

**CRIMINAL CODE AMENDMENT (GRAFFITI) BILL 2009**

*Second Reading*

Resumed from 22 September.

**HON BRIAN ELLIS (Agricultural)** [5.52 pm]: Last night when I started my speech on the Criminal Code Amendment (Graffiti) Bill, I expressed my distress and concern at this blot on our society that is called graffiti. I prefer to call it vandalism, as I expressed in my speech last night. Some graffiti can also be described as “children’s scribble”. It is the sort of scribble that children put on walls in their homes. Children get punished for doing that. I can certainly remember copping a good whack on the backside when I did it as a young child in my own home. My parents brought me to order very quickly. Maybe that is why I have never had any desire to scribble on any other walls or to paint graffiti on anyone else’s property. I say that because I feel that only a child’s mentality would cause him or her to do this graffiti. The ages of graffitists range up into the twenties. Why a 20-year-old person would have any need to attack a public bus, a public shelter or anyone’s private walls I do not understand. Maybe I am old-fashioned. Maybe I do not understand the desire for people to put their so-called tags and scribble on property.

Last night I referred to some of the costs to the community of this “children’s scribble” and vandalism of private and public property. When the debate was adjourned last night, I was talking about the chief executive at the City of Fremantle who said that the investment of \$240 000 in a network of 11 closed-circuit television cameras in 2007 was already paying dividends. There were 535 incidents of antisocial behaviour recorded, leading to 124 on-the-spot arrests.

As reported in *The West Australian* on 3 August 2009 —

Graffiti clean-up cost the Town of Vincent \$145,000, \$673,948.00 in the City of Swan, \$270,000 in the City of Cockburn and \$326,838—an increase of 16 per cent—in the City of Wanneroo, which plans to install a new CCTV network.

The City of Gosnells plans to spend \$305,204 on fighting graffiti this year. Volunteers have also “adopted” 52 bus shelters in the past five months, scrubbing out tags almost as soon as they appear.

These people need to be commended and congratulated for taking a pride in their own community and pride in what is provided to them, such as bus shelters. It must be distressing for volunteers, after all the work they put in to clean up areas, to then find that within a few days those areas have been destroyed again. We have to admire the effort that these people put in to protect their own community.

In *The West Australian* on Monday, 13 October 2008, under the title “Suburban graffiti costs millions”, it was reported —

By far the worst hit is the City of Stirling, with 10,876 reports of graffiti in 2007-08, up from 6845 the previous year, and a massive clean-up bill of \$658,000 despite initiatives to combat the problem.

I am going through these figures because I find it staggering and hard to understand. There was an increase in one year of nearly 4 000 incidents, which is a massive cost to be inflicted upon the ratepayers and taxpayers of those communities —

The City of Swan also faced a big bill of \$619,000 after recorded incidents almost doubled to 2458 from 1270 in a single year.

But almost every council is facing big increases in graffiti reports and clean-up bills.

It is not isolated. It is across the whole community —

According to the Office of Crime Prevention, the State Graffiti Hotline received 3724 reports of graffiti damage in its first year to August 2008 and 4805 reports via the Goodbye Graffiti website, but just two \$1000 rewards for tips leading to cautions or charges were given out.

At the Town of Vincent the clean-up bill almost doubled from \$36,375 to \$63,700, with reports jumping from 1455 to 1882.

City of Joondalup Mayor Troy Pickard said that following the substantial increase in incidents in his suburbs—3857 graffiti removals costing \$497,789—the city would lobby the State Government for the “long overdue” reinstatement of a graffiti task force.

That task force was successful during the Court government —

**Extract from Hansard**

[COUNCIL - Wednesday, 23 September 2009]

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Hon Brian Ellis; Deputy President; Hon Col Holt; Hon Ken Travers; Hon Ed Dermer

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He was keen to see harsher penalties for repeat offenders.

The City of Bayswater Mayor Lou Magro said he had joined the cities of Stirling and Wanneroo in a regional partnership to tackle graffiti after his costs jumped 20 per cent to \$165,723.

He said graffiti was a “problem bigger than any one local government” and a problem the State Government must provide leadership and funding to tackle.

City of Gosnells Mayor Olwen Searle said graffiti attacks had cost his council \$234,765 to clean.

He said it was time to call graffiti what it was—criminal damage—and jail offenders.

“Magistrates have the ability to fine these vandals up to \$12,000 but do not apply the maximum fines or punishments ... all our work is undermined when the vandals responsible walk away from court laughing at the authorities,” he said.

The City of Belmont was one of the only councils where incidents fell —

**The DEPUTY PRESIDENT:** Before we break for dinner, I am informed that a member wished to address the house on the Road Traffic Amendment (Hoons) Bill during the course of the third reading debate and I did not notice the member rise in order to speak. I understand that the Clerk of the Legislative Council also did not notice the member rise to speak. I regret that it has happened, but the President has reminded members on numerous occasions that the etiquette is to rise and call for the attention of the Chair to avoid precisely that sort of problem. I regret that it happened but it is done now. I thought I would mention that. Otherwise, noting the time, I rise until the ringing of the bells.

*Sitting suspended from 6.00 to 7.30 pm*

**Hon BRIAN ELLIS:** Before the dinner break, I was progressing through some of the costs that graffiti vandals inflict upon ratepayers and taxpayers. The costs that some shires have had to pay are outstanding, and I think a lot of ratepayers would be astounded at the amounts involved. These costs probably contribute to local government rate increases each year. We should credit the people in the shires who get together to clean graffiti off public conveniences and to try to stem the tide of graffiti vandalism. I was referring to an article in *The West Australian* on the costs to local government. To continue —

The City of Belmont was one of the only councils where incidents fell, to 10,012 in 2007-08 from 11,214 the previous year.

That small reduction is not much to talk about! It is nothing startling. To continue —

City of Perth executive officer Frank Edwards, whose council stumped up \$360,000 in the past year and voted to spend an extra \$197,000 to extend the removal service, said graffiti was a blight on the city.

I have said that before: it is a blight on not only our city, but also our society and we should not have to put up with it.

I started my speech tonight by saying that I was depressed and concerned about the incidence of graffiti. During the dinner break, I was reassured about the young people of today. It is probably a fault of all of us at times that we brand everyone the same, but I met a young fellow at the dinner recess tonight—Connor Fallon from Tapping Primary School. Connor happens to be in the President’s gallery tonight. I found out that his school has been vandalised and graffitied. Connor and his mates got together and cleaned up the graffiti and vandalism at their school. It is reassuring that Connor, who is in year 3, has taken pride in his school. I congratulate him for that. Maybe I have been too pessimistic; maybe there is a future when we have young people like Connor in our society who will not stand for the peer pressure that is put upon them to go and tag things and vandalise schools. As I say, I congratulate Connor.

I had a phone call from my wife just before we came back to this house after dinner. She happened to take our two-and-a-half-year-old granddaughter down to the park. My wife relayed this story to me about five minutes ago. My granddaughter got on a swing that had been graffitied. She turned around and said to my wife, “Nan, these naughty people!” That is reassurance that at that age at least they recognise the blot on our society that vandalism and graffiti causes. I am reassured that maybe future generations will not stand for this.

As Hon Philip Gardiner mentioned in his speech, if we can start from the bottom up at a young age, maybe we will have some impact. We will never get rid of graffiti; I accept that. But we need to put a stop to it. We need to educate the up-and-coming youth about the terrible blot on our society that graffiti causes, and about the costs. I ask the question: how did Labor perform in cleaning up this mess?

**Hon Ken Travers:** Careful! The honourable member might inspire me to respond!

**Hon BRIAN ELLIS:** I would be very disappointed if Hon Ken Travers did not respond. It would be quite unusual, actually.

According to Margaret Quirk, MLA, in her comments on this bill, Labor hardly made a dent in the figures. The figures kept growing. In 2003-04, only 6.9 per cent of 10 426 reported offences were cleared. In 2004-05, only nine per cent of 9 247 reported offences were cleared. In 2005-06, only 10.4 per cent of 9 294 reported offences were cleared. In 2006-07, only 9.1 per cent of 13 852 reported offences were cleared. In 2007-08, only 8.8 per cent of nearly 16 000 reported offences were cleared. That is, offences increased from 10 500 in 2003-04 to nearly 16 000 when Labor left government. That is an increase of nearly one-third.

