (2) Section 23D(2) is amended as follows:

- (a) by inserting after “triable on indictment” -

“

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

for which the person may be punished summarily under this section,

”;

- (b) by deleting all of the subsection after “liable on summary conviction to” and inserting instead -

“ the summary conviction penalty specified for the offence. ”.

19B. Section 31 amended

- (1) After section 31(2) the following subsection is inserted -

“

- (2a) A person who compiles, maintains, furnishes or produces a record under section 31(2) knowing it to be incorrect or misleading commits an offence.

”.

- (2) Section 31(4) is amended by inserting after “(2)” -

“ , (2a), ”.

”.

Clause 24.

Page 18, line 7 to page 19, line 5 - To oppose the clause.

Long title.

Long Title, page 1- To insert after “**1973**” -

“ **and for related purposes** ”.

Consideration in Detail

Clauses 1 to 5 put and passed.

Clause 6: Section 11A amended -

Mr M.J. BIRNEY: Clause 6 refers to section 11A(2)(d) of the Firearms Act 1973, which states -

A person has a genuine reason for acquiring or possessing a firearm or ammunition if and only if -

...

- (d) it is required by the person in the course of the person’s occupation;

The amendment proposed to that Act by the Bill states -

- (da) in the case of a prescribed paintball gun, it is required by the person to conduct or engage in paintballing in accordance with this Act;

At face value that clause seems to be pretty reasonable. The net result of passing this clause is that individuals will be allowed to have paintball guns in their possession at their places of residence or business or on the streets, as the case may be. For the life of me I cannot understand why the Government would allow paintball guns to leave the paintball battleground. It seems to me that if a person fronts up to a paintball ground to play paintball, it would be a good idea for the owner of the business to provide that person with a paintball gun. That person would then play the game, hand back the gun and go about his business. In light of recent publicity about juveniles throwing house bricks at police officers and the running street battles between rioting teenagers and police, I am very concerned that if these guns are permitted to be in the community, instead of throwing house bricks at police, some of these idiots might start shooting paint at them. Members will have seen on television in the past two weeks footage of massive mobs of people and the quagmire of fights and street battles that have been occurring. If somebody in the crowd happened to have a paintball gun and started shooting at police, I would not be surprised if the police mistook that for a real gun. There is potential for a tragedy to occur. I would like the minister to tell me whether she has considered the requirement that paintball guns remain on the premises on which paintball is played. I think that would be a much safer way to go.

Mrs M.H. ROBERTS: That is a matter that has been given consideration. The restrictions that will apply are the same as those that apply to other guns. I will read out the restrictions. First, the paintball gun must be used only

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

at an approved venue of an approved club and at such times as the club operates. Secondly, when using the paintball gun, people must comply with the rules and regulations of the club. Thirdly, when not in use, the paintball gun must be safely secured at all times in accordance with the Firearms Act; that is, in accordance with the way other guns are kept. Fourthly, the paintball gun cannot be carried, conveyed or used for any purpose other than to convey it to or from an approved venue or the premises of a licensed firearm repairer or dealer. Fifthly, a Western Australian firearm licence must be carried at all times. Essentially, those persons will be licensed. The paintball gun can be safely stored only at home, as with any other gun. People can travel with it only to or from an approved venue or the premises of a repairer or dealer. We thought it appropriate to have those provisions consistent with the Firearms Act.

Mr M.J. BIRNEY: I think the minister is saying that the guns will not be misused because misusing them in the manner I have described would be illegal. Nobody told those hooligans I have seen on the television over the past couple of weeks that throwing bricks at the police is illegal. I am sure they knew it was illegal, yet they continued to throw bricks at the police. I can foresee paintball guns being misused. There is no rational reason for allowing paintball guns in the community. I can envisage groups of teenagers driving through Northbridge while firing paintball pellets at businesses and shops.

Mrs M.H. Roberts: Why are they not doing it now?

Mr M.J. BIRNEY: Paintball guns are not plentiful in the community. As soon as we legalise them, the involvement of people in paintball games will go through the roof. Of course, there will then be many more paintball guns in the community. They will be used for vandalism and graffiti. I hate to say it, but they will be used against the police in the sorts of riots that we have seen in the past couple of weeks. The first time that a paintball gun is used in such a riot or as a graffiti tool, be it on the minister's head. There is no rational reason for allowing paintball guns in the community. Let the paintball operators store the paintball guns on site. When people want to play a game of paintball, they can do so and then hand the gun back. When I first heard that paintball use was to be legalised, that was my immediate impression of how it would work. Why would people want to buy a paintball gun when they can front up to a paintball operator, play the game and give the gun back? The reason young hooligans or juveniles might want to buy a paintball gun is to show off to their mates about how they can splatter paint on the front of some poor shop owner's premises in Northbridge. The first time that happens I will remind the minister of this debate.

Mrs C.L. EDWARDES: I wonder why it was considered that licensed possession and not licensed use of paintball guns would be the basis for this legislation.

Mrs M.H. ROBERTS: Paintball guns are not currently illegal. They are currently used in the community by farmers, agricultural people and the like. Western Australia is one of the few States that have had restrictions on paintball guns. In the Australian Capital Territory they are considered a category A firearm, which means that no licence is issued to an individual. In New South Wales no licence is issued but a permit is granted under regulations, not under the Act. Businesses and individuals can obtain permits. New South Wales is currently examining the need to legislate for a licence. The member has said that all these problems will occur if this regime is put in place. Weaker regimes are in place in other States, yet the problems the member suggests will occur have not occurred. Paintball guns have not been routinely used for vandalism in New South Wales and the ACT. They have not been used against police officers or the like. The member's whole premise is based on people doing something that is illegal. If people are intent on acquiring anything and using it illegally, they will.

The member went on to say that if the guns were more widely available in the community, such as they are in New South Wales, all these dreadful actions would occur. In essence, the member is asking us to put in place a regime that does not exist in other States of Australia, to put in place a regime that is tougher on paintball guns than that for hand guns and other forms of guns. I believe that people would see that as being overly restrictive. In Queensland an individual does not require a licence. The South Australian situation is similar to ours. In Victoria individuals can obtain a licence, but no restrictions are placed on them. What we are proposing in comparison with other States is a fairly strict regime. Other States that have what I consider to be weaker regimes have not encountered the problems that the member for Kalgoorlie has suggested will naturally occur in Western Australia.

Mr M.J. BIRNEY: I am very pleased that the minister has done some research on the historical misuse or otherwise of paintball guns in other States. I was pleased to hear the minister say that paintball guns had never been misused in other States for graffiti purposes.

Mrs M.H. Roberts: I never said that.

Mr M.J. BIRNEY: The minister said that problems had not occurred in other States. When was the research done and who did it for the minister?

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. Roberts: The Police Service.

Mr R.A. AINSWORTH: I share the concerns that the member for Kalgoorlie raised about paintball guns being taken home from a paintball range. I can see a significant problem with the rationale of someone wanting a personal paintball gun, taking it home and having it contained in an authorised enclosure. People who have hand guns and go to hand gun ranges have restrictions applied to them quite properly. There is very good reason in those circumstances for people to own their own firearms because they need to be accustomed to their firearms and they are competing against other people. It is an Olympic sport. For that reason people wish to own hand guns. Of course it is reasonable that they look after them on their own property. However, a paintball gun is quite a different type of firearm. The need for ownership on that basis does not exist. The propensity for misuse is far greater.

I suggest that it is much more tempting for people to use a paintball gun in the sort of situation outlined by the member for Kalgoorlie because it is not a lethal weapon, as a hand gun is, and therefore in some people's eyes it would seem to be quite okay to use it in a mischievous way. Although it may not have happened to any great degree in other States, the fact that it has not happened is no reason for us to open the door to the possibility of it happening in WA, when there is no need for it. The fact that the Government is legalising the use of paintball guns at all is of concern to some people in the community. It tends to water down people's attitudes to what could be termed an aggressive weapon. If the use of paintball guns on paintball ranges is to be legalised, that is one thing. It would certainly not cause any great harm to anyone outside the immediate vicinity. However, to allow people to own paintball guns, take them home and potentially misuse them in a range of ways is totally unjustified. There is absolutely no reason at all for an individual to take a paintball gun home. If the individual cannot use it anywhere but on an approved range, there is no practical use in it being taken home. As I said earlier, there is no need for people to own a personal paintball gun to gain a better personal understanding and skill with their particular firearm, as in a skilled sport, because it is not a skilled sport.

Mrs M.H. ROBERTS: I will clarify a couple of matters. There seems to be some impression that the average person will be able to take a paintball gun to and from wherever he likes as a matter of course. In order to have permission to take a gun away from a club, he will have to be subject to a needs test and give reasons for why he needs to do it. The Commissioner of Police will need to be satisfied about that. It will not be a situation in which anyone who has a licence for a paintball gun will automatically be able to take it to and from a club, repair shop and the like. The licence holder will need to provide a genuine reason and a genuine need. People are not necessarily aware of the level of competition that takes place in Australia with paintball guns or the value of some of these guns. I am told that paintball guns can cost up to \$4 500 and are used in professional shooting competitions. That is not the cost of the average gun, but there is a professional Australia-wide competition. A paintball gun would not be regarded as a toy by anyone. A paintball gun will be licensed under the Firearms Act. A person will need a firearms licence and he will need to satisfy the Commissioner of Police and a whole range of strict conditions to receive a licence in the first place.

