

Dr Graham Jacobs; Mr Colin Barnett; Acting Speaker; Ms Alannah MacTiernan; Mr Paul Omodei; Mr David Templeman; Mr Brendon Grylls; Dr Elizabeth Constable; Mr Rob Johnson; Mr John Kobelke; Dr Janet Woollard; Mr Dan Barron-Sullivan; Mr Paul Papalia; Mr Eric Ripper; Mr Tom Stephens; Dr Kim Hames

**SELECT COMMITTEE INTO THE CAUSE AND EXTENT OF LEAD POLLUTION IN THE
ESPERANCE AREA**

Establishment - Motion

DR G.G. JACOBS (Roe) [4.15 pm]: I move -

- (1) That a select committee be established to inquire into and report on the cause and extent of lead pollution in the Esperance area, with specific reference to the following matters -
 - (a) how the environmental approval process for the transport and export of pelletised lead enabled the transport and export of granulated lead;
 - (b) the effectiveness of dust monitoring and reporting in relation to lead levels in the area and the adequacy of the response to those reported levels;
 - (c) the extent to which handling and other practices at Esperance port gave rise to extremely high benthic lead levels in the harbour;
 - (d) whether the Esperance Port Authority properly exercised its responsibilities in relation to the potential lead pollution; and
 - (e) whether the Department of Environment and Conservation's responsibilities in relation to the Esperance Port Authority processes, practices and procedures, including the legal and regulatory framework, were adequate and properly exercised.
- (2) The committee will report to the Legislative Assembly by 16 August 2007.
- (3) The committee will consist of the member for Churchlands, the member for Cottesloe, the member for Roe, and two members nominated to the Speaker by the Leader of the House.

The problems of Esperance started in early December, when bird deaths were first noticed. It took three months to ascertain the cause of the death of those birds, estimated to number 4 000, of different species, mainly nectar-feeding varieties. On 3 March this year it was revealed that the birds died from lead toxicity. Yesterday, the source of the lead was confirmed as the lead carbonate that was being exported through the port of Esperance. The transmission of the lead to the birds was thought to have been the result of air pollution, which dusted the town and the flowers upon which the nectar-feeding birds fed. This allowed them to ingest the lead and die from lead toxicity. The question in the community was whether there was the possibility of a similar transmission of toxicity, not from the nectar of flowers, but by hand to mouth, from dusty surfaces or drinking water, to the community and our children. Subsequent testing of children has found two babies with lead levels of 11 and 12 micrograms per decilitre respectively, and, of the 879 people who have been tested, 16 children were found to have lead levels of between five and 9 micrograms per decilitre. There are some issues about high lead levels in the adult community, but the concern of the community and the medical profession is that children are much more vulnerable and sensitive to lead because of their developing central nervous systems and their ability to absorb the lead through their gastrointestinal systems. Young children test their environment by putting everything in their mouths, and by that means they ingest the lead.

A public meeting was held last Monday week. At that meeting there were 600 people who are very concerned about this issue. The meeting was attended by an expert from the Macquarie University graduate school of environment. It was also attended by representatives from the Department of Health, the Department of Environment and Conservation, the Esperance Port Authority and the Shire of Esperance. Three main concerns were raised at that meeting. The first concern was how the dust monitoring results had been overlooked. The second concern was the high levels of lead in the seabed of the harbour, which had led to an announcement by the Department of Fisheries that people should not eat fish that had been caught in the bay. The third concern was how this had happened to an area that was well known for being one of the most environmentally pristine places in Western Australia, and a very popular tourist destination. As I said earlier today, I live in that community. Other concerns that were raised were: why was the lead exported through the port of Esperance in a powder form when the licence states clearly that it should have been exported in a pelletised form; why were the dust monitoring results, which were significantly high in February and May 2006, overlooked; and why are there extremely high benthic lead levels in the harbour?

There is significant concern in the community that the processes have let us down. The community needs to know how best to ascertain how the processes have let us down. I have spoken in this place previously about the issue of lead toxicity and the potential public health risk. I will not repeat those comments now, because they are recorded in *Hansard*. That is why I have moved this motion for the establishment of a select committee to investigate this matter. At the public meeting last week, the representatives from the Esperance Port Authority

Extract from Hansard

[ASSEMBLY - Wednesday, 4 April 2007]

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read a prepared statement that the port authority had obtained some legal advice. The DEC has now released the audits of the monitoring process. I thank the minister for that. The DEC is also seeking advice. The problem is that while the different agencies are seeking legal advice, the community will not get the answers it needs and deserves. I do not want to play politics. I am proposing that we establish a forum, which will include the Minister for Environment and the Minister for Planning and Infrastructure, so that the community can get those answers. The relevant standing committees to which this matter could be referred are the Community Development and Justice Standing Committee, the Education and Health Standing Committee, and, of course, the Economics and Industry Standing Committee. It is so important that the members of the committee be people with expertise who can give this committee some teeth. We want to take a bipartisan approach and establish a forum that will get answers for the people of Esperance. This is a very important issue for Esperance. In fact, it is a very important issue for Western Australia, because if we get to the bottom of this issue at Esperance, we will get to the bottom of this issue at other potential sites at which it may occur. This state is rich in resources. This state is heavily engaged in mining. It is therefore very important that we go through this process and get the answers for Esperance. It is also very important that we get the answers about how we can prevent a similar situation from occurring at other sites. Prevention is better than cure. This committee needs to get the answers about where the processes have fallen down, whether they be the environmental watchdog processes, the port authority processes, or whatever. I suggest that we would all agree that the exporting of our resources is important for our economy because it attracts money to this state. However, that should not be at the expense of the health and welfare of our community.

The minister has moved that this matter be referred to the Education and Health Standing Committee. I suggest that the potential for ill-health is a consequence of a systemic problem in the process. That is why it is not appropriate that this matter be referred to that committee. We need to understand the process that led to the potential health issue in the community. It is that process that we need to look at. That is why I am recommending that this matter be referred to a select committee. That will provide the government with the opportunity to nominate people with expertise and interest in this area so that we can get to the bottom of this issue for the people of Esperance. We may say that we will play politics with this issue. However, this problem will not go away. The people of Esperance and the people of Western Australia deserve to get answers. I believe a select committee is the best forum to find answers, not only for Esperance, but also for other sites, so that we can prevent a similar incident in the future. The process that has let us down may be repeated in the future. I commend the motion to the house.

MR C.J. BARNETT (Cottesloe) [4.27 pm]: I am pleased to support the motion for the establishment of a select committee into the cause and extent of lead pollution in the Esperance area. All members of this Parliament would agree that this is a serious issue. In my time in public life I have not dealt directly with health issues. However, I have formed the view - I think other members would have formed a similar view - that this is arguably the most serious public health issue this state has faced in the past 20 to 30 years. This is an acutely severe and serious issue. The Esperance community is obviously alarmed for their health and especially for the health of their young children. I wonder how mothers or pregnant women in Esperance must be feeling about the extent and possible effects of the lead contamination in their town. This matter has received substantial publicity, and will, no doubt, continue to do so. I put it to members that the community, particularly the community of Esperance, will be looking to this Parliament to not just say that this is a serious issue but to treat it as a serious issue - perhaps more seriously than any other issue that we are dealing with at this time. This matter impacts on the environment portfolio. It also impact on the transport portfolio through the rail transport and the handling of the lead at the port. It also impacts on the mines portfolio through the mining and initial processing of the lead ore.

The member for Roe has on several occasions outlined the history of this matter. I do not intend to repeat that. However, it is worth making a few comments. As the member for Roe said, birds literally started falling out of the sky in Esperance in December. All sorts of explanations were offered at the time. As January approached and the number of dead birds increased, some attributed it to the unusual flood condition that took place. There were various explanations. I suspect that people involved in the port operation and in the lead mining and transport industry probably had a sneaking suspicion that lead, a highly toxic substance, may have had something to do with it. It took too long to find the cause. It took several months for it to be established that lead, in particular, the lead exported by Magellan Metals Pty Ltd and handled through the port of Esperance, was the source of the problem. A lot of issues have been raised since then, including whether the lead was meant to be in a pellet or powder form as lead carbonate. Questions were asked about environmental approvals, air and environmental monitoring, the role played by the environmental agency, the role played by the port itself and, indeed, the role played by the mining company. This issue covers transport, the environment and mining.

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What has happened in recent days as the realisation of not only what has happened, but also of how serious and maybe how severe this situation might be has started to sink in? Magellan Metals has ceased its mining operations. The port of Esperance has suspended the movement of lead carbonate. It still has 12 000 tonnes of the material stored in an old shed on the port. The testing of residents has taken place. Again, the member for Roe had to urge for that to happen. Now that it has happened, I do not think anyone can celebrate the results. A total of 919 people were tested, only about seven per cent of the population. Through blood testing, 12 people - a significant number - were found to have lead levels above acceptable World Health Organisation guidelines. How more serious does this problem have to get? Children were included amongst those 12 people, including an eight-month-old baby boy. How more dramatic and serious does this have to get before we start to act?

Lead levels have been found in water tanks. Obviously, if the dust is airborne, it lands on roofs and collects in water storage tanks. A total of 523 tanks were tested.

Ms A.J.G. MacTiernan: That is incorrect.

Mr C.J. BARNETT: The minister can correct me later. The minister would agree that a significant number were tested. It was 500 plus.

Ms A.J.G. MacTiernan: There were in excess of 800 tested.

Mr C.J. BARNETT: I am relying on the figure of 500. The minister says that 800 tanks were tested. That is a lot of tanks. The minister is supporting my argument, not opposing it. From the 500 tested at that stage - maybe the minister can add to the figures later - 83 breached the Australian standards for drinking water while 173 were found to have excessive levels of nickel.

I find it ironic that this government goes on about uranium mining and yellowcake. Lead is highly toxic and highly dangerous, yet there has been a reluctance to act. Today the Department of Environment and Conservation finally released the information - we are pleased about that - on the audit reports. Those audit reports go back to 2005. They showed problems. They were prepared two years ago. What happened in the meantime? Why did someone not react? It is a serious matter.

There is public anxiety in Esperance. The member for Roe said that more than 600 people attended a public meeting. In political life we do not often get 600 people, particularly from a small community, at a public meeting. That shows that people are concerned and frightened. Parents of young children are scared. They do not know whether this lead has had an impact - perhaps a permanent impact - on the health of their kids. We have a responsibility to deal with this and deal with it as fully, thoroughly, quickly and efficiently as we are able.

The Minister for Planning and Infrastructure has been nominated by the Premier to coordinate the government's response. I pose a question. A share of the problem has occurred, I presume, within the Esperance Port Authority, an agency for which the minister is responsible. I am not saying that the minister herself has been negligent, but she is the minister. She carries ministerial responsibility. For her to be given the role of coordinating and handling the government response, by definition, places her in a conflict of interest. She is compromised by the mere fact of being the minister. She should not have been given that role. The Minister for the Environment would similarly be compromised if he had been given that role because on the surface his agency and that of the Minister for Planning and Infrastructure seem to have failed. Both the transport portfolio and the environment portfolio seem to be a significant part of the problem.

Mr R.C. Kucera: That is an absurd argument.

Mr C.J. BARNETT: The member for Yokine may think it is an absurd argument but on matters of conflict of interest, he is not in a strong position. How despairing this would be if the people of Esperance could now hear Labor backbenchers trying to trivialise the matter.

Several members interjected.

The ACTING SPEAKER (Mr P.B. Watson): If members want to have a say, they will have the perfect opportunity to talk about this when their time comes.

