

STATES OF JERSEY



CODE OF CONDUCT FOR ELECTED MEMBERS: COMPLAINT AGAINST SENATOR F.H. WALKER

**Presented to the States on 13th January 2007
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

Details of complaint

On 6th December 2006 Deputy G.P. Southern submitted a complaint to the Privileges and Procedures Committee concerning a written answer given in the Assembly on 5th December 2006 by the Chief Minister, Senator F.H. Walker. The written question concerned a possible debate between Senator Walker and Mr. Richard Murphy of the Tax Justice Network and the relevant paragraphs of the answer that had given rise to the complaint were as follows –

“Mr. Murphy and his colleagues, who are an unelected, unrepresentative group, responsible only to themselves, are dedicated to shutting down Jersey’s finance industry with no thought or care given to the consequences for our Health, Education and other social services, nor for the jobs of over 12,000 local people. A public debate would give them credibility they neither deserve nor can justify.”

I am surprised that Deputy Southern, as an elected member of this Assembly, charged with acting in the best interests of the people of Jersey, is prepared to act as an agent and mouthpiece for such an individual and such an organisation.”

Deputy Southern’s complaint was in the following terms –

“I hereby submit in writing a complaint concerning a written answer (3132) from the Chief Minister. I believe that the last paragraph of the answer is unwarranted and unfairly impugns my integrity as a member of the States.”

Deputy Southern was asked to provide further clarification on the complaint and he did that on 12th December 2006 in the following terms –

“The Chief Minister impugns my integrity by implying that I am a mouthpiece for Richard Murphy and for the Tax Justice Network. By doing so, he does 2 things. First, he associates me with Tax Justice Network and Richard Murphy, who he calls an enemy of Jersey, therefore by association I am also an enemy of Jersey. Second, he implies that by being such a mouthpiece I am not upholding my duty as a member of the States of Jersey to act according to my conscience in the best interests of Jersey. It is incidental that I am not a member either of ATTAC or of the TJN, and never have been. The nature of the final paragraph of his answer is to attempt to bully me into silence, when all I had asked was how, or whether, he was going to keep his public promise to debate taxation issues with RM. I believe it is important that Ministers are not allowed to get away with such tactics in their treatment of backbenchers. I hope this clarifies my complaint.”

Investigation into complaint

The Privileges and Procedures Committee discussed the complaint on 13th December 2006 and decided to set up a panel in accordance with the provisions of Standing Order 157(2) to investigate it. The Chairman of PPC, the Connétable of St. Mary and the Deputy of St. Mary were appointed as members of the Panel.

The Panel met on 3 occasions. On 18th December 2006 the Panel gave initial consideration to the complaint, the Panel met again on 10th January 2007 to receive Senator Walker and hear his response to the complaint, and the Panel met Deputy Southern on 6th February 2007.

Senator Walker’s response to the complaint

The Panel met Senator Walker on 10th January 2007. Although he had been reminded of his right, under Standing Order 157(9), to be accompanied by any person of his choice when addressing the panel, he was unaccompanied.

Senator Walker set out his response to the complaint in the following way.

Senator Walker advised the Panel that he had genuinely believed that what he had said in his answer was accurate. Senator Walker explained that there was abundant evidence that the Tax Justice Network (TJN), the Association for Accountancy and Business Affairs (AABA) and the Association for the Taxation of financial Transactions for the Benefit of Citizens (Attac) had attacked Jersey's finance industry and its position internationally. Senator Walker quoted from a letter to the Jersey Evening Post dated 13th December 2006 from Mr. John Christensen which stated in part that *"By supporting the tax avoidance industry in the way he [Senator Walker] and his colleagues have for many decades, he has contributed to the enrichment of a few and the impoverishment of millions. Tax havens are an international disgrace, and the use of Jersey for this has been shameful and despicable."* Senator Walker advised that Mr. Richard Murphy had accused Jersey's position as being damaging stating in a document on www.isthisjersey.com that *"Jersey was seen as a pariah on the world stage"* and Professor Prem Sikka (AABA) had also been critical of Jersey's position.

Senator Walker informed the panel that on 24th October 2006 Deputy S. Pitman had asked a question of himself regarding the content of the speech given by the Bailiff to the Liechtenstein Dialogue on the future of financial markets and during supplementary questions and answers the words used by Deputy Southern had appeared to him to be a direct quote from the TJN. Senator Walker read the transcript of the concluding supplementary question asked by the Deputy from the Official Report ('Hansard') as follows –

"Deputy G.P. Southern:

Will the Chief Minister concede that some of the reservations expressed by the likes of Spain, Italy, Germany and places further afield over tax competition is due to the fact that taxation which is paid in places like Jersey is not being paid in those countries and going towards their basic services?

Senator F.H. Walker:

I am sorry. I think I must have missed the point of that question. Could I ask the Deputy to repeat it?

Deputy G.P. Southern:

Tax competition is presented in order to increase the taxation paid in the competitor country against that which they are competing with. An increase in taxation paid here results in a reduction in taxation paid in whatever country, which goes in that country towards the payment for basic public services, and that is the case for the reservations about tax competition, surely.

