



Adrian Pederick MP
Member for Hammond

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FIREARMS (MISCELLANEOUS) AMENDMENT BILL

Mr PEDERICK (Hammond) (17:15): I rise to speak to the Firearms (Miscellaneous) Amendment Bill 2013. I, too, wish to note the concerns that other members on this side of the house have put in regard to this bill. I do not think anyone could argue with the fact that we want to round up criminals and criminal weapons and illegal guns, but I think there are many, many unintended consequences of this legislation. It has certainly upset people across electorates, and people are just unsure where they stand in regard to many of the clauses in this legislation. Certainly, at no time, do we condone criminal activity or the activities of outlaw bikie gangs.

I struggle a bit with the part of the legislation that limits the magazines that can be used for bolt action rifles. These could be .22s but they also could be larger calibre weapons. Some of these weapons have been adjusted so that they can take bigger magazines and, from what I am told, magazines, depending on the rifle, can be 10, 15, 20, 30 or even 40-round magazines. I guess for criminal activity, I would not think—

Mr van Holst Pellekaan: Come to the point, please.

Mr PEDERICK: Yes, I will. I will get to it. I cannot see too many bikies using bolt action weapons—I just cannot see that happening—or outlaws, that is, anyone practising criminal activity. If they were going to do illegal acts, I am sure they would have some sort of semi-automatic or automatic weapon which is, more likely than not, illegal. So, I struggle with this part of the legislation that will impact on a lot of gun owners. A lot of gun owners were impacted after what happened at Port Arthur. Port Arthur was a terrible tragedy for many people and the families who have lived since. The gun laws that came in then impacted on a lot of people, especially in rural areas.

We need to have sensible gun laws but we need to understand that people in the bush, and a lot of farmers, use them as practical tools of trade and for vermin control, and there are also a lot of professional shooters and a lot of people in sporting clubs who use some of these weapons. I guess the thing that concerns me with this business about restricting the magazine size above 10 rounds is whether it will mean that some of the class B firearms will essentially become class D if they can only use it as expanded magazines. The problem is whether people, as a consequence of this legislation, will want access to class D firearms, and I read from a police website which states that the access to class D means:

This will be limited to an applicant who gains their livelihood wholly or partly from professional shooting and the applicant needs the firearm to destroy animals in the course of professional shooting. If the applicant does not satisfy the legislative requirements to have possession of a class D firearm, the applicant will not be granted a firearms licence to possess these firearms.

I think there is something there we need to clear up, especially during the committee stage, regarding these firearms that have been adjusted to take bigger magazines, and I know that some can take bigger magazines without adjustment.

I am also very concerned with the fact that, in the handback provisions in the bill, there will be no compensation whatsoever. Some of these magazines that these people have invested in as legal gun

owners in the community are worth hundreds of dollars. I just want to read into *Hansard* some correspondence from one of my constituents:

I write now as a concerned firearms owner. I have legally owned and used a number of different classes of firearm since I was a teenager. I am now on the wrong side of 60! I have been a responsible hunter and target shooter for over 50 years, and wish to continue this sport until I am no longer able. I have served in the Australian military for a combination of 21 years and have instructed in the safe use of firearms and weapons to soldiers and cadets since the early 70s I am still actively involved in the ex-services community, through my involvement with a number of organisations, the local RSL and the RSAR Association being just two.

I have always obeyed the various laws governing the use and possession of firearms, and have made sure that my firearms are stored in secure containers, as per the legislation. At one time I owned around 30 firearms, ranging from handguns, high powered rifles, military style firearms and shotguns. After the Federal Government's knee jerk reaction to the individual atrocities committed at Port Arthur, I, like many thousands of other law abiding gun owners, handed in certain firearms that were then deemed to be 'unacceptable' to the government. I 'lost' about 15 of my prized possessions at that time that were ostensibly going to be passed on to my children, or sold as their inheritance when I no longer desired to own them.

Although I was paid what was deemed by the government as being reasonable compensation, their value to me was far more than currency can provide! My family and I have lost that value forever!

I trust, as a former farmer and land owner, you have at one time possessed firearms yourself, whether it be for vermin control or pleasure? I'm trusting that the following affects you as much as it does me and other responsible firearms owners?

