

2.8 Senator S.C. Ferguson of the Attorney General regarding contempt of the States Assembly:

If an officer employed by the States when discussing a problem with a member of the public tells that person not to contact any politicians about the problem, is that officer guilty of contempt of the Assembly?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

In my opinion, the answer to the question is no. As far as I am aware, there is no offence in Jersey law of contempt of the States Assembly as such. The concept of contempt of a Legislative Assembly is a complex one and it would take more time if it had been available to research and to consider adequately the question of whether or not the States Assembly ever had and if so retains a penal jurisdiction over non-Members. To the extent the States of Jersey Law 2005 deals with any matters, which in other jurisdictions might be considered such a contempt, then jurisdiction to deal with such an offence is given to the court. However, even if the States Assembly could exercise a penal jurisdiction over non-Members (about which I have doubts), I think it is highly unlikely that the action suggested in the absence of anything else could amount to contempt. Even if it existed, contempt of the States Assembly, in my opinion, could, absent a statutory provision be no wider than conduct which obstructs or impedes either the Assembly in the performance of its functions or its Members in the performance of their duties in the Assembly. The conduct referred to would not in my view be sufficient.

2.8.1 Senator S.C. Ferguson:

If such a situation presented itself, what is the appropriate action? What remedies are available?

The Attorney General:

That is a difficult question to answer. By “remedies available”, I take the question to refer to remedies by the Assembly as opposed to in other circumstances?

Senator S.C. Ferguson:

Sorry, no, remedies by the appropriate politician or member of the public?

The Attorney General:

I think an answer to that question must inevitably depend almost entirely on the facts of any specific case and the justification for comments, and I have not considered what the answer to that question might be. In general terms however, it might be theoretically possible to suggest, I suppose, that there is a breach of the Code of Conduct issued by the Human Resources Department, which applies to all public servants. There may be a breach of contract involved, depending upon the terms of contract, but it seems to me more likely that the appropriate remedy is via the Minister responsible for the particular department.

Senator S.C. Ferguson:

I thank the Attorney General for his answers.