Mr C.J. BARNETT: This issue covers at least three portfolios - transport, mines and environment, and maybe health and tourism. It covers multiple portfolios. I am not saying that the ministers themselves are negligent in any sense but when ministers take that pay cheque, they are meant to accept ministerial responsibility. It means that they ultimately bear the public burden, the media burden and the responsibility. In doing that, when they have to investigate something or present a point of view, they need objectivity. It is very difficult to have objectivity when the failings might be in their own agency. Maybe an element of those failings could even extend to their own office. That is quite possible. That is the difficulty. That is why the member for Roe has called for a parliamentary committee. That has why he has called for a select parliamentary committee. We

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established the system of standing committees - I was Leader of the House at the time - to bring about a greater sense of consistency in committee work. Committees were set up to look after broad groupings of portfolios. Committees have a responsibility for ongoing work in those portfolios. There is some sense of continuity of people, issues and the like. We deliberately retained the vehicle of a select committee to deal with special, one-off and unique situations. I can think of nothing more important than this particular situation. It does not fit into any of the current committees; it cuts across the whole lot. It is an urgent issue. It is not an issue that we should send to a committee that has other work before it. What will we as members of Parliament say to the people of Esperance? Will we say, "We don't think your issue matters so we are just going to stick it on the agenda of an existing committee"? That is not treating it seriously. It is not treating seriously the respective conflicts of interests of ministers and senior public servants of agencies who perhaps might share the blame and perhaps may blame each other. We need an independent group of people - members of Parliament who do not have an axe to grind and who have no conflict of interest or history at all in this issue - to look at the issue objectively and for good purpose. That group of people needs to find out what has happened, make some sort of assessment and seek professional advice on the extent of threat and danger to people of that area. They need to make recommendations for the future, perhaps to endorse some of the actions that have been taken by the government.

It is hard to avoid politics; we all understand that. This is an issue of public health. This is about the little kids in Esperance who have higher than acceptable international standards of lead in their blood. I hope we will not argue in this Parliament about sending the matter off to a select committee. There should be no argument about that. As members of Parliament, we should recognise this as a grave public health issue, the causes of which may come from several different portfolios. We need to be prepared to designate a special select committee to deal not with several issues but with this one issue and to deal with it as fully, quickly and professionally as possible.

I do not know what argument, if any, the government will put up against setting up a select committee. It will not cost any more to send the matter to a select committee than it would to a standing committee, and it will not be an expensive exercise. We are dealing with Esperance, which is just a few hours' drive down the road. We are dealing with something in Western Australia. We are dealing with something on which the health professionals, mining industry and the transport industry have a great deal of knowledge. Why would we want to do anything that would delay dealing with this issue? Why would not all members of Parliament want to set up a vehicle specifically for the purpose of dealing with this issue in a way that will give the public confidence? The committee would report in mid-August, just a few months away. If nothing else, the public expect and deserve this Parliament to treat this issue genuinely and seriously and to not have a committee that is fettered in any way, but is dedicated to dealing with this one issue.

I repeat that to my knowledge there has been no other issue in public health in Western Australia in the past 30 years that comes anywhere near this issue. This is of perhaps national, even international, significance. It may have implications for the operation of ports; it may have implications for the operation of mining; and it certainly will have implications for the safety and health and the security and protection of people within the area.

I really hope that the Leader of the House, if he responds, does not do the small-minded thing and say, "Let's send it off to a standing committee. Let's have the Economics and Industry Standing Committee look at it as one of its terms of reference or let's have the Education and Health Standing Committee look at it as one of its terms of reference." If the Leader of the House does that, he will be saying to me, the community of Western Australia and the people of Esperance, "We might say that this is a serious issue and that we will treat it that way, but when it comes to the crunch we are not prepared to." I hope the Leader of the House responds and that he has the integrity, compassion and desire to make sure that this issue is dealt with properly by having a select committee, which will cost the taxpayer nothing more but will do the job better and quicker.

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [4.41 pm]: The government believes that we could in fact have a full investigation into what went wrong. We acknowledge that things went wrong and there was culpability on the part of various agencies that have been involved in this issue, including my agency. We accept the view put to us by the member for Roe that in order for the people of Esperance to have confidence in that inquiry it would need to be a parliamentary inquiry.

Our view is that we clearly start from the fact that we do not actually think that in order to get to the bottom of what has gone on - and it is not all that complex - that we need a parliamentary inquiry. However, in deference to the wishes of the member for Roe, as the representative of that community, we have been prepared to agree to a parliamentary inquiry overseeing what went wrong. It is a perfectly reasonable aspiration of the member for Roe's. We have absolutely no desire to hide what went on, the whole trail of how this approval was given, what

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shortcomings there may have been in the approvals process and what shortcomings there may have been in the exercise of the licence and the monitoring of the licence. It is quite evident that there have been shortcomings. We are not starting from the proposition that everything that could have been reasonably done was done. We are acknowledging that there have been shortcomings and that we could write a report on them. However, we recognise that it is important that it be seen to be a transparent process and that both sides of the house have the opportunity to be involved in the investigation.

We are deeply conscious of, particularly because this is about lead contamination, and recognise the high potential toxicity of lead. We want the community to be assured that this will be a very open inquiry.

The member for Roe approached us last week with his standing committee proposal. At that stage he was proposing that this issue be referred to the Community Development and Justice Standing Committee. I discussed his proposal with my colleague the Minister for the Environment and he suggested various amendments to the terms of reference that I thought would enhance the inquiry. They included as part of the investigation, for example, the transport to the mine and the legal and regulatory framework that was in place. We took those amendments to the member for Roe and he agreed and said that he was happy with the amendments we had proposed.

Later the member for Roe came to us and said that he had thought about it a bit more and wanted another committee, the Economics and Industry Standing Committee, to investigate this issue. We put it to him at that point that we recognised that there is a range of committees. In fact any of the standing committees could take this on. We were of the view that the Education and Health Standing Committee was well suited to conduct this investigation. It had done work in the health field and Dr Kim Hames, a medical practitioner, is on that committee. Our strong view was that this should be the committee to investigate the issue. The member for Roe indicated that he wanted the opportunity to be included on the committee. I admit that I do not think it is a very sensible thing for him to do, given that it will constrain him from participating in public debate. Members should bear in mind that we have to be very conscious now of issues of confidentiality. However, in order to ensure that he, as the representative of the community of Esperance, was accommodated, we agreed that we would accept that he be co-opted onto the committee. We also indicated that if that was to happen, we would want to co-opt another member from this side onto the committee.

We are very committed to having this matter investigated by a parliamentary inquiry. We are also equally sure that we do not want this to become a political circus. At this very late stage, after a week into the negotiations and discussions with the member for Roe, we are now presented with a proposal from the opposition that changes this altogether. Obviously, the member for Cottesloe is seeking to have a platform to ramp up his leadership ambitions. The member for Cottesloe is too lazy to go on any committee.

Mr C.J. Barnett: You are trivialising the committee.

Ms A.J.G. MacTIERNAN: I am not trivialising the committee. All of a sudden, out of the woodwork, after a week of negotiations with the member for Roe in which the member for Cottesloe never rated a single mention, the member for Cottesloe has come in from the back row, raced up to the front row and put his hand up. Why did he put his hand up? He will not take a shadow portfolio and will not go onto a standing committee, and now he sees this as something on which he can make a bit of a play. He does not want to do the donkey work of having a shadow portfolio and he does not want to do the donkey work of going onto a standing committee.

Point of Order

Mr P.D. OMODEI: This is irrelevant. We are considering a motion by the member for Roe for a parliamentary select committee, which is what the members on this side of the house want. To rant on, as the minister is at the moment, about the member for Cottesloe is an insult.

The ACTING SPEAKER (Mr P.B. Watson): There is no point of order. The point of order is that the member for Cottesloe has been put up as one of the members of the committee. There is no point of order because the minister is commenting on the member for Cottesloe being a member of the committee.

Debate Resumed

Ms A.J.G. MacTIERNAN: That is exactly right. I am commenting on the claims by the member for Cottesloe that we would be acting in bad faith if we were not to agree to a select committee. I feel very sorry for the member for Roe because he has acquitted himself well in the way he has approached us to set up a standing committee. In deference to him and the people of Esperance we have agreed to do that. In the last day of this discussion he is now being manipulated by the member for Cottesloe. Quite frankly, we are serious about having a parliamentary inquiry. We are very serious about having absolute and utter transparency in the process

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and all the documents. However, we are not going to have the committee run as a political circus, but as a true and proper inquiry.

Mr C.J. Barnett interjected.

The ACTING SPEAKER (Mr P.B. Watson): Order, member for Cottesloe!

Mr C.J. Barnett: The minister has to do something about the young mums down there!

Ms A.J.G. MacTIERNAN: The member for Cottesloe cares only about himself and being leader.

The ACTING SPEAKER: Order! I call the member for Cottesloe to order for the first time.

Ms A.J.G. MacTIERNAN: The member for Cottesloe ranged fairly widely in his dissertation and used it as an opportunity to say that I should not be given the responsibility for coordinating the government's response because I have a conflict of interest. In relation to the matter of what has happened and how we got there, we have agreed to give oversight of that to a parliamentary committee. My job in Esperance is to make sure that we have got the strategies in place to deal with the contamination - to clean up the contamination - and to provide whatever appropriate monitoring and medical assistance is necessary for people who have been exposed to above-recommended levels of lead. My job is to look to the future. We have the committee; we want the committee to look at what went on. We have made it very clear that we agree with the proposition as the first, second, third and fourth iteration, which came to us from the member for Roe. We do not agree to the latest intervention from the member for Cottesloe to put him at the heart of the committee.

Amendment to Motion

Ms A.J.G. MacTIERNAN: As such, I now move -

To delete all words after "That" with a view to inserting the following words -

the Education and Health Standing Committee be requested to inquire into and report by 16 August 2007 on the cause and extent of lead pollution in the Esperance area, with specific reference to the following matters -

(a) how the environmental approval process for the transport and export of pelletised lead enabled the transport and export of granulated lead;

Several members interjected.

The ACTING SPEAKER: Order! An amendment to the motion is being put. The member for Murray has just walked into the chamber and made comments, but he has not sat here for even half the debate. I ask members to keep quiet.

Ms A.J.G. MacTIERNAN: I continue -

Mr T. Buswell interjected.

The ACTING SPEAKER: I call the member for Vasse to order for the first time.

Ms A.J.G. MacTIERNAN: I continue -

(b) the effectiveness of dust monitoring and reporting in relation to lead levels in the area and the adequacy of the response to those reported levels;

(c) the extent to which handling and other practices at Esperance port gave rise to the benthic lead levels in the harbour;

(d) whether the Esperance Port Authority properly exercised its responsibilities in relation to the potential lead pollution; and

(e) whether the Department of Environment and Conservation's responsibilities in relation to the Esperance Port Authority processes, practices and procedures, including the legal and regulatory framework, were adequate and properly exercised.

(2) The members for Roe and Peel be coopted as members of the Education and Health Standing Committee for the purpose only of the inquiry into the cause and extent of lead pollution in the Esperance area.

Several members interjected.

The ACTING SPEAKER: Order, members!

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MR D.A. TEMPLEMAN (Mandurah - Minister for the Environment) [4.54 pm]: I support the amendment moved by the Minister for Planning and Infrastructure. I note the comments of the previous speakers -

Mr C.J. Barnett interjected.

The ACTING SPEAKER: Order! I call the member for Cottesloe to order for the second time. This is not a forum for the member; this is a debate.

Mr C.J. Barnett interjected.

The ACTING SPEAKER: I call the member for Cottesloe to order for the third time. The next time I have to call the member for Cottesloe I will name him.

Mr D.A. TEMPLEMAN: Clearly, the issue of Esperance remains of absolute concern to all of us in this house and to the government in particular. About two weeks ago we debated in this place a private member's motion from the member for Roe. There has been ongoing media monitoring and comment and ongoing debates and questions in the house on this important issue. At the end of the day we have to ensure that everything possible is done to protect and give confidence to the people who live in Esperance. That is an absolute priority.

