

**ACTS AMENDMENT (WEAPONS) BILL 2009**

*Second Reading*

Resumed from 14 October.

**MR M. McGOWAN (Rockingham)** [2.49 pm]: I am happy to speak on the Acts Amendment (Weapons) Bill 2009, but I indicate to the house that I am not the lead opposition speaker on this bill; the member for Girrawheen is the lead speaker. She will be back momentarily to carry on her remarks.

The opposition supports the Acts Amendment (Weapons) Bill, which deals with some of the dangerous weapons that are out there in our society. We, as an opposition, always want to be tough on the carrying of illegal and unlawful weapons. We have always been tough when it comes to the ownership and the proliferation of guns throughout our society. We have always led the debate on those sorts of matters because of the danger that they pose to members of our society. I find it interesting that there are places where such products can be purchased. Although a knife is a knife —

**The SPEAKER:** Members may not be interested in the bill before the house or they may have other business to do, but I ask that if they have other business to do, they take it outside or hold their conversations very quietly.

**Mr M. McGOWAN:** I find it interesting that there are places where such dangerous and easily concealed products can be purchased. A knife is a knife; there are knives in my kitchen that would be very dangerous if one were to carry them into an environment in which one wanted to do the wrong thing. Other sorts of knives are dangerous in the same sense. There are also other items of paraphernalia—knuckledusters and so forth—that are dangerous to ordinary citizens. If they are carried into a nightspot, it probably adds a little more danger. They look like implements that are designed not for ordinary household use but for people with certain proclivities who wish to carry them around and perhaps show to others. I have a strong attitude towards the carrying of weapons; I have a very, very strong attitude towards the carrying of firearms. Having seen what a firearm can do to living things, I have very strong views about minimising the level of firearm ownership in our community. By minimising the level of firearm ownership we will minimise the number of people who are killed or wounded or who indeed kill themselves with such weapons.

This legislation deals with matters to do with the age at which one can lawfully possess such articles. It provides for increased penalties to be put in place for people who carry such weapons. It deals with people caught carrying prescribed amounts of cash and offensive weapons in public places, because of the relationship between carrying weapons and carrying drugs. There are some tough measures contained in this legislation, but I think that they are probably reasonably fair in the context of these matters. I think that this legislation, in conjunction with the laws that we already have in Western Australia, will be reasonable; I do not however think that this legislation will be reasonable in conjunction with some of the other legislation that we have been debating in this chamber over the past few days. The laws already in place in Western Australia allow a police officer who has a reasonable suspicion that a person is committing an offence or carrying an offensive weapon to search that person. Those laws are already in place, and have been for a long time. There are such laws in place in other states, and they reflect the idea that there should be some control over the exercise of power by police forces in Australia. The idea of some sort of fetter or control on police powers is something that I fundamentally believe in. As I said in this place yesterday, societies that move away from that idea go down a slope of unfettered police powers that will inevitably end in tears. I do not support unfettered police powers, and I think the other legislation we are dealing with will provide police with unfettered powers that are unnecessary in our society. However, the existing laws provide some checks and balances on the exercise of police powers, such as the power to search members of the community to determine whether unlawful weapons are being carried. The existing laws, in conjunction with this and other laws, are reasonable. The vast majority of Western Australians believe that the police should not have unfettered power; ordinary Australians show commonsense on this matter.

The opposition gave an undertaking to the government that it would not spend a great length of time discussing the Acts Amendment (Weapons) Bill 2009. It is my view, however, that we should spend a lot of time discussing the stop-and-search powers relating to the Criminal Investigation Amendment Bill. I know that the opposition has proposed some amendments to the bill, and it will prosecute them vigorously. That debate will take the lion's share of the time we devote to these matters over the next couple of days. The Leader of the House has told me that he is determined to push this legislation, the arson legislation and the stop-and-search legislation through the house this week. Opposition members were very cooperative on the arson legislation; we proposed reasonable amendments and the shadow Attorney General was very reasonable in his approach to debate. We put our amendments, we were defeated, and we supported the legislation. We will exercise the same approach to this legislation. In fact, I suspect that debate on this legislation will be over by four o'clock; that is certainly my

expectation, depending upon what the Independent members, the Greens (WA) member and Liberal Party members might do.

However, the stop-and-search legislation is a fundamental point of difference for me. I have grave concerns about that legislative approach by the government; it will fundamentally change the nature of our community and society. The sorts of arguments I have heard in justification —

**The SPEAKER:** The member for Rockingham knows that he is addressing a different bill at the moment. I know that he appreciates that fact and that I have given him every opportunity to enable the return of the opposition's lead speaker, but I ask him to address the bill at hand.

**Mr M. McGOWAN:** I fully appreciate your advice, Mr Speaker, and always accept it unconditionally. I will return to the Acts Amendment (Weapons) Bill 2009.

During question time, the Minister for Police referred to types of weapons; I am sure he will wave some of them about shortly! Mr Speaker, your indulgence in that regard was perhaps the only blemish on your time in the chair, by allowing the member for Hillarys to bring dangerous weapons into this place! We will know within an hour whether it was a good or bad decision. It brings to mind the fact that the government and opposition are separated by only two and a half sword lengths; the only problem is that I do not have a sword! I suppose we are all at the mercy of the Minister for Police because of the weapons he has in his possession at the moment, although I suspect that most of us would be faster than he is and would probably escape!

