

**GRAFFITI VANDALISM BILL 2015**

*Third Reading*

**MRS L.M. HARVEY (Scarborough — Minister for Police)** [12.37 pm]: I move —

That the bill be now read a third time.

**MRS M.H. ROBERTS (Midland)** [12.37 pm]: I am pleased to make a contribution to the third reading debate on the Graffiti Vandalism Bill 2015. We know that this bill delivers very little new and it is an interesting priority for the government. During the course of the second reading debate and consideration in detail some of my colleagues commented on the government's priorities, especially when it has been so lax in dealing with matters involving dangerous sex offenders. This government will not even table a long-promised review on dangerous sex offenders. We have been told belatedly by the Premier, having waited for some 18 months, that it will not table the review and that that legislation will be delivered into this place before the end of the year. There are a few problems with that: one is that there will be no opportunity to put that legislation in place before the end of the year—it will be too late. The other problem is that we have lived through all these issues before. Earlier in the week I said that these matters were highlighted back in March 2014 with the release of TJD into the community and the fact that it took so long—some three weeks—to put his photo up on the website. At the time, the minister made the call that the commissioner had to wait until the court processes had occurred before consideration could be given to whether his photo should go onto the website. This week the Premier was highly critical of the absence of a photo of Mr Brown who was released into Coolbellup. He basically said that the commissioner had made a mistake in not putting his photo onto the website straightaway. If we go back to the Minister for Police's comments from 18 months ago we know that there is a time lapse there. At the time, the minister said that that was effectively a loophole, and I put forward the suggestion that perhaps any release of such a prisoner should be conditional upon the Commissioner of Police considering the placement of the photo on the website ahead of him being released. If the commissioner needs to take a few days or even a week, the prisoner should not be released. That is one of the things I would like to see improved in that legislation. I think it would be a very important thing to do.

The minister has promised much more than that; she promised us sentences in line with community expectations and said that that would occur when that legislation was introduced. The Attorney General promised to introduce that legislation by the spring session 2014. When TJD was released into the community in 2014, the Attorney General's response was that he was setting up a review, and the police minister of the time said that the government was a government of action and that it was going to have a review and take action immediately. Of course neither of those things happened, and the spring session 2014 came and went without any legislation being put out there by the Attorney General or his representative in this house. Fast forward to 2015, and there is still nothing. The autumn session goes by—still nothing from the Attorney General and the Minister for Police. Now we see the release of Mr Brown into the community and the genuine community concern in Coolbellup, in the member for Willagee's electorate.

I make that comparison just by way of highlighting the government's wrong priorities when it comes to legislation. I am not saying that the Graffiti Vandalism Bill 2015 is without any merit at all; it may be of some utility, and on that basis the Labor Party is more than prepared to support it. In fact, there are no elements of it that we actually oppose, but as I said in my contribution to the second reading debate, and I say it again now, there is nothing much new in this legislation. It is a little cobbled-together package based around being able to tick off on a commitment that the Liberal Party made ahead of the 2013 election. It said it was going to have some kind of comprehensive graffiti package that would somehow be of huge assistance to the community. I personally think there are other areas of legislation in respect of law and order that are more important and would be better supported by the community, but the government has been tardy on those issues.

I actually had some high expectations of this graffiti bill; I thought it might actually deliver what the minister and the Liberal Party had promised, but sadly, it just cobbles together provisions on graffiti from other legislation. The minister used a phrase like “one-stop shop for graffiti” in reference to this legislation—it is not. During consideration in detail my colleagues pointed out that there are matters pertaining to graffiti that remain contained in other legislation and that have not been incorporated into this so-called omnibus graffiti bill.

If members doubt me when I say that this legislation has been oversold, they need look no further than the opening line of the explanatory memorandum, which states —

The Graffiti Vandalism Bill (GV Bill) creates stand-alone legislation relating to graffiti and creates a new offence for damaging property by graffiti.

If one read that at face value, one would think, “Oh wow, we've lived in the state of Western Australia where there is no offence of damaging property by graffiti, and for the first time, the Liberal government's going to introduce that. Fantastic! Gee, I didn't know I could just go and graffiti things and it not be an offence; I didn't

know I could graffiti walls, buildings or anything, and that it wasn't an offence!" It is only this minister who is claiming to have created a new offence of damage by graffiti. What a load of nonsense! The fact is that under section 444 of the Criminal Code, there is an offence of criminal damage. If someone damages something by graffiti—this year, last year, or 10 years ago—they can be found guilty of criminal damage and be subjected to a fine of up to \$24 000 or two years' imprisonment. When we look at this so-called new offence of damage by graffiti—an offence that this minister claims to have created—guess what the penalties are? They are a fine of up to \$24 000 or two years' imprisonment.

We have heard the spurious argument that somehow this is new because it is a "standalone" offence that is being replicated in a separate bill under its own heading. If we are to go down this path, maybe we can have numerous separate and standalone bills for all kinds of criminal damage. I am not sure that that would make things simpler; it would probably make things more complex. The argument put was to the effect that, "Well, on the scale of criminal damage from the most terrible right through to graffiti, that might incline a judge towards giving lesser penalties to graffiti damage as opposed to other forms of criminal damage." The same could be said for graffiti itself; there are different levels of graffiti. It might just be a bit of felt pen or texta on a window that is easily wiped off; they might have used chalk to create their graffiti, which would do no permanent damage whatsoever. Alternatively, they might permanently damage something through graffiti, and I think the judge would take that into account. Judges deal with a whole range of offences over the course of a working day, and I doubt very much we are actually going to see any real increase in penalties for these offences.

The con in this legislation is that so few people are actually caught for graffiti offences. It would reassure me more if I knew that the police were making a bigger effort and that there were more resources being put into actually catching the offenders. Whether we call it the sanction rate, the clearance rate, the clean-up rate or whatever, the sanction rate for graffiti offences is not very high. Perhaps in her response to the third reading debate the minister could advise us of the percentage of graffiti offences each year that actually result in someone being charged with criminal damage under the Criminal Code, or any other offence that might be relevant.

Other parts of this bill simply repeat offences that already exist. I think this is a bit of a Clayton's bill; it is the bill you have when you want to pretend to do something. We are occupying the time of the house in putting together this so-called important legislation while the government sits on many more pieces of genuinely important legislation. Perhaps it was because the minister was turning her attention to this legislation that she fell asleep at the wheel on the Terrorism (Extraordinary Powers) Amendment Bill 2015 for so long, after having received a report saying that it was urgent that she bring it into this house last December, and then not actually bringing it into this house until last month.

As I said, the opposition does not oppose any of the provisions in this bill; we support them. There is, however, nothing much new in here. As I have said, a lot of it is just replicating what already exists. The minister claims it is a one-stop shop; it is not a one-stop shop because there still remain the same offences in other pieces of legislation. The minister claims that this legislation creates a new offence, as if damaging property with graffiti is not currently an offence with a serious penalty. It is, and I have pointed out the relevant section of the Criminal Code. It is a serious offence, and I would like to see the government get more serious about it. The other area I refer to is that the minister talked up graffiti statistics and made claims about the prevalence of graffiti in the community. I started with the very remarks that graffiti offences could only be counted if they were reported.

Debate interrupted, pursuant to standing orders.

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