The Minister for Planning and Infrastructure, in her comments and in answer to a question today, has highlighted programs that form the response of the government. Two things need to happen. One is a comprehensive inquiry. The inquiry will have terms of reference, which have been moved by the Minister for Planning and Infrastructure. I will go through the terms of reference. They are the amended terms of reference that the Minister for Planning and Infrastructure and I, in consultation with the member for Roe, have highlighted. The terms of reference are absolutely critical to the work of the standing committee. I refer to the first reference -

- (a) how the environmental approval process for the transport and export of pelletised lead enabled the transport and export of granulated lead;

That is a critical question to which we need to find absolute and clear answers. That is why it is in the terms of reference. We also need to find out about the effectiveness of dust monitoring and the reporting of that dust monitoring in relation to the lead levels that have now been determined in Esperance. That is why that is included in the terms of reference. Thirdly, the handling of the lead in the port of Esperance and why there are high levels of lead in the port itself, in and around town, and in the hot spots is another term of reference. Term of reference (d) states -

- (d) whether the Esperance Port Authority properly exercised its responsibilities in relation to the potential lead pollution; . . .

That looks at the role of the port authority. Point (e) refers to my own department, which, clearly, has an absolute requirement to uphold the acts for which it is responsible. The department also has a role on the ground in the port. That is why there is term of reference (e), which states -

- (e) whether the Department of Environment and Conservation's responsibilities in relation to the Esperance Port Authority processes, practices and procedures, including the legal and regulatory framework, were adequate and properly exercised.

This is absolutely transparent. This is why we have five key terms of reference that will ask questions of the agencies involved, of the authorities involved and, indeed, will make sure that we get to the bottom of what the member for Roe asked at the very beginning of this important issue: how and why lead made its way into the environment in Esperance and what should have been done to ensure that that did not have happen and what we need to do to ensure that does not happen again.

There are very competent and experienced members of this Parliament on the Education and Health Standing Committee and they are drawn from both sides of the house. They include a general practitioner and a chairman who has been involved in the mining and pastoral areas for more than 30 years and who has an understanding of the mining industry. There are other members on the committee who will contribute to this inquiry, as was requested by the member for Roe. I have a great deal of respect for the member for Roe as I have mentioned in this house previously, because I know he wants to get answers for the people of his electorate, and they deserve answers. We have included the member for Roe on the committee, as requested. I understand the point made by the Minister for Planning and Infrastructure about the possible problems that could be raised for the member for Roe in being able to raise matters outside the committee structure. We have included that in this motion to ensure the local member is involved. Our newest member of this Parliament, the member for Peel, has had an extremely distinguished career in the military.

Several members interjected.

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The ACTING SPEAKER (Mr G. Woodhams): I know everyone is very interested in this issue. I am particularly interested in this issue. I would like to be able to hear some of the words the minister is saying.

Mr D.A. TEMPLEMAN: Thank you, Mr Acting Speaker.

We already know a number of things. We know that isotope testing has clearly demonstrated the source of lead poisoning in and around Esperance. We know from swab results from over 200 environmental samples in the town and port of Esperance that the results are higher than the recommended levels. We know there are people in the town of Esperance who have higher levels of lead in their blood than is recommended. We also know that marine samples from the seabed under the port loading facility have shown very high lead readings, sometimes up to 100 times higher than the environmental levels for lead under Australian guidelines. We also know that the appropriate agencies, for example, Fisheries, have responded to recommendations that warnings be put out about the taking of shellfish and other marine life from the area. The Department of Environment and Conservation continues to investigate in an ongoing testing regime. We also know, as I highlighted to the house in question time today, that the director general of the department has announced an independent accredited auditor will review the department's audit and inspection process for the Esperance port and identify where improvements are needed and where the department needs to look at its processes. We need to make sure that we do not just stop everything for a parliamentary inquiry. It must run its course and, in line with its terms of reference, make sure that it very carefully and thoroughly investigates this absolutely important matter. That is why the Minister for Planning and Infrastructure has been given the task of ensuring that we respond to current issues as well as potential future issues. That is why, as the Minister highlighted in her speech, there is ongoing blood testing and ongoing advice to people. Of course, there are also ongoing cleanup processes so that we address the contamination that has been reported from various sites throughout the town of Esperance.

This motion moved by the Minister for Planning and Infrastructure needs to be carried. I believe there is expertise in the committee. It contains very experienced members of Parliament who have expertise in a whole range of fields that they will bring to the committee. I will make sure that my department is absolutely committed to co-operating with the committee to ensure that the people of Esperance once again are given the confidence they need to have about their community. The people of Esperance are hurting. We recognise that. I know there are concerns about the social and economic impact of this problem. We need to be mindful of that. We have listened carefully to what the member for Roe has said. We have bent over backwards to accommodate the concerns, which are expressed in the terms of reference. The Minister for Planning and Infrastructure, the member for Roe and I have been actively involved in framing the terms of reference. We have made sure that the issues that impact on the various agencies will be thoroughly investigated. My understanding is that when this Parliament gives particular terms of reference to a standing committee, it becomes the priority of that committee. I urge the chairman of the standing committee to ensure that that is reflected in the approach it takes. The committee is required to report by 16 August this year. We will make sure the committee is given every opportunity to do its important work. The time for politicising this issue is over. It is time for action.

The ACTING SPEAKER (Mr G. Woodhams): I realise some members are interested in pursuing another line of conversation. I suggest they do so outside the house.

Mr D.A. TEMPLEMAN: The time for politics is over on this issue. This is too serious an issue to be politicised. We need to make sure that this committee is given these terms of reference and the powers to ensure that we get to the bottom of this important issue so that this sort of concern for any community in Western Australia can be avoided in the future.

MR B.J. GRYLLS (Merredin - Leader of the National Party) [5.07 pm]: I will not speak for long on this but I think we all recognise the great importance of this issue. We can all feel sympathy and concern for the community of Esperance as it comes to terms with the fact that the export of lead concentrate through the port has caused damage not only to the health of the community but to Esperance's standing as a tourism icon and one of the finest towns in Western Australia. I want to add my concern that we know damn well when members talk about taking the politics out of an inquiry, that is the exact opposite of what we will get. We will get an inquiry that is full of politics. The reason I say that is because I was in this house not more than a month ago when we had a debate about Hon Shelley Archer and whether her conduct befitted a member of Parliament. Every single member on the other side told me it did. I spoke to many people in my community and said this was the problem we had with the Parliament now: it is run by the government, which is currently the Labor Party, and the Labor Party will protect its own to the end of the day, and to the end of the world, I would imagine. Members opposite are prepared to back Hon Shelley Archer, who remains in the Parliament with all the questions hanging over her head. Members of the Labor Party still come up to me privately and accuse me of grandstanding on the issue of her role in Parliament. As I walk around my electorate, people ask me how I can

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share the Parliament with someone who has done what Shelley Archer did, and yet she still remains a member of Parliament.

That is my concern about this inquiry. Members on the government side have said that it will not be politicised, but it clearly will be. This committee will be charged with investigating some very serious breaches in the Minister for Planning and Infrastructure's department and in the Minister for the Environment's department. People have clearly made fundamental mistakes. I have with me the report that was tabled today. On 1 February 2007, Daniel Endacott from the Department of Environment and Conservation did a report on the Esperance port, and gave it an almost clean bill of health, apart from small gaps in the lead carbonate storage shed. He failed to notice that the lead carbonate that was being stored was actually in the wrong form; that it was in a form that would allow the lead dust to kill 4 000 birds, that would allow the lead dust to make it into people's rainwater tanks, and that would allow the lead dust to find its way into the systems of young babies in that great town of Esperance. I look forward to hearing what Mr Daniel Endacott from DEC has to say about that report.

In question time today, the Minister for Planning and Infrastructure apologised to the community of Esperance for what she believes are some fundamental failures in her department to monitor what was happening to make sure that this situation did not occur.

Mr M.P. Whitely: It doesn't sound like a cover-up, does it?

Mr B.J. GRYLLS: I am sorry?

Ms A.J.G. MacTiernan: It doesn't sound like a cover-up if I'm acknowledging it and apologising for it. How is that a cover-up?

Mr B.J. GRYLLS: I am saying that I am concerned that a committee dominated by the Labor Party will be forced to look at the exact instances that the minister was talking about, and it might be more than a cover-up. It might show that there has been a fundamental failure. There may well be. The minister said that documents have been lost. Maybe documents have not been lost; maybe the documents need to be lost because they could show that the minister has signed off on this being allowed to happen. Has that happened, minister? Was there a signing-off on the change from water being added to the lead to put it in a pelletised ball form to it being lead carbonate? The minister did not sign off on that?

Ms A.J.G. MacTiernan: Absolutely not.

Mr B.J. GRYLLS: I am sure that the current Minister for the Environment and the previous Minister for the Environment will say that they did not either. It is just miraculous that these things happened.

Ms A.J.G. MacTiernan: Do you know what this is all about? This is all about the member for Cottesloe trying to get rid of you guys, because you are going to be there in competition with the member for Roe for the seat of Roe.

Mr B.J. GRYLLS: This is the exact rubbish that keeps coming out. We are debating young children in Esperance with elevated lead levels in their systems.

Several members interjected.

Mr B.J. GRYLLS: Mr Acting Speaker -

Mr T.G. Stephens: You're not doing anything about the people there.

Mr B.J. GRYLLS: The member is a dill.

The ACTING SPEAKER (Mr G. Woodhams): I suggest to the member for Merredin that he continue with his speech. I suggest to other members that this is about the health of the citizens of Esperance, and they are the people with whom we should concern ourselves.

Mr B.J. GRYLLS: I am sure that the member for Central Kimberley-Pilbara will stand and make his contribution to this debate later, because he will have a very big task, and that is to come up with a report on the process that has led to this very damaging situation in Esperance. As his fellow members have said, he will also be charged with taking the politics out of that issue. If criticism needs to be levelled against the Department of Environment and Conservation and the Department for Planning and Infrastructure, it will be his charge to make that criticism, and to make it strong, to ensure that the public can have some faith that this committee process will deliver a positive outcome. However, I predict that there will be a minority report in this committee process. Members on this side - I think the member for Wagin is one of the committee members - will stand in this house and give their versions of what they heard in this inquiry. From the moment that the government has control of this inquiry, I will be very sure of what the outcome will be, because members on the other side have

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shown very clearly during the scandalous time that we have had in this Parliament since we have returned after the Christmas break that they have very limited ability to criticise or to question their own. This inquiry will be about exactly that. Two ministers have already said that they are very concerned about what has happened within their departments to allow this situation to arise. The fact that the government will be inquiring on its own is a disappointing outcome to what is probably the most serious issue affecting the Western Australian Parliament at this time.

DR E. CONSTABLE (Churchlands) [5.14 pm]: It seems to me that this is another example not of what we are doing but how we are doing it. I believe that everyone in this chamber would agree that it is a very important inquiry and would be fully supportive of it. However, the issue is how we are going about doing it. First of all, I do not think the inquiry sits well with a standing committee. To me, it is an ideal investigation for a select committee to undertake. We still have select committees on our books, even though we have not had one for a long time. A few of us in the chamber have been lucky enough to be on select committees in the past. We know that a select committee can investigate and concentrate its efforts on that one inquiry, and report back to Parliament swiftly, if that is needed. The problem with placing this inquiry with a standing committee is that the standing committee, I imagine, will already have some ongoing inquiries. Will it drop those for four and a half months? One member tells me that it will have to. I believe that is an inefficient way for a standing committee to exercise its duties. A standing committee needs to work consistently on an inquiry, so that the members use their time and the efforts of their staff efficiently. It seems very stupid to me for the committee to drop an inquiry, or inquiries, that it is already in the middle of.

However, the worst thing about this is that the inquiry is with the wrong committee. There is nothing in the proposed terms of reference about health. The first one is about environmental approvals, the second one is about the environment, the third one is about the Esperance port, the fourth one is about the Esperance Port Authority, and the last one is about the Department of Environment and Conservation and the Esperance Port Authority. Nothing about health is mentioned. We all know that there are serious health consequences from what has happened in Esperance. These proposed terms of reference are not about health. The inquiry should not be with that standing committee. If the matter were to go to a standing committee, which, as members know, I do not agree with, it should go to either the Community Development and Justice Standing Committee - which at the moment is conducting a special inquiry into the Office of the Director of Public Prosecutions, so I do not think it would sit well with that committee because of the tasks that are before it - or the Economics and Industry Standing Committee, which has the brief to look at matters to do with transport and the Department for Planning and Infrastructure. This inquiry does not belong with the Education and Health Standing Committee. These terms of reference have nothing whatsoever to do with that committee. A consequence of what the committee will look at leads to health issues, but the central issues are about the environment and about transport, not about health.