Mr M.J. Birney interjected.

Mrs M.H. ROBERTS: I point out to the member for Kalgoorlie that there is a routine: he has five minutes and I have five minutes. I am happy to hear from the member again. However, that is what people need to take into account. Some in the community would suggest that all guns should be stored at gun clubs. Potentially a range of valuable guns could all be stored at one premises, thus providing an arsenal of guns that could be a target for organised crime or individuals to break in and steal them. The restrictions in place are the same as those for very dangerous firearms. The licences will be approved and given out in exactly the same way. These legislative proposals have the support of the Western Australia Police Service. They will be regulated in the same way and under the same Firearms Act as other guns. No-one in the community will be under any misconception that there is suddenly a free-for-all to have a paintball gun. We expect that once the legislation is operating most people will use the guns that are located at a club. Some people will want to have their own individual licence, and not all people will be able to take the guns to and from the clubs. As with other gun licences, a personal profile and background check is done on an individual who is issued with a licence.

Mr R.A. AINSWORTH: What would be a reasonable ground on which to grant an individual licence for a paintball gun and allow it to be taken to a person's own premises? What sort of legitimate reasons would be considered by the police in making that judgment?

Mrs M.H. ROBERTS: I am seeking some advice from the police advisers, but I understand a person might have a genuine need to transport a gun if he were involved in shooting competitions, and that would be the exception and not the rule. The Commissioner of Police is given discretion in these circumstances. In line with the concerns expressed by the member for Kalgoorlie, if the firearms were found to have been misused - and misuse has not occurred in other States, where there is weaker legislation and regulation - the commissioner could

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

amend his criteria. One of the requirements is that the organisation and membership of the club would need to provide support for a person to be categorised as eligible to take a gun to and from the club. However, the Commissioner of Police would still have to satisfy himself that there was a genuine need for a gun to be transported in that way. It does not seem logical to have a higher level of security for paintball guns than for, say, a hand gun or other guns that people might shoot in competitive clubs. People might ask which gun is more dangerous in the community, and I think I know which gun is more dangerous. That is not to say that paintball guns do not pose a hazard; they certainly do. In the same way that there are very strict conditions for approved organisations and gun clubs, very strict conditions are imposed by the Commissioner of Police on paintball gun organisations. No-one would be in a better position than the commissioner to be mindful of the safety and protection of his own officers.

Mr M.J. BIRNEY: I refer to the minister's previous assurance that the Police Service has done some research about incidences of vandalism and misuse of paintball guns in other States. When was that research done? Did the Police Service, when briefing the minister on that research, advise that no paintball guns had ever been misused, or did it advise that a number of paintball guns had been misused in other States; and, if so, how many?

Mrs M.H. ROBERTS: Again the member for Kalgoorlie twists the words that I used. He said that he was glad that I had done some research. I said that I had done some research and that the research was on the legislation that is in place in other States. That was the research I referred to when the member asked the question. The member chose to interpret that as my saying that I had requested some research or listing of every paintball gun incident that had occurred in every State, or that I had some unequivocal answer that there had never been an issue with any paintball gun in any State.

Mr M.J. Birney: That is what you said.

Mrs M.H. ROBERTS: I can tell the member of two examples in my own electorate, with the current lack of legislation, when people have been shot with paintball guns. A disabled person in my electorate in one of those gofer chairs was shot with a paintball gun about four years ago. For a period of some seven years I regularly and routinely review all main police media from around Australia. I have not seen any information, and neither have my advisers, on paintball guns being used in any kind of melees or riots or the like. If there were issues in the other States with paintball guns, it is fairly logical to assume that we would be aware of them. I also advise the member that at least twice yearly I meet with fellow ministers and Commissioners of Police to discuss a whole range of issues, and the firearms issue was discussed an awful lot last year. At no stage have any commissioners or ministers raised the issue of paintball guns being used by youths or the like against police officers during riots or parties that are out of control. I said there was no evidence of an issue concerning paintball guns. As usual, the member is trying to beat up a situation. I do not want to argue about whether paintball guns are dangerous; I am happy to agree that they are dangerous and they need to be restricted. That is why we are restricting them in exactly the same way that we restrict lethal weapons; that is, weapons that will - not might - kill when they hit a target. Lethal weapons are not weapons that will cause only damage to someone who is shot. Someone who is shot by a paintball gun will suffer some damage; however, he most probably will not be killed. Someone who is shot with a rifle or shotgun is far more likely to suffer fatal consequences. We are taking the concerns about paintball guns very seriously indeed and subjecting them to exactly the same licensing regime as that which applies to other guns.

Mr M.J. BIRNEY: Mr Acting Speaker, I regret to inform you that the Minister for Police and Emergency Services has just deliberately misled the Parliament, and on this occasion the *Hansard* will bear me out. A few minutes ago I asked the Minister for Police and Emergency Services if she had researched the number of times a paintball gun had been misused in other States and, if so, who had conducted that research for her. She replied that it had been the police. She did not even get to her feet because she knew she was on shaky ground. She said "the Police Service" and remained seated. When I subsequently asked her if the police had advised her whether zero or a certain number of paintball guns had been misused in other States, she said that they did not do that research at all. She has misled this Parliament.

Mrs M.H. Roberts: That is a load of rot. You are the one misleading the Parliament.

Mr M.J. BIRNEY: She can say that it is a trivial matter or whatever, but it is insulting to me and every other elected member in this place when a minister of the Crown deliberately misleads this Parliament. First she tried to assert to this House that paintball guns had not been misused in any other State of Australia. That is what she said to this House. When I pushed her on the point and asked who had done the research for her and when it had been done, she said that the police department had done it. She cannot produce that research. She has now adopted the new position that she has not read about any incidents of paintball guns being misused in the community in other States of Australia.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Point of Order

Mr R.C. KUCERA: I call the point of order under Standing Order No 92. The member is clearly making an imputation against the police minister. What he is saying is simply his interpretation. Yesterday we saw a clear illustration of how he conducts himself in this House and heard that he is prone to using his imagination at will. In fact, we saw a great demonstration of it yesterday. He has simply interpreted the words put by the minister in his own way. If he seeks to interpret and imagine things in his own way, so be it. Mr Acting Speaker, I would support any ruling you gave about Standing Order No 92. The member is simply using his imagination.

Mr D.F. BARRON-SULLIVAN: Quite bluntly, there is no point of order. The member is simply relaying the facts as they are, and the minister will have an opportunity to respond.

The ACTING SPEAKER (Mr A.D. McRae): Whether the member for Kalgoorlie has an issue about the truthfulness of a minister in the House is one issue, and that is a matter with which he has provision to deal under the standing orders of this House. There is a difference between proceeding to use the avenues that are open to him and making allegations about what the minister has done and then not using those avenues. That is a distinction that he needs to be aware of. He is sailing close to the wind. I do not think he is in breach of Standing Order No 92 at the moment as he is not suggesting motive. He is suggesting a narration of the historical events as he sees them. However, he is sailing close to the wind.

Debate Resumed

Mr M.J. BIRNEY: Mr Acting Speaker, if you could advise me on the correct course of action to take when a minister of the Crown has misled the Parliament, I would consider my options in that regard. I have made a clear point. The Minister for Police offered me the information that paintball guns had not been misused in the community in any other State of Australia. I felt reassured by the fact that she had offered that information to me. I want to know what she based that information on.

Mrs M.H. Roberts: Stop playing games and get on with the substance.

Mr M.J. BIRNEY: I asked her if she had done research and who had done it for her, to which she replied, “the Police Service”.

Mrs M.H. Roberts: All the research is done by the Police Service. The Police Service has provided all the research. It is the same answer.

Mr M.J. BIRNEY: When I pushed her further, she said she had never read about it. Does she know what was on the front page of *The Sydney Morning Herald* yesterday?

The ACTING SPEAKER (Mr A.D. McRae): Member for Kalgoorlie, you need to be relevant to the question before the House.

Mr M.J. BIRNEY: I can do that very easily.

The ACTING SPEAKER: The question before the House is about clause 6. Please address yourself to it.

Mr M.J. BIRNEY: Would you like me to go through this again?

The ACTING SPEAKER: I am giving you the advice as I see it from this position. If you want to challenge my advice, you are more than welcome to do that. That is also within your power.

Mr M.J. BIRNEY: I asked you a question, Mr Acting Speaker.

The ACTING SPEAKER: Do not interrupt me when I am speaking.

Mr M.J. BIRNEY: As a point of clarification, would you like me to go over it all again?

The ACTING SPEAKER: Order! I call the member for Kalgoorlie to order for the second time.

Mr M.J. BIRNEY: Do I still have the floor, Mr Acting Speaker?

The ACTING SPEAKER: Yes, you do.

Mr M.J. BIRNEY: Thank you. I will go over it all again. Obviously some people are missing the point. We are dealing with clause 6, which relates to the possession of paintball guns. I made the point to the minister that I was concerned that the presence of paintball guns in the community could be a problem and that they could be misused. She responded that it has not been a problem in other States. I responded to that by asking her when she did that research and who did the research for her. She replied that it was the police. When she was pushed further about the nature of the research the police had done for her, it became evident that no such research had been done. The minister was simply relying on her memory after reading the odd press report or two. When I

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

asked her what was on the front page of *The Sydney Morning Herald* yesterday, she could not answer. How does she know this issue was not reported on the front page of *The Sydney Morning Herald* yesterday, a month ago or a year ago? The Minister for Police insults us when she attempts to pull the wool over our eyes for her own purposes.