Perhaps this increase had something to do with the fact that the previous government scrapped the Graffiti Taskforce that had been set up during the Court government. In 1993, the Court government introduced a dedicated Graffiti Taskforce with the aim of halving the \$5 million a year graffiti clean-up cost. This included a business and community education program regarding the need to remove graffiti promptly. It also gave advice on methods of removal and a police database to track taggers. The task force also undertook worldwide and national research on graffiti. Most importantly, it had a hands-on team leader named Peter, who ran the program like a crusade. He lobbied members of Parliament, local councils and community groups, and, through them, he recruited multiple teams of volunteers to paint out graffiti across the metropolitan area. These teams met for a local morning paint-out about every six weeks. They usually targeted highly visible graffiti in local parks and along major roadways.

I will tell the house about an experience that was related to me by one of the people who volunteered to go in these teams. One team was recruited by the then member for Riverton. That team had about 10 volunteers, some of whom were constituents who had received help from the member's office and wanted to contribute to the community. It included a lady with an alcohol problem, a man with mental health issues, the local deputy mayor and a uniformed police officer. They made an enthusiastic but scruffy-looking mob in their overalls. Despite the effectiveness of their work, the neighbours never came out of their houses to thank them. Eventually, after the uniformed policeman started a little public relations exercise and knocked on a few nearby doors, it became obvious that the neighbours thought that the do-gooders were a group of convicted criminals on work orders. After that, they made it their routine practice to inform the neighbours what was going on, and eventually the cups of tea and biscuits started appearing over the fence. It is a shame that people get accustomed, I suppose, to seeing work crews cleaning up and that they take that attitude and think, "There's a mob of criminals out there having to clean up their dirty work." These people were volunteers who were doing a service for the community. Also, it is a shame and a concern that the neighbours felt too afraid to go out and thank these people for their cleaning and the good work that they were doing.

I have mentioned before that some graffiti is regarded as art. Some is done as a protest, as reported in *The West Australian* on 27 February 2008. This was a protest that I think most members would be familiar with. In the early 1980s, a small band of health activists had some drastic antismoking messages, and they spray-painted their messages on billboards. Although the cause may have been a commendable one, I still cannot agree with the damage they did to private property and also public property. As reported in *The West Australian* —

... Gavan O'Connor, of Wembley, armed himself with a spray can and a list of witty anti-smoking slogans and went out under the cover of darkness. He defaced and reworded hundreds of tobacco company billboards splattering them with red and yellow paint-filled eggs that were supposed to resemble the blood and pus caused by smoking-related diseases.

Then aged in his 40s, it was from 1980 to 1982, when he was working as a microbiologist, initially at Princess Margaret Hospital —

He was a key player in a fiery band of six children's hospital doctors, nurses, orthodontists and health workers who waged a personal anti-smoking law by forming the WA arm of Billboard Utilising Graffitists Against Unhealthy Promotion.

It was shortened to BUGA UP. I think most members will remember the time. As I said, in their minds they probably had a just cause. But it was not a very good example to set to younger members of the public that, just because they had a just cause, they could go out and spray-paint any sign they disagreed with. I cannot condone that sort of graffiti either.

Another issue that is of concern is the latest practice that puts these fools at risk. I noticed a report in *The West Australian* of Saturday 13 December 2008 on the habit of teenage train surfing. It reads —

Police have warned of the dangers of train surfing as they hunt for two teenage boys seen hanging on to the back of a moving Transperth train after the picture was circulated in an email yesterday.

“Trains on this line reach speeds in excess of 100kmh, making this type of behaviour extremely dangerous, even fatal,” Sen. Sgt Stevens said.

Last year, a teenage graffiti vandal was fined \$6300 for causing damage in a tagging spree while train surfing in Perth.

As I say, it is straight-out madness for anyone to actually consider that behaviour to be fun or reflect some sort of cause.

I will now move on to what happened with the Labor government. I have explained the rate of graffiti that was out of control. In 2001, the Gallop government came into power, and in 2002 it scrapped the Graffiti Taskforce. Once again, homes and public places became covered in graffiti. Homeowners and councils were becoming desperate for action. Changes introduced in 2004 included a possible 12-month prison sentence and a fine of \$12 000. But, effectively, the changes were without minimum mandatory sentences. Nothing more was done by the Labor government until 5 August 2007 when Dr Gallop was replaced by Alan Carpenter. He thought he had better do something quickly as an exercise in public relations on this issue.

**Hon Ken Travers:** You were there, were you; do you know this for a fact?

**Hon BRIAN ELLIS:** No; I have referred to reports in *Hansard*. Alan Carpenter announced a dob-in-a-vandal hotline called Goodbye Graffiti.

**Hon Ken Travers:** The other night, Hon Liz Behjat said your government started that line. Are you saying she was wrong?

**Hon BRIAN ELLIS:** I do not know exactly what Hon Ken Travers is talking about at the moment. Perhaps he can fill me in —

**Hon Ken Travers:** It is in *Hansard*; I was reading it earlier.

**Hon BRIAN ELLIS:** The Carpenter government started Goodbye Graffiti. It provided for stiffer penalties and made some big promises about extending camera surveillance. The government bought 12 portable wireless cameras that councils could hire to use in graffiti hot spots. A year passed without the promised funds to extend closed-circuit TV camera coverage in Perth and regional centres. The Perth City Council and its chief executive, Frank Edwards, told *The West Australian* on 8 July 2008 that funding requests to help run its 142-camera network had been continually rejected by the state government. He said that the surveillance cost the council \$1.2 million a year and that the state contribution was a rent-free room at the Perth train station and a police officer who helped monitor the cameras.

*The West Australian* also reported that about 170 reports a week were made to the hotline, but only five of those led to the promised \$1 000 rewards for a conviction. A few days later on 8 August 2008, *The West Australian* published an interview with a young bloke called Ben, who was sitting in a trendy Mt Lawley cafe eating a trendy meal. According to my notes, this is what was written —

Ben started doing graffiti in his teens. Now 26, like many graffiti artists, he walks a fine line between the legal art world and the illegal graffiti world.

His works have been bought by companies to be reproduced on clothing, in magazines and on sports equipment.

He is featured in group art exhibitions in Australia and overseas, but still risks arrest, jail time and massive fines by practicing illegal graffiti around Perth.

Ben said that: “The illegality of it is part of the culture.”

He also said: “You can’t make a career of doing just legal work and have respect from the graffiti crew.”

Then, he said: “... the Goodbye Graffiti dob-in hotline hasn’t really registered with his mates, **but the new graffiti implement laws have.**”

We need to build on those laws and make them even stronger. As I have said before, I was despairing that maybe we had been too late.

**Hon Kate Doust:** Do you think we should just microchip everybody?

**Hon BRIAN ELLIS:** I did not mention anything about microchipping.

Several members interjected.

**Hon BRIAN ELLIS:** I have got over my despair because we have people like young Connor informing us of what he has been doing.

This bill is about not only constraining the sale of graffiti implements, but also doubling the existing penalties for a person who, to quote section 445 of the Criminal Code —

... unlawfully destroys or damages the property of another person without that other person's consent  
...

The new penalties will be imprisonment for two years and a fine of \$24 000.

It is also interesting that the action group in the electorate of Mindarie calls itself People Against Vandalism.

**Hon Ken Travers:** A very good group it is, too.

**Hon BRIAN ELLIS:** I agree with Hon Ken Travers. This illustrates my point. Vandalism is the key issue in this matter and we should not become distracted by the argument about whether graffiti is art. In my view, it is simple. If it is sprayed on walls or property belonging to another person without that person's expressed permission, it is vandalism, regardless of any perceived artistic value. Sadly, it may take a few convictions for the message to get through. It is a sad state of affairs that we had to get to this, but, as I said earlier in my speech, at some stage society says, "enough". No-one else can come up with a better proposition or a better way of dealing with this problem. Two years in jail is a long time, and \$24 000 is a lot of money. I hope that we do not have to enforce that very often. Hopefully, these vandals will get the message and this insidious scourge that has been going on for a number of years will be brought to an end.