It is just bizarre that all those clever people in the government could come up with such an absurd suggestion. I believe that the government needs to go back to the drawing board, amend this amendment and come up with a more suitable standing committee for this matter to go to. I suggest, if the matter has to go to a standing committee, it should go to the Economics and Industry Standing Committee. I know that the Community Development and Justice Standing Committee, which has the environment as one of its responsibilities, is very busy at the moment, because I have been seconded to it for the inquiry that was put forward by the member for Hillarys. To my mind, that is what we should be doing. I believe an amendment to that effect should be moved, so that at least the inquiry is with the right standing committee and we get that part of it right. For the life of me, I do not know why the government wants to send this inquiry to the Education and Health Standing Committee.

The other really peculiar thing is that the Minister for Planning and Infrastructure has been given some responsibility for this inquiry, and it will go to the standing committee that looks after health. If health is so important, why does not the Minister for Health have responsibility for this? Why is the Minister for Planning and Infrastructure sending something to the Education and Health Standing Committee? There is no logic in this. All I can do is support the remarks of the member for Merredin. There is something very fishy about this, and it stinks of politics.

MR R.F. JOHNSON (Hillarys) [5.18 pm]: I was not going to enter into this debate, because I thought there were enough interested parties in this chamber who have really deep concerns about and a special interest in this subject that is before the house today. However, I want to go back a while, because I was one of the founding fathers who came up with our standing committee system. I was on the original Standing Orders and Procedure Committee that came up with and formulated what we have today with standing committees. Those committees were set up on an ongoing basis to look at various things that came along and to carry out their own inquiries. We never intended to abolish select committees. There is a place in this Parliament for select committees to be

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established, and if ever there was a case for the establishment of a select committee, this is it. This is a classic case.

As the member for Churchlands said, when I originally moved my motion to set up a select committee to inquire into the reasons for the Director of Public Prosecutions making decisions not to proceed with cases of sexual assault, I reluctantly accepted that the Leader of the House did not want a select committee to be set up. He did not want it set up for political purposes; it was not to be set up for political purposes at all. It was a serious, genuine concern that made me bring that issue to the attention of the house. I believe the issue before the house today is even more serious. We are talking about the health of children and pregnant women, and the adverse effects on whole families. It is bad enough that a lot of birds are dying from this pollution, but when it affects babies, children, pregnant women and families in general, I cannot believe that the government does not want a select committee to deal with it.

Why is the Minister for Planning and Infrastructure so interested in this issue? We know that it has to do with the port, which is her responsibility. The lack of accountability, and the slipshod way in which this material has been transported to and stored at that port, have caused this problem. The minister has a heavy weight on her shoulders. If any children in the area suffer ongoing consequences, she will have to take some of the responsibility because it happened on her watch. If that is the reason she does not want a select committee to look into this very serious issue, then shame on her. She has an absolute obligation to agree to a select committee being set up.

I can genuinely say that I do not believe that a select committee will be used for political purposes. I know the member for Roe; he is one of the most decent people in this chamber. He is a doctor; he knows about children's health. I am sure that my colleague the member for Maylands has a similar concern, because she has a medical background, and so does the member for Dawesville. I am sure that I speak for many members of the other side of the house who would vote for this motion if they had a free vote. I think they have a genuine concern for the health and wellbeing of the babies, children, pregnant women and families in Esperance who are suffering from this negligence, this act of criminal vandalism, in allowing this dangerous substance to be transported and stored in the way in which it has.

I know that the government is afraid that the member for Cottesloe might be included on the select committee. If that is the case, it should say so.

Mr M.P. Whitely: I am afraid of the member for Cottesloe being on this committee.

Mr R.F. JOHNSON: Exactly, it has been confirmed that members opposite are afraid that the member for Cottesloe will be on the select committee. This is such an important select committee that it needs experienced people who know about many facets of government and the infrastructure of our state, and the one person in this chamber who knows the most is sitting next to me - the member for Cottesloe. He knows more than most of the members of the other side could ever dream of knowing about important issues of infrastructure. He knows more than the minister will ever know.

Mr T. Buswell: He has forgotten more than she will ever know.

Mr R.F. JOHNSON: Exactly; he has. However, in order for this select committee motion to be passed, the member for Cottesloe is prepared to state that he will not participate in it. If that is what is stopping the government from agreeing to this motion, he is prepared to say that he will stand back, but for God's sake let us have a select committee.

Mr C.J. Barnett: Let's have the committee for the people of Esperance, and do it properly.

Mr R.F. JOHNSON: The member for Cottesloe is absolutely right. For the families in Esperance, we have an absolute obligation to agree to a select committee. I am sure that I speak for members on this side of the house in saying that they will not politicise that committee. They have a genuine interest in getting to the bottom of the cause of this, and in making a plan for the future so that it does not happen again. I think members on the other side of the house, in their heart of hearts, have the same view. If members on this side are prepared to say that they will not politicise this select committee, and that they have a genuine interest in getting to the bottom of this and finding a way forward, and if the good members on the other side of the house who actually have hearts in their chests rather than some political notion in their heads could agree to that, then this select committee could go forward. When some members opposite look at me sometimes I think they actually agree with what I am saying; they look as though they understand what I am saying. That would never apply to the Minister for Planning and Infrastructure, the Leader of the House and one or two others, but I think the rest of them are quite decent people. We have different philosophical viewpoints very often, but I actually think they are quite decent people. We need people with experience on this committee.

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Can members name me one thing that is more important than the health of babies, children, pregnant women and families in a certain part of this state? Let it be noted that there was silence opposite, because they cannot name me one thing that is more important than the health and wellbeing of babies, children, pregnant mothers and families in general in a part of our state. They know that what I am saying is a fact, and that is why there is silence opposite. It is quieter than it has been all afternoon, I hope because members opposite are reflecting on what I have just said.

I repeat once again that I know their aversion to having the member for Cottesloe on this committee. They are frightened because they know his expertise.

Ms A.J.G. MacTiernan interjected.

Mr R.F. JOHNSON: The Minister for Planning and Infrastructure thinks this is a joke. We are talking about something that is very serious, and all she can do is make jokes.

Mr P.B. Watson: If it is so serious, talk sensibly.

Mr R.F. JOHNSON: The member should be ashamed of himself for trying to ridicule this motion.

Mr P.B. Watson: You're the one who is making us into a laughing stock.

Mr R.F. JOHNSON: The member should read *Hansard* tomorrow to see whether I have joked about this issue. I may joke sometimes in this chamber, but I am certainly not joking on this issue.

Mr P.B. Watson: Yes you were. Just have a look at your leader's face when you're talking.

Mr R.F. JOHNSON: The member is criticising me. I am talking about something very serious here.

Mr P.B. Watson: Well, get on with it.

Mr R.F. JOHNSON: Get on with it! It does not matter what we say, let us get to a vote and knock this on the head! The government will have its way, because it has the numbers. I repeat once again, the member for Cottesloe is prepared not to be a member of the committee, if that is the problem the government has. He will stand aside in the interests of the select committee going ahead. Members opposite should not bulldust everybody by saying that it should go to one of the standing committees. I have explained the history of that. When there is an issue that is so serious, a committee needs to be able to focus on that one specific issue. When we are talking about the health of children, babies and families - all those really important things - other considerations should be put to one side.

Putting all those things to one side, I ask members opposite to convince the Leader of the House, and the Minister for Planning and Infrastructure, that what I have said is right. Most members opposite do not know the history of standing committees, because they were not here when they were first introduced. I was. I know the history of standing committees. I can tell members opposite that there was never any intention to abolish select committees. If that was the intention, select committees would not still be part of the standing orders. Members opposite should not be fooled by those people who have an absolute aversion to the establishment of a select committee. In six years, how many select committees have been established? How many times have members opposite agreed to the establishment of a select committee. Zero!

Mr T.G. Stephens: How many times did you establish a select committee?

Mr R.F. JOHNSON: The member for Central Kimberley-Pilbara has just made a fool of himself, because he has not been in the chamber long enough to know! We had one of his members chair a select committee!

Mr J.C. Kobelke: You did not hear his interjection. You are answering the wrong question.

Mr R.F. JOHNSON: We did establish select committees. We did not use our numbers at the time to knock off the establishment of a select committee. If the reason was genuine, we allowed a select committee to go ahead.

Mr J.C. Kobelke: Can you name one?

Mr R.F. JOHNSON: Yes. That was the one that a previous Speaker, Mike Barnett - a similar name to my colleague, but a completely different type of person - chaired. We allowed him to chair that select committee, because he had come forward with the proposal to establish that select committee. We saw the merit of that. We also allowed independent members to chair select committees. So, do not give me a lot of nonsense. Members opposite should reflect on the serious issues that this select committee would need to look at. I ask members opposite to do that in good faith. I give the government an assurance from members on this side of the house that we will not politicise this select committee. We have a genuine concern to get to the bottom of this matter, for the benefit of those citizens who live in this important part of the state. Before members opposite use their

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numbers to vote this motion down, and before they start to trivialise it, I ask them to look into their hearts and support this motion to establish a select committee into this matter so that it can focus 100 per cent on this very important issue.

MR J.C. KOBELKE (Balcatta - Leader of the House) [5.32 pm]: One week ago, the member for Roe gave notice that at the next sitting of the house he would move that this house refer to the Community Development and Justice Standing Committee certain terms of reference, which he outlined in his notice of motion, and that it report by 16 August 2007. That notice of motion was based on the member's genuine concern about the problems that have been created in Esperance from this lead pollution. No-one questions that the member for Roe believes this is a serious issue that is having a great impact on his community, particularly the families that have been directly affected by this lead pollution. It is a very important issue that the member believes, quite rightly, that this Parliament should address in a certain way. Following that, the Minister for Planning and Infrastructure and the Minister for the Environment -

Mr C.J. Barnett: Can't you see that no-one agrees with you?

Mr J.C. KOBELKE: This is the point I had intended to make later. I am talking about the member for Roe and his genuine approach to this serious issue. However, all we get from the member for Cottesloe is bullying interjections. That is why we got into a debate about the member for Cottesloe and the disruptive and abusive approach that he has taken during this debate. There is overwhelming agreement in this house about this issue.

As I was saying, the Minister for Planning and Infrastructure and the Minister for the Environment met with the member for Roe to look at how they could finetune his terms of reference. I also had a discussion with the member for Roe, although it did not go into the same depth. That approach was taken to ensure that we get value from the work of this committee. Both those ministers have acknowledged that there have been failings, and that we need to find out what happened and why it went wrong, and make sure it is fixed. That is the agreement that we have reached with the member for Roe and those ministers. That is what we want to proceed with. However, the member for Cottesloe has now raised the diversion that a standing committee cannot do this job, for a number of reasons. I do not think those reasons have substance. I will come to that in a moment. We want to ensure that the committee has capable members. Any suggestion that any standing committee of this house does not have capable members is an absolute nonsense. Clearly, some committees may be better suited to some issues than other committees. That is certainly a matter that is worthy of discussion.

The member for Hillarys alluded to the fact that the previous government established select committees. The reason it established select committees is that the only standing committee at that time was the Public Accounts Committee. Therefore, that government had to set up select committees. The member for Cottesloe indicated that towards the end of the previous government, the government changed the standing orders to allow for the establishment of four standing committees. The clear understanding at that time was that although select committees would not be removed from the standing orders, the work that was required to be done, whether it be monitoring agencies or investigating issues that were of importance, would be done by standing committees. However, although the previous government might have changed the standing orders, it did not set up and resource those standing committees. It was the Labor government that resourced those committees so that they could do their work.

Mr C.J. Barnett interjected.

Mr J.C. KOBELKE: The member for Cottesloe is prattling on, interjecting on members, as he always does. I refer to a comment from the member for Cottesloe in *Hansard* of Thursday, 6 April 2000. That comment makes a lot more sense than his current abusive interjections. The member for Cottesloe said -

The rationale for supporting in principle the establishment of three portfolio-based standing committees is that it is envisaged that they would do away -

Several members interjected.