**Mr R.F. Johnson:** I wouldn't bet on it!

**Mr M. McGOWAN:** I am pretty sure I could get to the mace before the minister could get to me!

That is largely all I have to say about these laws. I support measures to deal with the unlawful carrying of weapons. I do not like the idea that people might carry weapons; I particularly do not like the idea that people might carry unlawful handguns, rifles and other firearms. I think that is a very disturbing development. I do not think it is largely prevalent; I know that some significant changes were made by Prime Minister Howard in 1997 that made a big difference to the number of firearms in our community. I supported that initiative by Prime Minister Howard, although I always thought it was unfortunate that it did not happen in the early 1990s, following the Hoddle Street massacre. After what happened in Tasmania, steps were taken to remove such weapons. I have always thought that that was probably the finest hour of Prime Minister Howard's term in government. It came about after the shocking act of an individual, but I do not think it was something that Prime Minister Howard had on his agenda when he came to office. However, circumstances intervened and he took what I thought was decisive action. It could have been done earlier; people would perhaps still be alive if it had. If the commonwealth wanted to go further than Prime Minister Howard went, I would think that would be a reasonable thing to do and it would receive the support of the state. Western Australia has always had pretty strong laws for the containment of weapons in the possession of people. However, I maintain that we could be a little tougher, because people in this state continue to suffer from firearms offences, and people continue to die and inflict injuries on themselves from the use of these sorts of weapons. One aspect of a gun, as opposed to other implements, is that it is very easy to use, if people want to use it for those purposes. On that note I conclude my remarks.

**MS M.M. QUIRK (Girrawheen)** [3.00 pm]: I thank the member for Rockingham for filling in in my absence. I am the lead speaker for the opposition on this Acts Amendment (Weapons) Bill 2009. I indicate to the minister that we need some clarification on the detail of certain issues, but that by and large the opposition is supportive of the bill. Having said that, we need to make a couple of points.

Firstly, the bill is in almost identical terms to one that passed the Legislative Assembly under the stewardship of Hon Jim McGinty, MLA and Attorney General, prior to the last election. It would therefore be extremely churlish of us to oppose this legislation in any way. However, the opposition has had a number of representations from people seeking clarification of the bill, and I will raise them either now or alternatively at the consideration in detail stage when I am sure the minister will have a satisfactory answer.

The rationale for the bill is to restrict the carrying of weapons in places of entertainment. It creates an offence of going armed in company; it increases penalties when weapons are possessed with either cash or drugs; and it prohibits the sale or supply of controlled weapons to minors. Without explicitly saying so, these changes are aimed at gang-style activity; at preventing the use of weapons to enforce other illicit activity, such as drug dealing; and, very importantly, to limit the supply of weapons to minors.

The opposition does have some concerns about the legislation. For example, the onus of proof for a person who has a lawful reason for possession of a weapon has been reversed. It could be argued that this puts persons who have a legitimate excuse for being in possession of such a weapon to the expense and inconvenience of proving

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that fact. It is hoped that that issue would be resolved prior to charges being laid, but it would be somewhat unfortunate if it did not. I will give an example of that shortly.

When we raised this issue at the briefing, we were given assurances that the decision to charge or not charge someone would be a matter of time, place and circumstance—I think those were the words used. That is not altogether reassuring. In any event, we can canvass that matter in a bit more detail shortly by referring to the example I referred to.

The bill prohibits the possession of dangerous or offensive weapons. That does not coincide with the definition of “prohibited weapons” and “controlled weapons” which is more readily understood under the Weapons Act; accordingly, the bill contains a much broader range of items. The definition of “place of public entertainment” is also wide. This raises a broader issue that is probably appropriate to raise in the current context; that is, the principle that the law should be readily accessible to those whom it purports to affect. In recent weeks two pieces of legislation on arson were introduced into the Parliament. People who are interested in knowing what the law is in a particular area will have to now refer to two pieces of legislation to sort out, for example, the meaning of “property” under the Arson Legislation Amendment Bill, as opposed to the Bush Fires Act and the Criminal Code. That is very unsatisfactory. Similarly, the bill before the Parliament deals with public places of entertainment, which will in fact be gazetted under amendments to the Criminal Investigation Act. This legislation has a broader definition. If someone wants to find out which rules cover a particular area, subject or issue, that person will be put to the expense and time of trawling through a number of pieces of legislation. Then that person will be left feeling not very confident that he or she has covered the field of legislation. I make that observation because it seems to be a trend that is currently occurring with the draftsmen, and I do not think it is favourable. It would be much better if more consolidation was given to these sorts of provisions.

One issue with the bill that I raised in the briefing was the example of archers attending the Royal Agricultural Society of WA showground for an exhibition being unwittingly caught up under this legislation.

**Mr R.F. Johnson:** No.

**Ms M.M. QUIRK:** I did in fact send a letter to the minister’s office about that issue, although I have not yet had a response. The member for Collie-Preston raised the issue with me and gave me a letter he had received from the Australian Bowhunters Association that reads —

I am concerned with the wider implications of the proposed amendments to the Weapons Act that on our sport of Field Archery.

ABA.W.A. is the Western Australian body of the National Organisation (Australian Bowhunters Association). The ABA is recognised as the controlling body for the development of Field Archery in Australia and as such offers a wide range of benefits to its members. Field Archery is one of the few sports which has full participation irrespective of age or sex. The majority of members join as a family group with female participation as strong as the male at all ages. We have competing members as young as five ... and as old as eighty ...

Our aim and objectives are to promote the status of Field Archery to a high level of acceptance and recognition in Australia; to maintain a Code of Ethics for the sport of Field Archery and to educate members and non-members alike to attain and uphold that standard. We promote and preserve the less sophisticated forms of instinctive archery whilst allowing for, and assisting, the more competitive and sophisticated schools of archery.