**HON COL HOLT (South West)** [7.56 pm]: I will not take too much of the house's time speaking on the Criminal Code Amendment (Graffiti) Bill 2009. I remember watching a current affairs program on television last year in which some graffiti artists from around Perth were interviewed. Their mission in life was to continue to tag trains. I remember one guy who was doing this graffiti being interviewed, and he said that he sees himself as part of the economy—he puts up the graffiti and someone comes and washes it off. What a way to be part of the economy—to think that one is creating employment cleaning off graffiti vandalism. Driving around Perth with my family, my boys often point out graffiti and tags. I do not usually take much notice, but one day we were driving around the southern suburbs and my son pointed out one particular tag that we had seen all across parts of the South Metropolitan Region, from sheds and bridge overpasses on the Roe Highway to factory walls. This guy had been extremely busy. These are the kinds of people who need to be targeted and stopped from vandalising our suburbs and communities.

I went to the opening of the Forrest Highway on Sunday. It was a fantastic event. A large crowd of people came along to witness a hallmark event in our state's history. I caught the bus from Mandurah train station to the site where the opening was to take place. I jumped on the bus, and found graffiti all over it.

**Hon Ken Travers:** You should have ridden with the rest of us. You wouldn't have had to worry about graffiti on a bike.

**Hon COL HOLT:** That is right. I saw the member in his nice lycra pants. They looked good!

At the moment when we are celebrating some of the successes of our community in opening up a major infrastructure project which will save lives on Old Coast Road and which is long overdue, to get on the bus and have to put up with graffiti defacing is pretty sad. These sorts of things have a very large impact on people and visual amenity, and the feeling of how people live in their communities. I have done a lot of work in regional Western Australia and in a lot of small country towns. I have worked on crime prevention initiatives in those towns. Luckily for them, those small towns do not have a lot of graffiti or vandalism. However, when one incident happens, it has a huge impact on those communities. I think of places like Kulin, where I did some work. Towns like that might have just one ratbag who thinks he can try it on, and the whole community knows about it pretty quickly and deals with it. However, one little episode like that, one little tag or act of vandalism, can have a huge impact on those communities. People, especially seniors, look at it and think to themselves that they have never had graffiti there before and they suddenly feel from that one single act that their community is unsafe and insecure. Graffiti, therefore, has a large impact on the community.

Some zero-tolerance strategies have come out from around the world. There is a very good book that some members might be interested in. It is called *The Tipping Point* by Malcolm Gladwell. Some members may be aware of it. I suggest that members who do not know it read it, as it is very interesting. The author refers to the zero-tolerance strategy that has been taken in the New York subway, where authorities have targeted offences such as fare evasion, littering and graffiti. They targeted those minor offences first to make sure that people knew they could not commit them, and they made arrests, fined people and really clamped down on them. The impact of that was that it led to a reduction in the rate of major crimes, including offences such as murder and armed robbery. That is an approach to the impact on the community of graffiti and vandalism, which in my view is large. Most people I talk to and work with in those small communities are well and truly behind any antigraffiti activity that we can promote, even though legislation like this bill is a fairly blunt instrument.

I will quote from a letter I received about euthanasia. I would say that every member of the house has received a copy of this letter. It is from Bishop Sproxtton. He refers to euthanasia, but I do not want to talk about euthanasia. I want to point out the following comment that he made in the letter —

Parliament is fully aware that legislation often has an educative effect as well as an enforcement role. What is made legal is thereby made acceptable in many cases, some of them inherently unsavoury.

He is referring to euthanasia being unsavoury, but I think it highlights that legislation like this has an educative component to it because it tells the community that we are fair dinkum about doing something about graffiti.

I want to relay to members another unfortunate episode that I know about. A family friend's son recently got caught by his parents with graffiti implements in his bag. It is a family where the parents have split up and the son lives with his dad for half the time and his mum for the other half. He is a 14-year-old lad who we would think would know better. However, when it was relayed to his dad that his son had been caught with these implements, his dad said, "So what's wrong with vandalism anyway?" I have to ask: what sort of attitude and role model is that to promote to a child? We heard a lot from Hon Philip Gardiner, backed up by Hon Brian Ellis, about starting early on ingraining values and teaching children that they should not deface or devalue other people's property just for the sake of it.

I know that graffiti art is a complex issue for those who do it. Some offenders do not think too much about it, but there is a culture among them about how they commit graffiti vandalism and how the whole underworld part of graffiti vandalism works.

Even though this legislation is a very blunt instrument, it certainly sends a clear message to those repeat graffiti artists, such as the guy from the current affairs documentary that I mentioned earlier. Obviously this legislative preventive-type mechanism cannot work unless there is a range of other preventive measures and educative measures. I look forward to hearing more about the strengthening of the current measures that are proposed in this bill and even hearing further about how this government might strengthen those preventive measures in the future.

**HON KEN TRAVERS (North Metropolitan)** [8.05 pm]: I must say that the comments by members opposite this evening have inspired me to make a few comments in response.

Several members interjected.

**Hon KEN TRAVERS:** Once the excitement dies down, I will get on with my contribution. I guess the Criminal Code Amendment (Graffiti) Bill 2009 is one of those bills that the opposition supports the government on. I think it is incumbent on me to tell the government why that is and to correct the record on some of the issues that have been raised in the house tonight.

The opposition supports the government in the sense that we accept that graffiti is a scourge on our community and it is something that annoys citizens no end, including those people whose property has graffiti and those who see it as they drive around the general community. There is no doubt about that. However, the way we manage it is a complex issue. I have listened today to some of the more simplistic explanations about how we can deal with graffiti. I am sure the members did not mean it in that way, but one almost could be mistaken for believing that they suggested that a child not being smacked for drawing on walls is a cause of graffiti. We all know that that is not the case. It is a very complex issue and I suspect people who have studied it for years still do not fully understand what would motivate a person to graffiti. I suspect that unless there is a graffiti artist in this chamber today, none of us would fully understand what drives a graffiti artist. I would be the first person to acknowledge that I do not get it. I do not understand it and it does not do it for me. I cannot work out what pleasure or motivation someone would have to graffiti. I do not think we can have a simplistic answer that one thing will solve the problem.

The measures contained in this bill are useful and in general terms they would be what I consider to be a tough-on-crime approach to solving a problem. Although we support the government for being tough on crime with strong penalties, we also need to be tough on the causes of graffiti and try to understand what drives it to occur within our community.

Later on I want to touch upon some of the very good works that members have made reference to, but I do not think these works have really been fully explored in the debate in this chamber so far—namely, the work that groups like People Against Vandalism are carrying out. I know that at least two of my colleagues in the northern suburbs—the member for Mindarie, John Quigley, and the member for Joondalup, Tony O’Gorman—have been very active in supporting and assisting in the work of People Against Vandalism. People Against Vandalism comes at the problem of graffiti from a holistic and a community point of view as part of the solution. Later I will touch upon some of the work that People Against Vandalism is doing.

As a novelty, unlike members around the chamber, I will refer to the bill that we are dealing with tonight rather than the broader issues of graffiti. This bill does two things. Firstly, it increases the penalties with the tough-on-crime approach; and, secondly, it has a provision to make it an offence to sell graffiti implements to anyone under the age of 18 years. The first problem is the assumption that graffiti artists are all under the age of 18, and I suspect that that is not actually the case and that many are over the age of 18. One could argue that it is a measure that can be taken, and I am happy to support it, but anyone who thinks that this will solve the problem is kidding himself. As we heard in Hon Liz Behjat's contribution, these people are so determined to graffiti that if we take one implement away from them, they will find another implement. In fact it is interesting to follow the history of graffiti, which started with people drawing or using spray cans. As the implements they were using became harder to find, people found other ways of creating graffiti. We then started to see scratching on windows. Until I listened to the speech the other day of Hon Liz Behjat, I was not as informed about all the different terminology that comes into play. I was not even aware of the implements people were using to cause the scratching. I assumed they must be using some sort of glass-cutter to do it.

**Hon Liz Behjat:** We are here to educate.

**Hon KEN TRAVERS:** I am hoping to return the favour as we go through the evening. We need a holistic and complete approach to dealing with these issues. If this measure is successful and the only people creating graffiti are under the age of 18 years and we prevent them from getting the implements they need, such as spray paint, a pen or a similar implement with a tip, I suspect that we will see a greater increase in glass scratching and other activity in which people can engage to leave their tags in our community, to be a blight on our community and to get whatever satisfaction it is that they are getting. I do not know whether it is the satisfaction of seeing their tag or the adrenalin rush of doing the tagging. I have tried to engage with people whom I suspect may have been involved in tagging.