For the sake of the record, I am still a landowner and I have a class C firearm—a pump-action shotgun—and a little .410 shotgun.

Mr Treloar: For the snakes.

Mr PEDERICK: I will never admit to that. The letter continues:

As a member of the South Australian Parliament, you are obviously aware of the Firearms (Miscellaneous) Amendment Bill 2013, which was tabled during the sitting of the House Of Assembly (No. 210) on 30th October 2013...The so-called reasons for the amendments to the Firearms Act 1977 is to prevent firearms and associated equipment becoming available to bikies and purveyors of serious crime. This is great, if only those persons are affected, however the consultation process with authorised owners has been severely neglected by the government and the reasons given by the Premier, SAPOL and the Attorney General in recent media releases, that the new amendments will not affect lawful firearms users, is blatant lies. Many areas of these proposed amendments as they are written will affect me and many thousands of others responsible firearms owners.

After Port Arthur, we were made to hand in most military style semi automatic firearms with magazine capacities over 20 rounds. To compensate for this many firearms owners resorted to bolt action rifles with magazines of 10 or more rounds capacity. Now the amendments, once again as they are written, seek to make these magazines illegal, in that they must be surrendered to SAPOL for no compensation whatsoever!! How can this draconian move be legal? Some firearms owners have spent hundreds of dollars on magazines for their rifles, and to now have a proposed amendment seek to take away these items with no compensation is ludicrous!

The letter goes on:

After reading the proposed amendments to the Firearms ACT 1977, I see the government only pandering to a few individuals who would seek to disarm the entire population, with the exception of the police! How is the surrender of firearms magazines with a capacity of 10 or more rounds going to stop the current illegal activities carried out by outlaw bikie gangs? The new amendments seek to allow police to *break* into anyone's premises to conduct a search, if they have belief that certain items may be present! How is the breaking into, and search by SAPOL of my premises while I am not present going to affect the drug running and extortion of bikie gangs?? There has got to be better ways to police drug trafficking and drug manufacturing without assuming that all responsible (read legal) firearm owners are the cause of the problem.

I have had only 1 visit from SAPOL in my many years of being a law abiding, responsible firearms owner. In 2010 two young police officers knocked on my door in the evening and asked to do a stock take of my firearms. I obligingly let them in and showed them to my gun safe which I opened for their inspection. They advised me that I wasn't the 'legal owner' of one of the shotguns in my possession, however after I produced the original registration form (dated 1980 and signed by L. Draper, Commissioner of Police) which stated I was indeed the legal owner, they said they would check their records and get back to me. True to their word, I received a phone call two days later, and the young officer advised me there had been a mistake in their computer records (which I presume had been in place since 1980) and that they would rectify the mistake at once.

Just in line with that comment, I will make a comment on my personal experience when I purchased my pump action C-class grade weapon 14 or 15 years ago. I did the right thing. I picked it up, it was still in the box from the firearms store, I put it on the counter at the police station, did all the registration, no worries. I took it home, no problem. The next thing I got a message that I needed to ring the local police station. I rang up and they said, 'There's a problem with the registration of your weapon,' and I said, 'I'll go out to the box and I'll read you the number that is on the box,' which I did. He said, 'Well, it doesn't match our records.'

I said, 'Well, that is not my problem. I put this on the counter in front of one of your sergeants and I said that I have complied with everything I have to do.' Yet, the right number could not be written down. This is a real issue for gun owners when I see it brought to me by a constituent, and I had it happen to me, because there is a whole range of other things that can happen when police come to a person's residence in light of looking at firearms offences. It is something to note and it can create real issues for people when they have done the right thing. To continue quoting from the letter:

I have and always will comply with the law, but I refuse to accept this amendment in its current form, until the government and the law makers consult properly with the responsible people who will be most affected adversely by these proposed changes.

My concern is that Parliament is being asked to pass legislation that will prohibit peoples lawful property, and not define the true nature of their way of thinking. None of the proposed amendments has anything to do with bikies and serious organised crime. If the government and SAPOL were serious, they would simply ban bikes and those associated with bikes from having any type of firearm or weapon whatsoever! If the bikies flaunt this law, then they should suffer the full force of the law and its consequences!

