

STATES OF JERSEY



***EX GRATIA* PAYMENT TO MR. TERRY McDONALD**

Lodged au Greffe on 22nd October 2013
by the Deputy of St. Martin

STATES GREFFE

PROPOSITION

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

to request the Minister for Treasury and Resources to make an *ex gratia* payment of £50,000 from central contingencies to Mr. Terry McDonald as compensation for costs incurred in the setting-up of an unsuccessful charity fireworks display in the summer of 2007.

DEPUTY OF ST. MARTIN

REPORT

On 8th February 2011, a proposition was lodged *au Greffe* by the then Deputy of St. John (now the Connétable) – “Importation of Fireworks in 2007 for a Charity Event: investigation” ([P.21/2011](#)). The proposition was debated on Thursday 17th March 2011 and received unanimous support from the, then, Members of the States Assembly. The proposition read as follows –

- “(a) to request the Ministers for Home Affairs, Economic Development and Planning and Environment to review the events surrounding the importation of over 100,000 fireworks for a charity attempt at a world record in 2007, and in particular the actions taken by their departments in relation to this matter, with a view to ascertaining why difficulties arose which led to the eventual cancellation of the proposed launching of the fireworks and a substantial financial loss for the organiser even though the importation was initially approved by all relevant authorities and a Bailiff’s permit issued for the event;
- (b) to request the Ministers to present to the States no later than the end of May 2011 a report setting out the results of their investigations and details of any appropriate actions they intend to take to compensate the organiser for the losses he incurred.”

The subsequent report from the 3 Ministers – “Importation of Fireworks in 2007 for a Charity Event: investigation (P.21/2011) – combined report of the Ministers for Home Affairs, Planning and Environment and Economic Development” was presented to the States on 15th September 2011 as [R.113/2011](#).

I expect that all Members of the Assembly will either know, or have heard of, Terry McDonald, and I do not intend to go over all the very good material that was presented by the then Deputy for St. John in the original debate. I would just seek to highlight the fact that, when it comes to the planning and execution of major firework displays, Mr. McDonald’s record was exemplary. His efforts, previous to 2007, provided not only huge enjoyment for tens of thousands of Islanders, both young and old, but also considerable income for many local and national charities.

Mr. McDonald’s efforts back in 2007 (had they come to fruition) would have created thousands of pounds for the Jersey charity Side-by-Side, provided a fitting finale for the Island’s number one tourist event (the Battle of Flowers) and, possibly most importantly, promoted the Island in a very positive way on the worldwide tourist stage. There is no doubt that (nearly) everyone on the Island was bitterly disappointed when this major publicity event did not take place.

Given the unanimous decision by this Assembly to support proposition P.21/2011, there must also have been much disappointment in this Assembly that a way could not be found, through the Ministers’ report, to admit at least some responsibility for the failed display. I am sure that many politicians felt responsible. In my view we should have done more, and at the very least should have found a way to compensate Mr. McDonald financially at that time.

In the last few years Mr. McDonald has, in my view, quite literally had his whole life dominated and consumed by the consequences of the cancelled event. From that moment, over 6 years ago now, and just 2 hours before the fireworks were due to arrive in Jersey, he has fought a ongoing battle to fund the financial commitments he undertook when he decided to take on the responsibility of organising the world record event. We must never forget that he undertook this commitment for the Island, for charity, for others, and NOT for himself.

In bringing this proposition, I fully appreciate that, while Mr. McDonald's present position is as an indirect result of the cancelled event, nearly all the financial decisions he has made since August 2007 have been his own. He could have decided to act differently, and as a consequence of that, my proposition does not seek to compensate him for any financial matters that occurred as a result of decisions made after August 2007.

The bills that Mr. McDonald incurred in order to proceed with the display fall into 5 categories –

- (1) The transport and freighting of the fireworks, including the hire of shipping containers for storage post-2007.
- (2) Materials for the construction of the fireworks platforms.
- (3) Fabrication of some additional platforms/structures.
- (4) The purchase of the fireworks themselves.
- (5) The insurance of the event.