Mr J.C. KOBELKE: I repeat -
that they would do away -

Several members interjected.

The ACTING SPEAKER (Mr G. Woodhams): Order! Some members in this house may be more interested in talking to each other across the floor while the Leader of the House is on his feet. The majority of the members in this house would like to hear the Leader of the House.

Mr J.C. KOBELKE: I will start again with the quote from the member for Cottesloe -

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The rationale for supporting in principle the establishment of three portfolio-based standing committees is that it is envisaged that they would do away with the ad hoc select committee system.

Those are the words of the member for Cottesloe. I will continue -

From time to time ad hoc select committees have been established; indeed, we are about to debate the establishment of a committee to consider fuel prices. It is hoped that the new committee system will provide a coordinated approach to the oversight of government departments, provide an established avenue for the referral of inquiries, enhance accountability, and complement the Parliament's role in the legislative process.

From an administrative point of view, a coordinated standing committee system will remove to some extent the resourcing and funding uncertainties associated with an ad hoc system and should provide for an orderly approach to committee membership and the scheduling of meetings. It should also create more predictability in relation to the funding and staffing of committees.

It goes on, but I think I have encapsulated the main things that were said by the member for Cottesloe at that time. What was established in the standing orders by the previous government was a standing committee system that could deal with issues such as this. We did not rule out that in some special cases there may be a need to establish a select committee. However, no-one has made the case that we cannot deal properly and efficiently with this very serious matter through a standing committee.

As I already said, the terms of reference were discussed. The terms of reference have been set out. That is not the issue. Whether the matter is referred to a select committee or a standing committee, the reporting date will be the same. When it comes to resourcing, we already have the clerks and the administrative arrangements in place. There will possibly be extra resources needed on the technical side. If the matter is sent to a select committee, we may have to do some reshuffling and it will take longer to get the administrative staff to run it. We have administrative staff and we have a working arrangement with established committees. They can do the work. If extra resources are needed, those resources will be made available. I give an undertaking on behalf of the government that if additional resources are needed, we will ensure they are provided so this committee can delve into the terms of reference, which no-one has taken issue with, and report by the reporting date.

Mr C.J. Barnett: Why don't you have a select committee? Why are you so opposed to it?

Mr J.C. KOBELKE: Because I do not see any advantage.

Mr C.J. Barnett: I accept that you have a problem with me for whatever reason, so I step aside. Why won't you then have a select committee? Give me the reasons.

Mr J.C. KOBELKE: I am saying to the member for Cottesloe that I do not see any advantage in sending this matter to a select committee over a standing committee.

Mr C.J. Barnett: Public confidence is important in this issue.

Mr J.C. KOBELKE: Public confidence will be established by the way in which the committee pursues the inquiry and the quality of its report. The work of the committee will establish confidence in the public.

Mr R.F. Johnson: Leader of the House, I will tell you in very simple terms why you should send it to a select committee. You can choose people who have some expertise in this very important area to man that important committee, not just people who deal with health and education and the normal run-of-the-mill stuff. You want some specialist members.

Mr J.C. KOBELKE: I accept the interjection. When it comes to choosing members, there are clearly some stand-out people whom we would pick. There would still be personal points of view on whether one person is favoured over another. Let us look at the membership of the Standing Committee on Education and Health. The member for Central Kimberley-Pilbara, a member of considerable standing, a former minister who knows about administration, has been chairing this committee for some time. He has a track record as an excellent chair which really stands up.

Several members interjected.

The ACTING SPEAKER (Mr G. Woodhams): Thank you, members. Leader of the Opposition!

Mr J.C. KOBELKE: This is what happens. We get members opposite simply being abusive. That abusive level of interjection from the opposition makes my case stronger than anything of why using a standing committee that is already in place is better than having this bickering of, "I like that person, you like that person, I'm going to rubbish him, you can rubbish her." The stupid nonsense we are hearing from members opposite is why we do not want to establish a select committee. I will go through the membership of the committee. We have the member for Wanneroo, the Deputy Speaker, and the member for Dawesville, who has had two terms in

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this Parliament. He has had experience in both a country and city electorate, is a medical practitioner of standing and a person who has the respect of both sides of the house. We have the member for Wagin, who again in my view has the respect of members on both sides of the house and has incredible respect out in the community because I run across lots of people in different areas who respect him. We have the member for Bassendean, whose contributions to this Parliament may be many and varied but, clearly, when it comes to the issue of certain chemicals and drugs, he has expertise. While that is different from lead, he has delved into a specific area of medicine where he has a real interest. He will bring his own range of expertise to this inquiry. The member for Roe has asked to go on the committee. That is his request. It is always standard practice to maintain the numbers on the committee, so we would look for someone from this side who might bring something additional to the expertise and experience that is already there. We believe that the member for Peel, while his parliamentary experience is short, has a huge depth of experience when it comes to occupational health and safety, toxic substances and a range of issues to do with ports and shipping as a former member of the Navy. We believe that his expertise, while outside the Parliament largely, will add to the work of this parliamentary committee.

Mr R.F. Johnson: Can I suggest that if you are genuine and you want good people on the committee - we also want good people on the committee - you dictate the numbers for the select committee. You should choose people from your side of the house that you have absolute confidence in. If you have confidence in the member for Central Pilbara-Kimberley, that is fine. That is your choice. Give us the right to do the same, but on a select committee. You can have the numbers. A government member can chair it because you will work it that way, but you choose your people and we choose our people so there is a fairly even balance.

Mr J.C. KOBELKE: The member does not understand.

Mr R.F. Johnson: I do. That is the problem. I am not saying some of those people are not good people but we want people on this side of the house who we believe have the best expertise to be on that special committee for this very special issue. You can do the same on your side of the house. You can have the numbers so it will be a government-controlled committee, but it will be a select committee on which there will be individuals from this side of the house who we know should be on that committee.

Mr J.C. KOBELKE: I have put forward my arguments as to why I believe a standing committee is the best way to go. Until yesterday, the member for Roe was also working on a standing committee. We do not believe that the opposition has made the case that a select committee will advance the matter. I made it very clear to the member for Cottesloe that we would prefer sending the matter to a standing committee. At that stage how we change the members around could have been open to negotiation. It will be a standing committee. That is the position adopted by the last government and it is the position adopted by this government. That is the best way of going about it. The number for Merredin says, "You are protecting your own." Clearly, that is the sort of political one-liner that does not stand up to any sort of analysis. During the time of the last government, evidence was presented to this chamber week after week of what was happening in the finance broking scandal. There was talk of rorts, rip-offs and the theft of money. What happened? Everyone in the Liberal Party and the National Party stood behind Doug Shave and said, "We'll do nothing. We're going to protect our own." That is what the coalition government did. It would not take action when the evidence was overwhelming. We now know the consequences. No action was taken. Members should compare that with this government and this Premier. When evidence has come out of indiscretions and misdemeanour, the Premier has taken action and people have been stood down. For the member for Merredin to make that glib statement about protecting our own has no basis in fact. I can refer to share membership in his party, which would clearly show up things that were done wrong. Did the person involved stand down? No. The Liberals and the Nationals protected their own, despite all the facts on the record. When evidence has suggested that someone has done something improper or wrong, this government and Premier have taken decisive action. That is what we want out of this committee. We want a committee that will work well in the interests of the people of Esperance and make sure that the people responsible for what has happened are brought into the light of day. The consequences of that will be a further process. We want this committee to work effectively and to answer the questions that have been laid down by the member for Roe. The case has simply not been made as to why it should be sent to a select committee.

The member for Churchlands said that we have the wrong committee. She said that this issue is not about health.

Dr E. Constable: I didn't say that. You are misquoting what I said. I said there was a health consequence on the events. If you look at the terms of reference, there is nothing about health in those.

Mr J.C. KOBELKE: I am not trying to twist the member's words. When the member for Churchlands was talking about the terms of reference, she said that they do not refer to health. The terms of reference may not

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have "health" in the words but the whole issue is about health. It is clearly about health. It is about finding out the causes of the health problems of the people in the Esperance region. Therefore, it is more than appropriate that the matter be sent to the education and health standing committee. It is more important that we deal with the issue in a holistic way. That is why we have designated the Minister for Planning and Infrastructure to be the lead minister dealing with these issues.

It is not to say that although the Minister for Planning and Infrastructure is an outstanding minister she is the only minister who could have carried out this task. The point is that we needed somebody to draw all the agencies and government advice together and get things done. The same applies in this instance. We could give this inquiry to another committee that might do the job equally well. It is a cross-government issue and we want to make sure that, with the various agencies and with the community and health concerns involved, this committee has the firepower and the membership. The government will give an undertaking to the committee that the extra resources it requires will be made available to it. The Education and Health Standing Committee is as appropriate as, if not more appropriate than, any other of the standing committees to take on this task. I hope members opposite will desist from this abuse of interjections and deal with issues. We have differences of opinion.

Mr C.J. Barnett: Who was abusive?

Mr J.C. KOBELKE: Although the member for Cottesloe does not think his behaviour is abusive, we recognise what that problem is by his behaviour, even though he does not recognise it.

We can have valid different points of view on the most effective way of setting up this inquiry. I put the case for why I believe the Education and Health Standing Committee is the best way to go. I accept that other members have different opinions. However, if those opinions are different and genuine, members do not have to make the whole thing political, because that undermines the very important start made by the member for Roe, which has been taken up by two ministers, to make sure that this matter is delved into properly and we get the answers.

I trust that the committee will work hard on this issue. The community will then have full confidence in the committee, which will have its terms of reference augmented by this amendment to the motion.

DR J.M. WOOLLARD (Alfred Cove) [5.52 pm]: I have difficulty with the proposed terms of reference for this committee. At this stage we are not sure what may be uncovered by the investigation. The member for Roe's motion and the Minister for Planning and Infrastructure's amendment that the committee, be it a select committee or the Education and Health Standing Committee, be requested to inquire into the cause and extent of lead pollution in the Esperance area and report by 16 August clearly outline the terms of reference.

Many committees have been established during this government's term of office. However, when the community has been unhappy that something has not been investigated, the relevant committee has said that the issue of concern was not included in its terms of reference. The amendment should include a paragraph (f).

I refer to the terms of reference and paragraph (a) of the amendment reads -

how the environmental approval process for the transport and export of pelletised lead enabled the transport and export of granulated lead;

Environmental issues are normally reviewed by the Community Development and Justice Standing Committee. Again, when we come to the committee that will review this issue, it should be a select committee. A member of that committee should be a member with an environmental background and it does not matter from which side of the house that member comes.

Paragraph (b) of the amendment reads -

the effectiveness of dust monitoring and reporting in relation to lead levels in the area and the adequacy of the response to those reported levels;

That is very important and perhaps that is the reason that initially the member for Roe was happy for this review to be undertaken by the Education and Health Standing Committee. This issue was originally about lead levels. However, it has become a bigger issue. It involves the departments of both the Minister for the Environment and the Minister for Planning and Infrastructure. In relation to paragraph (b), a select committee could include a member who has a medical or nursing background.

Paragraph (c) of the amendment reads -

the extent to which handling the other practices at Esperance port gave rise to the benthic lead levels in the harbour;

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That comes under the Department for Planning and Infrastructure. Issues related to planning and infrastructure are usually dealt with by the Economics and Industry Standing Committee. Mr Acting Speaker (Mr G. Woodhams), you are a member of that committee. I am sure that you would agree that if a select committee is appointed to investigate this issue, having a member of the Economics and Industry Standing Committee would be a great benefit to it.

Paragraph (d) of the amendment relates to planning and infrastructure and reads -

whether the Esperance Port Authority properly exercised its responsibilities in relation to the potential lead pollution;

Paragraph (e) of the amendment reads -

whether the Department of Environment and Conservation's responsibilities in relation to the Esperance Port Authority processes, practices and procedures, including the legal and regulatory framework, were adequate and properly exercised.

Again, that is an environmental issue, which would normally be dealt with by the Community Development and Justice Standing Committee.

