
STATES OF JERSEY



PRIVILEGES AND PROCEDURES COMMITTEE: REPORT CONCERNING THE ROYAL COURT CASES AGAINST DEPUTY G.P. SOUTHERN AND DEPUTY S. PITMAN

**Presented to the States on 3rd September 2009
by the Privileges and Procedures Committee**

STATES GREFFE

REPORT

On 20th May 2009, the Royal Court imposed fines totalling £10,000 upon Deputy G.P. Southern and £2,000 on Deputy S. Pitman for offences committed by them under Article 39A of the Public Elections (Jersey) Law 2002 and to which they had pleaded guilty.

At its meeting of 5th June 2009, the Privileges and Procedures Committee noted the publication of the Royal Court Judgment and considered the actions of both Deputies in accordance with Standing Order 157(1) of the Standing Orders of the States of Jersey.

The Committee discussed whether a breach of the Code of Conduct for Elected Members had occurred, with regard to the following paragraph of the Code:

“2 *Public duty*

The primary duty of elected members is to act in the interests of the people of Jersey and of the States. In doing so, members have a duty to uphold the law in accordance with their oath of office and to act on all occasions in accordance with the public trust placed in them.”

The Committee invited Deputy Southern and Deputy Pitman to discuss the matter, however, both chose not to exercise their right to attend. Discussions therefore continued in their absence and it was unanimously agreed that both Deputies had breached the Code of Conduct.

In considering how to address the breach, the Committee noted the following two paragraphs of the Judgment of the Royal Court:

- “22. *In our view the mitigation failed to address the fundamental issue which the case presented. Everyone in the Island lives under the rule of law. Our laws are made by the democratically elected members of our States Assembly. The defendants were both members of that Assembly. They spoke and voted against the introduction of the amendment. Their arguments failed and the amendment was passed. It is a fundamental of a democratic society that they are bound by the decision; indeed they are under a duty to uphold it. However they announced publicly, and in defiance of the will of our democratically elected Assembly, that they would not abide by that decision. They then went on as they had announced they would do to breach the law on numerous occasions. They thus placed themselves above the law. However strongly they felt, their remedy lay in seeking to rescind the legislation, rather than in deliberately flouting it.*
23. *We regarded the offences as very serious. The defendants, by their conduct and in breach of their oath, directly and deliberately challenged the rule of law and cannot be surprised if this Court acts in robust defence of it. Conduct by States members which undermines the rule of law will not be tolerated.”*

Members noted that the Court judgment had taken account of the Deputies' roles as members of the States and had publicly censured both Deputies for their actions as States Members. As a result, the majority of the Committee did not feel that it was able to respond to the breach of the Code of Conduct in the same way as it would have done had this form of public censure not taken place; and that it would be necessary to take the actions of the Court into account when considering how to deal with this matter.

The Committee concluded that, in breaking Article 39A of the Public Elections (Jersey) Law 2002, Deputies Southern and Pitman breached their public duty, as set out in the Code of Conduct. The Committee finds this unacceptable, and, had the Court not taken into account both Deputies' roles as States Members when making its judgement, it is likely that a more serious sanction under the Code would have been appropriate.

In these circumstances, however, the Committee wishes to remind both Deputies of the full extent of the Code of Conduct and their responsibility and public duty to uphold the Law.