As part of my work in bringing this proposition forward, I took it upon myself to contact all the parties concerned with the 5 categories above. In every case I sought to see if there would be a chance of a negotiated settlement in order to clear Mr. McDonald's indebtedness to the people concerned. The results of those efforts are as follows –

- (1) *Transport and storage:* Mr. McDonald has been paying off the bill in instalments for many years, and in recent months this bill has been paid in full.
- (2) *Materials:* Mr. McDonald, in the last few months, concluded the payment of this bill. He has been paying it in monthly instalments since 2009.
- (3) *Fabrication:* A small amount of work was done by a States department. They had originally agreed to write off this cost, but again Mr. McDonald has very recently paid this money back.
- (4) *Fireworks:* Despite incurring considerable legal costs in attempts to recover the money they were owed, the pyrotechnic company that sold the rockets to Mr. McDonald agreed to accept a sum equivalent to the original purchase cost, £19,864.00, which Mr. McDonald has now paid back. They were very sympathetic to this issue and have

very kindly agreed not to seek compensation for their legal costs to date. I would like to thank them publicly for this kind offer.

- (5) *Insurance:* A local charity funded the cost of the insurance for the failed event. Irrespective of the fact that the event did not actually take place, the bill for insurance was paid by the charity. The charity's income is funded by the public, and as such it was public money was used for the insurance premium. This money could not be written off, or discounted in any way, and until very recently appeared on the charities accounts as a debt. This debt has now been repaid by Mr. McDonald.

The amounts of money paid out for the above categories, with explanations, are as follows –

- (1) The total bill for the transportation of the fireworks and the hire of the containers for storage on Island was £17,100.25. This amount includes the continued hire of the containers up to November 2010.
- (2) The material bills for the construction of platforms, etc. amounted to £4,439.99.
- (3) A certain amount of fabrication was undertaken by the Prison at La Moye. This expense was £1,200.
- (4) The pyrotechnics company that supplied the fireworks have agreed that they would be prepared to accept £19,864 as a settlement.
- (5) The cost to the local charity for insurance was £7,752.

The total cost of the 5 categories above amounts to £50,356.24.

This is a very difficult subject to sum up in a few words, and I do not wish to go through the full and extensive chronology of all the many attempts to bring this issue to a conclusion over the last 6 years. However, it would be remiss of me not to remind Members of a few significant events that have occurred in the intervening years.

August 2008: Another local fireworks company offered to pay off (over time) all the associated debt if the States could provide an interest-free loan. This offer was refused as unworkable.

April 2009: After sleeping in a caravan for 618 nights, Mr. McDonald was requested by the owners to abandon the site where he had been guarding the fireworks. He did so, but the fireworks remained *in situ*.

February 2010: Mr. McDonald resigned from his employment with a firm of local funeral directors as he wanted to continue to fight his case in the media. In July 2010, Mr. McDonald resigned at the Chairman of the Jersey Association for Spina Bifida and Hydrocephalus. In both cases he felt it was inappropriate for him to retain these positions while he fought legal battles to clear his debts.

- March 2011: States Assembly debates a proposition brought by the Deputy of St. John. The proposition is won 43–0.
- September 2011: The report (commissioned as a result of the States decision) was published and, despite stating that “no compensation is necessary to Mr. McDonald from the public purse”, also states that had Mr. McDonald “laid the foundations correctly from a financial and environmental perspective, the outcome may well have been a successful culmination to an already arranged event”.
- 2013: In order to clear his debts, now well into 6 figures, and the majority of which have been incurred since 2007, Mr. McDonald is forced to sell the house he inherited after his mother’s death in 2010.
- 2013: Mr. McDonald uses the proceeds of the house sale to pay off ALL his outstanding debts.

It would have been almost impossible to conceive, back in June 2007, that Mr. McDonald would find himself in his current position. He was a well-known and successful businessman, renowned throughout the Island for his charitable work. As a result of one decision, he has endured 6 years of financial and emotional turmoil. Over the last 6 years, Mr. McDonald has worked to pay off many of these debts. In order to help meet these bills he has also instructed that 20% of his Police pension be deducted at source and utilised to pay his outstanding Income Tax bills.

I ask Members if they are prepared to back up the decision they took in March 2011 when they voted unanimously to “investigate” this whole unsavoury incident. It is clear to me that, at that time, Members felt extremely unhappy about how this matter had been handled.

I wish to make it clear that, with this proposition, I do not seek to re-investigate the decisions that led to the event being cancelled, or try to accept or apportion any blame for how events transpired. I do not seek to blame anyone. I simply seek to make an “*ex gratia*” payment to Mr. McDonald, a payment that makes no comment about how we have found ourselves where we are today.

I would only ask Members to consider my proposition and vote as they see fit.

Financial and manpower implications

The financial and manpower implications of this proposition would be as follows. The financial amount concerned will be £50,000, and there will also be a small amount of Treasury time that would be required to make and organise the payment.