The member for Roe has moved a very good motion to establish a select committee. However, as one of his terms of reference he should include that the committee be given the power to investigate any other issues pertinent to the cause and extent of lead pollution in the Esperance area. I am a little suspicious. The Minister for Planning and Infrastructure says that the government has been looking at his motion for two weeks.

Mr J.C. Kobelke: For one week.

Dr J.M. WOOLLARD: Yes, for one week. If the government is happy with these terms of reference, what is missing from them? I know terms of reference were missing from the Gunning inquiry.

Mr J.C. Kobelke: The two ministers suggested to the member for Roe how he could strengthen the terms of reference as outlined in his motion and he accepted their suggestions.

Dr J.M. WOOLLARD: I said that not only the government but also the member for Roe missed out on including as a term of reference what I suggested. I am concerned that committees are all about numbers. An issue might come up that some committee members feel need to be investigated and the chairperson will say that they cannot because it is not within the committee's terms of reference. My proposed paragraph (f) should be included in either the motion or the amendment.

The government has said that this debate has become a political issue involving the member for Cottesloe, but he has said that he does not want to be nominated as a member of the committee.

I agree with the reporting date. However, the third part of the motion relating to the establishment of a select committee should include reference to the committee membership being agreed between the Leader of the House and the Leader of the Opposition. A lot of time has been wasted today in discussing the membership of the committee, including which members want to be on that committee.

We should be looking at what we want the committee to do. The government has said that it wants the committee to be open and transparent. If the government wants the committee to be open and transparent, why not look at all the different issues that are involved in this? Children are affected, as are their parents. Why should this not go to a select committee? We should make sure that we have the proper people on the select committee so that people in Esperance feel confident that the committee has undertaken a thorough investigation and that this is not a whitewash and a protection for some government departments that have not done their jobs.

Mrs J. Hughes: Why do you believe that people on the standing committee are to be trusted less than those on the select committee and that their hearts are not in exactly the same place as those of any select committee members? I am quite intrigued that some are to be trusted and some are not.

Dr J.M. WOOLLARD: If the member for Kingsley listened, she would know that I said someone from that committee should be included. I said that this issue is not just about health; it is about planning and the environment. That is why it is more appropriate -

Mrs J. Hughes: You always assume that integrity is being breached.

Dr J.M. WOOLLARD: No, I am saying that the people on the Education and Health Standing Committee do not have the same credentials as members of other committees in looking into this area. They have not had the benefit of possibly several years on a committee investigating planning issues or environmental issues. The member for Roe moved a very good motion but it was not the best.

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Amendment on the Amendment

Dr J.M. WOOLLARD: I move -

To delete all words after "That" with a view to inserting the following words -

a select committee be established to inquire into and report on the cause and extent of lead pollution in the Esperance area, with specific reference to the following matters -

- (a) how the environmental approval process for the transport and export of pelletised lead enabled the transport and export of granulated lead;
 - (b) the effectiveness of dust monitoring and reporting in relation to lead levels in the area and the adequacy of the response to those reported levels;
 - (c) the extent to which handling and other practices at Esperance port gave rise to extremely high benthic lead levels in the harbour;
 - (d) whether the Esperance Port Authority properly exercised its responsibilities in relation to the potential lead pollution;
 - (e) whether the Department of Environment and Conservation's responsibilities in relation to the Esperance Port Authority processes, practices and procedures, including the legal and regulatory framework, were adequate and properly exercised; and
 - (f) the committee is given power to investigate any other issues pertinent to the cause and extent of lead pollution in the Esperance area.
- (2) The committee will report to the Legislative Assembly by 16 August 2007.
 - (3) The committee is to be agreed between the Leader of the House and the leader of opposition business by the end of business on Thursday, 5 April 2007.

The ACTING SPEAKER (Dr S.C. Thomas): Does the member have a copy of her amendment?

Dr J.M. WOOLLARD: Yes, it is in two parts.

The ACTING SPEAKER: I ask the member to sign it and bring it forward so that we can check that it is in order. I ask the member to continue.

Dr J.M. WOOLLARD: There is some concern about the extension to the terms of reference to allow other areas to be investigated. Not enough time may be given to points (a) to (e) of the motion to investigate those areas. The Leader of the House has already stated today that the government is more than happy to provide additional resources to the committee to ensure that the committee is able to do a thorough job and report back to Parliament and to also report to the people of Esperance. That being the case it is important that the terms of reference be enlarged to deal with other issues that may arise. In the heat of debate at the moment there are arguments from both sides about who should be on the committee. We could leave both sides to nominate the number of members who are normally appointed to committees. In doing so we could ensure that there is a representative member who has some experience of environmental issues that have come before the Community Development and Justice Standing Committee or planning issues that have come before the Economics and Industry Standing Committee or health issues that have come before the Education and Health Standing Committee. I know many other members wish to speak this evening on this and other private members' business. Therefore, I will not prolong the debate. I ask the government to consider this amendment carefully because it provides the best of both worlds. It would give more of a guarantee to the people of Esperance that the government is genuine in investigating why this catastrophe has occurred and, as a result of the investigation, will be able to give an assurance to the community that such a catastrophe will not occur again at any of the state's other ports.

MR P.D. OMODEI (Warren-Blackwood - Leader of the Opposition) [6.08 pm]: I will not delay the house for long. I must express my deep concern about the quality of the debate. We have been debating this issue for over two hours in this Parliament. It is an issue that is very important to the people of Western Australia whether they live in Esperance or Wiluna or along the way between Wiluna and Esperance. Firstly, I commend the member for Roe because he has been the most genuine person in this issue. He set out to look after his community. He has worked assiduously. We can tell by his demeanour that this issue is taking a toll on the member and his family. I sympathise with the member. What does he do? He does all the right things. He asks all the right questions whether it is of the Department of Health or the stakeholders in Esperance, such as the port authority and so on.

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The member for Roe made a genuine suggestion for which all members on both side of the house, including the Minister for Planning and Infrastructure and the Leader of the House, have commended him. We have had one of the worst debates I have seen in all the time that I have been a member of Parliament. The member for Cottesloe is a former minister and former deputy leader of the Liberal Party in government, and he has great experience in the resources and education sectors. He offered himself to be appointed to a committee member for the first time in the 19 years that he has been a member of Parliament, and the Labor Party has rejected that offer. I would have thought that each member of the house would know about the standing committee process in this Parliament. I expect that all committee members are gainfully employed. Their wages just went up. They are paid to be chairmen and members of standing committees. They are actively involved in a range of inquiries. We are not privy to the details of the inquiries they are currently holding, but I have a suspicion that the Education and Health Standing Committee is now engaged in very important work for Western Australia. Its work will now be delayed until August this year, pending its inquiring into this matter.

The opposition, especially the member for Roe, who is the most important person in this matter as it is he who represents the electorate of Roe, has proposed the establishment of a select committee. The standing committee process that is in place does not preclude a select committee from being established in this Parliament. Even the Leader of the House would agree with that. There would be very important occasions when a select committee was appointed. What issue in Western Australia at this time is more important than lead poisoning in Esperance? A select committee should inquire into it. It is not just about birds. Lead poisoning affects a person's blood, bone marrow, the central and peripheral nervous systems and the kidneys, and it can result in anaemia, convulsions, nerve disease, kidney impairment and human reproduction problems. On and on it goes. There is evidence to show that people are currently being affected by lead. The opposition's proposition has been made in all good faith. Having considered the standing committee process, the member for Roe has rejected it in favour of appointing a parliamentary select committee, which is the right thing to do in this situation. What has this Parliament done? It has run around for two hours as members have tried to outstrip each other as to who can insult the other the most. That is a great shame.

This proposition was put in all good faith by the opposition. It will not affect the standing committees. They can continue to do their work. We have suggested three very competent members form part of the select committee: the members for Churchlands, Cottesloe and Roe. The government can put up whoever it wants to. It can pick the best people it has to do the job. The government can have four members to our three members if that is its want. Let us stop the nonsense and get on with business. I strongly recommend that the Parliament appoint a select committee to look into this very serious issue.

DR G.G. JACOBS (Roe) [6.15 pm]: I will not support the minister's amendment to establish a standing committee rather than a select committee, as I have suggested. The minister's amendment also seeks to change the members who are to be co-opted onto the committee, which is neither appropriate nor useful, and would not be nearly as effective. The government has neutered my motion. As a veterinarian in your previous life, Mr Acting Speaker (Dr S.C. Thomas), you would understand what the government has done to this motion. It has neutered it. If members will excuse the expression, the government has taken the testicles out of it.

My terms of reference have teeth, and I commend the government for working on those terms of reference. I drew up the terms of reference. They were not prepared by a policy person. I drew them up because I live in the area and I have heard what the community is saying. I chaired a meeting of 600 people recently. I have first-hand experience of the people's concerns, which I expressed in this motion. The government has widened the terms of reference. My motion referred to "export" and the government has widened that to include "transport and export". I agree with that amendment because the materials arrive by train and the empty kibbles are sent out on a train. Therefore, we must consider whether lead contamination occurred along the railway line. Another of the government's amendments will beef up the legal and regulatory framework, which is an important addition to the motion. Essentially, the rest of the amendment is the same as my motion.

Having recognised those terms of reference, what are we to do with the motion? That is the important bit. We recognise the important questions for the parents and children and all the people of Esperance. How did this go wrong? How were they let down? How can we prevent it from happening again? How can we prevent it from happening in another site? The important point is what we do with the motion. I have tried to establish the best forum. The Minister for Planning and Infrastructure has tried to paint me as a confused, manoeuvred, manipulated individual who did not know where he was going. She claims that that is why I suggested in the first instance that the matter should be dealt with by the Community Development and Justice Standing Committee. This issue has some environmental consequences, but it also involves other areas. As the member for Churchlands said, it has a wide-ranging effect. The Community Development and Justice Standing Committee deals with women's interests, seniors, youth, disability services and the environment. The

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Economics and Industry Standing Committee deals with development, planning and infrastructure - the Esperance port is a part of the planning and infrastructure - state development, tourism, regional development, the Goldfields-Esperance and Great Southern regional development, consumer and employment protection and fisheries, all of which are impacted upon by the lead pollution scenario that has unfortunately developed in my town. The Education and Health Standing Committee deals with education, training and health, and there are potentially significant issues of public ill health involved. That could fit, but it is a consequence of the processes that have let down the people of Esperance. This issue involves all those committees. It deals with the environment, consumer and employment protection, fisheries, tourism, development, health and even small business. Having tried to find a home for this motion, I decided that the issue should be sent to a select committee with select members to do a select job for a select problem. The issue is a significant threat to the people of Esperance. That is why the committee ended up as a select committee. It is not that I was a puppet of the member for Cottesloe, as the Minister for Planning and Infrastructure made out. I was trying to find a relevant home for this particular and significant issue for the people of Esperance, and particularly the children of Esperance.

Why did I suggest that the member for Cottesloe be on the committee? I made that suggestion because he has had experience in mining development and the analytical processes we need to go through when considering any project in Western Australia. Members would have to agree that he has had a lot of experience in this area. Why did I propose that the member for Churchlands be on the committee? It was because of her experience in this place and the independence of her position; it was not to pick on the member for Peel, who, with all due respect, is the youngest member of the government in this place in terms of experience, not age. I put forward this motion to establish a select committee in good faith and in the hope that it will investigate a problem that is significant to not only Esperance but also Western Australia. We need a particular type of committee, and that is a select committee, to do a special job. It requires people with special expertise and experience.

I say to the Leader of the House, I am happy to stand aside from this committee. I have no particular brief to be on this committee. I put my name forward because I thought I could bring some medical perspective to the issue and some local experience, having been a general practitioner in the town for 26 years, and having brought up five kids in the town and lived 400 metres from the port. I am quite happy to stand aside from the committee. I thought I would bring some perspective to it.

Mr C.J. Barnett: Can I just say what a waste that would be. You are the one person in this Parliament who has championed this issue. I can understand your dilemma, but you are the one person who has taken up the cause of the people of Esperance.

