

Hon Ken Travers; Hon Dr Sally Talbot; Hon Helen Morton; Hon Simon O'Brien; Hon Lynn MacLaren; Hon Jon Ford; Deputy President; Hon Norman Moore; Hon Robin Chapple

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## GERALDTON AND FREMANTLE PORTS — LEAD CONTAMINATION

### *Motion*

**HON KEN TRAVERS (North Metropolitan)** [10.15 am] — without notice: I move —

That this house expresses grave concern about the handling of lead contamination at the ports of Geraldton and Fremantle by the Barnett government.

I want to say at the outset that the Labor Party acknowledges that when it was in government there was a failure of the government processes on the handling of lead at the port of Esperance. We have accepted the political responsibility for that—people may have noticed that we now sit on the opposition benches. The Liberal Party made much of those incidents at that time, even though the failures within the bureaucracy in relation to what was happening at Esperance were not understood by the government. The very next day after the day on which the then Minister for Planning and Infrastructure found out that lead was the problem at Esperance, the port of Esperance was closed to lead exports. That is the history of it. But, as I say, we have accepted the political responsibility for that failure and those who now sit in government have sought to make great mileage out of it, as is the right of every opposition and now the government. But we would expect that history would make the government extremely conscious of the need to deal immediately with issues arising from loading lead at our ports. Since this house adjourned for the summer break there have been two incidents in which lead has been an issue in ports in Western Australia—one at Geraldton and one at Fremantle. I intend to focus on the Geraldton port, and my colleague Hon Sally Talbot will focus on events at the port of Fremantle, and the failure of the Barnett government on these matters.

I have moved this motion today because, in the main, I agree with an article written in *The West Australian* of 27 December last year. It relates to the issues at the Geraldton port and states in part —

But they are entitled to be concerned about some of the practices surrounding the handling of the lead material, particularly that it was being loaded during high winds, conditions that are far from uncommon in Geraldton.

And authorities need to explain the delay in alerting the local community to the breach, with two months passing before it was made public.

I put it to the house that it is not the authorities that need to explain to the people of Western Australia why there was a two-month delay. The minister of the day who was responsible for the Geraldton Port Authority at that time needs to explain. I hope that by the end of today's debate we get an explanation from that minister for why it took two months.

Let us look at the history of what happened at the Geraldton port. On 22 October 2010 a vessel was loaded with lead. As a result of the incidents at Esperance, new monitoring equipment had been installed at the Geraldton port, so that was the first occasion on which it was used there. The results were sent for analysis and returned to the Geraldton Port Authority either on or just before 7 November. They showed readings at those testing areas that were eight times the allowable limit. The port authority therefore did what was expected of it and, as was reported in *The West Australian*, sent an email to the minister's office on 7 November. According to that report the email was sent to an officer called Brett Barton—and nothing happened! There is no announcement to the people of Geraldton. There is no public announcement. Interestingly, on 3 December the Geraldton Port Authority met with Minister O'Brien's chief of staff. I suspect that the Geraldton Port Authority, having sent a letter on 7 November, and understanding the history of lead export in this state, was concerned that it had no response from the minister about how to proceed. Think about it as a member of the port authority bureaucracy. If this occurred, a letter would be sent to the minister—I do not know whether the port authority recommended a particular action to him—and the expectation would be that the minister would direct what should happen. I suspect the reason the port authority wanted to meet with Minister O'Brien's chief of staff on 3 December is that it was concerned about receiving no response from the minister's office. If I were the CEO of the Geraldton Port Authority, I would be sitting in my office saying, "It has been almost a month now since we told the minister and nothing has happened. We need to talk to the minister directly to find out what he wants us to do." I suspect that the minister said, "No, you are only one of my port authorities; you can talk to my chief of staff."

On 3 December the port authority met with the minister's chief of staff. I suspect that at that meeting the port authority officials provided details of the events. And again we wait. Again, no public announcement is made; no-one in Geraldton is told that on 22 October a ship was loaded with lead and the air tests showed eight times the allowable lead limit. Interestingly, on 14 December the minister was sacked from the transport portfolio. The Premier knew this minister was not delivering in the transport portfolio and he was therefore sacked and hidden away. Because the Liberal-National government has only one minister it can bring in to be Treasurer—namely,

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the Attorney General—it has tried to hive off issues within the Treasury portfolio and create the position of Minister for Finance in order to hide away this minister where he cannot do the damage that he has been doing in the transport portfolio to date.

**Hon Norman Moore:** Rubbish. That is absolute rubbish!

**Hon KEN TRAVERS:** I am not going to get into it, but I have heard told the story that it was Mr Moore who saved the former Minister for Transport. The Premier wanted to sack him completely from the cabinet and it was Mr Moore who prevailed upon the Premier to save Minister O'Brien and to find him a new portfolio in which, hopefully, he cannot do any more damage. Let us face it: the Liberal–National government has a Premier and one other competent minister. That is all it has—except perhaps for Hon Helen Morton, but we will have to wait to see if she can prove herself to be this government's second competent minister.

On 14 December, a new Minister for Transport was appointed. The new minister was informed about this incident on 22 December—interestingly, the first notification was 22 October. On 22 December, Minister Buswell was informed of this incident by, as I understand it, the company that exported the lead. The new minister understood what needed to happen and the very next day the port was closed for lead shipments—the identical action taken by the previous minister, Alannah MacTiernan, when she found out about the issues at the Esperance port. The new minister understood what had to happen. In fact, in an ABC online news report dated 21 January it was stated —

Mr Buswell says he acted as soon as he became aware of the lead issue in Geraldton.

As soon as he became aware of the lead issue in Geraldton! That is what should have happened. That is exactly what should have happened and that is what Minister Buswell did. We understand that Mr Buswell has a lot of personal character failings, but he is a reasonably competent member.

Several members interjected.

**Hon KEN TRAVERS:** He is so! Members opposite know that. They should not try to deny it.

**Hon Norman Moore:** Why don't you look in the mirror some time?

**Hon KEN TRAVERS:** I do not have the personal character failings of Mr Buswell, Mr Moore.

Several members interjected.

**The PRESIDENT:** Order, members! We will proceed without the interjections. I think the member on his feet knows the standing orders about imputations in relation to members in the other place.