One of the other reasons I am concerned about paintball guns being allowed into the community is that illegal games may be played from time to time. The legislation before us is very specific and states that paintball may be played only in approved and authorised locations. If a host of paintball fans have their own paintball guns in the community, the temptation for them to engage in their own paintball game would be rather great. Once again, we are sailing pretty close to the wind. Is the minister concerned that the practice of illegal paintball games might crop up as a result of individuals being able to keep paintball guns in their residences?

Mrs M.H. ROBERTS: I am somewhat disappointed at the juvenile antics of the member for Kalgoorlie. He always seems to want to play the person rather than the issue. That disappoints me.

Mr M.J. Birney: Do not mislead the House.

Mrs M.H. ROBERTS: His usual technique is to try to interject continually during the five minutes allotted to me, and then during his time decide to quiz me to get answers. I suggest that he button his lips and not interject so much on me or require me to answer his questions during his speech. He should wait until the end of his allotted time, and we can follow the five-minute-by-five-minute process. He asked me the simple question of who has done my research. The Police Service has done my research on this. The Police Service does most of my research on all issues involving police. I take and accept its advice regularly. I am not an expert on firearms, although I have learnt a lot over the past year or so. On this matter I take the Police Service's advice very seriously. The member asked if the use of paintball guns had been a problem. I referred to some research that had been provided to me about the laws in other States, which I consider to be weaker than the laws we are proposing here. I said that those laws have not proved to be a problem in those States. That should not be interpreted as a statement that there has not been a single paintball shot fired in anger or that no-one has been shot with a paintball pellet. It does not mean there has not been a single incident. As I pointed out to the member for Kalgoorlie, there have been problems in Western Australia. I told him that I am aware of two people who have been shot with paintball pellets in public areas of Midland, which is my electorate. One instance to which I drew his attention was the case involving someone who was going down Great Eastern Highway in one of those gofer-style vehicles about four years ago.

The member for Kalgoorlie then asked why am I not concerned about illegal games, because it may mean that there will be many more paintball guns in the community. Firstly, there will be no proliferation of paintball guns in the community. There will be, as I have tried to explain, a special needs test; that is, a person will need to satisfy the Commissioner of Police that he needs to take his paintball gun to and from the club and, therefore, to and from servicing and the like.

Mr M.J. Birney interjected.

Mrs M.H. ROBERTS: I seek your indulgence, Mr Acting Speaker. I have suggested to the member for Kalgoorlie that he stop trying to interrogate me while I am speaking and that he stop trying to put me off my train of thought so that he can then get me to say something that is disjointed and make some spurious claim about it. If the member for Kalgoorlie has a point to make or a question to ask, he should be a little patient and wait for his turn, and stop being so juvenile. The member asked me about illegal games. As I was saying before I was rudely interrupted, there will not be a proliferation of paintball guns in the community because of this legislation. There will be only those guns that have been approved by the Commissioner of Police. What we need to ask is: how many illegal games of paintball are taking place now? The philosophy of Liberal members on just about everything seems to be to put their head in the sand and pretend it is not happening, and then they do not need to take responsibility, because it is not their problem. Well, it should not work like that. I make the further point that if the laws are bad laws, or if the laws are not accepted by a large number of people in the community, they will be flouted. That is part of the problem, because for about a decade now people have been playing paintball in Western Australia, as they have been doing in every other State in Australia, except that in Western Australia we have tried to pretend that those paintball games are not happening and do not exist. Therefore, the paintball games that are taking place in this State are taking place illegally. It is far better to legalise and regulate paintball games and to put the same restrictions on paintball guns as we do on firearms. We should not just sweep it under the carpet and pretend it is not happening. The member for Kalgoorlie is proposing that we put all kinds of further restrictions on paintball games and guns. The current laws are not being enforced fully because they are not appropriate, and because there is some ambiguity in them, as was drawn to our attention in a recent court case. We are proposing to treat paintball guns as harshly as we treat

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

other guns in the community. We are proposing to put in place a commonsense regime, but also one that is tougher than the regimes that are in place in the other States.

Mr D.F. BARRON-SULLIVAN: I believe this is an appropriate time to talk about the minister's intentions with regard to the regulations, because a few of the things the minister has said about this clause demonstrate the need to consider the regulations at this stage. The minister has said that a person who wanted to obtain a licence in accordance with these provisions would need to have the support of a club. That is a very sensible approach. However, we need to take into consideration what type of club it may be, who is running the club, and what conditions will be put in place for the operation of a club. We have been advised that a lot of organisations are operating paintball facilities. I have been told that a number of these clubs are cowboy operations, whereas other clubs are very responsible and have a great deal of expertise and knowledge in this area. Under this clause a person will, under certain conditions, be able to take a paintball gun home and carry out maintenance on that gun. However, it goes beyond that, because I am told that in hot weather, a paintball gun that is operated by means of compressed carbon dioxide can project a bullet further than it can in colder weather. I understand also that if the seals of the gun have deteriorated, it can affect the performance of the gun. I am concerned that the Bill provides no detail about what sort of training people will need and what sort of supervision will be provided by the clubs if people want to take their gun home with them. This will probably come out in the wash, because we had a briefing with the police officer advisers recently, and they indicated that these conditions will be built into the regulations. I am not asking the minister to explain in detail how the clubs will need to be run, but I do want to ask one simple question. I have had a lot of dealings with Paul Collins and Doug Eddy from the Western Australian Paintball Sports Association. I believe the minister has also had some dealings with those gentlemen, and I know that they are very grateful for her time and the time of her officers. Paul Collins and Doug Eddy are very responsible people, and they take a very responsible attitude to this matter. I understand that there is also another organisation that is involved in paintball. We were told in the briefing that the minister will consult fully with those organisations during the drafting of the regulations. Can the minister confirm that that will be the case?

Mrs M.H. ROBERTS: There may be some misunderstanding here. I think the member is aware that I have been very keen to liaise with those organisations and seek their views, because it is important that whatever we put in place is workable from both a police and safety perspective, and also from the perspective of the people involved, otherwise we will be back at square one. Under the Firearms Act, the Commissioner of Police has a huge amount of discretion. It will be up to the Commissioner of Police to set the conditions and restrictions for paintball guns, as it is for all weapons. Therefore, my undertaking, which I could readily give, would be worth nothing to the member, because I will not be the final arbiter of what those conditions and restrictions will be. It is entirely appropriate that that be at the discretion of the Commissioner of Police, and that has been the accepted practice for a long time, as approved by this Parliament. It means also that if it is necessary to make a change because of some safety incident or anything else that may occur, the commissioner can immediately take action to impose conditions or put in place restrictions, and to potentially revoke a person's licence.

Mr D.F. Barron-Sullivan: Will these groups be involved in consultation on the regulations and conditions?

Mrs M.H. ROBERTS: For the member's information, these conditions and restrictions will be imposed under section 21(1) of the Firearms Act and will be specifically for paintball clubs. The advice from the police advisers at the Table - Sergeant Timmins is the officer in charge of the firearms branch - is that it is intended that these clubs be consulted.

Mr M.J. BIRNEY: I was somewhat heartened by the minister's comment earlier that a person who wished to take a paintball gun from a paintball ground would require a special dispensation from the Commissioner of Police. I have read the Bill and I cannot see where that special dispensation is provided for. I have obviously missed it. Can the minister point out to me which clause of the Bill relates to that special dispensation?

Mrs M.H. ROBERTS: Those provisions are contained in the Firearms Act and will apply in the same way as they do for other guns. The conditions or restrictions for individual licences - again, under section 21(1) of the Firearms Act - is that the paintball gun must be used at a venue, and so forth. People must comply with the rules to get the licence. There will be individual licences, for which people will need to apply for the weapons used - this will be as though they are a target shooter or another form of shooter. Then there will be the venue or organisation licences. People like the member for Kalgoorlie and I who are unlikely to want our own individual paintball gun would go to a licensed venue and use the equipment there, and then go home. Someone who is very serious about paintball - a type of sporting shooter - who wants an individual licence would have to acquire a licence in the same way another gun owner would acquire a licence. I am not sure we have any information on the number of people expected to apply for an individual licence. The general feeling is that most people who play paintball will probably play under the organisation's licence. Some individuals who are involved in

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

national events etc would have individual licences. I reiterate: there is always the option for the Commissioner of Police to apply further restrictions or conditions if deemed necessary at any time and without notice.

Mr M.J. BIRNEY: I thank the minister, although I am not sure she managed to answer my question. I asked which section of the Act provided the requirement for special dispensation from the Commissioner of Police before a person could take a paintball gun from the operating grounds. Is it in the Firearms Act?

Mrs M.H. Roberts: To clarify, that relates to acquiring an individual licence. If I misled the member, I apologise. It is not a separate special permission; it is part of the permission to have an individual licence.

Mr M.J. BIRNEY: I need to get this clear in my head. Will a person require special permission from the Commissioner of Police in order to take the paintball gun away from the paintball game ground?

Mrs M.H. Roberts: It is not the case if the person has an individual licence. Handling the transport of the weapon is part of the condition of the individual licence.