Dr G.G. JACOBS: I thank the member for Cottesloe. If the choice was between having a select committee and my standing aside, I would stand aside quite happily. I know that a select committee will be appointed to do the job. The government has the ability to select those members for the job. I am quite happy to stand aside and I will not make any political mileage out of that fact because I know the most important thing is to get the answers for the people of Esperance. I will not support this amendment. I believe the original motion, as it stands, would give us the best result for the people of Esperance.

MR D.F. BARRON-SULLIVAN (Leschenault) [6.23 pm]: I want to make a simple contribution. First, I want to correct for the record what the Leader of the House said. The Leader of the House implied quite clearly that when the new standing committee arrangement was established in 2000 it was to do away with the notion of select committees. I believe he quoted from the member for Cottesloe, who was then the Leader of the House. I remember that debate and I know that that was not the case. The member for Cottesloe said on 23 November 2000, "I recognize that occasionally there will be select committees." That sums it up. There is nothing to be afraid of in having a select committee. I was on three. In those days, two select inquiries, one into the heroin crisis and the other into law and order matters, probably would have been more appropriately given to standing committees. The third, which dealt with fuel prices, probably stood on its own and warranted a select committee even if the standing committee process had been in place. I just want to set the record straight because it is commonplace for the Leader of the House and other Labor members to try to skew an argument by misinterpreting or selectively quoting something that a member has said.

I have heard a lot of argument from both sides of the house about why a select committee would be superior to the standing committee process in these circumstances. That argument has been put very concisely by a number of members on this side. The question I ask myself is: apart from the composition of the two proposed committees, what else is different? Certainly the composition of the committee is an important consideration from the Labor Party's point of view and obviously it does not want the member for Cottesloe on the committee. The Labor Party wants to dominate the committee and have the numbers, if I can put it like that. Certainly the government does not want the balance of decision-making and investigative powers of the committee resting

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with an Independent member of the Parliament. That is an attribute I would have thought most people in the community would support.

The point that has occurred to me, which has not yet been raised in debate, is that there is one big difference between a select committee and a standing committee. One of the reasons it probably has not been raised is that we have not used standing committees very much. One of the key aims with standing committees was that the bills being dealt with in the Parliament would be referred to them. Every time I have tried, or every time anyone else on this side has tried, to send a bill to a committee, the government has used its numbers to vote that down. Consequently, we do not see standing committees operating in the way intended when they were established. The difference I have noticed is that under the standing orders relating to standing committees, it is actually possible for a standing committee itself to alter its terms of reference. I do not know how many members realise this, but when a select committee's terms of reference are struck by this house, the select committee must abide by those terms of reference. If the select committee wants to add to or change those terms of reference, it must come back to the house for approval. Consequently, there is debate over such an initiative. With a standing committee there is no requirement for this house to decide upon a change to the terms of reference. The standing committee certainly has to notify the house, and I think that is done through the Speaker, but the house does not debate such changes. Call me cynical, but it concerns me that the Labor Party clearly wants to dominate this committee. It does not want to have opposition and Independent members having the balance of investigative power. It concerns me that it may not be that the government just wants to influence recommendations or the outcome of a report; it may want to fiddle with the terms of reference down the track. If, for example, the terms of reference start leading the committee's investigations a bit too close to someone in the Labor Party, whether a minister or someone else that they wish to protect, it would be a relatively simple matter for the committee to change the terms of reference.

I raise that to set the record straight and show there is nothing wrong with select committees. The previous government and the previous Leader of the House, the member for Cottesloe, made it quite clear that select committees can and will continue to operate. I do also, in a more than cynical way, demonstrate that if the government gets the numbers on this committee, there is nothing to stop it from amending the terms of reference. That would be a travesty for the people of Esperance.

Mr P. PAPALIA (Peel) [6.28 pm]: I support the amendment moved by the minister.

Mr C.J. Barnett: Of course you do!

Mr P. PAPALIA: That is why I am standing up. I would like to express my concern about the incident that has occurred in Esperance and my support for the member for Roe in pursuing the cause and seeking a solution, as I did on the evening when he first raised the matter in this place. Noting the comments of the member for Roe and those of a number of members with regard to my experience and possible qualifications for being part of this committee, I would like to state, perhaps by way of presenting my credentials, what my experience is.

Firstly, I was elected as a member of this place and am therefore entitled and qualified to be a member of any committee formed by this place. Secondly, I was a naval officer for 26 years. I suggest that I have as much experience of ships, shipping and ports on the surface and underneath them as any member of this place, and probably more so than any member of this place. I also have considerable experience for extensive periods at operating in and monitoring areas that were contaminated with toxins far more insidious and dangerous than lead.

Dr E. Constable interjected.

Mr P. PAPALIA: The member points out how dangerous lead is to children. I fully understand that, but nerve and mustard agents are quite dangerous to children as well as adults.

My experience therefore with regard to these issues is as reasonable and as considerable as any other member's experience. I might add that I am not a doctor; I do not pretend to be. However, there is more than enough medical expertise on the committee.

Finally, in regard to my suitability and in light of what has been said by a number of members this evening, I want to say that I hold my integrity at exactly the same level as I did when I entered this place. I presented myself to the people and based much of my argument for being here on my integrity. That is why I put myself forward as a member of the committee. I do not believe I have compromised my integrity in any fashion. I am quite proud to be here as part of this government and I look forward to being part of this committee.

Ruling by Acting Speaker

Extract from Hansard
[ASSEMBLY - Wednesday, 4 April 2007]
p1224b-1248a

Dr Graham Jacobs; Mr Colin Barnett; Acting Speaker; Ms Alannah MacTiernan; Mr Paul Omodei; Mr David Templeman; Mr Brendon Grylls; Dr Elizabeth Constable; Mr Rob Johnson; Mr John Kobelke; Dr Janet Woollard; Mr Dan Barron-Sullivan; Mr Paul Papalia; Mr Eric Ripper; Mr Tom Stephens; Dr Kim Hames

The ACTING SPEAKER (Dr S.C. Thomas): Members, an amendment on the amendment to the motion was moved by the member for Alfred Cove, which, unfortunately, does not meet the requirements of standing orders. It has therefore been ruled out of order. I invite the member for Alfred Cove to receive some advice and move separately if she wants to progress her argument.

Amendment on the amendment ruled out of order.

Amendment to Motion Resumed

Amendment (deletion of words) put and a division taken with the following result -

Ayes (26)

Mr A.J. Carpenter	Mr R.C. Kucera	Mr A.P. O’Gorman	Mr D.A. Templeman
Mr J.B. D’Orazio	Mr F.M. Logan	Mr P. Papalia	Mr P.B. Watson
Dr J.M. Edwards	Ms A.J.G. MacTiernan	Mr J.R. Quigley	Mr M.P. Whitely
Mrs D.J. Guise	Mr J.A. McGinty	Ms M.M. Quirk	Mr B.S. Wyatt
Mrs J. Hughes	Mr M. McGowan	Mr E.S. Ripper	Mr S.R. Hill (<i>Teller</i>)
Mr J.N. Hyde	Ms S.M. McHale	Mrs M.H. Roberts	
Mr J.C. Kobelke	Mr C.A. Martin	Mr T.G. Stephens	

Noes (20)

Mr C.J. Barnett	Mr B.J. Grylls	Mr J.E. McGrath	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Dr K.D. Hames	Mr P.D. Omodei	Ms S.E. Walker
Mr T.R. Buswell	Ms K. Hodson-Thomas	Mr D.T. Redman	Mr G.A. Woodhams
Mr G.M. Castrilli	Dr G.G. Jacobs	Mr A.J. Simpson	Dr J.M. Woollard
Dr E. Constable	Mr R.F. Johnson	Mr G. Snook	Mr T.R. Sprigg (<i>Teller</i>)

Pairs

Mr P.W. Andrews	Mr M.J. Birney
Mr M.P. Murray	Mr M.W. Trenorden
Mr A.D. McRae	Mr M.J. Cowper

Amendment thus passed.

The ACTING SPEAKER: Members, the question is that the words to be inserted be inserted.

MR R.F. JOHNSON (Hillarys) [6.36 pm]: This is the first opportunity I have had to look at this amendment to the motion that has been put forward by the government. I do not know whether it is intentional - I hope it is not - but if it is passed, it will mean that the member for Roe, the most important member in this whole debacle, will not even have voting rights on the committee. The amendment to the motion co-opts him onto the committee. It should do what we did with the motion that I moved in relation to the Director of Public Prosecutions and decisions to not proceed with prosecutions. It should allow the member for Roe and others to be members of the committee for the purpose and duration of the inquiry. That is what we did with the other committee, and that gave the members on the committee the right to vote. Not only will the member for Roe not be able to speak publicly if he is a member of this committee, as he will have the constraints of a committee member imposed on him, but also he will not even have the right to vote. I find that absolutely disgraceful.

Mr J.C. Kobelke: Why don’t you move to delete “co-opted” and insert “appointed”?

Mr C.J. Barnett: Why don’t you get it right for once? You have done nothing for the people of Esperance except cover your own backsides.

Mr R.F. JOHNSON: The government is not prepared to appoint a select committee. Not only that, the government wants to put the member for Roe on a committee as a co-opted member who would not have the right to vote. He will not be able to speak publicly about a major issue, if not the most important issue, in his electorate, because of the amendment to the motion before the house today.

Ms A.J.G. MacTiernan: You didn’t raise this point during debate on the amendment.

Mr R.F. JOHNSON: Why does the Minister for Planning and Infrastructure not listen? You have no real interest in this at all. All you want is a cover-up.

The SPEAKER: Order, members!

Dr Graham Jacobs; Mr Colin Barnett; Acting Speaker; Ms Alannah MacTiernan; Mr Paul Omodei; Mr David Templeman; Mr Brendon Grylls; Dr Elizabeth Constable; Mr Rob Johnson; Mr John Kobelke; Dr Janet Woollard; Mr Dan Barron-Sullivan; Mr Paul Papalia; Mr Eric Ripper; Mr Tom Stephens; Dr Kim Hames

Mr R.F. JOHNSON: The Minister for Planning and Infrastructure does not even want the member for Roe to have a vote on the committee.

Ms A.J.G. MacTiernan: You didn't even know that was the case.

Mr R.F. JOHNSON: The Minister for Planning and Infrastructure is a disgrace. She should be absolutely ashamed of herself for sitting there pontificating and arguing when she has made a gross mistake.

Ms A.J.G. MacTiernan: You've made a gross mistake.

Mr R.F. JOHNSON: If I have made a gross mistake, let it be proved. I can tell the Minister for Planning and Infrastructure how it can be proved that I have not made a mistake. It is because the Leader of the House will get somebody to move an amendment to the mistake that the Minister for Planning and Infrastructure has put forward. The Minister for Planning and Infrastructure should not sit there arguing the point when she does not even know what she is talking about. She does not have a clue about committees. I do not believe she has ever sat on one. Has she?

Mr C.J. Barnett: She has travelled widely.

Mr R.F. JOHNSON: She has travelled widely as a minister, but she has never sat on a committee of this house.

Point of Order

Mr E.S. RIPPER: Forgive me for raising this point in this way, but if the bells were to ring for a little while and you, Mr Acting Speaker (Dr S.C. Thomas), were to leave the chair this could be sorted out.

Mr J.C. Kobelke: We've got an amendment.

Mr E.S. RIPPER: Is the Leader of the House going to sort it out?

The ACTING SPEAKER (Dr S.C. Thomas): There is no point of order.

Debate Resumed

Ms A.J.G. MacTiernan: I have been on a committee. I sat on a house committee.

The ACTING SPEAKER: Order, Minister for Planning and Infrastructure!

Mr R.F. JOHNSON: There she goes again. Why does Mr Acting Speaker not gag her? She is more trouble than she is worth at the moment.

Mr F.M. Logan: Think about your heart!

Mr R.F. JOHNSON: My heart is pretty good. It is a big heart because I care for the people of Esperance.