**Hon KEN TRAVERS:** Minister Buswell understands what is required in a political sense when these issues occur.

An article in *The West Australian* on 3 January, detailing the events that occurred in this area, outlined the same time line that I have outlined for members today. That article claimed that Brett Barton received the original email that was apparently not passed on to Minister O'Brien's chief of staff and that Mr O'Brien did not learn about the incident until 3 December when the port authority met with Mr Curry. The article then stated that Mr Barton no longer works in Mr O'Brien's office.

I wonder whether Mr Barton no longer works in Mr O'Brien's office because he failed to notify the minister of this important—absolutely crucial—email. I believe that probably was the most important email received in the Minister for Transport's office last year. It was probably the most important email! I know that if I were the minister and that email came into my office and a staff member did not tell me about it, I would be very, very annoyed. The simple fact of the matter is that Mr Barton no longer works in the minister's office and my question is: why is the minister still working in a minister's office when he himself failed to do anything when told about the problem? That is the question that needs to be answered today. The failed former Minister for Transport needs to stand in this house to explain why his office did nothing between 7 November and 3 December and why, when he found out about it on 3 December, he as the minister did nothing. He did not notify the people of Geraldton about what had occurred in their town. This is a government that made a great song and dance about the events in Esperance. This is the same minister that railed in this house on 19 May 2010, telling us how wonderful and open, accountable and transparent the Liberal government was being about the export of lead through the Fremantle port. However, when it came to his responsibilities for the Geraldton port, the minister was mute—silent. It is an absolute disgrace. I urge people to read about it because in the time I have available today I will probably not have time to go through the whole of the transcript from 19 May. It makes fascinating reading, minister. It makes it clear that the minister understood the importance of lead; that he understood the importance of keeping the public community informed.

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Moving forward: now that this has all occurred and the former Minister for Transport has been sacked from that portfolio and hidden away in portfolios in which he cannot damage the public confidence in the way that he has, we now need to restore the people of Geraldton's trust. I suggest that the government needs to set up a community reference group in Geraldton so that the community can be confident in the way in which these matters are being handled by the government of the day. The government needs to ensure that a community reference group includes people from the port authority, the local chamber of commerce, the workers' representatives—the Maritime Union of Australia—the local tourism authorities, the local businesses, the key stakeholders, the Department of Environment and Conservation and other government agencies. All should be there to restore the trust of the Geraldton people because of the failures of the former Minister for Transport. That is what now needs to happen in the Geraldton area to restore the people's confidence. When we made that suggestion to the government, it immediately dismissed it. Although Hon Troy Buswell understood the importance of making this information public the day after he heard about it—the day after!—this government still does not understand the damage that it has done to the confidence of the people of Geraldton as a result of the failings of the failed former Minister for Transport. The government does not understand it.

The public has a right to know what happened and why the entire situation has been so very poorly handled. We now need to work to restore the confidence of the people of Geraldton in the safety of the port and its surrounds. The only way we will do that is to allow a group of community representatives to go there to answer those questions. I visited Geraldton during the recess, and everywhere I went in Geraldton, people asked me questions about it. They wanted to know what was happening, they wanted a point of reference and they wanted their concerns addressed. They wanted to know why one person's water tank had not been tested but another person's had. A public reference group would instil confidence in the people of Geraldton that things were being done, that they were being done properly and that there would not be another failure similar to the failure by the former failed Minister for Transport who refused to tell the people of Geraldton what was happening, even though he knew that the incident had occurred more than two months before anything was done about it. By the time the former minister was sacked from the portfolio, it was exactly two months before the people of Geraldton were told about this incident.

Today we need an explanation from the former failed Minister for Transport about why his office did not tell him about it and why he did not act and tell the people of Geraldton once he knew. I hope that when I sit down, the former failed Minister for Transport, the now Minister for Finance, will stand and explain his actions. It is my view that his actions were a dereliction of the duty of a minister, and the former Minister for Transport stands condemned. It is not the authority but the former failed Minister for Transport who needs to explain his actions. I brought this motion before the house today because I wanted to hear that explanation, and I believe that the people of Geraldton and the people of Western Australia deserve an answer.

**HON SALLY TALBOT (South West)** [10.32 am]: I am very pleased to support the motion moved by Hon Ken Travers. It will not have escaped members' attention that the motion before the house is in a chronological sequence. Over the Christmas break, we found out about the appalling sequence of events which occurred in Geraldton and which has left the people of Geraldton absolutely outraged about the way they were treated by the government. It was only a few days later that we heard the astonishing revelations about what was happening between the Wiluna mine, which is run by Magellan Metals Pty Ltd, and the port of Fremantle. I want to highlight those incidents today because we must put on the record in this place just how comprehensive and outrageous the government's failures have been in the transport and export of lead.

This is an unusual debate in one particular sense; that is, every single government backbencher is very familiar with the issues that we are raising today. The reason for that is that the opposition has been raising them in this place for nearly two and a half years. We have had extensive debate about and questioning of the government over the safe transport of lead. I do not have to background any government members about the extent of the problem with which they are faced, because the debate on these issues has raged in this place for many, many hours. Government members also know that I spent the best part of 26 months trying to hold the government accountable for its environmental policies through the previous Minister for Environment, Hon Donna Faragher. The minister did not much like the way I did it, but I did it and I think that the record speaks for itself. I find myself somewhat surprised today to be on my feet saying that I rather miss the previous Minister for Environment.

**Hon Donna Faragher:** I knew it! I don't miss you, but I knew you'd miss me.

**Hon SALLY TALBOT:** Some people have a problem accepting praise. I do miss her, and I will tell members why. I have put on the record many times that the former Minister for Environment repeatedly refused to give her personal assurance that the transportation of lead was safe. Five times on a *Stateline* interview on the ABC during prime-time viewing she fudged her response to the question: minister, is it safe? With the benefit of hindsight, that was an interesting thing for her to have done. However, that is not why I find myself wishing she

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was still in the environment portfolio. The reason I miss her is the one thing the former Minister for Environment did, for which it would be good to hold the government to account now, was promise to close down Magellan if it breached the guidelines. I hope that the former minister has gone into her predecessor's office, shut the door and had a quiet word with him because he is making an absolutely ham-fisted attempt —

**Hon Donna Faragher:** Successor.

**Hon SALLY TALBOT:** Successor, sorry.

**Hon Ken Travers:** You thought no-one could be worse than the last minister, but you were wrong.

**Hon SALLY TALBOT:** I thought that no-one could be worse but, sadly, I have been proved wrong.

Only yesterday we found out a new piece of information. We always have to drag information out of the government piece by piece. Yesterday we found out that this sorry saga did not start on 1 January, which is when the acting minister put out the press release making the stop order. This incident started on 15 December—the day after the new minister was sworn in.