**Hon Liz Behjat:** I think it is like animals marking their territory.

**Hon KEN TRAVERS:** That may be one of the issues that is involved. My electorate office has been subject to tagging at various times. Having damage to glass removed as quickly as possible is a real problem. People do not necessarily want to do it on glass, but glass stays there. If we do not adopt a complete approach, there is a danger that parts of this legislation will lead to different forms of graffiti. Members have rightly raised concerns about the costs of graffiti. If graffiti suddenly becomes an exercise in scratching glass far more than it already is, I suspect the replacement of damaged glass will lead to an even greater cost for our society. It is very easy to get surfaces repainted at our electorate offices. Members should wait until their electorate offices have glass scratched and then see how long it takes to get the department to fix it. I support the school of thought of the broken windows theory that I think came out of New York, which says that it must be cleaned up and fixed up because otherwise it will lead to ongoing antisocial behaviour.

I think it is unfair for members on the other side to say that the previous government was not concerned about graffiti. I will be more than happy to wait to see what happens during their term in government and whether they can reduce graffiti. If they can, I will give them credit for it.

**Hon Brian Ellis:** I did not say that you were not concerned, but you scrapped the Graffiti Taskforce.

**Hon KEN TRAVERS:** What is in a name? We also brought out a number of very good measures that, as far as I am aware, the member's government continues to be involved in. In fact, some of those measures were so good that Hon Liz Behjat in her speech the other night said that the Goodbye Graffiti campaign was an initiative of the new Barnett government. I have brought in for Hon Liz Behjat, and I will make sure I give it to her before we complete the debate tonight, a little magnet that was produced and that has the report graffiti hotline and the goodbyegraffiti.wa.gov.au website address set out across the bottom of it. That was an initiative of the previous Labor government. I think that indicates some of the myths that members were trying to create earlier in this debate, such as the Goodbye Graffiti campaign being an initiative of the Barnett government. I think the Goodbye Graffiti initiative was actually an initiative of the Carpenter government. The 1800 number —

**Hon Liz Behjat:** What about the graffiti in schools program? When was that commenced?

**Hon KEN TRAVERS:** Well, the member did not say the goodbye graffiti in schools campaign. The member said the Goodbye Graffiti campaign. I am just going to use the uncorrected *Hansard* as an aide-mémoire, of course—I cannot quote from it—but I think the member made comments to the effect that this government has also put in place the Goodbye Graffiti program, not the goodbye graffiti in schools program. Anyway, I am sure one of the attendants will be happy to come around and give the member her own magnet with the 1800 number on it. For the benefit of those members who will be reading *Hansard* in future, I hope the 1800 number is still operating. The number is 1800 442 255. That is 1800 442 255.

**Hon Liz Behjat:** And all donations will be gratefully received!

**Hon KEN TRAVERS:** That is right! I am telling people to ring now with their graffiti and report it, because we have people on the line waiting to accept their calls tonight! I do hope that people will do that. We should get back to the serious business here.

It is important that people have that 1800 number. A number of my colleagues and I were very keen to get that 1800 number put in place, because we recognise that it is important to give people a central point of contact that they can call to get graffiti cleaned up.

**Hon Michael Mischin:** In what year was that done?

**Hon KEN TRAVERS:** It was in about 2007, from memory, but I would not want to be quoted on that.

**Hon Michael Mischin** interjected.

**Hon KEN TRAVERS:** If the member will wait, I will go through some of the other initiatives. I am more than happy to go through some of the other initiatives that the previous Labor government —

**Hon Michael Mischin:** How many years did it take you to provide that fridge magnet?

**Hon KEN TRAVERS:** It is more than a fridge magnet. The member can try to simplify this into those sorts of terms. One of the problems that we have been having in this debate tonight is that a lot of mythology has been created by members on the other side. As I have said—and I will say again—I look forward to seeing whether this government is able to reduce the incidence of graffiti. If the government is able to reduce it, I will be very glad to support the government in that.

**Hon Liz Behjat:** You will be pleased to know that the state graffiti hotline on 1800 442 255 is still in operation.

**Hon KEN TRAVERS:** I have to say that clearly shows the benefit of allowing members to have their computers in the chamber!

**Hon Liz Behjat:** I left the chamber, as you will have noticed, and I made a telephone call outside the chamber. The state Graffiti Hotline is still working.

**Hon KEN TRAVERS:** I am glad to hear that from the member opposite. This is an important matter. It comes back to the issue of being able to get graffiti cleaned up quickly. It is about making it simple for people to report graffiti so that they do not need to pick which agency it is, and whether it is local government or state government, but they have a number that they can call.

A range of measures were implemented during the term of the previous government. One of those measures is Redress WA. That is still in operation as far as I am aware. People who have been convicted of minor offences are required, as part of their community service obligations, to clean up graffiti.

**Hon Liz Behjat:** It is Repay WA.

**Hon KEN TRAVERS:** Repay WA. Sorry. My apologies.

**Hon Sue Ellery:** Let's talk about Redress WA!

**Hon Liz Behjat:** I was about to say that you are straying from the point.

**Hon KEN TRAVERS:** I know that I should not have made that mistake with my language, Madam Deputy President. I apologise to you for bringing up that debate, but that is also a very important debate that needs to, and should, be had in this chamber, because I have to say, just as an aside, that I still feel that that is probably one of the most callous and uncaring decisions that I have ever seen made by a state government in Western Australia. But I digress, and I will —

**Hon Kate Doust:** Digress or redress?

**Hon KEN TRAVERS:** Digress. The cutting of the redress payments was worse

**Hon Kate Doust:** What—worse than not looking after people who have died and not paying for their funeral?

**Hon KEN TRAVERS:** Look, that decision was uncaring, but I do not think I have ever seen anything as cruel, mean-spirited and horrible as what the government did to Redress WA, but I want to return to the debate.

The purpose of the Repay WA program was to make offenders—many of whom had been caught doing graffiti—pay for their crimes by getting out there and making amends for the damage they had done by being involved in cleaning it up, instead of being given a short prison sentence or another penalty. The scheme provided a vehicle so that they could do that. That scheme was about sending a very clear message to offenders and trying to ensure that they got the message and started to understand the implications of their vandalism. It

was a very successful program that cost a relatively small amount of money and involved the offenders. That program continues to this day.

**Hon Liz Behjat:** Yes, we're even making them wear jackets with the name on it, so that the community knows that they are doing the Repay WA scheme.

**Hon KEN TRAVERS:** Over time, it will be interesting to monitor the impact that initiative has on offenders, be it positive or negative. The new government has every right to trial these things and we will await the outcome.

During this debate I wish to talk about People Against Vandalism because I think it is a great story. That group commenced in Mindarie in the northern suburbs, driven by local community activists who decided that they wanted to do something. They went to their local member of Parliament, who was able to assist them, not by providing great dollops of government money—although money was provided by the government to that program—but by helping bring together the police, schools and local shopkeepers, which made for a whole-of-community response to the issue of vandalism and graffiti. If members go to the PAV website, they can read about why PAV was set up. I will quote from the website —

Why Setup PAV?

PAV believes that the community should take the initiative in tackling anti-social behaviour in our area. Its not anyone else's problem, it's ours. Community ownership is the most effective way of combating this ongoing problem

That is a very good underlying philosophy from which to try to start to address this problem. It does not mean that the support of government agencies is not needed, because there will be times when government money will have to be provided to assist the community to have the ownership involved in that process. The website further states —

What does PAV aim to do?

PAV aims to make our local community a safer and more friendly place to live.

Although PAV's primary role is to address the problem of graffiti, it also understands the impact graffiti has on the community's sense of safety and wellbeing and any links that may have to the general decay of amenity and society in a suburb. If there is a proliferation of graffiti in a suburb, it can lead to further forms of antisocial behaviour. PAV looks at the big picture, whilst still working at the grassroots level and implementing strategies to address it. I am not trying to be nasty about it, but PAV's philosophical position sits way above where I think the Criminal Code Amendment (Graffiti) Bill 2009 sits in the process, although I am happy to say that I think it is a part of the solution. PAV is tackling the problem from a very philosophical position whilst implementing real strategies at the grassroots level.

The website also states —

What about everything that is being done already?

PAV intends to work side by side with existing authorities and programs. If possible, we hope to improve their impact by getting the community to better support them

What a great attitude. PAV is not just expecting someone else to do it and not just sitting there and calling for help from government agencies, but asking how it can get in there and work as a community and get the community to embrace it and engage in it and to be involved in it.

The next section on PAV's website reads —

**Would PAV work in my area too?**

Trialling this programs enables us to find out what works and what doesn't. We will take all the good things that do work and share them with others.