Mr M.J. BIRNEY: Did the minister not say five minutes ago in answer to a question that people will need special dispensation from the police commissioner before taking the gun away?

Mrs M.H. Roberts: People will need to have an individual licence. I probably used the wrong words. If I did, it was unintentional.

Mr M.J. BIRNEY: I accept that it was unintentional, but this is the second time today that the minister has misrepresented herself to the House. Is the minister across the Bill, or is she trying to pull the wool over my eyes? A minister of the Crown is required to tell us the facts and figures about this Bill. This is the second time today the minister has misled the House. If I had just allowed the clause to pass, I would have concluded consideration with the understanding that no problem exists because people will not be able to take a paintball gun from the game ground without special dispensation from the Commissioner of Police.

Mrs M.H. Roberts: I don't think I used the word dispensation at any time.

Mr M.J. BIRNEY: You said special permission.

Mrs M.H. Roberts: Dispensation is your word - you paraphrased what I said and used different words.

Mr M.J. BIRNEY: *Hansard* will bear me out. Please, minister, start telling the truth and let us deal with this Bill on a level playing field.

Mr J.L. BRADSHAW: I back up the member for Kalgoorlie as I have listened to debate. The minister said earlier that special permission will be needed to take the paintball gun or rifle from the place where the game is played.

Mrs M.H. Roberts: I've corrected that. I said a special individual licence was needed. I said at the time that it is to be a licence that applies to other guns.

Mr J.L. BRADSHAW: Like a rifle.

Mrs M.H. Roberts: Yes - like a rifle, a shotgun or a hand gun.

Clause put and passed.

Clause 7: Section 23 amended -

Mrs C.L. EDWARDES: I refer members to the amendment standing in my name on the Notice Paper. I thought the minister might have incorporated all the amendments into the pro forma amendments Bill. It is disappointing she has not.

Mrs M.H. Roberts: No-one ever did that for me.

Mr J.C. KOBELKE: Would you like the cooperation to extend to writing the amendments for you?

Mrs C.L. EDWARDES: Now, there is an idea! I am often helping the Attorney General with his amendments. It would not hurt.

The amendment proposes to restrict the opportunity for young people to play paintball without parental supervision. Operators of paintball games believe that people under the age of 13 years should not play paintball in any event; that 13 to 15-year-olds should have parental supervision; and that 16 and 17-year-olds should have written permission. My amendment requires that any child under the age of 16 years will not be able to play the game without parental supervision, be it by a parent or guardian. The Bill does not apply the reasonable steps defence restriction to the operator or an employee or agent at the paintball game, and that is not appropriate.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

This is a serious issue. Research has indicated a link between violent games and increased levels of violence. There is an increasing diet of violence for our young people. That does not mean that every child who constantly experiences violence, whether it be through the television, video, computer games or music, will become antisocial. However, clear evidence demonstrates this link. I refer to a report prepared by Kevin Durkin and Kate Aisbett at the University of Western Australia on computer games. The "Computer Games and Australians Today" report acknowledged, in reference to research by another couple of academics, the following about the games -

It remains possible that playing a particular type (i.e. aggressive) is associated with aggressive behaviour.

People with a tendency or propensity for antisocial behaviour are more likely to act aggressively after playing these games. Censorship ministers took a strong line and said that computer games requiring parental supervision may not be played in arcades. Experience and research supports that restriction. A strong approach was taken as a result of the interactive nature of computer games. Are children able to distinguish between games and reality? Some research indicates that young people who have no propensity for antisocial behaviour may well be able to distinguish between the game and reality. However, the paintball game is far more interactive than a computer game and a cartoon character. A young person experiences picking up a gun, pointing it and firing it at another human being. That makes it something much more serious than just a game for young people. Many young people today go through enormous traumas growing up. If some young people are taking drugs, whether they be cannabis or alcohol, playing a game like paintball in which they aim guns at human beings could have enormous ramifications. My amendment will not prohibit them from participating. However, it places responsibility with their parents

Mr P.D. OMODEI: I rise merely to give my good friend and colleague the member for Kingsley the opportunity to continue her remarks.

Mrs M.H. Roberts: If I say something positive can we move on more quickly?

Mrs C.L. EDWARDES: Will the minister accept my amendment?

Mrs M.H. Roberts: Yes.

Mrs C.L. EDWARDES: I have nothing further to say other than good sense prevails. I move -

Page 4, after line 30 - To insert the following -

- (4) After section 23(11) the following subsections are inserted -
 - (12) A person must not admit a minor under the age of 16 years to attend a venue where paintball is played unless the minor is accompanied by his or her parent or guardian.
Penalty: \$1 000.
 - (13) It is a defence to a charge of an offence against subsection (12) for the person charged to prove that -
 - (a) the person charged or that person's employee or agent took all reasonable steps to ensure that a minor was not present in contravention of subsection (12);
 - (b) the person charged or that person's employee or agent believed on reasonable grounds that the minor was 16 years of age or older; or
 - (c) the person charged or that person's employee or agent believed on reasonable grounds that the person accompanying the minor was the minor's parent or guardian.

Mrs M.H. ROBERTS: The Government intended to leave decisions on age restrictions to the good sense of the Police Commissioner. The initial restriction was that persons under the age of 18 years must be accompanied by a parent, a guardian or an official of the game if they wanted to play paintball. As I pointed out, given the nature of these restrictions, the commissioner can of course change it at any given moment. He can determine whether the age is 12 or 16. I do not necessarily accept all the member's argument. However, since it is new legislation it is probably wise to proceed with caution. Leaving the decision with the commissioner offers flexibility. We can generally rely on Commissioners of Police to be very conservative in their approach to these matters. The member has been very hard on the sport of paintball in highlighting that it trains people to combat each other and

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

to kill other people and the like. However, many people play it as a team-building exercise. I am told that executives from places such as banks, lawyers, doctors and students all play it. It is regarded very much as a team-building exercise. My own daughters have played games such as Quasar and one in which participants wear special jackets and aim a replica of a gun at other people and a light shines on the jacket to signify a hit. Teams compete against each other and the children have great fun and get a buzz out of it. It provides an opportunity for good interaction. Paintball is not based on animosity and anger. In many ways, it can be considered just another type of sport.

I can understand the conservatism the member wants attached to this issue and I am willing to accept it given this is new legislation.

Amendment put and passed.

Mr P.D. OMODEI: The explanatory notes indicate that the new provision will allow a person to maintain a paintball gun and modify it in accordance with the manufacturer's specifications without contravening this provision. Does that mean people will be able to take the paintball gun away from the premises where paintball is played?

Mrs M.H. ROBERTS: People can take home only their own gun. It must be individually licensed to the owner and, as happens with other firearms involved in shooting sports, significant restrictions will be attached to it. People will not be able to take home guns that are part of the approved licence of the club. As I suggested earlier, we anticipate that most people playing paintball will use the guns provided by the club. However, apparently national competitions are held - some guns are worth up to \$4 500 - so people can apply for individual licences. They will carry the same restrictions as other guns concerning safe storage and transportation.

Mr P.D. Omodei: Can a paintball gun be pointed at someone, whether it is at home or during a game?

Mrs M.H. ROBERTS: No. The same restrictions will apply that apply to an ordinary hand gun or rifle.

Clause, as amended, put and passed.

Clauses 8 and 9 put and passed.

Clause 10: Section 6 amended -

Mr M.J. BIRNEY: This clause amends section 6(3), which relates to regulations banning firearms, silencers, ammunition and other things. It provides punishment of five years prison for people who are caught in possession of such banned items. One of those items incurs a penalty of five years for being in possession of ammunition. I can accept that a sentence of five years in jail can be handed down to someone who is in possession of a prohibited firearm. Is five years appropriate for someone who has a handful of bullets in the draw but no gun with which to shoot them? Obviously a gun can be used to shoot someone. However, not much can be done with a bullet. Why is the five-year jail term to be applied to ammunition?

Mrs M.H. ROBERTS: Regulation 26(3) headed "Prohibited firearms" lists a range of firearms and ammunition. At the top of the list is a table of firearms, including category D firearms and other specific firearms. Some of the ammunition is listed as follows -

- ammunition the missile from which includes any high explosive, smoke, chemical, lachrymatory agent, or flechettes
- tracer ammunition
- incendiary ammunition
- armour piercing (hard steel core) ammunition
- imprint free (accelerator) ammunition
- ammunition the missile from which has a calibre of 20 mm or more

The penalty for contravention of that regulation is five years. I am keen to take a tough line on firearms and ammunition and therefore consider that, in the circumstances, it is a suitable penalty.

Mr M.J. Birney: So somebody with a handful of banned bullets could receive a five-year jail term?

Mrs M.H. ROBERTS: That deals with only firearms generally and ammunition that is prohibited, according to that table.

Mr M.J. Birney: So if you have a handful of prohibited bullets, you could receive a five-year jail term?

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. ROBERTS: Yes, but they would have to be prohibited bullets. As the member often makes the point, there are maximum jail terms, so clearly, when sentencing, a judge would take into account whether the person had a serious stash or a handful of bullets. The matter of the type of ammunition is dealt with by way of legislation.

Mr M.J. Birney: Don't tell me that you were listening to my contribution to the second reading debate!

Mrs M.H. ROBERTS: I always listen.

Clause put and passed.