I certainly agree with that statement. Quoting again:

This alone is enough not to support the Bill until these Regulations are known and proper consultation with stakeholders occurs. I ask that you argue my case and the case of thousands of other responsible citizens, and not support this bill.

In regard to this constituent, I asked him how many weapons could be affected by this issue about the magazines that are over 10 rounds? He made the point that this could potentially be thousands of rifles in South Australia. He made the comment that he is led to believe that there are over 100,000 registered firearm owners in South Australia. In regard to the sorts of weapons this man knows are held legally out there:

A large number of my friends own bolt action rifles that accommodate 20 round magazines, and the magazines are similar to the type used in M16 rifles and SLR-type firearms, although these firearms are no longer legal to be owned by persons with A and B class licences. Their magazines at this time are.

There are some real concerns with the ownership of firearms and what will happen under this legislation. I fully understand some of these clauses in regard to possession of a prohibited accessory. In light of that, there has been lots of feedback that the shadow minister (the member for Stuart) has given us, and feedback we have had from our constituents, in regard to the many different types of firearm accessories that are legally owned by firearm owners that could be captured by the regulations through this amendment, because of the broad scope of the definitions in the amendment.

Then we have the possession of a silencer or other mechanisms. It is already an offence to possess a silencer, but this bill makes it an aggravated offence for offenders found with both a firearm with a silencer or a mechanism, or with a silencer or a mechanism attached to the firearm. The problem here is that there are evidently some easily accessible household items that can be used as a silencer to significantly reduce the noise produced by discharging firearms, and there is concern that responsible firearms owners could be unfairly captured.

There are also quite heavy fines in relation to the trafficking of firearms and possession of a loaded firearm. Again, possession of detachable magazines with a capacity of more than 10 rounds will come under this clause in the bill. Getting back to the issue of the magazines above 10 rounds that will not be allowed if this goes through, this is a new clause prohibiting a person from acquiring, owning or possessing a detachable magazine with a capacity of more than 10 rounds without written approval of the registrar.

The proposed amendment has caused much angst amongst many registered firearm users, collectors and firearm organisations. Large numbers of firearm users possess magazines with a capacity larger than 10 rounds for many types of uses, including display. I was informed of one use by a gun dealer today, which is that the International Practical Shooting Confederation has a discipline which needs to have magazines with more capacity than 10 rounds.

There are also historical firearm collections, particularly from both world wars, with very valuable magazines with a capacity of more than 10 rounds. There are also some class A and class B firearms that only accept magazines with more than 10 rounds, and this provision would render them unusable.

As I said when talking about compensation, there is none. There is a transitional clause attached to the clause in the bill which provides a person who owns or has possession of a magazine with 10 rounds or more six months to either obtain written approval to retain the magazine or surrender it. Firearms groups believe that people should be compensated for this loss.

I would like to think that perhaps there could be another change instituted here—and I have been informed that it should be able to happen—which is to put a block in these magazines so that they do not have to be discarded completely. Put a permanent block in so that, if this legislation goes through, at least the magazine is still there and, obviously, they would have to comply with the 10-round legislation.

The bill extends the provision of police power to search and detain vessels and aircraft. There is also the clause about seizure and forfeiture of equipment. I brought this up at the briefing, which we had only this morning. Regarding the term 'intend to use', every workshop in the state—any decent workshop—would have an angle grinder and some drills, saws, lathes, etc., and any of this equipment could be used to make up firearms parts or manufacture firearms, so I am told. I am not into doing it myself.

Mr Treloar interjecting:

Mr PEDERICK: Yes. As the member for Flinders just said, every farm workshop could become a place where, next thing, you have a raid where four or five police cars turn up and everyone is wondering what the heck is going on. There needs to be some sense in this. I have talked about more than 10 rounds being used in a magazine. The maximum penalty for not complying with that is \$10,000 or imprisonment for two years.

I have checked the bill, as I found out from the briefing this morning, to see what powers police officers have. They can already come into your premises to inspect if there is suspicion about weapons, but this bill proposes:

A police officer may, with such assistance as he or she considers appropriate, use such reasonable force as is necessary to—

- (a) break into any premises, vehicle, vessel or aircraft in order to gain entry or conduct a search under this section; and
- (b) if reasonably necessary for the purposes of conducting a search, break into or open anything in or on the premises, vehicle, vessel or aircraft.