People Against Vandalism has done that across the northern suburbs. In fact, it tried to transplant it to other areas, and it did not work. PAV did some work at the Heathridge shopping centre, which I will talk about this evening. The member for Mindarie, John Quigley, would be the first to deny that he was instrumental in this program and he would give credit to people such as Tom Drinkwater who deserve the credit—they do—but the member for Mindarie did a lot of work to assist PAV, particularly in its early days, to get up and running and to help make them a success and become part of the community. I would love to go through all the different programs they have run at various times to engage with young people in the community and to get them to share in the ownership of, and the solutions to, the problem. This involved working with them both in a positive and negative way, including offering vouchers at the local shopping centre in return for dobbing in the graffiti vandals so they can be dealt with and have their issues addressed as part of the community-based solution. PAV has been prepared to go to other places. It was involved with the Heathridge shopping centre. The member for

Joondalup, Tony O’Gorman, MLA, was instrumental in assisting PAV in that process and working with the Heathridge shopping centre.

PAV gives a lot more information on its website, if members want to look there. PAV is part of a community response. Two other groups that have been instrumental in supporting them are the local police and also the City of Wanneroo. The mayor and the local councillors of the City of Wanneroo have strongly supported that process.

**Hon Liz Behjat:** And Paul Miles, the local member.

**Hon KEN TRAVERS:** That member may be doing that, but I am not aware of that. I was about to give Councillor Goodenough a plug at this point. I will give credit where I am aware it is due. One of the things that has always amazed me is that when People Against Vandalism offered to do some work in the City of Joondalup—if I remember correctly the state government even offered to put some money in to assist in that process at the time to try to get PAV established in those parts of the City of Joondalup that were having problems with graffiti—the Joondalup councillors knocked that offer back. Some of the people who voted against that are now members of Parliament. To this day, I do not understand why they took that decision. It was a program that was successfully operating in a neighbouring local government authority, with an offer of assistance from the state government, and the offer was made to come down to work in another local government area, yet the offer was knocked back. I have never understood it or had an adequate explanation for why that occurred. I honestly think that it is a fantastic program and I would love to have seen it expand down the coast from where it had previously operated and into areas to the south in the City of Joondalup. The people who took that decision will have their reasons, but it was a great shame. It is probably the program that I have seen. Like all of these things, we cannot rely on just one program. We have to have many programs in operation. What will work for one group or in one area may not work in another. People Against Vandalism would be the first to say that the government needs to be tough; that we need to have a tough-on-crime approach. It is a group that recognises the role of the community. I think it is also fair to say that it recognises there is that other aspect we need if we are going to fight graffiti; that is, to be tough on the causes of crime. We cannot do one without the other. I am quite convinced that if we try to do one we will get nowhere.

I have to be honest to members on the other side; I think that they are fixated with the first part of the solution, which is the tough-on-crime part—which we agree with—but I do not think members opposite are demonstrating that they understand or are committed to the second part. It has been only a year, I know. There may be time for the government to get on and address the second part —

**Hon Brian Ellis:** The other parts are not working. I agree with the member that we need a holistic approach. We need harsher penalties because the other parts are not working.

**Hon KEN TRAVERS:** I agree with the need to be tough on crime. We are not arguing about that point. It is about being tough on the causes of crime. It is very easy to start to be tough on crime and forget to be tough on the causes of crime. We need to think about the sort of work that groups like People Against Vandalism do in terms of community engagement. One of the things I always worry about with a group like that is that it is heavily driven by individuals who are highly motivated. It is succession planning. It is about building the capacity within our communities to allow the continuum of that work and to refresh the “brand” all the time as well. That group was very successful in its early years in doing that in the Mindarie area. There are numerous levels at which we need to operate.

As well as putting in the tough penalties, we also need the capacity to catch these people. There is no point in having tough penalties if no-one ever suffers from those tough penalties because they are never caught. It is very difficult to catch somebody committing the act of graffiti. Graffitiists can be in and out very quickly. I am sometimes amazed at where some of the big urban artwork is—which is a different kettle of fish—and the length of time it must have taken to put that artwork in place. How vandals do graffiti without ever being seen is beyond me; whereas I can see that vandals who tag could be off without being seen. We are never able to catch graffitiists on buses, even when CCTV cameras are recording, so it is likely that the people committing graffiti offences are getting on that same bus the next day.

The solution is about trying to understand and address the causes. We can look at it from a holistic point of view and try to address the causes of crime by inviting a community response. We may ultimately get through to some of the perpetrators. It gives offenders a greater understanding of the impact their actions have on our community. I suspect that most kids who do this stuff feel in some way alienated, rebellious or disengaged from their community. That is only a suspicion. By getting a community response, they may actually realise that committing this crime is not helping them to become a part of the community. I think these kids will start to realise that doing the graffiti is not achieving what they set out to achieve; that is, wanting to be a part of the community. We need to get a sense of culture amongst young people. If people start bragging around the school yard that that is their tag, they do not get that sense of inclusion. That complete package has been operating in

the area as a result of the efforts of People Against Vandalism. That level of engagement through all tiers of the community has worked.

I think I have pretty much said most of what I wanted to say tonight. However, to recap, I think it is unfair for members on the other side to try to suggest that because the title “Graffiti Taskforce” was gotten rid of, the last government did nothing. We undertook a litany of activities such as the Repay WA graffiti removal program, the graffiti hotline and the Goodbye Graffiti strategy. Predating those were a number of other activities, but they are the more recent initiatives. Even predating those, I think Hon Brian Ellis talked about the legislation that was put in place to try to address this issue. Therefore, it has been a continuous, ongoing process to work on the issues to try to find a complete solution to them. Ultimately, for all the work that the past government did and the current government is now doing, I do not think that anything I have seen in any of those programs or in any other programs around the world has been as successful as getting a level of community engagement. I hope that all of us, as members of Parliament, will focus our energies on getting that level of community engagement, on taking ownership of the problem, as the People Against Vandalism suggest, and on trying to find a complete package.

As I said, I have no problems with supporting this bill. However, I do so with one fear; that is, I do not want it to lead to the perpetrators of this vandalism finding new ways and means to express their anger, or whatever we want to call it—whether it be by their using the implements that were talked about the other night to scratch into glass or whether they come up with some other innovative way of expressing themselves and causing damage—which in turn will lead to a more expensive and costly mechanism for cleaning up the graffiti. I know that the Public Transport Authority spends a vast sum of money every year on cleaning up graffiti. It always amazes me how quickly a train that has been cleaned up and put back into service can be covered with graffiti again. With the level of security on trains, it always amazes me that that can occur. I suspect that if it were only the markings from black marker pens that had to be cleaned off the back of seats, it would be a lot cheaper than trying to replace the glass in those trains. I know that the PTA has tried the film that can be torn off and so on. That is my only reservation. Firstly, I do not know that all the people who are responsible for graffiti are under 18, so I do not know that the legislation will capture everyone who is involved in this activity. Secondly, I am concerned that if the legislation captures too many of them, they will find other ways of applying their graffiti. Therefore, in that sense, we need to ensure that we are focusing on other areas. We must come at it from a community perspective and try to address it not just as a tough-on-crime issue, but by being tough in addressing the causes of it. If we can do that, I think that as a community we will be successful. However, I believe it is incumbent on all of us to go back into our communities and look at ways in which we can work with these people from the bottom level up. I suspect that this legislation will not necessarily achieve the aims that all members in this chamber tonight would agree on; that is, the reduction and, hopefully, one day the complete elimination of graffiti in our society.

**HON ED DERMER (North Metropolitan)** [8.39 pm]: I am very pleased to rise in support of this bill. I acknowledge that the bill is likely to have a positive effect, and for that reason I am happy to join with my opposition colleagues Hon Kate Doust and Hon Ken Travers in supporting it. I am also concerned that it will be far from a complete answer. There is a need to address a wide range of strategies in an endeavour to counter the frequency and impact of graffiti because it has such a serious impact. It impacts at a range of different levels. I would like to spend a little time exploring each of those, some of which have been referred to by others in the chamber. The most obvious impact for all of us is that it makes our environment less pleasant. There are so many things about our environment we can draw strength and comfort from but we do so in a lesser way because of the impact of graffiti. One of the most relaxing things I do is attend Western Australian Football League football matches. Part of that relaxation is to not drive. I have never come to enjoy the driving experience that much.

