

STATES OF JERSEY



VOTE OF CENSURE: MINISTER FOR TREASURY AND RESOURCES

Lodged au Greffe on 12th June 2012
by Senator S.C. Ferguson

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to censure Senator Philip Francis Cyril Ozouf, Minister for Treasury and Resources, for his conduct at a meeting held on 14th July 2010, as described in paragraphs 39 to 42 and 165 to 172 of the Report of the Comptroller and Auditor General entitled “The Proposed Acquisition of Lime Grove House” (R.64/2012), where some present have described the atmosphere as bullying and harassing;
- (b) to censure Senator Philip Francis Cyril Ozouf, Minister for Treasury and Resources, for authorising a review, as set out in paragraphs 496 to 499 of the R.64/2012, which was intended to be used as the basis for obliging the former Director, Jersey Property Holdings, to leave the employment of the States without compensation by threatening his reputation and for seeking the removal of the Director of Jersey Property Holdings without following due process;
- (c) to censure Senator Philip Francis Cyril Ozouf, Minister for Treasury and Resources, for relying on a number of privately expressed opinions, as well as his own private view, on the valuation of Lime Grove House, and not subjecting these privately expressed views (and his own private view) to the degree of analysis that was applied to the property valuations commissioned by the States or carried out by States’ employees;
- (d) to censure Senator Philip Francis Cyril Ozouf, Minister for Treasury and Resources, for intending not to pursue the project vigorously after 19th November 2010, as explained in paragraph 27 of the Report of the Comptroller and Auditor General entitled “Proposed Acquisition of Lime Grove House: conclusions on issues raised during the enquiry” (R.63/2012), despite signing a Ministerial Decision (MD-TR-2011-0036) in May 2011 and despite making a statement to the States on 30th June 2011 in support of the acquisition, and through the delay causing the project to fail, as explained in paragraphs 90 to 97 of the Report.

SENATOR S.C. FERGUSON

REPORT

One of the major rationales for implementing Clothier was the perceived lack of accountability in government in Jersey.

This, in part, depends upon effective checks and balances, hence the important role played by independent officers such as the Comptroller and Auditor General (CAG). One of the most worrying features of recent times has been the attempt to discredit the CAG's Reports from the very moment of their publication.

The Proposition will focus on behaviour which falls well below the standards required of a Minister, and we will invite Members to consider why it has been thought necessary by certain parties to attempt to discredit or selectively draw upon (without proper context) the Comptroller and Auditor General's Reports, given that they should have been the basis for actions by the Chief Minister and the Council of Ministers. Instead they have been turned into a political football.

In the view of the proposer, the Reports of the CAG were couched in very cautious language and only reached conclusions where irrefutable evidence was available.

There have been 2 such independent Reports which have been selectively interpreted and summarily dismissed by the Council of Ministers. Furthermore, the conclusion to the latest has been hurriedly reached that the Minister for Treasury and Resources should not be held to account because he had been operating under stress and was not properly trained. These are questionable justifications of the actions of the Minister, and appear to be a fig leaf which was designed, but fails, to cover Ministerial embarrassment.

There is nothing stopping a States Member from obtaining training during their term if they feel they are unable to fully perform a particular responsibility. This has been proved by the Scrutiny function, which has always undertaken training for members to ensure understanding and professional approach.

The Lime Grove Report was commissioned as a result of a request by the Corporate Services Scrutiny Panel, but the way it has been treated since its publication suggests that the Executive have limited enthusiasm for the scrutiny function. This is unacceptable. The CAG Report is probably one of the most damning reports that has been produced since that function was created so many years ago, yet significant action has not been taken.

The perfunctory manner in which the Reports have been dismissed does not give either the public or States Members confidence that the extremely serious lessons have not only been learned, but that changes will be applied. It also appears that conclusions have been reached before all Members have had an opportunity to read the salient parts of the Report in detail.

We have been promised changes before. Particularly on 21st November 2006, when the then Chief Minister stated that procedural errors had been made and lessons had been learned, but in that instance the Chief Minister had written to the then Minister for Economic Development (Senator Ozouf) to inform him that: *"The Council has treated this as a serious matter and I have written to the Minister to inform him of the Council's view, to formally notify him of the errors and seek his assurance that corrective action will be taken to revise procedures within his Department."*

There has been no such letter on this occasion and, from the Report on the Proposed Acquisition of Lime Grove House, it would appear that lessons have not been learned.