That clause has certainly raised a lot of questions out there in the general law-abiding community. Just in winding up, there are certainly a lot of concerns that will be raised during the committee stage. We on this side of the house do not condone blatant, unlawful activity, but, for the life of me, I do not think too many bikies would be using bolt-action weapons.

Mr PEDERICK: In regard to clause 12 and section 1B regarding altering a firearm and that as a result of that alteration the firearm becomes a firearm of a different class, I guess my question is a little hypothetical. As I outlined in my speech, some people have altered firearms at the moment quite legally to take more than 10 rounds, bolt action weapons, so I would assume by default if those weapons can't be done something with, altered back to a satisfactory state or somehow they can use them if this legislation goes through with magazines of less than 10 rounds, that they will be illegal weapons under this clause.

The Hon. M.F. O'BRIEN: Member for Hammond, I think in essence what you are asking is in relation to an alteration that would allow a weapon to become self-loading.

Mr PEDERICK: I am still talking about a bolt-action weapon, but they have adjusted them to take bigger magazines. They are still bolt-action weapons, but they have had to make adjustments to those weapons because they want to use bigger magazines. They have adjusted some of these since the federal laws after Port Arthur.

The Hon. M.F. O'BRIEN: Putting any size magazine on a firearm is not going to have any impact. It is not going to change the class.

Mrs VLAHOS: In relation to collectors of militaria who currently collect items from, say, World War II, such items have large capacity magazines and other items. I understand that some exemption process is contemplated for such owners in the transition period. Can you explain the exemption process?

The Hon. M.F. O'BRIEN: I think we have moved on to clause 14 on that particular issue. Have we exhausted clause 12?

Mr PEDERICK: I just need a little confirmation. What concerns me is that, from what my constituent wrote to me—and obviously he had military experience and has lots of friends in the same situation—they have altered these rifles to take bigger magazines. My concern is if these rifles cannot be altered back. I do not know; they probably can be, more likely than not, but I am not entirely sure. If these rifles cannot be altered back to take a magazine that holds only 10 rounds, I assume that they would be deemed illegal under this bill, if it becomes an act, and they did not get an exemption.

The Hon. M.F. O'BRIEN: I think the way it has been explained to me—and it is kind of understandable—the firearm itself is legal, but the magazine is not, and if the firearm cannot be modified to take the smaller magazine, then there is provision within the bill for compensation. The owner would be compensated.

Mr PEDERICK: So, you are indicating the owner would be compensated for the actual firearm?

The Hon. M.F. O'BRIEN: That is correct, yes.

Mr PEDERICK: Would another option be, as I mentioned in my speech, to put permanent blocks in magazines?

The Hon. M.F. O'BRIEN: Yes, a very sensible and logical proposition. SAPOL have advised me that, during the surrender period, what you are suggesting would be a more than acceptable course of action.

Mr PEDERICK: In relation to new section 27AAB—Seizure and forfeiture of equipment, etc., I know many of us talked about this in our speeches. Subclause (1) provides that:

If a police officer suspects on reasonable grounds that an offence against section 27 or 27AA has been committed, is being committed or will be committed, the officer may seize any equipment, device, object or document reasonably suspected of being used, or intended for use, for, or in connection with, the commission of the offence.

I think this section deals with the bit about angle grinders, drills, lathes and other equipment. It is a fairly broad interpretation, if it was taken to the nth degree. I wonder what protection law-abiding citizens have against this clause if this goes through. I certainly can understand, if there is reasonable suspicion and it is criminal activity, that it needs to be held up, but as we indicated in our contributions from this side there are thousands of workshops across the state that could be captured under this clause.

The Hon. M.F. O'BRIEN: I will correct and clarify a statement I made a little earlier: I have been advised by SAPOL that there was a provision in the existing act in relation to compensation. We have now had a look at that clause, and it refers to a period of six months after the previous enactment, so I think we will have to look at the issue of compensation. I am pleased it has been raised. I think it is an oversight, given the fact that it is in the act applying to a previous raft of measures allowing compensation to be paid within a period of six months.