Clause 11: Section 8 amended -

Mr M.J. BIRNEY: Clause 11 deals with antique firearms and their licensing requirements. To obtain a licence for an antique firearm, does a person first have to disable the gun, or could an antique firearm licence be issued for a gun that is fully operational?

Mrs M.H. ROBERTS: Yes, an antique firearm licence could be issued for a gun that is fully operational.

Mr M.J. BIRNEY: I suggest that that is not very wise. Antique guns are not required to be fired. They are antique guns. In fact, they are kept by collectors for their visual aesthetics, but they certainly are not kept so that they can be fired. For the life of me I cannot understand why a licence would be issued to somebody for an antique gun that could be fired. Why would that person not be required to remove the firing pin or some part of the gun to severely disable it so that it could not be fired? It does not seem to make any sense.

Mrs M.H. ROBERTS: I will make a couple of points on this issue. First, an antique firearm generally is not a very simple firearm to use; it requires a bit of expertise and effort to do so. I know that the member for Kingsley has spoken to at least one of the antique firearms collectors I have spoken to because she lives in the northern suburbs. The strong belief of collectors is that in disarming an antique firearm, essentially it is turned into a valueless, inert piece of metal and its value is completely destroyed. I have viewed some collections of antique firearms. Although I cannot say that I would ever be interested in collecting firearms or that I have any particular interest in them, there are antique firearms from wars such as the First World War, as well as antique firearms that came to Australia with the First Fleet. Those people who are experts in antique firearms will advise that if the gun is disabled, it will be destroyed, as will its integrity and value, and will be rendered worthless.

I very strongly believe that the Commissioner of Police and the Police Service, backed by legislation, have a very tough regime in place for antique firearms collectors in Western Australia. It is tougher than that in other States. One thing that surprised me at the Australasian Police Ministers Council on firearms was how much tougher the legislation in Western Australia was compared with that in other States. Often there is a feeling Australia-wide that we are the wild west and that, because of the rural and regional nature of our State, there is a lot more leniency towards firearms in Western Australia. The converse turned out to be true. We already had in place one of the strictest regimes of any State. We also provide the commissioner with the ability to put in place conditions and restrictions that are not in place in other States. I am quite satisfied that we have a good regime in place for licensing antique firearms collectors. Those collectors need to demonstrate to the Commissioner of Police that they are bona fide collectors, and there are clear ways they can do that. There is no easy way for a person to pretend he is an antique firearms collector, get a quick licence for antiques and then do some damage with them.

As I have said, I am not an expert on firearms, so I am not deliberately attempting to confuse the member, although I am getting a little confused myself with the mechanism of an antique firearm as opposed to the entire gun. My adviser has pointed out to me that a person could have a modern manufactured firearm, but it would not be licensed. It would be able to be collected but not used, but it would be capable of being used. I hope the member followed that.

Mr J.L. BRADSHAW: I have a good reason to retain this clause. There is a group of antique collectors who fire their antique weapons on ceremonial occasions. If the member for Kalgoorlie made changes to the clause, Perth's former pox doctor, Dr Leo Laden, would certainly attack the member quite publicly and vociferously.

Mrs M.H. Roberts: He is supporting this.

Mr J.L. BRADSHAW: Yes, and so am I. I support the clause. It is good when people dress up in period costume on ceremonial occasions and fire their antique weapons. If those weapons were to be made inoperable, those people would not be able to fire their antique weapons on those occasions. It is important that we retain this provision. I do not see any difference between licensing a normal firearm and licensing an antique firearm, even though it is antique. I can recall an occasion at the East Perth Cemetery some years ago at which members

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

of Dr Laden's group fired a volley of bullets from their rifles. It is important to retain this provision in the Bill. I would vote against any attempt by the member to change it and make antique firearms inoperable.

Mrs M.H. ROBERTS: I thank the member for Murray-Wellington for his comments. I also clarify for members that the ceremonial occasions to which the member has referred require a permit. The people who are involved are aware of that. To reassure members who might have concerns, they can get a permit from the Commissioner of Police for those occasions.

Clause put and passed.

Clause 12: Section 9A amended -

Mr M.J. BIRNEY: I note that clause 12(2) deals with the length of time for which a firearms collectors licence is valid. I note further that a period of three years for a valid licence has been inserted. Under the Act it is five years. What is the reason behind reducing the validity of the licence period from five years to three years?

Mrs M.H. ROBERTS: It was at the Commonwealth's request as part of the Council of Australian Governments negotiations. I believe that the general community imagines that a set of firearms laws applies universally in every State. However, every State started off at a different point. There had to be considerable negotiations to try to bring all the various firearms laws together to meet the commonwealth requirements. As part of the negotiations with the Commonwealth it was agreed by the officers from Western Australia that Western Australia would make that change to its legislation.

Clause put and passed.

Clause 13: Section 11 amended -

Mr M.J. BIRNEY: This is one of the more controversial clauses because it allows the Commissioner of Police to form sufficient grounds to bar an individual from holding a firearms licence. Although it is probably a pretty good provision, I understand one point of view says that it could impinge upon some people's rights. The Firearms Act allows the Commissioner of Police to revoke or withhold an individual's firearm licence for a number of reasons, mostly to do with previous criminal activity. A previous firearm conviction would certainly debar someone from holding a firearm licence. If a person is the subject of a violence restraining order, his firearm licence could be removed. Two or three other provisions also allow the Commissioner of Police to revoke the licence. Clause 13(1) inserts new criteria to enable the Commissioner of Police to remove somebody's firearm licence. It reads -

- (c) suspects, on the basis of an intelligence report or other information held in relation to the person, that the person is a threat to public safety.

What would constitute an intelligence report on which the Commissioner of Police might base his decision to revoke somebody's licence?

Mrs M.H. ROBERTS: I am not keen on second guessing the Commissioner of Police, but there may be an intelligence report presumably relating to the belief that somebody is involved in organised crime. The Commissioner of Police is privy to information that others are not, which might include information gained from a telephone intercept or the like about an illegal event that is likely to take place, or whatever. There is a limitless range of matters that might concern the Commissioner of Police enough to cause him to revoke somebody's licence.

The member raised this point the other night when he said that the Commissioner of Police could at his whim revoke a hand gun licence. I specifically asked to have included in this legislation an appeal right for a person who had his hand gun licence revoked. The Commissioner of Police has powers under section 11(3), but we have now put checks and balances in place to enable an aggrieved person to appeal. That will be contained in proposed section 22AA. During the appeal the Commissioner of Police must satisfy a magistrate, not the appellant, of the intelligence or information that he had on hand when he made the decision to revoke or refuse a licence. That is the appeal mechanism that I insisted be put into the legislation. That appeal should be able to be heard in closed court. I do not think that the Commissioner of Police should be required to reveal intelligence that might compromise an investigation or police operation that is under way. Again, I do not think it is fair for the Commissioner of Police to have a completely unfettered power. On that basis we have put that appeal right into the Bill. If the appeal proceeds, the Commissioner of Police must convince a magistrate of the validity of his intelligence and why he has chosen to revoke the licence.

Mr M.J. BIRNEY: The matter of the appeal was my next question. Where in the Bill does the appeal right appear?

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. ROBERTS: It is confusing, but with new section 22AA being inserted, it will change to section 22AA. The member can then see in new section 22AA the reference to the appeal.

Mr M.J. BIRNEY: What is the reference to the State Administrative Tribunal? I am not quite up to speed with clause 21.

Mrs M.H. ROBERTS: Once the State Administrative Tribunal legislation has been passed, the appeal provisions under the Firearms Act will transfer to the State Administrative Tribunal. That legislation is either before the upper House or has not been proclaimed. That is a large part of the reason that we have these current amendments to the Act. We want an appropriate transition from one system to the other. There is a level of confusion because currently someone appeals to a magistrate, as is already outlined, but the appeal rights under the Firearms Act will be transferred to the State Administrative Tribunal once that legislation has been passed.

Mr M.J. BIRNEY: If the Commissioner of Police decides on the basis of intelligence reports that an individual is not a suitable person to hold a firearms licence, is the Commissioner of Police required to give his reasons to the person who will have his firearms licence removed?

Mrs M.H. ROBERTS: No, the Commissioner of Police would only be required to give his reasons to the magistrate.

Clause put and passed.

Clause 14: Section 11A amended -

Mr M.J. BIRNEY: This clause deals with the need to obtain permission before one can fire a firearm on an individual's property. It basically includes the word "written" so that someone now needs written permission. Can people acquire blanket written permission in order to use a firearm on an individual's property or do they require permission on each and every occasion that they intend to use the firearm?

Mrs M.H. ROBERTS: The provision is for first-time applicants. They would need to list that when they made the application the first time. Beyond that they would need permission but not written permission.

Mr M.J. Birney: Would they need permission every time?

Mrs M.H. ROBERTS: Every time they shoot they would need permission, but the first time they would need written permission.

Clause put and passed.

Clause 15: Section 15 amended and transitional provision -

Mr M.J. BIRNEY: This clause removes the provision that allows for the obtaining of a firearm for sentimental reasons. I certainly strongly support this clause. The word "sentimental" is far too broad. I can envisage that individuals would, as I am sure they have in the past, obtain firearms licences for somewhat dubious reasons while citing sentimental reasons. I therefore certainly support the removal of the word "sentimental" from the Act. Clause 15 also provides for the keeping of a hand gun so long as it was manufactured after 1946 and provided it will become part of a genuine firearm collection. This Bill deals with the need to ensure that hand guns are not concealable and that the barrel of a hand gun is not less than 100 millimetres. Will that provision also apply to the hand guns dealt with under clause 15, which are firearm collection hand guns post 1946?