**Hon Simon O’Brien:** Who do you barrack for?

**Hon ED DERMER:** I am very proud to say that I barrack for the Claremont Football Club. I have done so ever since the club impressed me as a six-year-old when it won the 1964 grand final. There are very few more pure joys than watching Claremont players kick goals or achieve whatever else they might do.

**Hon Norman Moore:** Where did you leave your handbag?

**Hon ED DERMER:** Hon Norman Moore will long live to regret that day! I know he is an East Fremantle adherent and he is probably still feeling a bit bitter and twisted about 1964. We did it to his team then and we will do it again! I am looking forward to the day —

**Hon Norman Moore:** It was terrible being hit by the handbag brigade!

**Hon ED DERMER:** I am looking forward to the day Claremont needs such a large handbag to carry all its premiership banners, that it will exceed the number of premierships won by East Fremantle and reach its natural place on the top of the wozza in the Western Australian Football League. I hope Hon Norman Moore and I live long enough to witness that day. I am confident that I will and I think he will as well.

**Hon Norman Moore:** I suspect we won't.

**Hon Ken Travers:** Just remember '78.

**Hon ED DERMER:** I have just been enjoying watching the DVD of the 1996 grand final.

**Hon Ken Travers** interjected.

**Hon ED DERMER:** Now I am being distracted. What I am getting at is the great joy of going to watch a WAFL match, which I recommend to all Western Australians. Even those who lack the wisdom to barrack for Claremont can still go along and enjoy the matches. That joy of going to watch a WAFL match is, in part, using public transport because I think public transport is tremendous. It is an opportunity for someone to relax rather than find their way through the degree of tension and danger involved, even in a routine car ride, and enjoy the ride on the Perth-Fremantle rail line whether heading to Claremont oval or to Fremantle oval to see us do damage to the most recent premiers. It is a chance to relax and look out the window and enjoy a beautiful vista of the ocean, seeing ships, seeing Rottneest Island—a place of fond memory, largely during my childhood. But, sadly, too often the view is obscured by the destructive graffiti vandalism on the train windows. The point Hon Ken Travers made about the relative excessive cost of replacing glass as opposed to painting over graffiti on an opaque surface is valid. It is very unfortunate that, in so many ways, the great joys of life in Western Australia are impeded by the impact of vandalism.

If people happen to pass graffiti and it takes a little away from an enjoyable afternoon because it impedes the opportunity to enjoy a view or the environment they are in at the time, that is a very small impact compared with someone who suffers from their own property being damaged by it. One of the great tragedies of graffiti, of course, is that it takes such a simple, quick exercise to impose it while taking such a time-consuming and often expensive exercise to clean it, paint over it or whatever else we might do to remove its effects. Tremendous work is done by so many people in our community who seek to provide a positive solution by voluntarily contributing their own resources and time to removing the effects of graffiti vandalism. It must be immensely frustrating for them to put in so much work and have it reversed by the next graffiti attack. It must be extremely frustrating also for people who expend a great deal of money improving their shopfront or their property in some other way only to see it damaged so soon thereafter. Where there is a relationship with insurance, obviously we all pay for reversing damage to property via our insurance premiums. In that way, it is not only the direct victims, although they suffer the most, but also all of us who suffer the effects of vandalism. There is a very serious need to counter graffiti vandalism, and this bill goes some way towards doing that. For that reason, I am happy to support the bill. However, it is only a small part of the wide repertoire of options that need to be explored to reduce the problem of graffiti vandalism. It is a nuisance for someone sitting in a train who wants to look at the view from the window to have to look at the scratches on the window instead. It is a nuisance also for people who enjoy walking down the street or in a park to see an adjacent building that has been graffitied. Obviously, graffiti vandalism is a much greater problem for people who have direct responsibility for the property that has been vandalised, whether it is their own or whether it is public property for which they are responsible.

However, there is a far more grave and negative consequence of graffiti vandalism. This has been referred to by Hon Ken Travers and Hon Col Holt. I refer to the signal of lawlessness that vandalism gives to all around them. A reference was made to New York. Quite a lot of research from New York shows that when people are in an environment where graffiti vandalism is self-evident and widespread, it is a signal to all concerned that that environment is outside the law. The psychological message that is sent to all those who live in that environment where graffiti is out of control is that that environment is outside the law. Logically, the message is that if a person behaves as an outlaw, he is more likely to get away with that type of behaviour and it is an accepted part of the environment. Unlawful behaviour follows from an environment that is diminished and damaged by graffiti vandalism. Quite often it is of a very serious nature, such as assault at various levels. People have suffered very serious bodily harm in that type of lawless environment. The message from graffiti vandalism is that lawlessness prevails in this place. Therefore, it is not a trivial matter.

I enjoyed listening to my colleagues Hon Kate Doust and Hon Liz Behjat, who talked about the qualities of their children and their artistic endeavours at home. I do not believe that there is a connection between that type of behaviour and graffiti vandalism.

**Hon Kate Doust:** Not after that event.

**Hon ED DERMER:** In a solid family, when a child draws on the wall or carpet and it is discovered, the normal response of the parents is to dissuade the child from doing so again. My own boys at different times took a liking to venting their artistic expression in full flourish on the carpet and on the walls. One of their tricks was to blame the other for what had occurred. Often parents are not sure who the perpetrator is. On one occasion, one of my children had drawn on the carpet and then said that daddy had done it. My wife knows that I have many faults, but an inclination to draw on the carpet is probably not foremost among them! That particular boy, by providing

false testimony, blew his own cover and got into great trouble for drawing on the carpet and was taught not to do it again. I do not believe that there is a real connection with that type of behaviour and graffiti vandalism.

When we endeavour to change someone else's behaviour, we must understand the human condition and some of the basics of psychology. As a parent of some 17 years' experience, I have had a need to try to understand what my children were thinking and why they were behaving in a certain way, and then I would take certain measures. My colleagues Hon Kate Doust and Hon Liz Behjat have had the same experience as parents. Hon Liz Behjat yesterday said that her children were either less artistic or less inclined to apply their artistic talents to the walls or the floors, so she was lucky in that way.

**Hon Ken Travers:** I suspect you have had as tough a time as any of us.

**Hon ED DERMER:** No; my children are an absolute pleasure, and it is good fun.

**Hon Ken Travers:** I did not say it would not be a pleasure.

**Hon ED DERMER:** That is part of understanding people, and I have probably in many ways refused to grow up myself, so it is like having little allies around the place. None of us ever completely loses those childhood instincts. I know children are different from small adults. They are inherently different, but there are many aspects of childhood that all of us carry with us. Remembering that is a good key to understanding what might be part of what causes the vandalism problem we are talking about. I do not think there is a real relationship between the type of naughtiness that might go on with children drawing on carpets and the vandalism that occurs outside. However, I think I have a bit of an idea about what might be one of the incentives for people to pursue graffiti vandalism. Part of it is probably a sense of adventure—getting out at night and doing something bad or illegal. There is probably a sense of performing like characters in films or television. The offender is out there at night, doing it undercover and there is that sense of adventure that is tied up with the sense of rebelliousness.

I have not studied much psychology. I did one unit as part of a Diploma of Education. The theory of psychology that I found most interesting was behaviourism. People will be familiar with the story of Pavlov's dog. The dog is trained to respond to a certain stimulus and gets a reward, and that trains the dog to pursue a certain behaviour. To understand why people behave in a particular way, it is logical to consider what consequences of that behaviour might stimulate them to do either more or less of that behaviour. I suspect that, for someone who does not have a lot of positive alternative activities, the idea of sneaking out in the middle of the night and inflicting some damage on someone else's property, convincing himself that it has some artistic merit, which most of the time it does not, and doing something sneaky and rebellious and getting away with it is a positive stimulus that would reinforce that bad behaviour. There are two aspects to discouraging the dreadful behaviour of graffiti vandalism. One is to remove that positive stimulus, or more likely replace that positive stimulus with a greater and more constructive positive stimulus. The other is to provide an adverse response to the bad behaviour. The focus of this bill is that adverse response. This is obvious in the clauses of the bill and the second reading speech, very ably delivered by the Parliamentary Secretary to the Attorney General, which states —

In order to deter potential first-time offenders and those who may reoffend, the bill will also double the penalty in the Criminal Code WA so that graffiti offenders will now face a maximum penalty of two years' imprisonment and a fine of \$24 000.