Senator F.H. Walker:

That is pure quotation from the Tax Justice Network; absolute literal translation from the Tax Justice Network who, we know, their main ambition is to put Jersey out of business as an international finance centre. It does the Deputy no credit whatsoever merely to spout their nonsense."

Senator Walker advised the Panel that Deputy Southern had made no attempt to condemn the reply he had given and for that reason he had concluded that the question on 5th December 2006 was in support of the TJN. He felt that it was too much of a coincidence that Deputy Southern used words in his supplementary question that appeared to be almost identical to words used by the three organisations that were severely critical of Jersey. Senator Walker also stated he had subsequently found further evidence of what he considered was an indication of a close relationship between Deputy Southern and Professor Prem Sikka in an article by the latter on the website www.isthisjersey.com where Professor Sikka referred to 'Walker' and 'Horsfall' but 'Geoff' when referring to Deputy Southern. The relevant extract quoted by Senator Walker from the article, published after the tabling of the written answer on 5th December 2006, read as follows –

"Yes Walker is trying to dig himself out of a hole. First he wants to be seen to be reasonable and competent and thus accepts the challenge to meet Richard. Then his advisers probably warned him that he lacks adequate grasp of the issues and also that questions from the audience might expose him. So he backtracks and attacks Geoff."

Senator Walker advised the Panel that it was well known that he cared passionately about Jersey's reputation and that he worked hard to protect and enhance that reputation. He admitted that some people felt he went too far in this respect on occasions but, in his view, this was simply because he felt so strongly about the issue. He further advised that despite what Deputy Southern had alleged in his clarification of the complaint on 12th December

2006 he had never stated that Deputy Southern was an enemy of Jersey or a member of the TJN. He had simply concluded, at the time he had prepared the written answer, that following the comments made by Deputy Southern on 24th October 2006 he was justified to accuse the Deputy of acting as a mouthpiece for the TJN by seeking information about the date of a possible public debate with Mr. Richard Murphy of the TJN.

Senator Walker acknowledged to the Panel that the evidence he had of a connection between Deputy Southern and the TJN was circumstantial rather than based on definite factual evidence. He explained that with the benefit of hindsight he recognised that he should have answered in factual terms and not added the additional paragraphs attacking the TJN and making comments about Deputy Southern's position. Senator Walker advised that the answer had been written under extreme time pressure on Monday 4th December 2006 and he concluded that he would be prepared to withdraw his comment.

Meeting with Deputy Southern

The Panel met Deputy Southern on 6th February 2007. Before the meeting Deputy Southern had been provided with a summary of Senator Walker's submission to the Panel.

Deputy Southern explained that he was concerned that the comments in the written answer were part of a trend adopted by the Chief Minister to 'wave the patriotic flag' and claim that anyone who criticised Jersey was unpatriotic. He was also concerned that the words had been inserted in a written answer deliberately and not inadvertently as might have been the case in an oral answer.

Deputy Southern supplied the Panel with extracts from the Eircom website on the position of Microsoft in Ireland, and comments from Mr. Jeffrey Owens, Head of the Centre for Tax Policy and Administration at the OECD showing that views on the problems caused by tax competition were available from a wide variety of sources and not just the TJN.

Deputy Southern noted that the Chief Minister was willing to withdraw the words and stated that, although he would have preferred an actual apology, he believed that a withdrawal was acceptable.

The Committee's findings

The Panel reported its findings to the Privileges and Procedures Committee on 7th February 2007 in accordance with the provisions of Standing Order 158.

Having considered the findings of the Panel the Committee accepted that Senator Walker based his remarks on what he genuinely believed to be adequate circumstantial evidence to associate Deputy Southern's views with those of Mr. Murphy and the TJN. The Committee nevertheless noted that, as pointed out by Deputy Southern views on tax competition are available from a wide variety of sources.

The Committee believes that there is no evidence to substantiate Deputy Southern's assertion that Senator Walker remarks implied that he was 'an enemy of Jersey'. Furthermore the Committee believed that the remarks did not go far beyond the normal bounds of acceptable political exchanges and accepted that many accusations levelled against the Chief Minister and Ministers by other members during States meetings are in a similar vein. The Committee did not therefore find evidence that Deputy Southern was being 'bullied into silence' as he had claimed.

The Committee was nevertheless concerned that the words used by Senator Walker in his answer were an unnecessary addition to a written answer where, unlike in an exchange in oral questioning, there was no right of reply for Deputy Southern. Senator Walker was only able to give the investigating Panel circumstantial evidence of any connection between Deputy Southern and the TJN and, as a result, the Committee agreed that it was incorrect of him to associate the Deputy with an organisation that is so critical of Jersey in the way that he did. The Committee decided that the words should have been omitted from the written answer and Senator Walker should have restricted his answer to a simple factual answer about whether or not he would be holding a debate with Mr. Murphy.

The Committee was pleased to note that Senator Walker accepted that, with hindsight, he should not have included the words and was therefore prepared to withdraw them. In view of the agreement to withdraw the words the Committee considered that no further action was necessary although it agreed that this report should be presented to the States so that the outcome, and in particular the fact that Senator Walker was willing to withdraw the words, was placed in the public domain.