The letter goes on —

**Some of the implications of the proposed changes to the Weapons Act and the issues for our Association are as follows;**

**The bill would make it illegal for our junior members to be in possession of a bow. What will this do to the sport of archery? There are Archery programs running in most schools in Western Australia. How will these be affected? Our junior members are the future of our sport and without them the sport of archery in this state will not survive.**

**“Being Armed in Company” Would this mean that a gathering of archers at a competition event be an illegal gathering and the police could charge the competitors?**

**Mr R.F. Johnson:** No.

**Ms M.M. QUIRK:** I know that the minister is saying no. I looked at the legislation and thought it was marginal, but the members of this association are seeking clarification. I would therefore be grateful if the minister could just listen. The letter continues —

**“Having Ready Access to Both Weapons And a Prescribed Amount of Cash” Would an Archer travelling to or from an organised archery event with his equipment or be at their place of residence be in breech of the proposed changes if they were stopped or visited by the Police?**

This bill has been introduced to quickly and without appropriate consultation with the appropriate sporting bodies that will be affected unintentionally by the proposed changes. Currently Bows are a Controlled item under the existing regulations and it is proposed that they become a prohibited item. This will affect all archers in this state and see the demise of archery as a legal family sport. Archery as a National and International Sport in this State will no longer exist. Western Australian Archery Associations will no longer be able to promote or hold events here as visitors will be turned away by the legal issues involved in bringing their archery equipment into this state.

We as an Archery Association would appreciate any help that you are able to provide in having the proposed changes to the Act amended so that legitimate sporting organisations are not affected to a point where are forced to close down.

I am sure the minister can placate these very legitimate concerns, and we look forward to his response. That response will then, of course, be on the record so that if in future there is some contention, people will know exactly the intent of this Parliament. As I have said, because this is legislation that was brought in by the former Labor government, I do not know that the accusation about the lack of consultation is really valid. However, in any event, I am reporting the representations that have been made by that group.

I turn now to the provisions in the legislation about having access to both weapons and cash, and to both weapons and illegal drugs. I commend the minister for these provisions. I was involved in some amendments that relate to the possession of unlicensed firearms in conjunction with either cash or drugs. The reason that both these instances are particularly odious is that the implication can be drawn that these weapons are being used to enforce drug debts and to collect moneys owed, or to facilitate the distribution of drugs. I therefore commend the minister for introducing those provisions.

Of course, it would be remiss of me not to talk about the sale of weapons to minors. It would also be remiss of me, and I think the minister would be disappointed, if I did not upbraid him for the fact that about a year ago the opposition introduced private members' legislation relating to the sale of certain weapons to minors. Therefore, there is a bit of *Groundhog Day* here, in that it has taken this government a year to introduce what I consider are reasonably straightforward provisions. There is no question that a culture is developing whereby young people are going into public places armed to the hilt with a range of weapons. This is a culture that we should not condone and should do everything we can to discourage. I am very pleased that the minister is proposing to prohibit not only the sale of certain weapons to minors, but also the possession by minors of certain weapons that they have no legitimate reason to have.

As I have said, during consideration in detail I will be seeking some clarification from the minister and some assurance that groups such as the Australian Bowhunters Association will not unwittingly fall within the purview of this legislation.

**DR J.M. WOOLLARD (Alfred Cove)** [3.11 pm]: I thank the Minister for Police and WA Police for the comprehensive briefing that they have provided on the Acts Amendment (Weapons) Bill, and for answering many of the questions that I have about this bill. Now is probably a good time to put on record again what the minister said in his second reading speech —

The government has been concerned for some time about the actions of certain people in our community who think that they can go armed in public to threaten others, cause harm and create fear.

In relation to people going armed in public, I want to remind the Minister for Police of the Western Australian Auditor General's "Third Public Sector Performance Report 2009". That report deals in part with the regulation of firearms. The Auditor General stated at page 4 of that report —

In Western Australia 85 000 people and organisations own approximately 300 000 firearms. This is the third examination we have made of this area since 2000 with past examinations finding important areas needing improvement.

He went on to state at page 5 that the number of firearms has increased by 20 per cent since 2004. He stated also —

The audit examined whether WAP now has appropriate procedures and practices to ensure that only people and organisations meeting the requirements of the *Firearms Act 1973* are issued with firearms licences.

The Auditor General went on to state —

WAP is not adequately regulating and overseeing the possession, use, dealing and manufacture of firearms.

The Attorney General stated at page 6 of his report —

WAP does not have a risk-based program for monitoring if licence holders comply with requirements, even though there are 300 000 firearms held by 85 000 licence holders. It carries out some proactive compliance monitoring, but procedures are not documented and records are patchy and inconsistent.

This is the third Auditor General's public sector performance report since 2000 that has dealt with the regulation of firearms. So, yes, I am pleased that this legislation, which seeks to decrease the number of assaults related to the use of weapons, is on the table. However, it is clear from these three reports that WA Police needs to do more to deal with the regulation of firearms.

The Auditor General said at page 17 of his report that although WA Police tracks the movement of registered firearms, data in the register is inaccurate in some crucial areas. He said also, at page 19 of his report, that WA Police does not always check that firearms are disposed of appropriately when licences are no longer current. I think it is appropriate that that be put on the record now as part of this legislation, because it is clear that there is room for improvement in the regulation of firearms.