That is a pretty serious adverse stimulus for someone who is caught. Two years' imprisonment compares quite harshly with many penalties for quite serious crimes that are delivered by our judicial system. I imagine that the maximum penalty would be rarely applied, and it might be of more effect in achieving our objective of having less graffiti vandalism to find more realistic penalties that would be applied more often, rather than a fairly harsh maximum penalty that is rarely, if ever, applied. Perhaps it would apply to someone who had caused extraordinary damage, or put someone's life at risk as a result of the vandalism. It could be imagined that if graffiti obscured a road sign, that might have a very serious consequence for a person. Maybe that harsh penalty is there for cases of people who are very obvious repeat offenders, on whom other forms of dissuasive stimulus have been unsuccessful in reducing the frequency with which they commit graffiti vandalism. I think we need adverse stimulus to discourage graffiti vandalism.

We also need to address the other side of the psychological equation, which is defined in constructive things for people to do. To the extent to which young people are perpetrating graffiti vandalism, an obvious need is to find alternative activities for those young people to pursue. Young people quite often do not have large amounts of money. Therefore, alternative nocturnal activities that involve a high cost are unlikely to be the real answer for many of these people. The organisations in our community that do provide alternative entertainment and interest for young people are a very important part of the equation to discourage incidents of graffiti vandalism.

I referred earlier to the Western Australian Football League football clubs. Obviously, my own objective judgement on these things is that nothing goes beyond Claremont Football Club; however, there are other

sporting activities. Sporting activities can be expensive but they do not always need to be expensive. I remember catching up with a young friend who was an activist in the Australian Labor Party. I met him in the late 1980s or the early 1990s.

**Hon Kate Doust:** You would like to recruit a couple of those, wouldn't you?

**Hon ED DERMER:** One or two.

The particular gentleman was one who had a few challenges in life and actually came to an unfortunate end a year or two later. However, I remember wanting him to sign a nomination form, or some activity like that, and asked him where he would be on a Friday evening or the weekend. I went to a hall in Victoria Park to meet this young gentleman. I was very impressed. I went into the hall that had a very large number of people of his age, which would have been late teens or early 20s, involved in, if I recall correctly, badminton, volleyball and such activities. There was no obvious drinking or other intoxicating substances being imbibed. A very large number of young people were involved in activities that could only have been good for their physical health and I think also for their mental health. Those types of activities are the alternative stimulus, if we like, to satisfaction, which I would hope we can do more in our community to foster, encourage and make available. It is very important to remember that for these activities to be effective they must be available to more, rather than fewer, people and therefore must be done on a cost structure that is minimal to the people concerned. I think some cost to people going to such activities is important because if people part with some money, they often give more respect to the service they are receiving and the environment they are going into.

There is another very interesting aspect to Hon Kate Doust's contribution to this debate that I would like to share for a little while with the house. Hon Kate Doust suggested that lipstick could be a very destructive graffiti implement, and one that would be very difficult to clean.

**Hon Ljiljanna Ravlich:** There goes my beauty routine!

**Hon ED DERMER:** It is funny how lipstick evokes these sorts of comments. I had not thought of it. I listened to all of Hon Kate Doust's comments with interest, but that one struck me because I read in the bill and the second reading speech the reference to the types of graffiti implements that would become essentially unavailable to people under 18 years of age. I will quote from the second reading speech. I am sure Hon Michael Mischin would not mind me quoting his words, which were very interesting —

To assist and complement the efforts of these groups —

That refers to those wonderful groups that my colleague Hon Ken Travers was talking about that get out into the community, do something practical for their community and redress and solve problems. I have the good fortune to have a very active constituent, Mr Phil Roach, in Carine whom I first met when he was on my tail about road issues. I know he organised a group locally or at least was part of a group that was very active in getting out there and cleaning up graffiti. Rather than doing what I am doing, I suppose, which is talking about the issue, the members of that group were getting out there to fix it, although I must say that Phil Roach is a very active citizen who is often on my tail and he also ensured that he was talking about the issue and bringing the need for action to my attention, as well.

**Hon Ljiljanna Ravlich:** He sounds like a great bloke.

**Hon ED DERMER:** He is a great bloke and we are very lucky to have him in the North Metropolitan Region.

I have managed to distract myself, which is always unfortunate but it can happen. I will get back to Hon Michael Mischin's second reading speech, and I am sure that he will appreciate the quality of the words that I am about to share with the house.

**Hon Michael Mischin:** I am glad the member enjoyed it.

**Hon ED DERMER:** I did. The parliamentary secretary said —

Agencies and stakeholders such as local governments, Main Roads Western Australia, Perth Transit Authority, Water Corporation, Western Power and Telstra all operate programs to combat graffiti.

I was of course referring to citizens' programs to combat graffiti that are similarly very worthy —

To assist and complement the efforts of these groups, this bill seeks to enshrine in law a preventive function by proposing to limit the availability of graffiti implements. These are defined in the bill and include cans of spray paint and marker pens or similar implements that have a tip of over six millimetres wide, contain a fluid that is insoluble in water, and are capable of marking a surface.

When I heard the parliamentary secretary's second reading speech refer to those implements, I thought what a serious misfortune it is for people who want to use such implements for their good and proper and designed purpose, and a similar misfortune for the people with the very best intentions who are selling such implements for people to use for their good and proper purpose. One of the difficulties in human life is that so often that which is designed with a good and proper purpose is misused by others for a negative purpose, and we have not only the bad impact of the negative purpose for which it is being misused, but also the disadvantage and the nuisance for the people who would seek to use those implements for their proper purpose. The parliamentary secretary's speech continues —

The bill will also amend the Criminal Code WA by creating a new offence and penalty for persons who sell these items to a child. The penalty will be a maximum fine of \$6 000 for a first offence, and \$12 000 for a subsequent offence.

I imagine these implements are included in the bill because they are frequently used for graffiti vandalism. I support the legislation and I understand why it has been introduced, but a very unfortunate aspect is that it restricts the ability to buy and sell these implements that have a good and proper purpose for which they were first designed and manufactured. We are putting at hazard not only a person who might want to purchase them for good and proper purpose, but also the shopkeeper who is selling those items. The shopkeeper faces a hazard of a maximum fine of initially \$6 000 and then \$12 000 for a subsequent offence for selling them to a child. A child can be a 17-year-old person who is considerably taller than I am. As I understand it, parliamentary secretary, a child is by definition —

**Hon Michael Mischin:** Anyone under the age of 18 is a child.

**Hon ED DERMER:** Under the age of 18 years; that is right. That age group includes people who have enormous artistic ability and who may have very good reason for wanting to purchase these implements. Therefore, although we find that this is a solution to counter graffiti vandalism, we will seriously impede people who would want to buy such items for good and proper purpose.

**Hon Ljiljanna Ravlich:** Is the member saying that we will not be able to buy lipstick anymore?

**Hon ED DERMER:** It is interesting, Hon Ljiljanna Ravlich, because it does not take very much imagination to start to think what would happen if this bill was put into effect and a person could not get permanent markers with a tip of more than six millimetres. The person thinks that he remembers reading *Hansard*. He is sure it was not Hon Kate Doust's intention to suggest he try lipstick, but he thinks that when he is not out there committing graffiti vandalism his next favourite entertainment will be to read *Hansard*. If we get back to behaviourism, whether *Hansard* is a positive stimulus that directs people to good actions probably depends on who is giving the speech. Usually, when Hon Kate Doust gives a speech it is of such eminent commonsense that it leads people to do good things, but we may have found an exception in her contribution yesterday.

Directing myself back to the more serious side of the debate, it is quite logical that a determined graffitist may find that the person he used to buy six-millimetre permanent markers from will no longer sell them to him because he is in fear of a \$12 000 fine after being pinged for a \$6 000 fine when he sold him one the previous week. When the graffitist finds that the shopkeeper will not sell him one, he will go back to his old habit of reading through *Hansard* and then spot the suggestion, inadvertently made by Hon Kate Doust, to try lipstick. Do we then bring in another bill next week to ban lipstick? Hon Ken Travers shared with us the relatively expensive-to-correct graffiti vandalism of using a rock or some sharp implement on glass. Having come back from witnessing terrible things being done to South Fremantle at Fremantle Oval—which we did not manage to do this year but managed the year before—and perhaps wanting to enjoy the full vista of the sunset over the Indian Ocean through the window of a train, smugly thinking what had been done to South Fremantle, I might not see it properly because of scratching on the window. That scratching on the window would not be done with a lipstick, nor a marker pen or spray can. The point I am getting at is that a determined graffitist will find an implement to pursue his very unfortunate activity. Will we get to the point where we restrict sales of lipstick to 18-year-olds or over?