**Hon Peter Collier:** That was in the media before Christmas.

**Hon SALLY TALBOT:** Guess where the ministerial guidelines can be found. Members might be interested to know that they can be found on the Magellan website, so they do not have to look very far for them. The guidelines have been changed already but the government did nothing about putting that on the public record. Surely the alarm bells started ringing for the government yesterday when members heard the Minister for Mental Health respond to a question on behalf of the Minister for Environment. The Minister for Mental Health said that it is not the CEO of the Department of Environment and Conservation who receives these reports, but the CEO of the Environmental Protection Authority. We found out that the CEO of the EPA was told on 15 December that Magellan was in breach of the ministerial guidelines. Where did it go from there? I will tell members where it appears to have gone from there. It appears to have gone straight onto the desk of the new Minister for Environment so that he could play politics with the issue. As Hon Ken Travers said, this mob appears to have learnt nothing from the Esperance experience. If anything has the word “lead” on it, the Minister for Environment should look twice at it, but that was not the case.

**Hon Ken Travers:** Alarm bells should have been ringing.

**Hon SALLY TALBOT:** They heard the alarm bells, but probably thought it was morning teatime. It was not until 1 January when the acting minister, Hon Peter Collier, issued the stop order. Why did we have to wait that long? It is because the new Minister for Environment made an interesting decision when he was presented with this information about the breaches of the guidelines. What does the Minister for Environment have to consider? He must consider a range of interests. I put it to members that the minister should have considered how he should have acted in the best interests of the safety of the Western Australian community. That clearly was not the case. The minister decided that his best interests were served by going on leave, and that is what he did. Ten days after he was sworn in as the Minister for Environment and nine days after one of his CEOs had been informed that Magellan was in breach of its conditions, the minister told nobody, did nothing and went on leave. All hail the acting minister, Hon Peter Collier. His eventual press release, date 21 January 2011, actually spells out what the problem is. The problem, as spelled out not by the Minister for Environment but by the acting minister, is this: the requirement is that no lead be present outside the bag within the sealed containers. I put it to honourable members of the government that that is very straightforward. The requirement is that no lead be present outside the sealed containers, but there was lead found outside the sealed containers. The ministerial conditions had been breached, yet the Minister for Environment went on leave, leaving the acting minister to take this action.

I want to spend the last few minutes of my speech suggesting where we might go from here. We have clearly been presented with some major failures to the regulatory system for which the government is responsible. The auditing system has failed. I ask the minister to read his ministerial conditions. Condition 10 spells it out; I will not say that it is in words of one syllable, but it clearly spells out what the accredited auditor is supposed to do. Condition 10–1(4) states that the auditor is to be engaged and funded to undertake —

immediately reporting any findings to the CEO and the proponent of material containing lead carbonate outside the sealed bags after a shipping container is removed from the mine-site; ...

The minister's auditing system has failed, and we need to know why. We need to know whether it is the inspectors who have failed, or whether somebody is playing politics with this issue. We need to know if the government's handling of the reports from the independent inspector has failed. The sealing provisions have also failed. I know that Hon Helen Morton is only the minister representing the Minister for Environment, but yesterday in answer to a question she stood in this place and read, with a straight face, all the details of the

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previous breaches. This proponent is deliberately overloading the bags; the inspector's report says that this was a deliberate attempt to not comply with the ministerial conditions. The most stringent environmental conditions ever have been openly breached. The ministerial conditions have failed; they were supposed to keep the community safe and protect public health, but they have failed. This is not about protecting the health of the workers at the port and the mine, or about protecting the health of the public. The government's response is not about that; it is about protecting a weak, bumbling, ineffectual government.

**HON HELEN MORTON (East Metropolitan — Minister for Mental Health)** [10.42 am]: The government's first priority when managing transport of mineral ores through ports in Western Australia is to ensure that there are no risks to public health or the environment. That is why the government has taken unprecedented action to stop shipments of lead from the Fremantle and Geraldton ports. With respect to Magellan lead going through the Fremantle port, ministerial statement 783 was issued by the Minister for Environment on 2 February 2009. It allows Magellan Metals to transport lead carbonate concentrate in sealed bags within locked shipping containers by road from the company's Wiluna mine site to Leonora, and then by rail to the port of Fremantle, from where it is exported. Condition 10-1 of statement 783 requires the company to engage an independent accredited auditor to undertake a range of tasks, including random air monitoring of dust within the shipping containers used to transport sealed bulk bags of lead carbonate concentrate.

Magellan engaged Inspectorate Australia as the accredited auditor, with the approval of the Minister for Environment. Statement 783 also requires Magellan to prepare a health, hygiene and environmental monitoring program prior to removing shipping containers of lead carbonate concentrate from the mine site. The monitoring program was approved by the Minister for Environment on 13 August 2009. The program details some 300 points along the transport route, and in the port of Fremantle, collecting a range of samples to confirm that there has been no escape of lead carbonate dust from the sealed bags. The program also includes a regime of monitoring, on a random basis, air quality within shipping containers. It details specific triggers and contingency actions required in the event that air quality in a shipping container exceeds the agreed baseline levels.

The triggers and contingency actions include reporting results to the Department of Environment and Conservation, the Office of the Environmental Protection Authority, the Department of Health and the relevant local authority within 12 hours of receiving the result; undertaking isotopic testing of lead to determine the source; ceasing transport of lead concentrate if the lead is confirmed to be from the Magellan mine, and designing an investigation in consultation with the Department of Environment and Conservation and the Department of Health to determine the source and extent of the lead in accordance with the contaminated site guidelines; and initiating a review of the packaging and transport procedures.

On 15 December 2010, Magellan met with the Office of the Environmental Protection Authority to discuss the preliminary results of air quality monitoring conducted within the sealed shipping containers containing bags of lead carbonate concentrate.