Mrs M.H. ROBERTS: As I understand the COAG requirement, the restriction was for sporting shooters and others. If a person possessed a hand gun, which was also restricted, he would need to have that hand gun temporarily deactivated.

Mr M.J. Birney: I do not understand.

Mrs M.H. ROBERTS: For example, if it is a collectors' item, it is a hand gun, it is not banned, it is not part of the buyback as such, but it has to be temporarily deactivated. That means that it cannot currently be fired. It is possible that the gun could be recommissioned at a later stage. If it were in an active, able-to-be-fired condition the owner would be subject to penalties under the Act, but those guns were not to be confiscated under the buyback; they were only to be deactivated.

Mr M.J. Birney: When the gun is deactivated is it not rendered worthless?

Mrs M.H. ROBERTS: Temporarily. There is a difference between deactivation and temporary deactivation. Temporary deactivation could include a trigger lock, for example, which would not do anything to devalue the gun.

Mr M.J. Birney: Why is temporary deactivation not applied to the firearms in the previous clause?

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. ROBERTS: There was not seen to be a need.

Mr M.J. Birney: What is the difference?

Mrs M.H. ROBERTS: I will come back to that. The member spent some time talking about what “sentimental” means, whether it is broad in meaning and so forth. It is not defined in this legislation. “Heirloom” or “sentimental” have the normal dictionary meanings. Proposed subsections (4), (5) and (6) in clause 15(2) of the Bill contain the guidelines that the commissioner would use in making a decision about whether a firearm was an heirloom or sentimental. With regard to the level of deactivation, we have followed the COAG guidelines and everything that has been included about firearm deactivation, antique firearms, hand guns and the like has been subject to enormous negotiations between the State and the Commonwealth. That has been the primary objective. If WA does not meet the national guidelines it will not get the buyback money. We certainly want to meet the national guidelines and we also want to get the buyback money that is available from the Commonwealth. I have simply taken the expert advice from the Police Service about what is the sensible thing to do in the circumstances, based on what is currently in place and the Commonwealth’s additional requirements.

Mr M.J. BIRNEY: There seems to be some inconsistency. Under this clause an antique hand gun is required to be temporarily deactivated for the licence to be issued, but under a previous clause concerning antique firearms - I imagine we were talking about rifles at that stage - there was no need to temporarily deactivate. I think the minister said that the problem would arise when a gun was decommissioned and was rendered worthless. When I raised that issue in relation to the hand guns the minister said they would be only temporarily deactivated. Why can antique rifles not be temporarily deactivated?

Mrs M.H. ROBERTS: We get back to the gun definitions. I refer the member to clause 11 on page 6 of the Bill, which states -

“antique mechanism firearm” means a muzzle loading firearm (including a percussion lock handgun that is muzzle loading) that uses black powder to propel a shot, bullet, or other missile;

That does not include hand guns and it probably does not include lots of other types of guns that could be described as antique. That was never an all-encompassing clause for hand guns. It is a specific clause for those muzzle-loading firearms and the like, the type that the member for Murray-Wellington is a lot more familiar with. As he said, they are used on ceremonial occasions and at other times, and a case has been presented to satisfy both the Commonwealth and the Western Australia Police Service for them not to be deactivated and why it is not appropriate to have temporary deactivation. It is not my role to get into the technicalities. I am keen to get this legislation through to meet the legislative requirements of the buyback. I also highlight that Western Australia already had in place what was probably the best firearms legislation in Australia and we have now, if anything, improved it. This Bill puts some further restrictions in place and we have also used a commonsense approach. I do not think the member has made a case for deactivating the antique mechanism firearm, which is a very special classification.

Mr M.J. Birney: What is the case for deactivating the pistols?

Mrs M.H. ROBERTS: It is a requirement of COAG.

Mr M.J. BIRNEY: There is a lot of inconsistency. On the one hand, the minister says she cannot make a case for deactivating the rifles, yet her Bill will enable the deactivation of pistols. It is a gross inconsistency. I am concerned that some people who normally would not meet the standard criteria to obtain a firearm licence - say, for a .22 rifle - might then become a collector of antique rifles and, by virtue of their collector status, would then be able to get hold of an antique rifle - a real gun that can shoot people. The minister said that I cannot make a case for deactivating antique firearms. I certainly can. I am concerned that people who cannot normally access a firearm licence might become an antique collector. I know the minister said it is not easy to achieve the status of an antique collector, but if a person owned a few antiques that would probably help. Every antique collector had to start their collection from somewhere.

Mrs M.H. Roberts: The person must be a firearms antique collector, not just an antique collector.

Mr M.J. BIRNEY: Yes. Every firearm antique collector would have to start their collection from somewhere. A person who does not currently have any antique firearms would not necessarily be precluded from being considered an antique firearms collector if he wanted to start a collection. That is a real concern to me.

Mrs M.H. ROBERTS: As I said, this came directly from the Council of Australian Governments.

Mr M.J. Birney: You are the minister.

Mrs M.H. ROBERTS: Perhaps if the member listened before speaking, we would get on a lot better. The COAG agreement states -

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Prohibiting the sale, ownership, possession, manufacture and use of handguns for sports shooting purposes other than those permitted by the option preferred by COAG. That is, a sporting shooter is only permitted to own, possess and use handguns of:

- a calibre of not greater than .38", unless the handgun is used in a specially accredited event in which case a calibre of not greater than .45" is permitted;
- a barrel length of greater than 120mm (semi-automatics) or 100mm (revolvers and single shot handguns), with an exception for highly specialised target pistols; or
- a shot capacity of no greater than 10 rounds.

Note that black powder muzzle loading pistols and cap and ball percussion fired revolvers are not subject to the restrictions on calibre, barrel length and shot capacity.

It is simply because of that statement that we have adopted our position.

Mr M.J. BIRNEY: The minister still has not given me the reason. This is incredible. The Minister for Police and Emergency Services is introducing legislation in her own State and she cannot state any reason for that legislation other than that COAG thought it was a good idea. I would have thought that if the minister were to adopt the recommendations of COAG, she would also have reasons for supporting them.

Mrs M.H. Roberts: Do you understand that the Commonwealth enforced that on the States?

Mr M.J. BIRNEY: I understand totally.

Mrs M.H. Roberts: I have no choice. Do you want to give back the buyback money? Do you not want the hand gun buyback? Either you want the buyback or not. I am accepting of it.

Mr M.J. BIRNEY: Does that mean the minister agrees with it?

Mrs M.H. Roberts: I am agreeing with it. I want buyback and I want the buyback funds.

Mr M.J. BIRNEY: Can the minister tell me why she agrees with it?

Mrs M.H. Roberts: I want the hand gun buyback and I want the hand gun buyback funds. It is as simple as that.

Mr M.J. BIRNEY: It is a money thing.

Mrs M.H. Roberts: It is a requirement of the Commonwealth. Experts have sat around the table. I have already told you that I am not an expert on firearms. Those people who are expert have said that, in their considered opinion, this is the way to go. The Commonwealth has said that if we do not go this way, Western Australia will not be part of the buyback and will not get the money. I think they are pretty compelling arguments.

Mr M.J. BIRNEY: Does the minister not have an opinion herself?

Mrs M.H. Roberts: I am accepting the expert opinions that have been provided to me.

Mr M.J. BIRNEY: I simply make this point. If these guns can be fired, and can shoot somebody, what is the sense in not temporarily deactivating them? Why is there a difference? Why is there a need to temporarily deactivate a pistol but not a rifle?

Mrs M.H. Roberts: Why do you not ask the member for Murray-Wellington?

Mr M.J. BIRNEY: I know the minister is saying that COAG has forced these provisions on her. I simply asked whether she thinks they are a good idea. She said yes, and I would like to know why she thinks it is a good idea for there to be a disparity between pistols and rifles. I do not think she knows the answer. I do not think she has an opinion.

Mrs M.H. Roberts: Why don't you ask John Howard? Why don't you get acquainted with the requirements of COAG?

Mr M.J. BIRNEY: I can ask John Howard if the minister likes, but this is not John Howard's State. The member for Midland is the police minister in charge in this State. I thought that she would have an opinion, rather than blindly say that she will do it for the money.

Mrs M.H. Roberts: That is not what I said. Again, you are trying to twist people's words.

Mr M.J. BIRNEY: *Hansard* will bear me out. I will have a good read of *Hansard* tomorrow. Next week in the House I might raise all the anomalies in the minister's statements.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. Roberts: I might raise all the misleading statements you made in your contribution to the second reading debate.

Mr M.J. BIRNEY: Please do.

Mrs M.H. Roberts: You do not even know when the buyback finishes. You also got that wrong last night.

Mr M.J. BIRNEY: Sorry?

Mrs M.H. Roberts: You misled the House about when the buyback finishes.

Mr M.J. BIRNEY: What did I get wrong? Does the minister not want to say it again?

Mrs M.H. Roberts: You have two and a half minutes left. I really do not want to argue with you.

Clause put and passed.

Clause 16: Sections 15A and 15B inserted -

Mr M.J. BIRNEY: Proposed section 15B(1) states -

If an accredited society of collectors expels any of its members, it is required to notify the Commissioner in writing of the expulsion of the member, identifying the member and the reason for the expulsion.