**Hon Ljiljanna Ravlich:** And 50-year-olds.

**Hon ED DERMER:** Hon Ljiljanna Ravlich makes a point.

**Hon Robyn McSweeney:** Do you wear lipstick?

**Hon ED DERMER:** There are a number of things in life I have never done. I am thinking through it. It may not be a long list but that is one of them.

**Hon Robyn McSweeney:** I was jesting.

**Hon ED DERMER:** I went to an all-boys school and sometimes I got into a dress for a particular role in a school play, but I do not think it got to the point of wearing lipstick.

**Hon Liz Behjat** interjected.

**Hon ED DERMER:** We are all friends here having a chat!

Now that I have reminded myself of who reads *Hansard* I might get back to the point. If we are at the stage with this bill of proscribing implements that are regularly used for graffiti vandalism, a likely consequence is that the determined graffiti vandal will find alternative ways of doing it. It is not possible to solve the problem by adding to the list of items that cannot be sold to an under 18-year-old. One of the interesting things about life is that people do not mature according to statute. We have decreed that people are mature, adult, able to vote, able to choose us, able to sign contracts and able to do various other things at the age of 18 years, which suggests they are sensibly mature at 18 years of age. We obviously need to draw arbitrary lines for the purposes of law. We assign majority to a person of 18 years of age or older. It is a very imperfect solution to the problem of graffiti vandalism because some people well beyond the age of 18 will still have a long way to go to grow up. As I said before, I do not believe that I have expunged every element of childhood from myself. I quite enjoy the ones that remain. I am glad that does not involve anything outrageous like graffiti vandalism, but there is an element of childhood in all of us. There would be quite a few people over the age of 18 years who are capable of committing graffiti vandalism.

This bill is a very imperfect solution. However, I still support the bill. I think graffiti is of such gravity that we need to take whatever steps we can to combat this problem. I imagine—the parliamentary secretary might confirm this for me—that there is a scientific basis, or an evidence basis, if we like, for listing the items that are to be restricted in the way that they are listed in the bill. Is that the case, parliamentary secretary?

**Hon Michael Mischin:** The anecdotal evidence suggests that those are the implements that are used quite commonly to commit graffiti offences. I accept that other implements are also used, and I will address that during my reply. Some people will use anything to damage property.

**Hon ED DERMER:** I am sure that is the case. I would hope that there is some evidence based on frequency of use that has been used to provide this list. I fear that it is a bit like taxation law, in that we address a particular field when someone has found a loophole, and the problem then moves to the use of another loophole. I think that underlines my fundamental point—that is, that we need to have more than this adverse stimulus if we are to control the contingencies around the lives of people and dissuade them from pursuing graffiti vandalism. We need to do more to provide alternatives and positive stimuli. That is very important.

I want to mention now another very important emotion in human understanding. I will not use the term “psychology” again—I already have, of course—because I am not really qualified to do so. But I think we all understand each other. That is because we are all people, and we all live with people, so we all have some understanding of human emotion. One does not need to be a professional to understand something of how the mind, the psyche and the soul work. I think I have a pretty good understanding of the word “empathy”. However, we often run around with understandings of what a word means that we have picked up from general usage. Therefore, it is often useful to look at the dictionary to see whether our general understanding of what a word means is accurate. I have asked our very helpful attendants in the chamber to bring me a copy of the *Macquarie Dictionary*. I have been borrowing this dictionary from the chamber for the best part of 12 years. I am not sure what edition it is. It says “Copyright Macquarie University NSW 1981”. There is then a reference to 1985. It is the 1985 revised edition that I am quoting from.

**Hon Ken Travers:** So it arrived after Norman got here!

**Hon ED DERMER:** The pages are still holding together, I have not had to blow any dust off it, and the cover is still stable; so, no, it does not go back to 1977, Hon Ken Travers! I can remember 1964, and so can Hon Norman Moore! He remembers it well. He is still a bit cross that Claremont beat East Fremantle! I come back to the word “empathy”. According to the *Macquarie Dictionary*, “empathy” means “mental entering into the feeling or spirit of a person or thing; appreciative perception or understanding”. I understand from people who know more about psychology than I do that one of the problems leading to some of the most dreadful crimes that occur in society is that the people who commit these crimes have a lack of empathy; therefore, they can perpetrate the most terrible cruelty on others. That is because they do not have the normal empathy that most of us use every day. What empathy means in practice is that if I were to do something to one of my colleagues in this place that would hurt that person, I would have a sense of what that would do to me if that were to happen to me. Therefore, that would discourage me from doing that bad thing to that other person. That is what empathy is about. The lack of empathy—which I think can often be a pathological condition—underlines some of the most cruel assaults and tortures that are applied by others, sadly probably every day.

**Extract from Hansard**

[COUNCIL - Wednesday, 23 September 2009]

p7508c-7525a

Hon Brian Ellis; Deputy President; Hon Col Holt; Hon Ken Travers; Hon Ed Dermer

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A lack of empathy may also be related to the graffiti vandal, because it is easy for them to inflict the damage and not think about the consequences. They are often young people with a limited income who are less likely to own property that might be damaged. They might find it difficult to understand what it is like to be on the receiving end. That is what I am talking about. I think punishments that would make graffiti vandals reverse the consequences of their activity, such as repairing the damage, are probably very good, because if they have to get out there and clean it up—ideally in a way that is slow, tedious and repetitious—then perhaps they will start to understand the consequences of their behaviour on others; hence my reference to empathy.

Adverse stimuli and consequences that will discourage people from pursuing graffiti vandalism need to be very seriously explored. Also, there is a very serious need to provide positive stimuli to replace the positive stimuli vandals get from perpetrating graffiti, from which they derive a perverse sense of adventure. It is a most perverse sense of adventure, and the best way to remove it is to provide senses of adventure that are positive, constructive and no less exciting for the young people concerned. But they must be coupled with the punishment of corrective adverse stimuli that directly involve the vandals reversing the damage they have done. That solution is likely to enhance their empathy and be very effective in reducing the probability of them repeatedly perpetrating the crime.

We should not be satisfied with the Criminal Code Amendment (Graffiti) Bill 2009 as it stands. I am voting for this bill because I believe it is a small step in the right direction, but I believe finding the solutions are the responsibility of us all. I think the worst possible thing we could do in this chamber is start pointing fingers and saying who did more or who did less. Why do we not just put our heads together and share our ideas on what can be done to overcome this very serious problem? Hopefully, we can then guide the ministers and others who have the resources of the Crown at their fingertips to take steps to implement our solutions and affect our community for the better. I hope this debate will be taken in that spirit. I know I should be looking at the Deputy President when I say this, but I am looking at the parliamentary secretary representing the Attorney General. We need to look at the full complement and the bill as a whole, and we need to ensure the solutions put forward are research based. We also need to be aware that when we put forward a solution that puts a serious penalty and an onerous risk of jeopardy on people who might be selling marker pens for very good purposes when we present this list of possible implements that can be used for graffiti vandalism, we need to take into account that there are people who wish to buy them for their right and proper purpose.

We need to take all these considerations into account. I am delighted that the parliamentary secretary is listening in the chamber, and I am sure he will relay what I have said to the Attorney General. I hope that we can cooperatively put our minds together to find greater and more stimulating challenges and pastimes that are sufficiently inexpensive so as not to preclude people on modest incomes from participating in them. That is one of the ways we can advance the cause of minimising graffiti vandalism, coupled with effective adverse stimuli, be it fines or periods of imprisonment—although I cannot imagine imprisonment being the best answer, to be honest. I think the punishment that would make most people understand the negative impact of their bad behaviour is making them clean it up in a strictly enforced setting. Maybe harsher punishments such as imprisonment could be imposed if a person absolutely refuses to clean it up. I think that is the way that they will most come to understand the consequences of their actions on their fellow human beings, which brings me back to empathy, which I think we need to take every step to promote to achieve a more peaceable society, a peaceable kingdom, and bring those people to understand the impact of their behaviour on others, bringing about a happier world as a consequence. I thank members for listening to me.

Debate adjourned until a later stage of the sitting, on motion by **Hon Norman Moore (Leader of the House)**.

[Continued on page 7527.]