The Public rightly expect Ministers to demonstrate the highest standards in their conduct, and to demonstrate professionalism and objectivity in conducting their affairs. In short, to act in the Public Interest.

We intend to produce an addendum to this proposition which will give more detail of the matters which we believe should be considered when debating this proposition, but there are 6 particular instances in the Lime Grove Report which concern us.

1. Members will have heard the Minister for Treasury and Resources claiming that it is his job to challenge Officers and also to achieve best value for the States. We have no problem with this. Unfortunately, we have learned of a pattern of excessive challenging of officers, whether they are the Chief Executive or the Director of Property Holdings, which goes beyond that which is considered reasonable. In short, there is documented evidence by the Comptroller and Auditor General of bullying by the Minister for Treasury and Resources. We do not consider that bullying has any part to play in a robust and challenging environment, and it is particularly inappropriate behaviour for a government Minister to engage in.
2. There has been criticism by the Minister for Treasury and Resources of the price offered by Jersey Property Holdings for Lime Grove House. Should that price have been challenged? Indubitably. But when that price was confirmed by independent third-party professionals – as opposed to informal comments – should the challenge not have ceased? Instead, reliance continued to be placed on informal valuations which had not been tested to the extent that the formal valuations had been. The specialist knowledge held by the specialist officers, not the politicians, was ignored. Why was this the case?
3. The attempt to impugn the integrity and reputation of the Director of Jersey Property Holdings in order to avoid paying compensation for premature termination of his employment contract is also particularly pernicious, and is not acceptable behaviour for any elected official, particularly that of a senior Minister.
4. The unpleasant situation in the Treasury Department described in the Report was compounded by the deliberate intention to delay the transaction. According to the Report, the Minister for Treasury and Resources was in communication with a director of the company which was developing the building on the Esplanade which might have been taken by the finance company, which was in competition for Lime Grove House. But this information was not given to States' officers or possibly to anyone else working on the project. In fact, the Minister for Treasury and Resources was deliberately trying to delay the project.¹ This is most inexplicable, given the Minister's remit for defending the public purse and, coupled with his reliance on informal valuations; it also raises serious doubts about the motives of the Minister for Treasury and Resources during the process of acquiring Lime Grove.

¹ R.63/2012: paragraph 27

5. On 27th October 2010, the Minister for Treasury and Resources and the Deputy Chief Executive met with the former Managing Director and the Finance Director of WEB. The officers of WEB were told that the former Chief Minister had approved the request for WEB to provide services to the Minister for Treasury and Resources and the Deputy Chief Executive. The former Chief Minister, when interviewed, stated that he had not approved the request and, indeed, did not know in advance or approve of the exclusion of Jersey Property Holdings from the Lime Grove House transaction.²
6. Misleading the States and the Corporate Services Scrutiny Panel when stating that in order to meet £65 million savings a culture change would be required to achieve the necessary organisational changes, even though the Chief Executive made it known that it was not possible to carry out an office strategy at the same time as the Comprehensive Spending Review.

As well as discussing these points in detail, some of the matters we also need to debate include the following –

- Is it reasonable to tacitly allow officers to prepare a report designed to vilify a particular officer so that they will leave without compensation lest their reputation is damaged?
- Is it reasonable to ignore your officers' advice in favour of uninformed advice from friends and acquaintances?
- Is it reasonable to have discussions on a major project of the States with an outside party without an officer present and not tell your officers of the conversations?
- Is it reasonable to sully the reputation of an officer in the public media when that officer has no chance of reply?

The answer must surely be a resounding 'NO'.

In short, the response from the Council of Ministers to the Comptroller and Auditor General's Report has been underwhelming. We have had a grudging acceptance that mistakes may have been made; that 'lessons have been learnt', that new training programmes are being set up and that the Chief Minister will regularly assess his Ministers for signs of stress.

It has been represented to me that disciplinary action should be administered in private for the good of the Island and that a vote of censure is an overreaction.

That might be so if we had not heard calumnies broadcast about impeccably qualified officers and aspersions cast on colleagues in the public arena by the Minister for Treasury and Resources.

² R.64/2012: paragraphs 51 to 52

It is vitally important that the Assembly affirms its unquestioned right to hold Ministers to account. This is one of the foundations upon which ministerial accountability is built. It is for the Assembly to assert that right. We are thus very concerned at the manner in which it has been sought, consciously or otherwise, to selectively draw upon the Report and, in so doing, underestimate the seriousness and damaging nature of the behaviour described therein.

We look forward to the Minister being held properly to account.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this Proposition.