**Hon Sally Talbot:** Did you say 15 December?

**Hon HELEN MORTON:** That is correct.

During the meeting, Magellan provided OEPA officers with a document titled "Air Quality Monitoring Inside Sea Containers". Two sampling results in the document indicated that lead was present inside the respective shipping containers at levels in excess of the baseline trigger level. The two results related to samples from 16 November 2009 and 9 June 2010. Although the results were well below the occupational safety and health levels established by the Australian National Occupational Health and Safety Commission, the results required the company to notify the relevant agencies within 12 hours, as stipulated in the monitoring program.

On 17 December 2010, OEPA wrote to the company asking for further information on the air quality monitoring results, and reminding Magellan of its obligations under the monitoring program. On 31 December 2010, OEPA became aware that Magellan had still not ceased transport of lead carbonate in accordance with the requirements of the program. Accordingly, a stop order was served on Magellan by the acting Minister for Environment, pursuant to powers under the Environmental Protection Act, on 31 December 2010. The stop order required Magellan to cease transporting lead carbonate concentrate from its Wiluna mine site. A further order was served on Magellan on 3 January 2011 by the Minister for Environment, requiring further actions to be undertaken, broadly consistent with the correspondence sent to the company on 17 December 2010.

The issuing of orders such as these is unprecedented, and is evidence of how seriously the government takes the issue. As a further precaution, the Minister for Environment called in the Department of Environment and Conservation's pollution response unit to investigate whether lead carbonate concentrate dust may have escaped from shipping containers transporting Magellan lead. The pollution response unit carried out a sampling program at Fremantle port between 3 January and 7 January 2011. Analysis of swabs taken from the outside the Magellan

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shipping containers and nearby soil and sump samples revealed that no lead carbonate dust had escaped from the containers and that therefore there was no risk to public health or the environment.

As has been well publicised, Magellan Metals has since advised OEPA that further investigation of the two sampling results from November 2009 and June 2010 had shown that a laboratory calculation erred on the side of grossly inflated readings. Magellan Metals also advised that recalculation of the results indicated that both samples were below baseline levels. Notwithstanding this advice, the Office of the Environmental Protection Authority continued to require Magellan Metals to meet the requirements of the stop order, which included the provision of a significant amount of information by 17 January 2011. The minister made it clear that the order will remain in place until he is advised by OEPA that it is satisfied with the information it has been provided with by the company and that rigorous monitoring and reporting arrangements are in place. Magellan Metals remains the subject of an active investigation into alleged breaches of ministerial statement 783. Further, the minister has requested the EPA to conduct a review of the ministerial conditions applying to the project. It is clear from the steps taken by the Minister for Environment that the government takes this matter very seriously and will exercise any and all powers to ensure there is no risk to the environment or to public health.

The Geraldton Port Authority exports approximately five shipments per annum of 5 000 tonnes of lead sulfide concentrate from the Minerals and Metals Group's Golden Grove mine near Yalgoo. On 5 November 2010, the Geraldton Port Authority reported an exceedence of the lead dust limit; a result that after further analysis was validated on 15 November. On 24 November 2010, the Department of Environment and Conservation inspected the port, including all mineral concentrate storage and handling areas. The DEC did not identify any breach of the Geraldton Port Authority's licence conditions at that time. On 30 November 2010 the port authority provided the DEC with a copy of its internal investigation report into the incident. Although this report contained proposed remedial actions, the department directed the port authority to further revise its metal concentrates loading protocols to include wind direction criteria and to implement additional controls for metal concentrates loading. A number of the improvements outlined in the port authority's internal investigation report have now been implemented, including: installation of an alarm to alert operators of winds reaching 25 knots and above; use of a dust-suppressing foam on open conveyors; use of a vacuum truck as opposed to a sweeper at a berth during loading; and installation of eight extra air quality monitors to enable more comprehensive monitoring of dust emissions. The exceedence of the lead dust limit was detected at one monitoring station located on the seaward side of the port's loading operations with prevailing winds blowing out to sea at the time. Lead concentrate loaded at the Geraldton port was in the form of lead sulfide, which is less toxic and less soluble and has a lower bioavailability than the lead carbonate previously bulk loaded through the Esperance port.

The Department of Environment and Conservation, the Department of Health and the Department of Transport commenced an extensive sampling program in the Geraldton area on 18 January 2011. The program focused on sampling for lead, copper and zinc in the port area, public open spaces, schools and household rainwater tanks. The results of the sampling program will be publicly released by the government once the data has been validated and analysed. Households that were sampled will receive a letter outlining the results of any remedial action that may be required. This government is ensuring the ongoing health and safety of the people of Geraldton. DEC continues to work with the Geraldton Port Authority to implement a number of actions to reduce dust from metal concentrate ship loading. The Department of Health has confirmed that it did not find any evidence of a risk to public health as a result of this incident. However, lead shipments will not recommence until the government is satisfied that dust management procedures have been implemented.

**HON SIMON O'BRIEN (South Metropolitan — Minister for Finance)** [10.54 am]: This is an important matter and I am glad to take the opportunity to make a contribution both on the behalf of the Minister for Transport and in my position as the former Minister for Transport. Hon Ken Travers has raised questions relating to lead and the ports of Esperance, Geraldton and Fremantle. As the house is aware, lead contamination in the port of Esperance occurred between April 2005 and January 2007. The former government made no commitment to clean the town prior to this government taking office. This government negotiated the safe removal of 8 500 tonnes of stranded Magellan Metals lead from Esperance. The final shipment left Esperance in May 2009. The lead concentrate was loaded into two-tonne, double-lined bulk bags in a negative pressure environment. Each bag was sealed and vacuumed to remove any adhering lead dust. Filled bags were placed in sealed shipping containers. There was no detectable lead in the exhaust emissions from the shed during the bagging and containerisation process.

Shortly after taking government, the Premier and I visited Esperance and had several meetings with local shire and community representatives. Indeed, we visited on a number of occasions, both together and separately. The experience resulted in an increased level of personal awareness, on a range of levels, of the question of lead transport and community attitudes. Contamination in other ports has been a matter that has subsequently raised its head as a matter of public issue. It is regrettable that it is a bit hard at times to have a quiet public debate

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about this matter. The debate raises very strong feelings, which have been seen on many occasions. The personal awareness that I derived from the experience of Esperance concerning community values and, in particular, the technical aspects of the handling of lead, is something that has certainly stuck with me. The clean-up in Esperance continues and the government is committed to completing that clean-up as expeditiously as possible.

