

**FIREARMS AMENDMENT BILL 2003**

*Second Reading*

Resumed from 30 March.

**HON DERRICK TOMLINSON** (East Metropolitan) [12.44 pm]: I rise to signify the Opposition's support for this legislation. Before I proceed, however, I want a point clarified. It was my understanding that the Government was not intending to proceed with this Bill at this sitting because of amendments that are proposed to be made. I have a copy of "Supplementary Notice Paper No. 251: Issue No. 1: Friday, September 24 2004", which contains amendments to clauses 11 and 16 in the name of the Minister for Housing and Works. I ask for clarification, Mr Deputy President (Hon George Cash), whether they are the amendments to which the Government referred or whether other amendments are yet to come forward, as that will determine the Opposition's position on the Bill.

Hon Nick Griffiths: I understand only 15 minutes are left to debate the Bill today.

Hon DERRICK TOMLINSON: Yes.

Hon Nick Griffiths: The issue of whether we proceed to the committee stage is irrelevant, as I do not believe we will complete the second reading debate. The second point I make, without being too unruly in my interjection, is that the arrangement between the Government and the Opposition, and I understand other parties, was that we would not go into any committee stage during this sitting because of the expense involved in, among other things, bringing in advisers.

Hon DERRICK TOMLINSON: Yes.

The DEPUTY PRESIDENT (Hon George Cash): Members, I think the point is made. There may be further amendments. As the minister said, about 15 minutes remain for debate on the second reading of the Bill. If Hon Derrick Tomlinson wants to reserve his position to examine further amendments should they appear, I will put the question that he be given leave to continue his remarks at a later stage, as I think there are other speakers. However, that is entirely up to Hon Derrick Tomlinson.

Hon DERRICK TOMLINSON: Mr Deputy President, I will continue my remarks at a later stage, whether or not I seek leave.

The DEPUTY PRESIDENT: Fair enough. Hon Derrick Tomlinson on the Bill as it stands.

Hon DERRICK TOMLINSON: Since there are some amendments yet to come, we will deal with those in detail in the committee stage.

Hon Nick Griffiths: At the moment we are dealing with the second reading.

Hon DERRICK TOMLINSON: Precisely, but it is the second reading of a Bill to amend the Firearms Act 1973, for which some amendments have been foreshadowed. Now I am told the Act will have new amendments. Those new amendments mean we will be dealing with a different Act.

Hon Nick Griffiths: I think you should relax.

Hon DERRICK TOMLINSON: I think I have made my point.

The DEPUTY PRESIDENT: The minister should not worry about interjecting. Hon Derrick Tomlinson has made his point.

Hon Ken Travers: You have given your performance; you have not made your point.

Hon DERRICK TOMLINSON: I have not yet started my performance, so do not provoke me!

The DEPUTY PRESIDENT: Members, I want to make some progress on the Bill. If government and opposition members do not, I will call another speaker.

Hon DERRICK TOMLINSON: The second reading speech on the Bill was delivered on 30 March and on that day, in accordance with standing orders, it was referred to the Standing Committee on Uniform Legislation and General Purposes. The committee tabled its report on 22 June. I am sure the chairman of the committee, Hon Adele Farina, will give us a detailed explanation of the committee's report. I will therefore not deal with the report, except where it infringes upon some of the things I have to say.

The Bill has two parts. Part 2 relates to amendments about paintball. Part 3 refers to amendments about hand guns and other matters and does two things. One is to introduce amendments to the Bill to rectify some grammatical infelicities that have caused confusion in the interpretation of the Bill. The other is the

Government's response to the Council of Australian Governments' recommendations on hand guns; that is, a further extension of the control on firearms to which the States have agreed. The States have now extended their concurrence to deal with hand gun control following an incident at the Department of Econometrics and Business Statistics at Monash University where a disgruntled student fired upon and took the life of a tutor and, I believe, two students.

The first part of the Bill deals with some amendments to a recreational activity called paintball. Paintball is apparently a recreation in which adults dress in costumes, arm themselves with air guns of a particular kind and equip themselves with a projectile that is called a paintball. It is not made of hard rubber; it contains a dye of some sort. Dyes of different colours are available. The adults then play hide and seek in the bush attempting to shoot, but not be shot in return by, other adults in a team of a different colour. If a person manages to be hit by a paintball, I understand that it explodes and leaves a coloured dye on the costume of the unfortunate victim. An umpire runs around with a flag and decides whether the person hit is mortally wounded and therefore out of the game or whether the person can count to 10 and then continue.