Recently, constituents phoned me to complain about a radio program on which some people in the south west were advertising some blocks of land that were for sale and were offering the purchasers of those blocks a free firearm. I have written to the minister about this matter, and I will be seeking some clarification from the minister on this. The member for Jandakot is nodding. The member has probably also had constituents phone him to complain about the radio program on which this was being advertised. That type of advertising is certainly not appropriate, so I hope the minister will look into that and it will be stopped in the future.

One of my concerns about this bill is that it does not provide a definition of "armed". The government seems very happy to codify in some areas, but not in others. Proposed sections 68B and 68C of the bill hinge on a person being armed. Because a definition of "armed" has not been provided, we need to rely on the common law definition. A common law definition of "armed" is provided in the judgement in *Patrick Anthony Ashcroft v The Queen* as follows —

"Armed", as it seems to me, means simply having on the person or ready to hand . . .

It goes on to say —

I do not say that a man must necessarily have the weapon in his hand to be armed with it, but he must have it immediately ready for use.

It is one thing when a person has a weapon on his or her person. However, what will happen if the police apprehend a person who has a weapon in his or her car? I am concerned about how this legislation will stand up in court. I therefore hope that the minister will provide a definition of "armed" for the record and state how that will apply when a person has a weapon in his or her possession or a weapon is in the near vicinity of a person. I also note that section 68C of the bill states that the person is in a public place when in company with two or more other persons. When I checked with the legal advisers, it was made very clear to me that this phrase usually means the person with one other person. It does not mean—as some people might think when looking at this bill—the person who is armed, with two others. It is not. It is the person who has the weapon, and another person with him or her.

Again, I would like to thank the advisers for the list of weapons that currently come under this bill and the list of all the new weapons, some of which I had not heard of previously, that are now going to be covered by this bill.

**MR M.P. MURRAY (Collie-Preston)** [3.21 pm]: I rise to speak briefly on the Acts Amendment (Weapons) Bill. During the minister's second reading speech, he stated —

The Acts Amendment (Weapons) Bill 2009 will strengthen the existing offences in the Weapons Act 1999 by increasing the relevant penalties. In addition, the bill creates new offences placing restrictions on the sale and supply of controlled weapons to persons under 18 years of age.

I do not have a problem with that. I must say at the outset that I absolutely detest people who go armed in public with any sort of weapon, whether it is a knuckleduster, a knife or whatever. I think it is the most gutless and

**Extract from Hansard**

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cowardly way of people trying to get revenge on others. I have no sympathy for any of those people who have been jailed or whatever. It is quite different now; times have changed. In my day, if we had a bit of a blue and someone pulled a knife, that person got the biggest hiding of their life. Now it seems to have become normal practice. It is something that annoys me immensely. I certainly support the increased control and the increased penalties.

“Controlled weapons” includes a machete, bow and crossbow. The member for Girrawheen has already spoken about the club that has approached me. I hope that club is accommodated in this matter. In Collie, we have two state archers who have just received awards, and also a scholarship from Healthway. On one hand we talk about Healthway giving scholarships, and, on the other hand, we say that people cannot have their weapons to practise their sport. I am sure that the minister is flexible enough to adjust that.

I will continue with the list of controlled weapons. Then we go through to dagger, double-end knife, fixed baton, hand or foot claws, machete, metal whip, sickle or scythe. Then we come to spear and spear gun. The member for Scarborough is not in the chamber, but if this legislation is enacted it will affect her retail outlet. Over the Christmas period, I will see hundreds—and I mean hundreds, if not thousands—of youths, probably from the age of 12 years upwards, who will have spear guns and the very popular hand spears. I would rather see hand spears controlled so that the spear ends have to be taken off when they are carried in public. People will use these spears. They are for sale in every fishing and recreation shop. They probably come in around \$25 to \$30 each. I know the rubber ones cost \$8 because I bought one last year. In saying that, it is a tool. I suppose, just as kids get a pair of goggles and a pair of flippers to swim around the reef, they get these hand spears to shoot one or two parrotfish—that sort of thing. I have seen accidents. I have not seen or heard of them being used as a weapon as such. To take away the ability of a person under 18 years of age to buy such items, or any part of them, and utilise them would be a move in the wrong direction. The bill is not aimed at those people. I would love to see kids carry on swimming in the right spots over the reefs doing all the healthy stuff that comes with such activity—interacting with their mates and bragging about the biggest fish they have shot for the day. I really think the minister should think this through before he makes the decision in that regard.

The member for Scarborough would possibly have sold hundreds, if not thousands, of spears in her agencies. They are cheap and they are light. They unscrew in half. The spear end can be taken off the top. The same goes for spear guns. If a spear gun was in public, I would expect that the law would be changed so that people could not have the spear in the gun. The spear would not necessarily be in a case, but it would be required to be unloaded to become a “useless” weapon, unless it is used by the butt end. The spear can be taken out and it can be carried from one place to another.

I take many young fellows spear fishing with me, and most of them have a spear gun. Quite a few of them are in the 16 to 18-year-old range, and, really, it could be that they would be in control of an illegal weapon. I do not want to see that happen because such fishing is a way of life in Western Australia. It is something that has been around for many years. It will be interesting to see what the minister has to say in that regard as we go through the bill. Maybe some amendments are needed so that people are permitted to have control of hand spears. I have seen them on the beach Marmion way—not in the marine park, but around those urban areas, where young kids walk across the road from their houses with these spears in their hands. They have good intentions and certainly no malice in mind about trying to hold up a bank or do any of that sort of rubbish.