The lead concentrate that passes through the port of Geraldton is different in many respects to the lead concentrate that was exported through the port of Esperance. The circumstances that pertain to the examples given in the respective port towns also differ. The lead concentrate that contaminated Esperance was lead carbonate, which contains about 67 per cent lead, whereas the lead concentrate being exported from Geraldton is lead sulfide, a concentrate of lead, silver and gold. The lead in Geraldton has a much lower concentration of lead—about 30 per cent—and is less soluble and less bioavailable than lead carbonate.

Following the lead contamination in Esperance in 2007, a survey of lead, copper and zinc was carried out in and around the port of Geraldton. I believe the minister representing the Minister for Environment has already discussed that. Samples were taken from rainwater tanks, schools and other public places and the survey found that no samples exceeded the health investigation levels for lead, copper or zinc, which are all commodities that have been exported through the port of Geraldton from time to time over the years. In 2009 a new environmental licence was issued to the Geraldton Port Authority that for the first time included an air quality limit for lead of 0.5 micrograms per square metre in a 24-hour period. That is 0.00000005 of a gram, which is a trace amount, an almost infinitesimally small amount, but that is the standard that has been set. I understand that that standard has in turn been borrowed by the Department of Health from an Australian standard that is in force in ports around the nation. Again, that is 0.5 micrograms per square metre, but averaged over a whole year. The 0.5 of a microgram that applied in Geraldton, as I understand it, is a notification limit. I will come back to that in a moment.

**Hon Ken Travers:** Except you did not notify anyone!

**Hon SIMON O'BRIEN:** I listened to Hon Ken Travers in silence and I will respond to what the member has said. A requirement to install additional dust monitoring equipment at four sites around the port boundary was adhered to and installation of that dust monitoring equipment was completed in mid-2010. The first shipment of lead concentrate from the port of Geraldton to be subjected to the new monitoring system occurred in October 2010, as we have heard. It was a relatively small shipment and during at least part of that loading there was a very strong wind blowing offshore, about 35 knots, from memory of viewing the monitoring data. During the shipment, one of the monitors recorded a lead level in excess of the guideline level set by the Department of Health. That monitor was on the seaward side of loading point, whereas the monitors on the landward side—that is, between the loading point and residential areas—did not detect excessive levels, or levels that exceeded the notification limit.

It will be valuable for me to now quickly address some of the comments made by the mover of the motion, who has suggested that adviser Brett Barton did not notify me about this; that he was sacked as a result; that I took no notice of the matter; that I did not communicate with the port; and that the port, in the absence of direction from me, did nothing about this until 23 December.

**Hon Ken Travers:** I said it was not communicated to the people of Geraldton.

**Hon SIMON O'BRIEN:** Please; I have limited time.

The facts of the matter are these: Brett Barton did convey a communication from the port to me; he was not sacked for this or any other thing; and he is currently chief of staff to the Minister for Health and Leader of the Government in the upper house in Victoria.

That communication was passed to me on about 8 November; it consisted of an email communication from the Geraldton port. The Geraldton port was advising my office—because it felt it was necessary to do so, and members would agree that it was necessary to do so—of an operational development between itself and its interface with the Department of Environment and Conservation. That is, it has to notify DEC when there are levels above a notification level detected when loading minerals, and that is what it was notifying us about.

**Hon Sally Talbot:** So it was just a technicality, was it?

**Hon SIMON O'BRIEN:** The letter to DEC was attached. I was concerned to hear about the exceedence of the level, regardless of any other circumstances or reassurances, and so I contacted the chief executive officer of the port by telephone. I did communicate with him.

**Hon Ken Travers:** What date?

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**Hon SIMON O'BRIEN:** I sought and obtained information from him as to what had been happening. He was able to advise me that further handling and loading of lead had been suspended indefinitely, pending further advice from DEC, and that had been entered into voluntarily with the shipping company. It was their view, given the configuration of the monitoring points, that there had been no threat to the residential population, but they were awaiting advice from DEC and the Department of Health, having reported it, that that was indeed the case.

They further advised that they would not allow the resumption of any loading by anybody until the matter had been again referred to the minister's office for the go ahead to do so. Furthermore, in consultation with DEC, they had undertaken to provide, over the course of that month, a fuller report to DEC for its consideration. That was how it was presented to me. I did not give a direction to the port; why? It was because I was satisfied that they were doing all of the things that were necessary.

The other matter that has arisen in relation to this is about some announcement, whether by me, the port, or possibly the environmental authorities, that was not given at the time. This matter came to notice weeks after the incident; it was weeks after the ship had sailed. That is the nature of a monitoring device; it is about collecting data over a period of time. In the absence of the capacity to advise of further results information from DEC, it was decided to not make an announcement at that time. In due course, the matter was pushed by the mining company in coming to the Minister for Transport and asking whether it could resume exports, and in the absence of confidence that it could be done properly, the minister declined to give that permission.

**HON LYNN MacLAREN (South Metropolitan)** [11.04 am]: I rise to support the motion, and I thank Hon Ken Travers for allowing us to debate our grave concern about how lead contamination is handled at the ports of Geraldton and Fremantle. I would like to focus on Fremantle; my office is in Fremantle; my electorate is in Fremantle; and I am well aware of the extreme concern the community of Fremantle has. My colleague Hon Robin Chapple would like to discuss other ports and the extreme concern that citizens, no matter where they live in Western Australia, have about how lead contamination is handled.

What we are debating is lead poisoning, and whether people are being poisoned by mining activities in this state and the transportation of toxic materials through our ports. It is a serious matter, and I am shocked that we are finding out, only today, very important information about the levels of contamination, the monitoring regimes, and the notifications that have been given between the Environmental Protection Authority, our ministers, and port authorities. It is not good enough for Western Australians. The public's right to immediately know that there has been an exceedance should be upheld by this government.

