

STATES OF JERSEY



VOTE OF NO CONFIDENCE: CHIEF MINISTER

Lodged au Greffe on 2nd November 2020
by Senator K.L. Moore

STATES GREFFE

PROPOSITION

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

that they have no confidence in the Chief Minister.

SENATOR K.L. MOORE

Note: In accordance with the requirements of Standing Order 22, the following Members are additional signatories to this proposition –

1. Senator S.W. Pallett
2. Connétable of St. Saviour
3. Connétable of St. Brelade
4. Connétable of St. Mary
5. Deputy L.M.C. Doublet of St. Saviour
6. Deputy S.M. Ahier of St. Helier

REPORT

The purpose of this proposition is to restore faith in the leadership of the Island and to call for the observance of good governance, greater accountability and transparency. If members will support this proposition, they will be voting to rebuild the culture of the organisation that serves the public and to put Jersey back on track. A vote *pour* will be a vote for values and integrity. A vote *pour* will lead to a smooth transition offering certainty, clarity and a vision that will make islanders proud again.

In considering the arguments laid out below, states members are asked to consider how this conduct sits within the seven principles of public life, “*The Nolan principles*”, that call on public servants to act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

On 21st May 2019, Deputy Southern lodged Proposition P.55/2019 by which the Assembly was asked to decide whether they had no confidence in the States Employment Board (the “SEB”).

The backdrop to Deputy Southern’s Proposition was the SEB’s refusal to increase a pay offer to public sector workers. Senator Le Fondré claimed that there was no more money. The opening paragraph of Deputy Southern’s Report stated –

“Jersey is in crisis. This Government has lost the trust of the Island’s public sector workforce, with the result that we have seen, and continue to see, public sector employees, teachers, headteachers, civil servants and firefighters forced to take strike action in order to get their case for a fair pay award heard and respected.”

The Report went on (in its fourth paragraph) to say –

“The States Employment Board (“SEB”), and indeed the Chief Minister himself, maintained the mantra of “there is no more money”, which meant that any pretence at meaningful negotiation was out of the question. Public sector representatives and their members had enough of being ignored and enough of being treated with total disrespect. The public sector workers charged with delivering vital frontline services have been forced into a position of having to take action to protect their standard of living, after years of imposed austerity and below-inflation pay awards.”

Islanders have not forgotten the strikes, the school closures and the protests in the Royal Square. public sector employees and islanders were rightly furious with Senator Le Fondré. Despite having previously told the Assembly that there was “*no magic money tree*”, money was found and public sector workers (quite properly) secured an improved deal.

Islanders continue to lack trust in the current leadership and do not have confidence that they can lead Jersey through the troubled waters presented by Covid-19, Brexit and a global economic crisis, let alone the other key ongoing challenges facing the Island such as delivering a population policy, affordable housing and increased standards of living. Yet again Senator Le Fondré faces a vote of no confidence, as a direct and immediate consequence of his failure to effectively lead the Island. As one Islander, a Parish official, has put it –

“I do find it incredible that many members are content with the current “leadership” whilst virtually none of the public are. It’s a massive disconnect.”

This disconnect is evidenced by a recent survey of Islanders’ trust in public institutions which ranked the States Assembly with a score of 4.4/10, where 10 equals *“trust completely”* and 1 equals *“do not trust at all”*. The States of Jersey Police and certain charities were scored as the most trustworthy with mean scores of 7.0 and the States Assembly was the least trusted institution (out of 10 surveyed) with Government Departments ranked second last.