In relation to the issue of equipment devices or the like, machinery used to either manufacture a firearm or significantly modify a firearm, it says quite specifically in relation to the commission of an offence that, if no offence has been committed and no charge has been laid, this particular provision would not apply. I go back to the statement I made a little earlier: this legislation is targeted specifically at criminals and criminal activity. At some time in the new year there will be, in all probability, another raft of legislation in relation to firearms that will deal specifically with recreational users, and there will be a significant period of consultation in relation to that body of legislation, but today we are actually dealing with criminal activity.

As I said, there would have to be an offence committed or, I have been advised, where SAPOL through criminal intelligence has been able to determine that an offence may be created if they become aware that a workshop is under the operation or control of a criminal gang and are intending to manufacture submachine guns. On the basis of that intelligence the equipment could be seized.

Mr PEDERICK: In relation to tube magazines that hold over 10 rounds, I am assuming because they are part of the rifle they will be still deemed legal?

The Hon. M.F. O'BRIEN: I think we are talking about 29BA. There is a potential remedy there seeking written approval of the registrar to acquire, own or have possession of a detachable magazine with a capacity of more than 10 rounds, so the act actually has provision to apply for permission to have a detachable magazine that can handle more than 10 rounds. It has to establish a case.

Mr PEDERICK: I understand that, but I am just trying to verify. I am talking probably more like a .22 rifle here. I am not even sure if their tube magazine would hold more than 10 rounds, but I am assuming that a tube magazine is part of a rifle, so I am assuming it is non-detachable, so I am just wondering how the legislation fits around that particular weapon.

The Hon. M.F. O'BRIEN: Member for Hammond, the bill only applies to detachable magazines.

Mr PEDERICK: Thank you for that. Just one more in regards to that: how difficult will it be for sporting shooters—will they need to be in a club—to get authorisation from the registrar? Or, in fact, people who compete in these international practical shooting confederation events, what will be the difficulty for them to get an exemption for their high-powered bolt-action rifles that have a magazine capacity of more than 10 rounds and which are necessary for competition?

The Hon. M.F. O'BRIEN: We are cognisant of this issue, particularly in relation to international competitions where the magazine size is in excess of 10, and all that will be required is an application to the registrar. It will be fairly straightforward.

Clause passed.

Clause 15.

Mr PEDERICK: Subclause (9) provides:

Section 32—after subsection (3b) insert:

(3c)A police officer may, with such assistance as he or she considers appropriate, use such reasonable force as is necessary to—

- (a)break into any premises, vehicle, vessel or aircraft in order to gain entry or conduct a search under this section; and
- (b)if reasonably necessary for the purposes of conducting a search, break into or open anything in or on the premises, vehicle, vessel or aircraft.

Could you explain how this clause differs from the current section in the act?

The Hon. M.F. O'BRIEN: What the amendment does is clarify and extend the powers that police have. Firstly, police, under the current act, have the power to break into a premises, but then if they encounter a locked cabinet they suspect contains firearms and they have to call in a locksmith to gain access, under the current act they do not have the power to go that second step. Having gained access, they are pretty well prohibited from further forcible entry into cabinets or the like. It also extends the power from buildings into cars, vehicles, vessels or aircraft, which is not in the current act.

Clause passed.

Clauses 16 to 18 passed.

Clause 19.

Mr PEDERICK: This is still about the possession or ownership of magazines. I am glad that during the committee process we have worked out that perhaps be mechanical blocks could be put in magazines so that, if this bill becomes legislation, people do not have to surrender those magazines, which have potentially cost them hundreds of dollars, that are over 10-shot magazines.

What concerns me is that, unlike what happened federally several years ago, under clause 6(b)(ii), if people so wished, or if they could not be bothered to put a block in the magazine so they can still keep the magazine, they have to surrender that magazine. Compensation was mentioned earlier, and I certainly would like to think that appropriate compensation should be made in regard to weapons that essentially have been legal until this act is enacted.

The Hon. M.F. O'BRIEN: Definitely, member for Hammond. I definitely take on board your comments. As I said, the act as it currently stands has provision for compensation for, obviously, a project that was undertaken sometime in the past, where it was felt that compensation ought to be offered, and the period of compensation was six months. We can look at that between the houses.

Clause passed.

- Ends-