When I became a member of Parliament, our minister at the time was repeatedly asked questions by this side about the conditions that Magellan Metals had had imposed on it, and we were assured, time and time again, that these conditions were the strictest conditions that could ever be put on this type of export. In fear and trepidation, we went forward as a community to see whether that was true and whether this government would live up to its rhetoric. I, too, quote from the Magellan lead carbonate project environmental conditions, because the minister representing the Minister for Environment has noted them. Hon Helen Morton quoted condition 10-1, which is about the accredited auditor, and it merely states that there would be an independent auditor. We are now finding out more information about just what that auditor discovered. But condition 10-1-4 states —

immediately reporting any findings to the CEO and the proponent of material containing lead carbonate outside the sealed bags after a shipping container is removed from the minesite ...

That was not done. That happened over time, with emails and consideration and checking, and we now know that Magellan worked out long ago—I believe it was May—that there were problems inside the containers, and that its monitoring devices were picking up lead that was not inside the double-sealed bags, which we were convinced would retain this lead dust, but was outside, in the container, and it was having issues about: "Oh, we're not sure what's going on with our monitoring, but we know that lead is inside that container."

We know that those bags are supposed to be washed down at the site, the containers are supposed to be washed down, and there is supposed to be no lead in those containers, outside those double-sealed bags. We now know that that condition was not met, potentially from the very beginning. That is a huge concern.

**Hon Donna Faragher** interjected.

**Hon LYNN MacLAREN:** A stop-work order was given, and, obviously, we are grateful for that. But we have concern about that time lag between when we knew there were issues, and when the stop order was issued.

The Minister for Finance—the former Minister for Transport—has just advised us that he was notified on 8 November about issues. I do not know what action was taken on 9 November.

**Hon Simon O'Brien:** Action was taken immediately; I have just told you that.

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**Hon LYNN MacLAREN:** But the stop order was not issued.

**Hon Simon O'Brien:** And action was already underway.

**Hon Ken Travers:** No-one was told.

**Hon LYNN MacLAREN:** I put to the minister that what we would have liked to have seen immediately was some sort of public acknowledgment that, hey, something has gone wrong. The community have a right to know when their children are at risk of lead poisoning—even if it is just at risk. We are not saying they are being poisoned; we are saying they are at risk, and they should have an opportunity to get out of town and remove themselves from potentially dangerous hazardous materials. I put it to the minister that this government is not protecting the community at that level.

**Hon Simon O'Brien:** If that is the standard you want, then we should simply close every port in this state. That's the only way you can guarantee that, and that's not very realistic.

**Hon LYNN MacLAREN:** If that is true, then perhaps we have just been given more evidence for the call that we need a public inquiry into the safe transportation, management, handling and export of mining products and hazardous materials. We are not convinced that is being done. If this state is going to pursue its unfortunate path towards the export of uranium, we need to assure the public of Western Australia that it will be safe. We should use this incident as a warning call that perhaps something is rotten in our system.

I also want to support the call for a community reference group to be set up for Geraldton. Again, this is about the public's right to know. That community reference group should be advised of any incident. Even if these readings are anomalous, as the minister said previously, and they are things which are later ruled out and discounted because the monitoring equipment is not accurately calibrated, we can be reassured after the fact; but at least we would know that our safety is, first and foremost, being assured by the processes.

I want to know why the auditing process has failed in this case. I wrote to the Minister for Environment when all this information came out in the public arena, and I asked for a briefing. I am still waiting for that briefing; it has been delayed twice now. I received a very good and thorough letter from the minister, which explained what had happened to date. I am a member of Parliament and I have the privilege of being able to contact the minister and ask for a briefing, but I believe that the public also has a right to know. I would like the government to improve its systems to the extent that we know much more quickly when there has been an incident and that action is taken immediately, as the conditions specify, so that we can be assured that this material, lead, is not escaping into our environment. On that, I can only add my support to the motion.

**HON JON FORD (Mining and Pastoral)** [11.12 am]: I will follow on from what Hon Lynn MacLaren has said, because what I heard in the government's response is that it does not get the message. The government talked about the process. I can remember lots of accusations against a previous Premier that he was process driven. All we have heard today from members opposite is about process and closing down the operation, but nothing about warning the people who could be exposed to this material.

The incidents at the Ports of Fremantle and Geraldton were not warning enough; we learnt the lesson from the incident at Esperance. In a very heated debate in this place we heard from the minister, hour after hour, an absolute hand-on-heart guarantee that nothing would go wrong and it was perfectly safe to transport lead in one of its most dangerous forms—the only other form that is more dangerous is vapour—through our most populous centre.

**Hon Donna Faragher:** That's what your former environment minister also said.

**Hon Ljiljana Ravlich:** You did an absolutely lousy job and you know it! You could not protect the state.

**Hon JON FORD:** Hon Donna Faragher has not got a record she can defend. She stood in here and told us that this would not happen.

**Hon Donna Faragher:** Every transgression will be dealt with, and it has been dealt with.

**Hon JON FORD:** It has not been dealt with.

Several members interjected.

**Hon JON FORD:** Mr Deputy President, I would like to have the call.

**The DEPUTY PRESIDENT (Hon Max Trenorden):** You have the call, Hon Jon Ford.

**Hon JON FORD:** The fact is that in the Geraldton example, it took two months before the authorities, the people charged with monitoring this, made the people of Geraldton aware of the incident. The Minister for Commerce stated that a mitigating excuse on that particular day while they were loading was the high winds. It

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is Geraldton! If anyone has driven up to Geraldton, they will see when they drive through Dongara that the trees grow along the ground; it is a very windy place.

**Hon Ken Travers:** You'd have to be on the road between 5.30 and 6.00 am in the morning, if you didn't want the wind.

**Hon JON FORD:** That is only on three or four days of the year.

What should the authorities have done? The authorities should have let people know there had been an excursion incident. It is not about closing down the port; it is about giving people a chance to take precautions. The people should be told not to eat shellfish out of the harbour and not to drink water out of their tanks; to empty their pets' food and water if it has been exposed outside and to hose down areas where their children play. It is too late to take these precautionary actions two months later! In two of the responses from members opposite, we were told that the government had been advised afterwards that there was no danger to the public. However, we are still waiting on the reports, and nobody knows whether that is opinion or fact. It has taken this debate and a number of questions in the media to bring these matters out. The lesson that we learnt from the incidents in Esperance, Fremantle and Geraldton is that lead carbonate is not an acceptable way to transport this material. It has to put it into solid form; it has to be pelletised.