The *“NewRiver”* debacle is a symptom of much wider problems within Senator Le Fondré’s government. Questions which Islanders have rightly asked include –

1. Why would Senator Le Fondré agree that Mr. Parker can take on an additional position, as a director of NewRiver REIT plc (*“NewRiver”*), at a time when the World (and the Island) are facing a second wave of Covid-19 and an economic crisis? It is obvious to islanders that, whilst Mr. Parker remains in post, he should be devoting all of his energies to fulfilling his duties as the States of Jersey’s Chief Executive Officer, which clause 7 of his employment contract describes as *“...a permanent full time post.”*
2. Why did the Chief Minister, in breach of the procedure mandated by the SEB, authorise Mr. Parker’s appointment as a non-executive director of NewRiver when this represented on one hand a significant and obvious lack of judgment and on the other an abuse (or excess) of Senator’s Le Fondré’s powers? Clause 18 of Mr. Parker’s employment contract provides –

“You must not, either directly or indirectly, be engaged or concerned in any other service or business whatsoever (whether paid or unpaid), or receive commission or profits of any kind unless approved in writing by the Employer.”

Senator Le Fondré has never been Mr. Parker’s *“Employer”*; Mr Parker’s employer is the SEB.

3. Why did a press statement claim that Senator Farnham had *“cleared”* Mr. Parker’s appointment as a director of NewRiver when (a) Senator Farnham had not and (b) Senator Farnham did not have any such authority?
4. Why has Senator Le Fondré failed to take any steps to invite the SEB to sanction Mr Parker, in circumstances where (a) Mr. Parker has acted in clear breach and in disregard of the express terms of his employment contract and (b) Mr. Parker has acted in clear breach of his common law duty of loyalty, a duty which lies at the heart of any employer/employee relationship?

The reasons why Islanders have lost confidence in Senator Le Fondré and his ability to effectively lead the Island’s government are many but (in general overview) boil down to –

1. a lack of ability to hold senior office holders to account and, in so doing, demonstrating that the highest levels of integrity are to be upheld in the Civil Service;

2. an inability to recognise and address problems promptly and effectively;
3. an inability to communicate effectively and in an open and transparent manner, which necessarily ensures the public's trust and confidence in the Island's leadership and the States Assembly and allows proper scrutiny of Government; and
4. a lack of a clear vision for the future of Jersey.

Some further examples are –

1. Senator Le Fondré failed to reveal his (signed) agreement with Reform, in response to a direct question by Deputy Higgins in the Assembly on 4th June 2018.
2. Senator Le Fondré failed to recognise the need to take urgent action to minimise the damage that would be caused by Covid-19 to the Island and its economy. When asked by Deputy Gardiner on 9 March 2020 what measures his government would implement in the event the W.H.O declared Covid-19 a pandemic, Senator Le Fondré said –

“At this stage that is a hypothetical scenario and we will just address that as it comes through. It is a discussion that will be taking place.”

The W.H.O declared Covid-19 a pandemic on 12th March 2020. Senator Le Fondré was, by his own admission, a man without a plan. A survey conducted by Island Global Research in April 2020 found that only 37.5% of islanders had confidence in the response of Senator Le Fondré's government. By contrast, the same survey found 87.5% of Guernsey's islanders had confidence in its government's response. Senator Le Fondré's unfortunate conduct at press conferences speaks for itself; Senator Le Fondré has not been on top of his brief and has repeatedly been unable to answer questions posed by members of the press.

3. In order to procure greater transparency, Deputy Pamplin brought Proposition P.88/2020, by which he sought greater transparency as to the handling by Senator Le Fondré's government of the Covid-19 crisis by, for example, requiring the publication of the minutes of meetings of members of the Scientific Technical and Advisory Cell (“STAC”). Despite Proposition P.88-2020 being unanimously passed by the Assembly on 14 July 2020, Senator Le Fondré's government failed to release copies of STAC minutes. Deputy Pamplin had to raise the issue of this failure at a States' sitting on 9 September 2020. The length of time that has taken to provide the public with the contemporaneous records (including the Minutes) has been called into question by the public.
4. This lack of transparency is further demonstrated in the responses to questions put to the Government during States' sittings and scrutiny hearings. Examples are –
 - 4.1 A response by the Chief Minister to a question tabled on 12th May 2020 asking how many civil servants (including consultants) were working

remotely for the Government of Jersey in the U.K. The Chief Minister failed to answer this question.