Penalty: Imprisonment for 2 years or a fine of \$8 000.

Who goes to jail? Is it the president, the treasurer, the secretary or the membership manager of the club? Who is it?

Mrs M.H. ROBERTS: I understand that if an incorporated body is involved, it is determined by the Sentencing Act.

Mr M.J. BIRNEY: Can the minister tell me who it is?

Mrs M.H. ROBERTS: My understanding is that, under the Sentencing Act, if a corporation is involved, people are not imprisoned but fined. The club would receive a fine.

Mr M.J. BIRNEY: That is quite interesting. The proposed section clearly says that the penalty is imprisonment for two years or a fine of \$8 000. Is the minister saying that the reference to imprisonment should not have been included?

Mrs M.H. ROBERTS: We would have to look at the Sentencing Act, which I do not have with me, to find the relevant section. That is as clear an understanding as I have of it. An incorporated body would be subject to an \$8 000 fine. It is unlikely that anyone would be imprisoned.

Mr M.J. BIRNEY: Why is the reference to imprisonment included? The words “imprisonment for 2 years” relate only to a society of collectors, which would obviously be a corporation. Is it a drafting error? Do we need to remove the words “imprisonment for 2 years” from that proposed section, or has that been included for some reason?

Mrs M.H. ROBERTS: We should look closely at the wording of proposed section 15A(1), which states -

The Commissioner may, in writing, designate a person or body, whether incorporated or unincorporated, as an accredited society of collectors for the purposes of this Act.

Proposed subsection (2) states “for a person or body to be an accredited society of collectors” and lists some matters. It depends how the club is set up. I understand that the legislation has been written so that it is as encompassing as possible. I appreciate the line the member is taking about an incorporated body, which might get away with a fine. In my view, the other risk that such a body would face is the loss of its licence. If the Commissioner of Police felt that the society’s failure to inform had happened on a one-off or accidental basis, he would take one view of the matter. I would expect him to take an entirely different view if there were a number of cases about which the Police Service was not informed. Following earlier discussions with Sergeant Timmins about how gun clubs operate, my understanding is that these provisions have been extremely effective in the management of gun clubs in Western Australia. There is a very high level of compliance by the sporting shooters clubs in notifying the Commissioner of Police about those persons. Essentially, the ultimate risk those incorporated clubs face is the loss of their licences to continue as a club. That would probably be the ultimate penalty for them. I can see the member’s point about the reference to imprisonment or a fine. I suppose there are different ways of dealing with groups. Individuals or small unincorporated groups would be liable to the

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

imprisonment penalty. I suspect the incorporated groups are more likely to be the bigger clubs, and they run the risk of losing their licence. The commissioner can revoke their licences.

Mr M.J. BIRNEY: Why - because the minister says so? That is simply not good enough. I cannot go past this clause until I know whether an individual from a society of collectors will be imprisoned for two years for not advising the Commissioner of Police that he has booted someone out of his club. I hate to use the word incompetent, but increasingly that is what I am thinking of the minister's effort today. The minister cannot tell me - perhaps she can; if so, please tell me - whether a member of a club will be imprisoned for two years for not advising the Commissioner of Police that he has kicked someone out of his club. The minister referred to proposed section 15A, which provides that the commissioner may, in writing, designate a person or body, whether incorporated or unincorporated. Fair enough. If a particular person does not want the burden of incorporation on his shoulders, and the group of people known as the collectors society take up the incorporation, who will go to jail? Can the minister tell me?

Mrs M.H. ROBERTS: I am very satisfied with the level of advice that I have been given by the Police Service on this legislation. As the member well knows, ultimately the sentence that a person receives is determined by the court. The court will take into account the seriousness of the breach and whether it was inadvertent or for only a particular period. Again, it is not a simple matter. It will depend on how the club is set up. If there is a designated president, that person will run the risk of going to jail. However, the likelihood of that outcome will depend on the circumstances of the case. As I have said, ultimately the power lies with the Commissioner of Police. The Commissioner of Police has very strong powers under the Firearms Act. Those powers have proved to be extremely effective in Western Australia. The member may want to reinvent things and restrict things for the sake of restricting them. The member knows that in this legislation I have taken a very tough approach to penalties, because, when it comes to penalties, I am very keen to do that.

Mr M.J. Birney: You do not know about your own legislation!

Mrs M.H. ROBERTS: The member can make those sorts of inane comments, but three very senior members of the Police Service are advising me, and that is the information they have given me on that matter. I am satisfied that the information that we are providing to the House is more than satisfactory. However, it is not satisfactory for the member. The member wants to get a black and white answer.

Mr P.G. Pendal: He is the one who has to help you pass the Bill. Your advisers do not have to help you to pass it. The member for Kalgoorlie has raised a very good question about imprisonment.

Mrs M.H. ROBERTS: The member for South Perth is interjecting. We can hear from him too.

Mr P.G. Pendal: I am interested to know the answer to the member's question. You have not answered it.

Mrs M.H. ROBERTS: I have given the answer to the question in some detail. Has the member for South Perth been here all along or has he just come in?

Mr P.G. Pendal: That has nothing to do with it.

Mrs M.H. ROBERTS: Yes, it has, because the member may not have been here when I gave the answer.

Mr P.G. Pendal: The member has asked a question that the minister cannot answer.

Mrs M.H. ROBERTS: No, he has not. I will repeat the answer, because I think the member for South Perth was not in the Chamber 10 minutes ago and that is why he did not hear it.

Mr P.G. Pendal: I have been here for about an hour, and you are not travelling too well.

Mrs M.H. ROBERTS: Perhaps the member was not listening. The member should not take his nasty pills so often.

Mr P.G. Pendal: I think you should have some answers for the House, because it is not your advisers who pass the laws.

Mrs M.H. ROBERTS: I will go through it again. Proposed new section 15A is very clear. It states that the penalty is jail. The member for Kalgoorlie asked can I guarantee that the person will go to jail. No, I cannot guarantee that.

Mr M.J. Birney: You have just said that the Sentencing Act says they cannot go to jail. Can they or can they not?

Mr P.G. Pendal: You have given a contradictory answer. That is the problem.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. ROBERTS: The problem is that I have one and a half minutes left. Either the member wants an answer, and I will give an answer, or he wants to keep interjecting. I will let the member have his say.

Mr P.G. Pendal: It is no good the minister's doing her block. If she cannot answer the Parliament's questions, the Parliament should not be passing this legislation.

Mr M.J. BIRNEY: This is extraordinary! I have never seen a greater display of incompetence in all my life. We are dealing with a provision in a Bill that is being promoted by the minister that states that a society of collectors may be imprisoned for two years. When I asked the minister who will go to prison - the president, the secretary, the membership manager or the treasurer - the minister said that the Corporations Act prohibits a person from a corporation going to jail. If that is true, then the word "imprisonment" should not appear in this clause. Is the minister prepared to remove the word "imprisonment" from this clause?

Mrs M.H. ROBERTS: It is not true, and I am not prepared to remove it. If the member is prepared to sit down and listen for five minutes, I will be happy to explain it.

Mr M.J. Birney: I would love to.

Mrs M.H. ROBERTS: I hope I can do that without interruption, because the impression that I have gained so far is that the member is more interested in badgering me than getting an explanation. As I have pointed out, proposed section 15A(1) states -

The Commissioner may, in writing, designate a person or body, whether incorporated or unincorporated, as an accredited society of collectors for the purposes of this Act.

That is very clear. The commissioner may designate a person, or a body, whether incorporated or unincorporated, so a lot of choices are available. Proposed subsection (2) states -

For a person or body to be an accredited society of collectors -

(a) it has to be incorporated under the *Corporations Act 2001* of the Commonwealth . . .

I have said that the penalty is two years imprisonment or a fine of \$8 000. That is fairly straightforward. How that will be imposed will be determined by the Sentencing Act. I have said also that I cannot guarantee that under the Sentencing Act an individual will go to prison. That will depend on the nature and circumstances of the offence. However, I can say clearly that an incorporated body must have a designated officer. Under the Sentencing Act as I understand it, that designated officer may be imprisoned. It will be up to a court of law to determine whether or not that person is imprisoned. Perhaps that is the subtle difference that the member for Kalgoorlie does not want to comprehend. There is clearly no need to change this clause. The clause makes sense. It may apply to individuals, or it may apply to a body, whether incorporated or unincorporated. No matter which category a person fits into, he or she runs the risk of two years imprisonment or a fine of \$8 000. Presumably the body would pay the fine if a fine was meted out. Under the Sentencing Act, the designated officer of an incorporated body could run the risk of two years imprisonment. The member for Kalgoorlie keeps asking who would go to jail. It would be whoever was the designated officer for the purposes of the incorporation, and that would need to go hand in hand with the Sentencing Act.

Mr M.J. BIRNEY: This is very important, because we are talking about imprisoning people. If an accredited society of collectors is in fact a body and it fails to notify the Commissioner of Police that it has expelled someone from the club, who will go to jail for two years?

Mrs M.H. ROBERTS: Is the member talking about an incorporated body?

Mr M.J. Birney: Yes.

Mrs M.H. ROBERTS: I am advised that if it is an unincorporated body, it is a designated person. If it is an incorporated body, the advice is that a fine would apply. In that case, I need to correct what I said about five minutes ago, and I apologise for that.