The handgun issue needs to be brought back on the table, even though it comes under the Firearms Act. Again, I do not see any necessity in any way, shape or form to have a gun, unless a person is in a sporting club or—the one that has been missed out in this debate—on a pastoral station. I believe there is room in the future to nominate the stations, not the person; that is, the weapon must stay on that station and be utilised only for what they are carried for. The unexpected can occur. A person may not be able to carry a rifle on a motorbike, but that person may run into a scrub bull and need a rifle for protection. I think we should be looking at those situations as well.

A couple of small amendments are required. I certainly support the main thrust of the bill and the attempt to disarm people. Knuckledusters are something that I have seen in recent times that are of concern. This aspect may not be written in the legislation. Knuckledusters can now be made out of plastic and not be picked up by metal detectors when people go into nightclubs and that sort of thing. I have seen the most awesome looking things that would just cut a person to pieces if hit by one. Carrying them is mainly bravado, but people use them from time to time. I would like to see knuckledusters included in the bill as well.

**MR R.F. JOHNSON (Hillarys — Minister for Police)** [3.28 pm] — in reply: I thank members who have made a contribution to the second reading of the Acts Amendment (Weapons) Bill 2009. It is an important bill. It is one that we, the government, when in opposition, supported. The member for Girrawheen is quite right when she said this was Hon Jim McGinty’s bill. It is virtually the same. It has some very little differences. I am sure the

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member for Girrawheen is pleased that we have added the prohibitive sale of controlled weapons to minors. The member for Girrawheen wanted that in her bill, and I have accommodated that in this bill.

I want to try to allay some fears. If a person goes spear fishing, as long as that person is on his or her way to the ocean and not going to a pub or walking through Northbridge, he or she will have lawful excuse. If a person is going to spear fish, he or she will have lawful excuse to carry a spear gun.

In relation to the sale to minors, I will double-check the query raised. I know the member for Girrawheen wants to go into consideration in detail, which is a bit of a shame. In relation to bows, I have had the letters from bow and arrow enthusiasts, obviously. Once again, nothing in this bill prohibits a person who is a member of an organisation of archers taking a bow and arrow to a competition. I think the member for Girrawheen used the example of going to the Royal Show—it could be anywhere—but a person has to have a lawful reason to be in possession of that bow and arrow. There is no lawful reason to take a bow and arrow, or indeed a crossbow, into the streets of Northbridge or to the local pub or those sorts of venues. The now government supported the Labor Party's legislation, which, as I say, is before us. The member for Girrawheen also has concerns about the proof of lawful excuse. That was in proposed section 67F in the original bill.

**Ms M.M. Quirk:** That is fine, but I come from a different perspective. I am an ex-prosecutor, minister, so I take the view as to what can be proved and what cannot be proved.

**Mr R.F. JOHNSON:** The court of law decides what is accepted as proof and what is not.

**Ms M.M. Quirk:** I know, but I am just looking at it from a different forensic perspective from Mr McGinty, who first introduced it.

**Mr R.F. JOHNSON:** I think it was the member for Girrawheen who mentioned the archers attending the Royal Show. Of course they would have lawful excuse to carry their weapons, but they would not have lawful excuse if they took them into Northbridge, the City of Perth or the local pub. This government is not trying to prevent people from pursuing recreational activities, just as the previous government was not trying to do when it was in power. We certainly want to control the sale of any weapons to minors. That is a responsible thing to do and I know that the member for Girrawheen, as the opposition's spokesperson on this legislation, endorses that view completely. I think that every member in the house would agree with that view. A young person who wants to learn archery can go along to a club with his or her parents and, as long as the weapon is in the control of an adult, that young person will not be committing an offence.

**Mr M.P. Murray:** It is the uncertainty.

**Mr R.F. JOHNSON:** I am laying it on the table now that it will not be deemed to be an offence, provided that an adult is in control of the weapon of the young person who is learning archery. It is on the *Hansard* record, so any court of law and any lawyer can look at *Hansard* and read my comments. That is not the intention of this bill; the intention is that we do not want young people to be able to buy any controlled weapon from a shop, because we think that is irresponsible. We have seen the increase in violent crimes; every member of this house has seen it. Earlier I sought the permission of the Speaker to show members of the house some of the weapons that the police are taking from people in Northbridge and the central business district. I do not do this as a stunt. I was horrified when I saw these weapons this morning.

**Ms M.M. Quirk:** But I showed you some last year.

**Mr R.F. JOHNSON:** The member for Girrawheen did not show me anything like the weapon I am now holding up. This is a weapon that was taken from —

**Ms J.M. Freeman** interjected.

**Mr R.F. JOHNSON:** They can sell them, but no longer to a juvenile.

Several members interjected.

**The SPEAKER:** Members!

**Ms M.M. Quirk:** Do you call that a machete? That's not a machete!

**Mr R.F. JOHNSON:** I call this a machete. I promise the member that mine is bigger than hers!

**The SPEAKER:** Member for Girrawheen, is that a real knife, or whatever you want to call it?

**Ms M.M. Quirk:** It is a machete, as I understand it, Mr Speaker. Fortunately, I purchased it last year for the purpose of private members' legislation. I had permission at that time to show it in the chamber. I am sorry that I

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did not get that permission renewed. I understood that it was for the purpose of debate and that there would not be any issue. Of course, it is stored in secure circumstances when not in this chamber.