We cannot be bound by process. In the end, the minister of the day is responsible for looking after the issue; it is not Magellan Metals or the port authority. I have heard the Leader of the House say that we have to consider the majority of the population in Western Australia. We have to give people the advice and give them an opportunity to act. When we have a bushfire, we do not sit and wait for the investigation afterwards before we tell people to get out of their homes; we tell them that there is a fire on the way. We have to act. Why else do we have to act and to let people know? The Department of Mines and Petroleum's last report on the transport of dangerous goods indicated there had been a 50 per cent increase in the number of these incidents. The department puts that down, perhaps, to an 11 per cent increase in licensing services over the same period and a higher rate of incident reporting due to either heightened awareness and diligence in reporting, or more dangerous goods being handled in transit. It might also indicate that there is an emerging problem within the regulatory authority or in people's ability to comply. It is interesting that the government's response to these important matters is to take away targets by which we can see how things are trending. We can read these stories one way or the other, but the people of Western Australia who were in proximity to these incidents were kept in the dark; they were not told. Telling people about these incidents does not mean that we have to close down the port. People who live in port areas know that all sorts of things are being moved around; they appreciate that. They are not the going to judge the minister badly because he tells them there has been an excursion. The minister's job is to protect people. They will get angry and be pointed in their comments and they will judge the minister poorly if they realise that for two months the minister left them exposed, possibly, to a dangerous environment. That is the issue here. We had relentless promises from this government telling us that these sorts of incidents would not occur. However, when they did occur, the government decided, in effect, to put a pillowcase over its head.

**Hon Ken Travers:** The cone of silence!

**Hon JON FORD:** That is right. We are getting an interesting commentary in this house. Just because the government has denied it and just because it comes up with a process-related answer, it seems to think that that deals with the issue. I can tell the government that people are losing patience. Hon Lynn MacLaren was right; the government has made exactly the same comments, instilling the most stringent environmental standards for uranium mining in this state. It cannot even get the lead right. We got judged poorly, and correctly so, because of the Esperance situation. The government could have learnt a whole bunch of lessons from that but it chose not to and it is demonstrating that it does not have the capability to look after the interests of people in Western Australia.

**HON NORMAN MOORE (Mining and Pastoral — Minister for Mines and Petroleum)** [11.20 am]: I have listened to this debate with great interest. Hon Helen Morton outlined the situation as far as the government is concerned in a very comprehensive way. I want to make a couple of comments about the Fremantle issue. As Minister for Mines and Petroleum, I like to see mines operating.

**Hon Sally Talbot:** Why didn't you get them to build a new ingot plant? That is what they first proposed.

**Hon NORMAN MOORE:** For \$1 billion? We would not get environmental approval anyway. I do not know what Hon Sally Talbot is going on about. The member should sit back and say that in order to keep this mine going, we should build a lead smelter in Wiluna for \$1 billion. That would close down the mine tomorrow. Just as an aside, I read the honourable member's comment in the newspaper saying she did not care what the findings were and the mine should be closed, or words to that effect.

**Hon Sally Talbot:** They breached the conditions. The lead was outside the bags, minister.

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**Hon NORMAN MOORE:** I did not think interjections were on any more. I had someone take a point of order on me last night for interjecting. Can the honourable member please just let me get my point out as I have a limited amount of time.

**Hon Ken Travers:** You didn't interject at all, did you?

**Hon NORMAN MOORE:** Not at great length.

**The DEPUTY PRESIDENT (Hon Max Trenorden):** Order! We have a limited amount of time for these debates. Members need to give the person on their feet the opportunity to take that time.

**Hon NORMAN MOORE:** One of the things that I find quite interesting in this debate is where the Labor Party is positioning itself when the shadow Minister for Environment says this mine should be closed down regardless of any findings of any inquiry.

**Hon Sally Talbot** interjected.

**The DEPUTY PRESIDENT:** Members, can we have an agreement that the speaker on his or her feet will be heard.

**Hon NORMAN MOORE:** For many years I have watched the Labor Party claiming to be the party that represents the interests of workers. There are about 250 jobs at stake in this particular mine. If we close down the mine, that is 250 more people unemployed. To my knowledge, the Labor Party has always supported the interests of working-class people. The problem that it now has is that it is in the grip of the Greens. It cannot work out who wants to be the greenest so it is competing with the Greens on every issue it can find and is jettisoning its own basic support group, which is the working people of Australia. That is why the Labor Party had problems at the last federal election. That is why the opposition does not know where to position itself in the debates that face the state of Western Australia.

The conditions that were imposed on the export of lead through Fremantle by the former Minister for Environment are, as she has said, extraordinarily prescriptive and require the company to go to great lengths to make sure there are no exceedences of lead from either the bags inside the containers or outside the containers. Putting aside all the things that have happened during this incident, the bottom line is that no lead has escaped from the containers and no lead above the exceedence level, which is very, very low, has been found inside the containers or outside the bags.

This issue arose because the company—I do not know why it did not report to the government when it was required to; an inquiry is being held into that and I look forward to understanding why it happened—failed to inform the government that on two occasions there was an exceedence of lead within the containers between the bags and inside the containers. Under the conditions, it was required to inform the government immediately it became aware of that and then certain things would happen. The company would check to see whether it was Magellan lead and if it was, certain other processes would take place. Containers have a lot of lead in them and there are all sorts of lead in the environment but the level is extremely low to initiate an exceedence and to require a reporting to take place. The company did not do so, even though on at least two occasions there was an exceedence above the conditions. It has subsequently transpired that when those samples were reassessed by the laboratory that reported that it had exceeded the limit, it found an error in the magnitude of nine times in excess of what the figure should have been.

**Hon Sally Talbot:** You are working off the wrong information. I'll give you the notes that the minister sent me.

**Hon NORMAN MOORE:** I ask the member to let me finish. There has not been an exceedence within the containers above the limit set by the Minister for Environment. The limit set by the Minister for Environment is way below the general occupational level of lead in the normal environment.

