

# STATES OF JERSEY

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## **DEPUTY G.W.J. DE FAYE OF ST. HELIER, MINISTER FOR TRANSPORT AND TECHNICAL SERVICES: VOTE OF CENSURE**

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Lodged au Greffe on 26th February 2007  
by Deputy R.G. Le Hérissier of St. Saviour

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STATES GREFFE

## **PROPOSITION**

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

to censure Deputy Guy William John de Faye of St. Helier, Minister for Transport and Technical Services, for the manner in which he answered an oral question with notice from Deputy Kevin Charles Lewis of St. Saviour concerning the future safety of the La Collette area on 13th February 2007.

DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR

# REPORT

## Introduction

One of the much touted advantages of Clothier was that there would be clearer accountability and that members of the Executive would not be able to hide behind Committee decisions as was previously alleged to be the case. As such, the arrival of ministerial government was meant to strengthen accountability in that identified individuals (Ministers) would be responsible for clearly defined areas of policy and implementation.

The legislature has a variety of ways of seeking accountability from Ministers. One of the most important of these is Question Time. This is an occasion for members to exercise an (almost) absolute right to seek answers on whatever matter may concern them. It enables members to bring out into the public domain deficiencies in policies or their implementation. It enables members to test out the robustness of ministerial policy.

To some extent, it is a form of verbal jousting. However, there are certain understandings that underpin the process. Irrespective of whatever games may be played or whatever approaches may be adopted, at the end of the day a member is entitled to feel that they have been taken seriously, that their right to ask a question was acknowledged and that the answer represented a sincere attempt to provide the member and, by extension, the Assembly and the public, with the relevant information. It is also assumed that the Minister is well briefed and prepared to put a full answer in the public domain.

## The Specific Question

In reading the exchange that took place between the Minister for Transport and Technical Services and Deputy K.C. Lewis (reproduced in full in the Appendix) it is apparent that the Minister thinks attacking the questioner is more important than directly answering the question, for example –

“I think States members should take the questions they put with seriousness and a degree of responsibility.”

As the answer proceeds there is are further attempts to put the focus upon the Deputy, for example “...the Deputy should be aware that when the public are aware of these types of questions they can create alarm.”

“I regret to say that this is a piece of political opportunism that amounts to scare mongering.”

This was a remarkable and totally disproportionate reaction to a straightforward question, full of gratuitous statements.

## What this proposition is not

This proposition is not an attempt to remove humour from Question Time. The Minister has often livened up many debates and Question Time with a touch of humour. However, Question Time can combine humour and a willingness to deal with questions head on.

The proposition is not an attempt to outlaw verbal jousting. However, Ministers must understand that at the end of the day members and the public are entitled to ask whether a Minister’s answers show the required grasp of the issues and whether, to quote the Minister’s own words, the matter is being treated “...with seriousness and a degree of responsibility.” Often, this is a matter of judgment. In this instance, I would submit that the Minister clearly overstepped the mark.

## What about others?

It has been represented to me that there is similar or worse ministerial behaviour which is going “unpunished.” That may well be so. If so, it is incumbent upon members to be much more vigorous in seeking accountability. Probably because of a reluctance to use the so called ‘nuclear’ option of a Vote of No Confidence, members have accepted questionable and poor ministerial performance too easily. Hopefully, a more pro-active approach will be taken. A Vote of Censure allows for a halfway house where the Assembly signifies its displeasure but does not call for resignation. If passed, it is like putting a Minister on probation.

## **Is this an overreaction?**

The Chief Minister has gone on record as observing that a Vote of Censure in the circumstances I have outlined is an overreaction.

Thus far, the Chief Minister has stoutly defended his Ministers against all accusations of poor ministerial performance. Despite being a great and vocal advocate of the new accountability culture under the new ministerial system, there has been no evidence of the Chief Minister supporting it in practice. Admittedly, the Chief Minister's powers in this respect are limited, if not non-existent. Hence the need for the Assembly to take matters into its own hands.

## **Conclusion**

At the risk of dramatising the situation, it is vitally important that the Assembly affirms its unquestioned right to question Ministers and to receive credible replies. This is one of the foundations upon which ministerial accountability is built. It is for the Assembly to assert the right - it is for the Chief Minister to defend his team (albeit with quiet words behind the scenes).

We are not talking of an inability to accept a bit of humour, we are not talking of a member unable to accept a bit of harmless verbal jousting. Unfortunately, this was by no means the first time where the Minister for Transport and Technical Services has made light of a situation and tried to turn the focus of attention upon the questioner. In so doing, serious doubts have arisen as to the extent to which the Minister is in control of his brief.

If a culture becomes established where Ministers can be seen to get away with answering questions put in good faith, it undermines the whole ethos of ministerial accountability.