I did not intend to stand and make a long speech on this matter. However, I wanted to point out to the house the gross inadequacies of the amendment that the government has moved today. I will resume my seat now in the hope that the Leader of the House will get somebody, if not himself, to amend this disgraceful amendment, to ensure that the member for Roe and others will serve on that committee as full committee members - if that is the way it is going to go, and it will because the government has the numbers - for the purpose and the duration of the terms of reference that we have before us today. By doing that, at least they will be given the opportunity to vote on issues. As I said, members opposite are already gagging the member for Roe because he will be a member of the committee.

Ms A.J.G. MacTiernan: He chooses to be a member of the committee.

Mr R.F. JOHNSON: For goodness sake; she is off again! Why does the minister not just be quiet? I was just about to sit down. Why does the Leader of the House not gag her? Then we could get on with this. She sits there; for goodness sake! No wonder some of my colleagues have made disparaging remarks about her in the past. I will sit down now in the sincere hope that the Leader of the House will correct this dreadful mistake.

MR T.G. STEPHENS (Central Kimberley-Pilbara) [6.40 pm]: I would like to accept the invitation of the member opposite who has just resumed his seat and move an amendment to the amendment, so that in paragraph (2) we would delete "co-opted" and insert "appointed". I hope I have sufficient nods from the table to indicate that deleting "co-opted" and inserting "appointed" will do the job. I hope that will do the job.

Mr R.F. Johnson: It needs to state "for the purpose and duration of this inquiry". I'll help you out.

Mr T.G. STEPHENS: All right; that is done.

Mr J.C. Kobelke: It is already in the amendment.

Dr Graham Jacobs; Mr Colin Barnett; Acting Speaker; Ms Alannah MacTiernan; Mr Paul Omodei; Mr David Templeman; Mr Brendon Grylls; Dr Elizabeth Constable; Mr Rob Johnson; Mr John Kobelke; Dr Janet Woollard; Mr Dan Barron-Sullivan; Mr Paul Papalia; Mr Eric Ripper; Mr Tom Stephens; Dr Kim Hames

The ACTING SPEAKER (Dr S.C. Thomas): Will the member for Central Kimberley-Pilbara take his seat for a minute, please?

Mr T.G. STEPHENS: Yes.

The ACTING SPEAKER: We have notice of an amendment from the member for Alfred Cove. If the member for Central Kimberley-Pilbara moves his amendment now, the member for Alfred Cove will be prevented from moving her amendment, despite the fact that she gave notice of it previously. That being the case, while the member for Alfred Cove takes the opportunity to move her amendment, it will give the member for Central Kimberley-Pilbara the opportunity to make sure that the amendment he is about to move is the correct one. I give the call to the member for Alfred Cove, and I will come back to the member for Central Kimberley-Pilbara.

Amendments on the Amendment

DR J.M. WOOLLARD (Alfred Cove) [6.42 pm]: I move -

To insert after paragraph (1)(e) in the amendment the following -

- (f) that the committee is given power to investigate any other issues pertinent to the cause and extent of lead pollution in the Esperance area.

The ACTING SPEAKER: Is that the member's full amendment?

Dr J.M. WOOLLARD: Yes, Mr Acting Speaker. I would have liked to also put in that amendment that the matter go to a select committee to be determined by the house, but I did not think the government would support that. However, I hope that the government will support the committee investigating any other matters; otherwise, it is pure hypocrisy that has been sprouted in this house tonight. The government has said that the committee will be open and accountable to the community. Many of us in this house know that although some members of the government might say that "specific reference" does not mean that a committee cannot look into other matters, when matters have gone to committees that have been established by this government and I have asked those committees why they are not looking into a certain issue, they have said they are not doing so because it is not within their terms of reference. We know far more now about this issue than we did three weeks ago, and this committee will probably uncover far more evidence. It may wish to pursue another line as part of its investigation and to report to this house to ensure that the poisoning and contamination that has occurred in Esperance does not occur anywhere else in Western Australia. Therefore, I ask that the government support the inclusion of the wording in subparagraph (f) for the benefit of open and accountable government.

DR K.D. HAMES (Dawesville) [6.44 pm]: I support this addition to the minister's amendment. I guess I need to be careful, as a member of the committee that will look into this matter, to not say anything that would prejudice my involvement with the committee and my investigation in the future. In fact, I intend to say a few things about that later when we get to the substantive motion. I say to the Leader of the House that one thing worries me a little. I just wonder whether the Leader of the House could look this way for a second.

Mr J.C. Kobelke: I can't interject.

Dr K.D. HAMES: No, I do not want him to interject; I just want him to listen. There is an area about which I am concerned, and I do not know exactly how it works. Perhaps the Leader of the House could advise me by way of interjection about how things work when something is referred to a committee in this way. Does it mean that the committee is able to look only into those specific areas? It says in the motion that something is being referred to the committee, and the committee is requested to inquire into it. I would have thought that the committee would decide for itself the full extent of the areas that it wants to inquire into. However, is the committee restricted to what is in the amendment? The reason I make that point is that one concern I have about this whole issue is that everyone is focusing on Esperance. Of course, that is the area where lead contamination has been found and where there is some risk to children. However, I do not know how close that mine is to Wiluna. Is there a chance of lead dust issues arising in Wiluna?

An opposition member: It is 30 kilometres.

Dr K.D. HAMES: That is not far in the context of dust and the movement of dust. I presume the railway line travels past Wiluna. Have any tests been done in Wiluna? Is there any risk to the inhabitants of Wiluna, and is there any risk to the workers who participated in the loading and transporting of that dust but who have now, I gather, all been stood down? As a committee member, I would like to look into that issue. That is why I support this amendment. It would give certainty to the ability of the committee to look into those matters, even though I think the committee would be able to do so anyway.

Dr Graham Jacobs; Mr Colin Barnett; Acting Speaker; Ms Alannah MacTiernan; Mr Paul Omodei; Mr David Templeman; Mr Brendon Grylls; Dr Elizabeth Constable; Mr Rob Johnson; Mr John Kobelke; Dr Janet Woollard; Mr Dan Barron-Sullivan; Mr Paul Papalia; Mr Eric Ripper; Mr Tom Stephens; Dr Kim Hames

Mr J.C. Kobelke: I'm happy to support the amendment, even though I think it is of no value at all, because it is already in the amendment that is before the house now.

Dr K.D. HAMES: This all relates to Esperance, does it not? What if the committee wants to look outside Esperance?

Mr J.C. Kobelke: The amendment refers to "the cause and extent of lead pollution in the Esperance area".

Dr K.D. HAMES: Yes. That is what I am saying. What if the committee wants to look at Wiluna? The lead is being mined in Wiluna.

Mr J.C. Kobelke: It would be open to the committee to come back and make an addition to its own terms of reference.

Dr K.D. HAMES: Does it have to?

Mr J.C. Kobelke: It is not in the current terms of reference that were crafted by the member for Roe.

Dr K.D. HAMES: Is a standing committee locked into what it is requested to inquire into by the house?

Mr J.C. Kobelke: Yes, but, in addition to that, the committee has the ability to establish inquiries on its own motion.

Dr K.D. HAMES: So that gives us that freedom.

Mr G. Snook: Member for Dawesville, I believe the lead is transported by road to Leonora, where it is placed on rail, and it then goes by rail to Esperance. There may be other issues around Leonora.

Dr K.D. HAMES: The government is doing all the lead testing in Esperance. Maybe it needs to do some lead testing in Leonora and Wiluna to see whether there are any health issues there also. I believe that is an important matter that the government should look into. In any event, I support the addition of subparagraph (f).

DR G.G. JACOBS (Roe) [6.48 pm]: I will be very quick. I must say that the process of trying to get a proper forum to investigate the issues for the community of Esperance seems like extracting teeth. However, this was done in good faith for the people of Esperance. My goal is to ask questions on behalf of the people of Esperance about this process, how this situation happened, the extent of it and what we can do to prevent it happening again. In fact, as the member for Dawesville said, with this investigation we could perhaps prevent it happening at other places and other sites throughout Western Australia. I support the amendment moved by the member for Alfred Cove that the committee be given power to investigate any other issues pertinent to the cause and extent of lead pollution. It is in order and very proper. It will perhaps allow for what the member for Dawesville is suggesting.

MR J.C. KOBELKE (Balcatta - Leader of the House) [6.50 pm]: The government will support this amendment, although I do not think it is of any value at all. It adds nothing to the motion that is already before the house. The government wants this matter dealt with, and to save delays will support the amendment.

Amendment put and passed.

MR T.G. STEPHENS (Central Kimberley-Pilbara) [6.51 pm]: I move -

In paragraph (2) of the motion - To delete "co-opted" and insert instead "appointed".

I have taken advice that the other words members have suggested need to be inserted do not need to be inserted. This amendment has the same effect of delivering, for the purpose of this inquiry, the presence of those members as appointed members - no longer co-opted - and therefore with the voting rights of full membership for the duration of the inquiry.

Amendment put and passed.

Amendment to Motion, as Amended, Resumed

The ACTING SPEAKER: The question before the house is that the words of the minister, as amended, be inserted.

DR K.D. HAMES (Dawesville) [6.52 pm]: I have sat quietly during this debate. In fact, I have absented myself for a significant part of it to remove myself from the temptation to respond to some of the comments made, some of which I might have taken offence at as a member of the committee. However, I do not take offence, because I know the way in which they were intended. I too strongly support a select committee, and was very happy to vote for that concept. Being a member of the committee that has been given the task of looking into this issue, I have great faith that it will undertake this inquiry thoroughly and in great detail, and I welcome the two

Dr Graham Jacobs; Mr Colin Barnett; Acting Speaker; Ms Alannah MacTiernan; Mr Paul Omodei; Mr David Templeman; Mr Brendon Grylls; Dr Elizabeth Constable; Mr Rob Johnson; Mr John Kobelke; Dr Janet Woollard; Mr Dan Barron-Sullivan; Mr Paul Papalia; Mr Eric Ripper; Mr Tom Stephens; Dr Kim Hames

additional members of the committee, whom I think will both be good members. We will make sure we do this properly.

DR G.G. JACOBS (Roe) [6.53 pm]: I still believe the original motion has been neutered. I do not believe a standing committee is as effective a forum as a select committee. As I have previously said, this issue ranges across many portfolio areas. I believe this is a significant problem for Western Australia, particularly for Esperance. For that reason, it should have been dealt with by a select committee with a membership with the particular experience and expertise to do the job for Esperance. I do not believe that the Education and Health Standing Committee is an ideal forum. The minister was not here when I made my previous remarks. She created the impression that I was a little boy lost in this place, not knowing where to take this motion. As I have said, there are three possibilities for standing committee referral, and this issue covered all of them. Because of the wide nature of the portfolios and interests, including tourism, fisheries, state development, planning and infrastructure, and environment and health - we had little bits in each of those - I believe the best forum is a select committee. I understand and thank the member for Alfred Cove for extending the terms of reference, although the Leader of the House said that it was of no use. It is an important caveat, and hopefully we will get some further investigation as necessary. I will now concede, as we have conducted the process in this place, that we will get some investigation for the people of Esperance, but it is not my preferred option.

MR C.J. BARNETT (Cottesloe) [6.55 pm]: I hope the committee will do its job thoroughly and well. The only reason I rise is that, when the member for Roe moved this motion for a select committee, he did so in good faith. *Hansard* will show that I supported him in good faith and, for the first time in my political career, I offered to go on a committee. I accepted that members opposite did not want that, so I stepped aside. I am not seeking to be dramatic, but I want to place on the record that I have never felt as ashamed of this Parliament as I do right now.

MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [6.56 pm]: When we were first approached by the member for Roe to support a committee inquiry, we did so very willingly and openly, and we continue with that support. We were not prepared to allow a late change that we believed would have fundamentally changed the bipartisan nature of this committee. I am very heartened at the response we have received, particularly from the member for Dawesville. This will be a good committee, and we want to ensure that there is absolute maximum transparency. The instruction we will be giving to all our agencies is to ensure that there is every co-operation and transparency in this process. We need to know exactly where the culpability lies, and how we make sure this does not happen again.

The ACTING SPEAKER: The question before the house is that the minister's words to be inserted, as amended, be inserted.

Amendment (insertion of words), as amended, put and passed.

Motion, as Amended

Question put and passed.