PE1458/FFF

Melanie Collins submission of 17 May 2017

I wish to make a supplementary submission to the Petitions committee in respect of Petition 1458 register of interests for the judiciary on the subject of the register of recusals http://www.scotland-judiciary.org.uk/68/0/Judicial-Recusals created by Lord Gill and published by the Judicial Office.

Documents I recently obtained from the Scottish Courts Service in the form of interlocutors I had no access to until recently, revealed a recusal occurred in the case of Nolan v Advance Construction (Scotland) Ltd, which was not declared in the register of recusals.

I understand the Judicial Office for Scotland were asked about the omission, and claimed an administrative error was the reason for the omission.

The Judicial Office then applied the information on the specific recusal – **Lord Bracadale 20 May 2016 "On the Pursuer's motion in relation to the judges previous decision to refuse the pursuer's appeal at a procedural hearing"** in the first week of April this year.

I wish to point out the recusals register was only corrected after the Judicial Office were challenged on the content of the recusals register, and only when faced with such a challenge, and a copy of the interlocutor was the recusals register altered one year after the fact.

This omission, and the way in which the information was altered without any note of the register being updated long after the recusal took place, flies in the face of transparency and accountability, which the register of recusals is meant to adhere to.

I wish to quote from Lord Gill's evidence to the Public Petitions Committee on 10 November 2015 in which he told MSPS **"There are two points to make in answer to that. One is that the register of recusals is not voluntary. To the best of my knowledge, the clerks of court are scrupulously accurate in keeping the register and therefore, wherever there is a recusal, you may depend upon its being recorded in the register."**

It is painfully clear the clerks have not been scrupulously accurate in keeping the register, and I do not believe altering such a register a year after the occurrence, and only when faced with the evidence of a recusal shows any will to maintain transparency and accuracy in the content of the register of recusal.

I urge members of this committee to ask for more information on why omissions in the register of recusals are occurring and why the register is being altered in some circumstances years later, and only when members of the public, media or litigants point out there are gaps in the register of recusals

For members of this committee consideration I attach copies of the interlocutor relating to Lord Bracadale's recusal and copies of the register of recusals before and after the information was applied by the Judicial Office a year later in April 2017.

CA132/11 Nolan(Fe), Donal -V- Advance Construction (Scotland) Ltd
Party Litigant Balfour +
Manson LLP

Edinburgh 20 May 2016 Lord Drummond Young

Act: Miss Collins *domina litus*

Alt: McLean

The Lords, in respect that Lord Bracadale has recused himself on the motion of Miss Collins, and in view of the estimated length of the diet; appoint parties to be heard of new on the application and assign 25 May 2016 at 10.30am as a diet.

Date	Court (type of action)	Name	Reason for Recusal
26/01/2016	Court of Session	Lord Uist	Judge dealt with same issue and same witnesses in a case being appealed
27/01/2016	Dumbarton Sheriff Court (civil)	Sheriff Gallacher	On the Pursuer's motion in relation to a decision in a preliminary hearing
09/02/2016	Elgin Sheriff Court (criminal)	Sheriff Pasportnikov	Sheriff previously presided over related case
10/02/2016	Elgin Sheriff Court (criminal)	Sheriff Pasportnikov	Sheriff previously presided over criminal matter involving complainter
24/02/2016	Glasgow Sheriff Court (civil)	Sheriff Reid	Sheriff personally known to a witness
18/03/2106	Edinburgh Sheriff Court (civil)	Sheriff Ross	Sheriff previously presided over criminal matter involving appellant
18/03/2016	Aberdeen Sheriff Court (criminal)	Sheriff Stirling	Sheriff previously presided over civil matter involving accused
25/04/2016	Ayr Sheriff Court (civil)	Sheriff Montgomery	Sheriff previously acted for defender as a solicitor
03/05/2016	Lanark Sheriff Court (criminal)	Sheriff Stewart	Complainer previously represented by Sheriff's husband
22/06/2016	Perth Sheriff Court (civil)	Sheriff Clapham	Pursuer known to Sheriff
09/08/2016	Dunoon Sheriff Court (civil)	Sheriff Ward	Sheriff personally known to a witness
19/08/2016	Greenock Sheriff Court (criminal)	Sheriff Ward	Accused known to Sheriff from Sheriff's time in private practice
23/08/2016	Aberdeen Sheriff Court (criminal)	Sheriff Stirling	Sheriff Stirling found against the accused company in a civil matter and wrote on same
13/09/2016	Court of Session	Lord Pentland	The Lord Ordinary previously acted for the first named defender
25/10/2016	Court of Session	Lord Brailsford	A close relative is employed by one of the parties involved in the case
10/11/2016	Kilmarnock Sheriff Court (criminal)	Sheriff Foran	Sheriff personally known to a witness
17/11/2016	Dumfries Sheriff Court (civil)	Sheriff Jamieson	Sheriff previously presided over a related civil proof in another case in which parties were witnesses
18/11/2016	Court of Session (civil)	Lord Glennie	Ealier decision on a related issue might reasonably be thought to influence any decision in the present case
30/11/2016	Perth Sheriff Court (civil)	Sheriff McFarlane	Sherif acted for pursuers when practising as a solicitor
30/01/2017	Edinburgh Sheriff Court (criminal)	Sheriff Crowe	Sheriff previously presided over criminal matter involving accused, which might reasonably be thought to influence any decision in the present case
13/02/2017	Portree Sheriff Court (civil)	Sheriff Taylor QC	Sheriff previously dealt with a criminal case involving parties
23/02/2017	Inverness Sheriff Court (civil)	Sheriff Fleetwood	Sheriff presided over a jury trial involving parties

Judicial Recusals

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29/03/2017	Perth Sheriff Court (civil)	Sheriff Wade QC	The sheriff, in her previous role as advocate depute, was heavily involved in preparing the prosecution of one of the parties in the action
06/04/2017	Kilmarnock Sheriff Court (civil)	Sheriff Foran	A witness was a former client of the sheriff in previous role in private practice