**The SPEAKER:** I advise members that the minister came to me in good faith earlier today and asked me whether it would be acceptable to show these weapons in this place. I provided him with some instruction because I was interested in allowing members to see these weapons. I have never seen such things. It was very important that this was not a stunt, and that the weapons would not be tabled. They were to be brought here by the police and returned immediately by the minister to the police. Therefore, I gave that permission. Member for Girrawheen, I also accept what you are saying in good faith, and I do not have any dispute with that. However, this chamber is not a place for weapons. In making my ruling and giving the minister permission to bring weapons into this place, I looked at other jurisdictions and considered a wide range of articles that had and had not been permitted to be displayed for the purpose of debate. In many places, weapons were absolutely banned. I will give the minister the opportunity to continue his speech. Member for Girrawheen, I suggest that the item that you have on the desk stay on the desk and that, perhaps even more so, it be transported out of this place immediately because it really should not be in here.

**Mr R.F. JOHNSON:** Mr Speaker, I assured you that this was not a stunt, and it is not. However, I think that some members do not realise the sorts of weapons that are being carried on the streets of Northbridge and the CBD. I think some members do not realise the quantum of weapons that are carried on the streets of Northbridge and the CBD. That is not isolated to just those areas. I have never before seen weapons like these.

**Ms M.M. Quirk:** You have, because this time last year I produced the same weapons. You've been asleep for a year.

**Mr R.F. JOHNSON:** I have never before in my life seen a weapon like this one. I have seen something similar to this one, but that was on television or in a magazine. I have never been this close to a weapon of this nature.

Several members interjected.

**The SPEAKER:** Members!

**Mr R.F. JOHNSON:** I will come to the member for Nollamara later.

Quite frankly, I brought into this place only three weapons. This is a smaller dagger. This could quite easily kill somebody. Any of these weapons could quite easily kill somebody. These are the sorts of weapons that we want to get off our streets. These are the sorts of weapons in particular that should not be sold to minors. Can members imagine people under the age of 18 years buying any of these weapons, including this one that I am holding now, because they can at the moment? They will not be able to buy them in the future under the bill now before the house.

**Dr J.M. Woollard:** Minister, when are they defined as being armed—when they are holding them?

**Mr R.F. JOHNSON:** I will answer that question when we go into consideration in detail, because the agreement that I had with the opposition has been broken. Members opposite said that they would do everything in half an hour and they used well over half an hour. I do not intend to labour the point any longer. I want to get rid of these weapons out of the chamber; I want the police to have them back. I wanted members to see them because it was very important that they see them.

I thank members for expediting this bill through Parliament. I think it is a very important bill. I put on the record that an almost identical bill passed through this house previously and was sent to the upper house, but nothing happened in that place because it fell off the table when the election was called.

I wanted to restate the commitment of this government on weapons, and that is why I introduced this bill. This bill goes hand in hand with the stop-and-search legislation, because the stop-and-search powers will give our police the opportunity to seize the weapons that I have shown in the house today and others that are far worse. The member for Rockingham said that he considers handguns in particular to be the most serious weapons because they are concealable. I believe he has seen firsthand the damage and death that handguns can cause. These weapons will kill people; a handgun will kill people. I want all these controlled weapons to be taken off the streets of Western Australia, and this government has every intention of trying to do that.

I thank members who have taken part in the second reading debate. I commend the bill to the house.

Question put and passed.

Bill read a second time.

*Consideration in Detail*

**Clause 1 put and passed.**



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**Clause 2: Commencement —**

**Mr R.F. JOHNSON:** I answer a question that the member for Alfred Cove asked during the second reading debate, because I think it is the most appropriate time to do so. The member for Alfred Cove was interested in the definition under proposed section 68C, “Being armed in public in company”. “In company” means a person and two others, rather than a person and one other. That is what will be classed as going armed in public in company.

**Dr J.M. Woollard:** Did I misunderstand what was said at the briefing?

**Mr R.F. JOHNSON:** No, I am told that that was an error made by the adviser.

**Dr J.M. Woollard:** Does that mean that, although someone may have on him a terrible weapon, such as the minister held up in this house, because that person is with only one other person, for the purpose of the act he will not be classified as armed?

**Mr R.F. JOHNSON:** He would be classified as armed, but not in company. There must be two other people for it to be classed as being in company.

**Dr J.M. Woollard:** But would that person still be caught by legislation and classed as being armed with an illegal weapon, although, under this definition, he will not be considered armed in company?

**Mr R.F. JOHNSON:** Absolutely. Is the member satisfied with that answer?

**Dr J.M. Woollard:** Yes; I thank the minister.

**Ms M.M. QUIRK:** I am now confused. Will the minister repeat what he considers to be armed in company, and the circumstances in which that rule will come into play?

**Mr R.F. JOHNSON:** This description was designed by the previous government, and it was designed —

**Ms M.M. Quirk:** I want to know what the minister says it means.

**Mr R.F. JOHNSON:** I am saying it.

**Ms M.M. Quirk:** I do not need any embellishment; I would just like to know what it means.

**Mr R.F. JOHNSON:** If the member had been listening to her previous minister who introduced the original bill, she would know.

**Ms M.M. Quirk:** I want to know what it means; I do not want to go for a trip down memory lane, minister!

**Mr R.F. JOHNSON:** I am telling the member what it means. Do not be so grumpy; for goodness sake! Do not be so grumpy! Goodness me; she has been taking too many grumpy pills today.

The provision was designed to cover gangs.

**Ms M.M. Quirk:** I know what it was designed for; I just want to know what it means.

**Mr R.F. JOHNSON:** If someone goes armed in public in company, it means that he is with two other people, rather than there being that person and one other.

**Ms M.M. Quirk:** That is what proposed section 68C(2) states; is that correct, minister?

**Mr R.F. JOHNSON:** Correct; two or more persons.

**Ms M.M. Quirk:** If there are three people in total, does only one need to be armed to be captured by this legislation?