Hon Simon O'Brien: You are not a great fan of paintball, are you?

Hon Louise Pratt: I challenge you to a game.

Hon DERRICK TOMLINSON: It is a game that I used to indulge in. We used to call it cowboys and indians! The difference with cowboys and indians is that a person had to shout, "Bang, bang, you're dead!" The person at whom that was shouted had to count to 10 before he could get up and say that he was alive. If a person became very skilled at counting to 10 very fast, he could hit the ground and get up before his opponent could fire a second shot and he in turn could then shout, "Bang, bang, you're dead!" Therefore, the rules were changed to become, "Bang bang, you're dead - count to 100."

Hon Ken Travers: I used to play World War II and say "Tank, tank", upon which the other person had to sit down immediately.

Hon DERRICK TOMLINSON: Is that a fact? I would have thought that the sound the member made would have started with a "w" rather than a "t"!

However, the game of paintball is restricted under the legislation to persons over the age of 16 years. Persons under the age of 16 years will be precluded from playing the game. I do not think such persons play cowboys and indians any more; I think it is Space Invaders.

Hon Louise Pratt: Quasar!

Hon DERRICK TOMLINSON: That is a new one on me. I do not know what are the rules of Quasar. I am sure they are very similar to the rules of paintball.

Paintball is a quite serious recreation that people participate in. Quite clearly, it is not one about which I am enthusiastic. However, other people are.

Hon Kim Chance: It is a healthy outdoor activity.

Hon DERRICK TOMLINSON: I am told it is a very healthy outdoor activity. I am also told it helps develop leadership, teamwork and strategy in playing games.

Hon Robin Chapple: I understand that George Bush played it once.

Hon DERRICK TOMLINSON: If George Bush played it once, I make no comment whatsoever. Some people are quite enthusiastic about this game. Until now, however, it has been played illicitly, because paintball has been unlawful. The weapon used is a firearm under the Act. That was confirmed in the Fremantle Magistrates Court only recently when the magistrate reaffirmed that the weapon was a firearm under the Act. The Police Service has consistently opposed the legalisation of paintball because of the weapon involved. In fact, the last time I recall this being lobbied about it was in the early 1990s when Hon Graham Edwards was Minister for Police and when he, acting upon the advice of the firearms department of the Police Service at the time, would not proceed with the recommendation.

This Government has seen fit to allow paintball to be played and has in this Bill provided some laws for the control of the use of those weapons. The Opposition does not oppose the Government's proposal. However, it is interesting that the proposed amendment to section 8 provides that a person is permitted to use a paintball gun or the prescribed paintball pellets only with the permission of the owner of the paintball gun. The owner of the paintball gun may be an approved club or an approved organisation, in which case the approved club or approved organisation - I suppose that is the paintball game purveyor - will give permission, no doubt for a fee, to people to use its guns.

When we were briefed on the Bill I asked quite specifically whether the Act would preclude an individual from owning a paintball gun. I was told quite clearly that an individual may own a paintball gun. I am told that the aficionados of this game have quite sophisticated weapons that meet the requirements of the regulations and are cannot be modified to fire a projectile other than a paintball and so on. Because of their enthusiasm for the game, they have an enthusiasm for particular weapons. If a person holds such a weapon, of course it may be used, and I assume “used” means to point at and fire at a person, not to use it in any other way. It may be used only in an approved venue.

Hon Nick Griffiths: A consenting person, I hope.

Hon DERRICK TOMLINSON: Firing at a consenting person? I do not think that people are allowed to point a firearm at a consenting person. I think the offence is pointing a firearm at a person, consenting or otherwise. Very seldom is the person having a firearm pointed at him a consenting person. In this case the consent is about the use of the firearm. If I own a firearm, I may consent to other persons using that firearm. If they take my firearm without my consent, the assumption is that they cannot use it but enthusiasts of the game of paintball will have authority to play the game.

The other amendments relate to changing the penalties for some offences, and changing the syntax of some of the clauses to clarify the intent of the legislation and to deal with the Council of Australian Governments’ recommendations on the control of the use of hand guns in particular.

Debate interrupted, pursuant to sessional orders.

*Sitting suspended from 1.00 to 2.00 pm*