- 4.2 The response to a question to the Minister for Social Security tabled on 8th September 2020 requesting details of the social security contributors for the first and second quarters from 2018 to 2020. The Minister failed to provide the information for the first and second quarters of 2020 despite (a) the fact that some of the same information had been provided to the Fiscal Policy Panel, in order to enable it to provide an updated forecast in August 2020 and (b) the fact that the Fiscal Policy Panel stated that this information was a “*proxy*” for unemployment numbers during the first wave of the Covid-19 crisis.
 - 4.3 In both of cases follow up was required, involving intervention by the Bailiff under standing orders and the Island’s press in order to ensure that the requested information was made public.
5. Senator Le Fondré has failed to effectively oversee the Island’s Civil Service. The failures are exemplified by the following: -
- 5.1 Mr. Parker was given a clear mandate to deliver efficiencies within Jersey’s Government, yet public spending continues to rise.
 - 5.2 Mr. Parker has failed to deliver on this mandate, despite claims by Senator Le Fondré that Mr. Parker has done his job well: -
 - The number of civil servants in the Island has increased, including when account is taken of the consultants that have been engaged.
 - The number of layers in the Civil Service should have decreased. Instead it has increased.
 - Staff morale continues to be very low. A culture of consultancy has been introduced. This has been to the detriment of islanders and Jersey: -
 - Consultants, who neither understand Jersey nor wish to embrace its culture and whose interest is short term, have been preferred to islanders, who have either been dismissed or left the Civil Service.
 - An increasing number of staff/consultants now work remotely from other jurisdictions, or commute for 2-4 days a week, receiving costly expense packages.
 - Promised training and succession planning so that Islanders may rise up through the ranks has not been implemented.

Such failings are, perhaps, exemplified by the Income Tax Department, where it was revealed in February 2020 that staff turnover was 50%. Tragically,

substantial knowledge about the Island's income tax system has been irreplaceably lost. A new computer system was poorly implemented; staff did not even have a proper training manual to refer to. This resulted in errors being made and inconsistent advice being given to members of the public. Unsurprisingly, in late 2019/early 2020 islanders experienced significant issues with the tax collection systems. Senator Le Fondré's government refused to accept any responsibility, on the basis that failings were operational and not political. No disciplinary process has taken place and islanders continue to express frustration when dealing with this critical part of the government organisation, which has the crucial responsibility for raising revenue for government spending.

6. Despite telling the Assembly that there is "*no magic money tree*", telling public sector employees that there was no more money and despite the fact that the Island is saddled with a Covid-19 debt and facing turbulent economic times, Senator Le Fondré appears determined to embark on significant and costly capital projects which islanders will be paying for, including by way of tax rises, for years to come and do not therefore want. Senator Le Fondré –
 - 6.1 has already written off over £40m that was spent in developing the Gloucester Street hospital site;
 - 6.2 has dispensed with the Gloucester Street hospital site and is instead promoting Overdale despite the fact that (a) Gloucester Street would have cost islanders £466 million, (b) Gloucester Street is more convenient for a significant proportion of the Island's working population, who work in St. Helier, and (c) Overdale will cost at least £800 million – at least £334 million more; and
 - 6.3 is progressing the building of a new office for the Government of Jersey, estimated to cost in the order of £190 million to build.
6. Senator Le Fondré has failed to address key issues facing the Island, including a failure to develop a population policy - a key topic during the 2018 election. The Migration Policy Development Board, formerly led by former Assistant Chief Minister Christopher Taylor, proposed a migration control framework but failed to set out a population policy. Senator Le Fondré has not communicated a vision for population during his term of office and when challenged recently on this failing merely stated that the Island has time to address this issue, due to a contraction in the economy, caused by Covid-19, and that a policy will not be produced until 2022, which will be in the run up to the 2020 election. Senator Le Fondré will, if he is permitted to remain in office, have failed to address a key issue for islanders during his four-year term; in reality he plans to leave it to the next government, which will be elected in May 2022.

Islanders do not have confidence in Senator Le Fondré. If he will not resign, the Assembly must support this proposition and bring his tenure as Chief Minister to an end by passing a vote by which they confirm that they have no confidence in him.

Financial and manpower implications

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