**Mr R.F. JOHNSON:** Correct.

**Ms M.M. Quirk:** I thank the minister. I hope that clarifies the member for Alfred Cove’s query.

**Mr R.F. JOHNSON:** I think the member for Alfred Cove was quite happy with my explanation.

**Dr J.M. Woollard:** I have one last interjection. It relates to case law and someone being in possession of a weapon of the type that the minister showed to the house. If, when the police come across the person, the person is standing next to an open car door and he puts the weapon down on the seat—so that he is not actually holding the weapon—will that person still be deemed as being armed under this legislation?

**The ACTING SPEAKER (Mr J.M. Francis):** Minister, before you answer that question, I draw to the attention of the members for Alfred Cove and Girrawheen that we are dealing with clause 2, “Commencement”. I am struggling to see the relevance.

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**Mr R.F. JOHNSON:** I was trying to be helpful.

**The ACTING SPEAKER:** I think we should be dealing with these questions —

**Ms M.M. Quirk:** The member for Alfred Cove started it!

**Mr R.F. JOHNSON:** I think we have almost concluded this; I was trying to be helpful to the member for Alfred Cove.

**The ACTING SPEAKER:** Please continue.

**Mr R.F. JOHNSON:** I have been sidetracked now. Was the question that if somebody had the sort of weapon that I displayed in the house today, which is a prohibited weapon, and he put it on his car seat, would he be considered to be armed?

**Dr J.M. Woollard:** Under this legislation, would that person be considered to be armed, even though the weapon is not on his person?

**Mr R.F. JOHNSON:** The normal definition under case law is that the weapon is readily available for the person to use. My understanding is that if the person has a weapon and he puts it on the car seat, because it is there it could be used; therefore, he would fall into the category of being armed. It is also in the context of constructive possession.

**Dr J.M. WOOLLARD:** I have one last question, and then I will leave the chamber.

**The ACTING SPEAKER:** Member for Alfred Cove, is the question to do with the commencement?

**Dr J.M. WOOLLARD:** I have one last question on that. One of the concerns I had about this legislation was that a person might have a Swiss Army knife or a diving knife or maybe a screwdriver, as well as some other tools that the person wanted to use for a purpose. I believe I was assured that, provided someone could give a reasonable excuse for why he had what could be classed as a weapon on him, the implement would not be classed as a weapon.

**The ACTING SPEAKER:** I will direct the minister: this, really, is a question that should be asked when we deal with clause 4, not clause 2. We are dealing with the commencement. Member for Alfred Cove, I will ask you to ask the question later.

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Sections 68A to 68E inserted —**

**Dr J.M. WOOLLARD:** A person might have on him a Swiss Army knife which is at the bottom of his backpack and which he uses for opening cans et cetera, or he might have a diving knife and other diving equipment or a screwdriver and some other tools in the car. Will the minister clarify whether those various items that I have mentioned would be classed as weapons for the purposes of this legislation, as I was given to understand from the briefing?

**Mr R.F. JOHNSON:** If somebody has a fishing knife and he is going fishing, that is absolutely a lawful excuse. It would not be a lawful excuse if the person was taking it to Northbridge, because he is not going fishing; he is going to Northbridge.

**The ACTING SPEAKER:** Minister, I ask you to direct your comments to the microphone a bit more.

**Mr R.F. JOHNSON:** I apologise.

If a person goes to Northbridge with a fishing knife, it will not be considered lawful. If he goes into a nightclub in Northbridge carrying a Swiss Army knife, it will not be lawful. If he was going backpacking, tracking or camping, that would be a lawful excuse to have a Swiss Army knife. They are still weapons; anything that can be used to cause damage to a person is a weapon. But in those circumstances people would be perfectly entitled to have those weapons because their activity—fishing, hiking or camping—would be a lawful excuse for having those weapons with them. However, if people are going to the local pub carrying weapons, and not engaging in any of those sorts of activities, it would not be lawful.

**Ms M.M. QUIRK:** Proposed clause 68A(2) states —

In sections 68B, 68C and 68D, being armed for defence is not a lawful excuse unless the person —

- (a) has reasonable grounds to apprehend that circumstances necessitating defence may arise; ...

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That clause, I think, brings squarely into play the issues raised by those associated with archery. We were told in the briefing that those circumstances would not give rise to possible charges under this legislation, because it was a case of time, place and circumstance. However, my concern, and I think the concern of stakeholders such as those involved in archery and other pursuits, is that people will be put to trouble, expense and inconvenience because of the reverse of the onus of proving something that is legitimate now and should continue to be legitimate.

**Mr R.F. JOHNSON:** The first circumstance to take place is the police officer's decision whether to charge somebody or not. If a police officer is satisfied with the explanation of the person carrying a bow and arrow that he is on his way to an archery club, I do not believe for one minute that a police officer would charge him. I can assure the member that police officers are not interested in chalking up a lot of work. However, as I said, if a person is carrying a bow and arrow and going into whatever town it may be, to shop or to go to the local pub or local restaurant, it would not be a lawful excuse. We do not want people carrying weapons in townships and metropolitan areas where they may have no intention of using a bow and arrow for the purpose for which they purchased it, which would usually be for an archery club. I think archery clubs and enthusiasts are jumping at shadows. As the member is fully aware, this bill is not intended to catch those people who are going from one place to another for the purpose of their recreational activities. Absolutely the same applies to spearfishing.