**Hon Sally Talbot:** Who are you trying to protect, minister? Are you trying to protect the minister or the government?

**Hon NORMAN MOORE:** I ask the member to give me a minute to get a word or two out. Yesterday I interjected on Hon Ken Travers. I forced Hon Ed Dermer to his feet to take a point of order and say, "Could we please hear the member speak?" I went for a walk. Instead of asking my Whip to take a point of order, I ask members to let me finish what I am saying because we have a limited amount of time for this debate.

The bottom line is simply this: nobody's health has been placed at risk at all. The system works, with the exception that the company did not make its information available at the time the incident occurred. I might add that it provided the information to the government. That is where the information came from—when Magellan provided all the details of the monitoring to the government. That is when the Minister for Environment took the decision to stop any further export of lead through Fremantle. We have heard from Hon Helen Morton today

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what happened as a consequence of that. As a consequence of that, work is being done between the Office of the Environmental Protection Authority and the department and the company to make sure that we know why the two exceedences were not reported and why the independent observer did not report them either. That is something I am looking forward to knowing about because there is an independent auditor, whose job it is to report any exceedences to the government, just as the company is required to do so.

**Hon Sally Talbot** interjected.

**The DEPUTY PRESIDENT:** Members, we have come to an agreement that this debate will be heard in reasonable silence. The member will have an opportunity to speak in a moment. I will give her the call after Hon Robin Chapple. She should allow the member to complete his address.

**Hon NORMAN MOORE:** I am interested to know why the independent auditor did not report either. That is being investigated and we will find out why that happened.

We need to remember that nobody's health has been placed at risk. The system works and the exceedences within the containers never ever exceeded the limit provided within the ministerial conditions. Those limits are very, very low compared with what is allowed in the normal working environment within occupational health and safety laws in Western Australia.

A scare campaign is being run by the member for Fremantle and the shadow Minister for Environment, who wants to be greener than the former Green member for Fremantle, along with the Greens themselves, who want to be greener than the Greens, and we have this hysterical media coverage as if an atom bomb went off in Fremantle and nobody told anybody it was coming. Now we are being told we cannot transport yellowcake either because that is just as bad. We cannot send that any place, completely ignoring the fact that the Northern Territory and South Australia, both Labor states, are exporting yellowcake on a daily basis through the port of Adelaide and the port of Darwin. To my knowledge, there have not been any issues with those matters either. It would be a good idea to, firstly, get a bit of commonsense into this and hear some sensible comment about what we are doing. We are trying to preserve 250 jobs at the same time as providing for the safe export of lead through Western Australia. That is being achieved, as has been proved without doubt. Secondly, the Labor Party needs to work out where its loyalty belongs. I will give members opposite some advice-I hope they do not take it because it will not be in our interest!

**Hon Ljiljana Ravlich** interjected.

**Hon NORMAN MOORE:** The Labor Party has to work out where is its fundamental support base. It is not the greenies, the doctors' wives or the people who vote for the Greens (WA) Party to achieve what they want. It is the working people of Western Australia. Two hundred of them are the ones who work on the Magellan mine at Wiluna, whose jobs would be thrown out the door if Hon Sally Talbot had her way. Now that she knows that nobody's health was put at risk, I trust she will get up and apologise to those workers whose jobs she wanted to throw out the door because members opposite want to win some votes in Fremantle.

Several members interjected.

**The DEPUTY PRESIDENT (Hon Max Trenorden):** Order! I call you all to order because the member has only 14 seconds left. At least you can give him 14 seconds.

**Hon NORMAN MOORE:** This whole debate is about the Labor Party trying to win back the seat of Fremantle which it, quite rightly, lost at the last by-election.

**HON ROBIN CHAPPLE (Mining and Pastoral)** [11.31 am]: I want to talk about three things: the toxicology of lead, that we need to be considering three ports in Western Australia for the export of lead, and how we go about monitoring and regulating. I will go to the last one first. One of the fundamental problems we have established over many, many years is that the Department for Environment and Conservation, and the Environmental Protection Authority now require and rely on corporations to do their own assessments and sampling. The DEP finds itself in a quandary. I will refer to some emails shortly that relate to that.

**Hon Donna Faragher:** It's the DEC.

**Hon ROBIN CHAPPLE:** Yes, the DEC. The emails relate to the old DEP; that is why I referred to that. The issue is that a process is set up whereby a corporation is asked to provide DEC with the data that proves or not whether it has committed an offence. The poor old DEC finds itself in a difficult position because it is not doing the assessment; it is relying on third parties to do them.

The three ports I referred to are Esperance, Geraldton and Derby. I turn now more specifically to Derby because therein lies the problem. Derby is out of sight and out of mind in the Kimberley. There is no high-volume dust

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monitoring and no fencing. Lead is being fed via the conveyors into the harbour; children's footprints and hand prints are in the lead dust—they can climb onto the conveyors. This is the same place that, unfortunately, suffered the ills of the 2,4,5-T poisoning in relation to the Derby and Kimberley herbicide workers—again, in that area, out of sight and out of mind—being poisoned with the use of that material.

When it comes to what the EPA and DEC have done in that area, it seems that, when the community raised concerns—I will quote from a letter with the reference L32/95 in which concerns were raised about the large amounts of lead and zinc slurry were observed washing over the wharf into the sea—its response was —

*“The Derby export facility is operated strictly in accordance with the Environmental Management Plan which has been prepared for the operations. All Derby Export Facility staff are familiar with the environmental procedures in the Plan, aware of the environmental sensitivity of the facility and strictly implement the Environmental Management Plan.*

How do they know? The staff say they do; but not because DEC checks. The letter continues —

*All environmental incidents such as concentrate spillage's are immediately reported to Western Metals Limited's management —*

Not to DEP, as it was then. —

*and to the Derby Export Facility Co-ordinator who has not recorded any incidents of concentrates being washed into the sea from the wharf.*

In that case, DEP was relying on Western Metals telling it there was not a problem, although the residents were watching the material being washed into the harbour and watching their children play in it. The problem was dealt with by reporting that the proponent said that it was not happening. I move on to a further issue.

**Hon Lynn MacLaren** interjected.

**Hon ROBIN CHAPPLE:** I will sit down on the basis of that.

**The DEPUTY PRESIDENT:** Unfortunately, member, the time for the debate has almost expired.

Motion lapsed, pursuant to temporary orders.