Mr M.J. Birney: That is three times.

Mrs M.H. ROBERTS: I have had conflicting advice on the matter. As a result, I sought clarification. The clarification is that if an unincorporated body is involved, a designated person would be liable to imprisonment. If it is an incorporated body, I am told now that, under the Sentencing Act, a person would be liable only for a fine. That person would not be liable to a term of imprisonment. Prior to this stage, I understood that imprisonment would apply to everyone, whether incorporated or unincorporated. The advice I am given now is that, under the Sentencing Act, a person from an incorporated body cannot be imprisoned.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mr M.J. BIRNEY: I am really disappointed: I have a guest speaking engagement at six o'clock in Greenmount, and the Chamber could discuss this issue for another half-hour. The reality is that the Minister for Police does not know anything about the legislation she handles. She hands out jail terms willy-nilly to people without knowing the full implications of her actions. Proposed section 15A in clause 16 reads -

The Commissioner may, in writing, designate a person or body . . . as an accredited society of collectors . . .

If the commissioner designates an incorporated body, the minister has indicated that no-one can go to jail. If a person is designated, that person could go to jail - is that correct?

Mrs M.H. Roberts: Yes.

Mr M.J. BIRNEY: Proposed section 15B(1) reads -

If an accredited society of collectors expels any of its members, it is required to notify the Commissioner . . .

If not, two years imprisonment would apply. If the commissioner designates a person as the society of collectors, that person must expel himself from his solitary organisation before the provision kicks in. Therefore, "imprisonment" should not be included at all. A person would not expel himself from his club of one, would he? I am astounded by the minister's incompetence. I cannot believe that the minister would hand out jail terms like lollies. I know the minister has been beating her chest in front of the media and talking about 14-year and two-year jail terms. In the minister's haphazard approach to try to look tough on crime, she does not know who will get a jail term. That is disgraceful. We have an inept operation here today.

Mr J.L. BRADSHAW: I am appalled by the explanations the minister has provided on this clause. She indicated initially that an incorporated body would not be liable to a prison sentence, then she said it would, and now she says it would not again. Anybody who reads *Hansard* in the future will be totally confused about this legislation.

Mr J.B. D'Orazio: You should listen to Rob Johnson's speeches.

Mr J.L. BRADSHAW: The member should have listened to the minister today. She is a very bright person, but today she has been lacking. It is amazing. She made a few stuff-ups earlier in the afternoon and is now making more stuff-ups.

Several members interjected.

Mr J.L. BRADSHAW: All of the smart arses come in here when they want to go home! They should have taken some interest and listened to the earlier debate.

Ms M.M. Quirk: Who're you talking about?

Mr J.L. BRADSHAW: I am talking about the member for Bunbury and others.

Mr A.J. Dean: I've been here for two hours.

Mr J.L. BRADSHAW: You have not!

Mr J.B. D'Orazio: You've not been here all the time.

Mr J.L. BRADSHAW: I have been here all afternoon. I went out once to put something in my room for two minutes - big deal!

The DEPUTY SPEAKER: Order!

Mr J.L. BRADSHAW: I find it strange that someone designated by an incorporated body cannot face jail, but an unincorporated body can face jail. Is that not discrimination?

Mr M.J. Birney: It actually does not say that in the Bill. I think the minister plucked it from thin air.

Mr J.L. BRADSHAW: We should put off consideration of the Bill until we get real advice about what is right and wrong. This is a total mockery. After the Bill passes, people will not know whether they will be liable to a jail sentence. We have had three varied explanations on the same point.

Mr J.B. D'Orazio: The last one was a good one.

Mr J.L. BRADSHAW: That is the member's opinion. Debate on this Bill should be adjourned. I would like to move that debate be adjourned until the minister gets a grip on the Bill.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs M.H. ROBERTS: The difficulty here is that I am not proposing to amend the Sentencing Act. I am stuck with the definition of incorporated bodies, unincorporated bodies and body corporates as defined in the Sentencing Act regarding how penalties can be applied. People have been asking me about provisions of the Sentencing Act, not the Firearms Act. Members opposite think they are being funny or cute. They know I have police advisers here who are experts on the Firearms Act, and one of the advisers is a little more expert on the sentencing legislation.

Point of Order

Mr M.W. TRENORDEN: I must admit that I have not been paying 1 000 per cent attention to debate, but I thought I heard a formal motion moved a few moments ago. We have proceeded beyond that formal motion.

Mr J.L. BRADSHAW: I actually moved the motion that the debate be adjourned.

Mrs M.H. ROBERTS: My understanding is that members cannot speak and then move an adjournment.

The DEPUTY SPEAKER: That is correct. The member has another opportunity if that is the way he wants to proceed. The minister is right.

Debate Resumed

Mrs M.H. ROBERTS: I have again been interrupted in my attempt to give a reasonable explanation. I am not in a position to amend the Sentencing Act or influence how that happens. We have said that we believe an appropriate sentence in this circumstance is \$8 000 and two years jail. As always, the courts determine penalties in accordance with those circumstances. Yes, there has been some confusion about the application of incorporated and unincorporated bodies to the Sentencing Act. The matter has been clarified. There is no need to further clarify it. If an incorporated body is involved, nobody will go to jail under the Sentencing Act. If a person or an unincorporated body is involved, the designated person runs the risk of going to jail. That is the clarification. That is clear. People might want to try to twist my words and say that I have got this or that wrong with the Sentencing Act and ask whether I know what applies when it is an incorporated body or whatever; however, I know these penalties are appropriate. They are consistent with what is in place nationally. We should move on and pass this legislation. We want these laws in place for the security of our community. I introduced this legislation in November last year and I asked the member for Kalgoorlie to deal with it in the last sitting week and he refused to do so.

Clause put and passed.

Clause 17 put and passed.

Clause 18: Section 19 amended -

Mrs C.L. EDWARDES: Paragraph (1ab) refers to a person guilty of a crime under subsection (1) committed in circumstances where the person was carrying both a firearm that is a subject of the offence and - "a prohibited drug or prohibited plant . . ." If the person were carrying both a firearm and a cannabis plant, would the person be guilty of a crime under this proposed section?

Mrs M.H. ROBERTS: From a simple reading of the Bill, I think the answer is yes. No-one is authorised to be in possession of two such plants. I have not sought advice on that question. I understand cannabis is covered in the Misuse of Drugs Act. No-one is authorised to have one plant, let alone two plants. Clearly, the legislation will apply to two plants.

Clause put and passed.

Clause 19: Section 19AA inserted -

Mrs C.L. EDWARDES: This clause inserts into the Act proposed section 19AA, headed "Certain offences of lesser severity". Halfway down subsection (1) it states that anything that is an offence under this Act that would not have been an offence if the licence had been renewed immediately after its expiry is not an indictable offence but is triable summarily and punishable by a fine of \$2 000 instead of the penalty. Subclause (2) refers to a firearm or ammunition and a prescribed paintball gun and provides that an offence in relation to those two things is not indictable but is triable summarily. If a person has a paintball gun, will he automatically attract a penalty of a lesser severity?

Mrs M.H. ROBERTS: The advice I have received is that those proposed subsections are inserted to deal with the matter of 14 years for trafficking so that an infringement notice can be issued for an expired firearm licence.

Mrs Michelle Roberts; Mr Rob Johnson; Mr Matt Birney; Mrs Cheryl Edwardes; Mr Ross Ainsworth; Mr Bob Kucera; Mr Dan Barron-Sullivan; Acting Speaker; Mr John Bradshaw; Mr Paul Omodei; Mr Max Trenorden;
Deputy Speaker

Mrs C.L. EDWARDES: I am having difficulty interpreting the two clauses and their interaction and in understanding how they apply to a paintball gun. Does the offence of dealing with a paintball gun attract a lesser penalty?

Mrs M.H. ROBERTS: Yes.

Clause put and passed.

Clauses 20 to 23 put and passed.

Clause 24: Section 23B amended -

Mrs C.L. EDWARDES: This deals with disclosure by doctors of certain information. It appears that the number of professions that can come under "health professional" has been expanded. Proposed paragraph (e) refers to a prescribed class of professional counsellor. To whom does that apply? Is it people who must be accredited in their profession?

Mrs M.H. ROBERTS: Under the Firearms Act, a medical practitioner can provide that advice to the Commissioner of Police and be protected from repercussions that might flow from that action. It was determined that a greater range of medical practitioners should be able to provide that advice to the commissioner and have the same level of indemnity. The class of profession will be prescribed by the Commissioner of Police.

Mrs C.L. Edwardes: Is it assumed that they will be automatically ordinarily accredited?

Mrs M.H. ROBERTS: I think so. The assumption is that they will be accredited in the same way as registered nurses, for example. We want the other professional health and social workers to be accredited to the equivalent standard of at least the level of a registered nurse. If anything, we would consider someone more senior rather than junior. This is a very good provision. At the Council of Australian Governments I was surprised to learn that in most of the other States no indemnity is in place for medical practitioners who provide that advice. To have that classification extended will be very useful. Most of the States allow people to have indemnity when they provide advice about whether a person should drive a car, but the firearms legislation in other States does not allow it to be provided to doctors concerning people who own guns.

Clause put and passed.

Clauses 25 to 31 put and passed.

Title put and passed.

House adjourned at 5.29 pm