**Mr M.P. MURRAY:** I understand the time constraints, but I still have concerns that this is not clear-cut. What comes to my mind is somebody who has been to an archery club and stops in a car park on the way home to buy a loaf of bread. That person could still be caught because of the way this bill is constructed. We need some clarity. The minister might think that I am being pedantic, but we cannot allow this to happen. There are some concerns, whether it involves a spear gun or a bow and arrow. We must have it clear, because it is not at the moment.

**Mr R.F. JOHNSON:** Lawful possession exists now. If a person is on the way home from an archery club and stops off to buy a litre of milk, a loaf of bread or whatever, he still has a lawful excuse for possession of that controlled weapon, as long as he goes home afterwards and not on to a nightclub or somewhere —

**Mr M.P. Murray:** That is not what I am talking about.

**Mr R.F. JOHNSON:** Exactly.

**Mr M.P. Murray:** I am talking about a commonsense one, where commonsense does not always prevail.

**Mr R.F. JOHNSON:** We have to rely on our police officers for a lot of commonsense. I have faith in our police officers when exercising commonsense. They are not going to charge someone in those circumstances. The person would have lawful excuse for the possession of that item, whether it be a bow and arrow, spearfishing tackle or whatever.

**Mr M.P. Murray:** They would be in a satchel and not just lying around. They would be packed away. They are expensive items.

**Mr R.F. JOHNSON:** They are not readily accessible, so the person could not be charged with going armed, just as in the example I gave to the member for Alfred Cove. Nothing has changed here from the bill that passed this house when Hon Jim McGinty was Attorney General. The member supported the legislation then, and I have not changed it at all in that respect.

**Ms M.M. Quirk:** He is older and wiser, minister.

**Mr R.F. JOHNSON:** I am sure he is. He is definitely older! Nothing has changed. There is no intention to try to catch people out. What we want to do is to stop the sale of weapons to minors and to make sure that people who are carrying controlled weapons do so with lawful excuse. No person can claim lawful excuse if he goes into a nightclub in Northbridge carrying a bow and arrow, a knife or the sorts of weapons that I showed to the house earlier. He would never get away with lawful excuse, and I do not think members would want him to. However, in the member's country town of Collie if people want to go spearfishing, if people want to go from their home to the archery club, even via the home of one of their friends, there is not a problem; it is still a case of lawful excuse because their purpose and their intent is to go from their home to carry out their recreational or sporting activities. We are not saying that they must go straight from A to B otherwise they will be done for—not at all. Provided their intent is to go from A to B, and they might take a circuitous route because they might want to pick up a litre of milk, one of their friends or that sort of thing, they still have a lawful excuse for possession of that weapon. I hope that puts the member's mind at rest.

**Dr J.M. WOOLLARD:** I believe that something has changed from when this legislation came to the house previously. What has changed is that the police will not now have to have a reasonable suspicion for searching

someone. Certainly, when my children were younger and I was pushing prams there was a time when I carried a Swiss Army knife in my handbag. Swiss Army knives have scissors, a nail file, a screwdriver and all sorts of different gadgets. I carried one because I often found there was a need to have something like that. I think they also had tweezers and all sorts of other gadgets with them. I am concerned that there might be someone like me many years ago who might walk through Northbridge and be searched because of the other legislation and then convicted under this legislation for carrying a weapon, because the minister has said previously that a Swiss Army knife could be captured. I think therefore that things have changed. If the police do not have to have reasonable suspicion, why are we not allowing in this legislation that if somebody is able to give a reasonable excuse for carrying such an implement, that can be taken into consideration?

**Mr R.F. JOHNSON:** Under the weapons legislation people can carry an oleoresin capsicum spray if they believe that they may need to use it for self-defence purposes and for their own protection. Nothing else is changed in the legislation, other than the fact that we have increased the penalty for people in control or possession of controlled weapons who do not have lawful excuse. I have given enough examples of people being perfectly able to carry these weapons if they are going from A to B, if they have a lawful excuse, if they go to their local archery club, if they go to their local beach to do spearfishing, and all the rest of it.

**Dr J.M. Woollard:** That does not cover a person who carries a Swiss Army knife because of all the tools that the Swiss Army knife has on it, which she may find very handy to have in her handbag.

**Mr R.F. JOHNSON:** There are two areas that cover what the member is talking about. One is under the Criminal Code, and that is carrying a dangerous or offensive weapon. All these things we are talking about today involve people carrying dangerous or offensive weapons. They could carry a baseball bat. If they were to go into Northbridge with a baseball bat tucked down their trousers, they would not have lawful excuse to do that.

**Dr J.M. Woollard:** Would the fact that that person always carries a Swiss Army knife and finds it very useful be acceptable to a police officer apprehending that person and to the courts for why that person was in possession of that Swiss Army knife?

**Mr R.F. JOHNSON:** People carrying a Swiss Army knife cannot get onto a plane anywhere, for very good reasons. We want to discourage people from carrying Swiss Army knives if they are going into a nightclub in Northbridge. If they are going somewhere where they have a reason to use that Swiss Army knife, they would have lawful excuse.

**Ms M.M. QUIRK:** I will be very quick and put a question on notice to the minister. In light of these concerns, we have to act on the lowest common denominator. The minister would appreciate that a constable in regional Western Australia may not read *Hansard*. In relation to, for example, the mandatory imprisonment for assaults on police officers, an inspector overviews decisions to prosecute. I wonder whether it is possible for the first couple of years in which this legislation is bedded down for the minister to give an undertaking that maybe somebody senior will review all the charges under this clause. We would then avoid the situation where people unwittingly find themselves the subject of charges under criminal law and have to defend themselves under the reverse onus provisions.

Debate interrupted, pursuant to standing orders.

[Continued on page 8824.]