

## Agreement in Principle

**Mrs BARBARA PERRY** (Auburn—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Premier on Citizenship) [10.00 a.m.], on behalf of Mr David Campbell: I move:

That this bill be now agreed to in principle.

The Government is pleased to introduce the Summary Offences Amendment (Spray Paint Cans) Bill 2007. Graffiti-tagged public transport and public facilities are not just costly nuisances; they can also lead to further crime problems, discomfort for users and serious safety concerns. That is why this Government takes a comprehensive and tough approach to fighting graffiti vandalism. During the election campaign, the Premier promised to continue the fight against graffiti by committing his re-elected Government to strengthen anti-graffiti laws to require young persons found in possession of spray paint in public to establish the person has it for a legitimate purpose, and give police the power to confiscate spray cans from people under 18 if the person does not have a lawful excuse for having it. The bill gives effect to these commitments.

The lemma Government has a long record of implementing strong and effective anti-graffiti measures. In 2006 the Premier announced a comprehensive strategy to drive down the incidence of graffiti, which included the establishment of the Anti-Graffiti Action Team to drive new measures to reduce graffiti throughout the State; increasing the use of community service orders to make offenders repair the damage caused by graffiti vandalism; identifying graffiti hot spots and stepping up enforcement and surveillance, especially through closed-circuit television; assisting councils and government utilities with the development of graffiti management plans targeting high graffiti environments, and allowing local councils to accredit community groups and volunteers to remove graffiti.

Furthermore, in June 2006 the Government passed the Summary Offences (Display of Spray Paint Cans) Act 2006, which requires retailers of spray paint cans to keep their stocks in locked display cabinets. This scheme came into force on 1 November 2006. These initiatives came on top of the tough penalties that already existed for graffiti-related offences. These offences continue to apply both to adults and young people and include damaging and defacing property with paint under section 10A of the Summary Offences Act, which carries a maximum penalty of 20 penalty units or six months imprisonment; possession of spray paint with intent to use it to damage or deface premises or other property under section 10B of the Summary Offences Act, which carries a maximum penalty of 10 penalty units or three months imprisonment; sale of spray paint cans to juveniles under section 10C of the Summary Offences Act, which carries a maximum penalty of 10 penalty units; and malicious damage to property under section 195 of the Crimes Act, which carries a maximum penalty of five years imprisonment.

A number of sentencing options can be used by the courts to deter graffiti vandalism, including: community service orders, which since 1999 have seen young offenders complete 60,000 hours of graffiti removal work; reparation orders requiring the offender to pay compensation toward repair of the damage, and place restrictions and non-association orders. The bill will complement these existing provisions by giving police the power to confiscate spray paint cans from juveniles when the person does not have a lawful excuse for having it. This will ensure that police have the ability to confiscate a juvenile graffiti vandal's tool of trade, and thereby prevent graffiti offences from occurring in the first place.

I turn to the details of the bill. Schedule 1 to the bill creates a new police power to confiscate spray paint cans from people under the age of 18 years. An officer may seize the spray paint can when the officer has a reasonable suspicion that, firstly, the person is in a public place; secondly, the person is under the age of 18; and, thirdly, the person is unable to satisfy the officer that he or she is in possession of the spray paint can for a lawful purpose. As I stated earlier the aim of the provision is to prevent a crime by confiscating the relevant object.

Schedule 2 to the bill amends the Summary Offences Regulation 2005 to create a scheme to regulate the management of seized spray paint cans. The amended regulation provides that spray paint cans that have been used or that are of negligible value can be disposed of immediately. If the spray paint can is not disposed of immediately, it must be retained for a period of seven days to allow the person to make an application for its return. This will allow applications to be made for the return of the confiscated spray paint can if, for example, the person is able to produce evidence that he or she was over the age of 18 years. Another example would be if the person was able to produce evidence that he or she originally had the spray paint can for a lawful purpose, such as if he or she was an apprentice painter or panel beater. The amended regulation also provides for an application to a court if the person desires an independent adjudicator on the matter. I commend the bill to the House.