## **Financial and manpower implications**

There are no financial or manpower implications arising from this proposition.

## OFFICIAL REPORT – 13th FEBRUARY 2007

**2.5 Deputy K.C. Lewis of St. Saviour of the Minister for Transport and Technical Services:**

Following the Buncefield oil depot disaster and the gas explosion in Tunnell Street in 1982, what steps, if any, is the Minister taking to ensure the safety of the La Collette area in light of the proposal to locate the new Energy from Waste plant adjacent to the gas holding tanks, the fuel farm, the L.P.G. (liquefied petroleum gas) station, the power station and the composting site?

**Deputy G.W.J. de Faye of St. Helier (The Minister for Transport and Technical Services):**

I realise that some Members consider oral questions to be a bit of a knockabout session but I think States Members should take the questions they put with seriousness and a degree of responsibility. I am disappointed that Deputy Lewis, in dealing with this serious subject, has not seen fit to discuss the matter prior to today with either myself or, as far as I am aware, any senior member of my department. We are, therefore, at a loss to understand why the Deputy conflates the matters that occurred at the gas emplacement in Tunnell Street in 1982 with the La Collette site. The public are concerned about these matters and conflating these issues is, I think, a serious error. To look on the bright side, it may be that the Deputy has been watching too many of his disaster movies but I think the Deputy should be aware that when the public are aware of these types of questions they can create alarm. I wish to assure the House that in general response to the Deputy's question I have taken all appropriate steps with the appropriate authorities and experts to ensure safety at La Collette. The current planning application is subject to guidelines that were brought forward in the 1999 report by the Major Hazards Unit of the U.K. Health and Safety Executive. I am fully confident that everybody involved who takes responsibility for safety in relation to La Collette, the L.P.G. station, the power station, the composting site, and who will do in terms of the E.f.W. (Energy from Waste) plant, take their jobs extremely seriously and that safety is not a major issue.

**2.5.1 Deputy K.C. Lewis:**

I am saddened that the Minister is disappointed but I consider it my job to ensure that public safety is ensured. Accidents do happen. We cannot eliminate accidents; we can just minimise them. Will the Minister ensure that there are sufficiently high buffering mounds between the various facilities to provide maximum safety?

**Deputy G.W.J. de Faye:**

If I am advised that buffering mounds are what is required I will certainly ensure that buffering mounds are in place. I repeat once again, I am disappointed with the way the Deputy has put this question. There is absolutely no linkage whatsoever between the gas explosion in Tunnell Street in 1982 - over 20 years ago - and the types of risk assessment and safety procedures that are in hand now. I regret to say that this is a piece of political opportunism that amounts to scare-mongering.

**2.5.2 Deputy G.C.L. Baudains of St. Clement:**

I am disappointed with the Minister's answers and his cavalier attitude. Is the Minister familiar with the phrase of having all one's eggs in one basket?

**Deputy G.W.J. de Faye:**

Yes, I am familiar with that phrase, Sir.

**Deputy G.C.L. Baudains:**

In that case, what is he going to do about it?

**Deputy G.W.J. de Faye:**

I am afraid I do not have any eggs in stock at the moment, Sir.

**2.5.3 Deputy C.H. Egré of St. Peter:**

If I could add confirmation through the Minister. Could the Minister confirm that there is ongoing risk assessment for that area and we are moving forward, other than what happened in 1999?

**Deputy G.W.J. de Faye:**

Yes, I can confirm that in conjunction with the Planning Department, Fire and Rescue Services and the Health and Safety Inspectorate, the Transport and Technical Services Department is currently considering all aspects of the long-term plans for development of the La Collette 2 site, which includes the potential for hazard by the location of the L.P.G. plant and the fuel depot.

**2.5.4 Deputy P.V.F. Le Claire:**

I did ask this question in relation to the Buncefield disaster a number of months ago to the Minister and I am just a little bit disappointed, to be honest, with the way that he has answered this question this morning. So I rise to ask a question in particular. Given that his department and he himself are now fully co-operating and investigating the issues for La Collette and the relevant authorities, what if any are the concerns of the Fire Department for the plans that are proposed at this time?

**Deputy G.W.J. de Faye:**

I believe that I have been through the Buncefield issue in some detail already. For those Members who cannot remember what I said there is a very dramatic difference between...

**Deputy P.V.F. Le Claire:**

That is not the question. If I might interrupt, I did ask quite specifically what, if any, are the concerns of the Fire Department in relation to the plans for La Collette?

**Deputy G.W.J. de Faye:**

I am not aware that the Fire Department has any major concerns, other than the ones that you would expect the Fire Department to have about any fuel depot.

**The Bailiff:**

Now we come to questions to Ministers without notice. The first question period is of the Minister for Treasury and Resources. I invite questions.