

To the Scottish Parliament

SCOTS PARLIAMENT

**HOLDERS OF JUDICIAL OFFICE - REGISTER OF FREEMASONS**

**I, the undersigned, declare that: -**

At a hearing on the 3<sup>rd</sup> November 2000 at Dunfermline Sheriff Court, Sheriff Isobel G. McColl handed down her judgement on my challenge to the Court under the Human Rights Act. I was concerned that a judge who is a Freemason might give preference to evidence given by fellow Freemasons, and deprive me of my fundamental right to a fair trial.

Sheriff McColl stated that, over and above the oath she gave when taking up her judicial position, she has an ethical duty to disclose any interest that might be thought could affect her impartiality. She referred to the statement given by the Lord Chancellor, Lord Irvine of Lairg, when he addressed the House of Commons Select Committee on Freemasonry in Public Life. In effect he observed that undisclosed membership of a secret organisation is incompatible with the appearance of impartiality. In addressing herself to that ethical duty she declared:

***"I have nothing to disclose which could give rise to concern regarding my objective impartiality in this case"***

I accepted this as fully allaying any fears I may have had in relation to the possible partiality of the judge, and I am grateful that the sheriff has felt obliged, implicitly at least, to confirm that she is not a Freemason. However Sheriff McColl inferred that the obligation to disclose was on a Judge and should not be made as a result of a request from a litigant.

Lord Irvine with regard to a Freemason Judge's ethical obligations also stated that:

***"If the Judge knew that someone appearing before him was a Freemason, then he would have an obligation to reveal that to the parties and ask the parties if that caused them any disquiet about him continuing to sit" \****

In following Lord Irvine's courageous example and departing from the normal insistence that the Judicial Oath of itself is sufficient to pass the objective test of impartiality, Sheriff Isobel G. McColl has posed an interesting question: -

Given that Freemasons can communicate with each other by sign and other non-oral ways and given that Freemasons are sworn to aid a brother in trouble and when someone is in Court they are usually in trouble. Where are the revelations of Masonic membership by Freemason Judges that must take place (by the ethic of their profession) when a Judge knows that someone appearing before them is a Freemason?

I have sought legal authority on this matter and I am given to understand that there are no known instances of Scottish Sheriffs or Judges making declarations of Masonic memberships in Court. Given that some Judges are Freemasons it must be the case that: -

Freemason Judges consider their Masonic secret oaths, ethics and obligations superior to their open judicial oaths, ethics and obligations, and consequently Freemason Judges consider their membership of Freemasonry as a legitimate secret and not a declarable interest.

\* Para's 84 & 85 - Pages 16 & 17 & Overall conclusions - Pages xi & xii - Home Affairs Committee Report

Whatever the reasons for the absence of declarations of Freemasonry in the Judiciary I am concerned that there are abuses of the rights of non-Freemasons carried out by Freemasons who by definition are prejudiced in favour of their brethren. It would seem that my views are shared by a large section of the general public and by most Christian religions. In most walks of life this is serious enough to be of some concern but in the Judiciary the need for transparency is paramount and outweighs any argument of a Judges rights to a private life. The sacrifice of Human Rights in the name of objective impartiality is well known to MSP's and other public servants.

The Lord Chancellor of England is clear that a litigant has the right to know if the Judge before whom they appear is a Freemason which is not the case in Scotland.

The obvious remedy would surely be for Scotland to have a register of Freemason Judges, which would allow citizens the opportunity to discover which Judges were Freemasons. The citizen could then decide if there was any possible conflict of interest with regard to overt or covert evidence of Freemasonry that they perceived and wished to challenge in court as a preliminary issue before their trial. In my own case I am fortunate that I have been able to take legal advice, engage Senior Counsel and receive a Judges ruling which satisfies me providing the trial Judge is Sheriff Isobel G. McColl. However, for my sake, (if the scheduled trial Judge is replaced), and for the sake of other citizens who find themselves in my recent predicament the present situation regarding Freemasons in the Judiciary is unsatisfactory and requires simplification in the interest of speedy and affordable justice for all.

**The Petitioner therefore requests that: -**

- a) The Scottish Parliament oblige/request all existing members of the Judiciary to declare whether or not they are Freemasons and oblige all new members of the Judiciary to state upon taking up Judicial Office (or achieving promotion) whether they have any relevant interest in or membership of organisations such as Freemasons and oblige them to inform an authorised Registrar appointed by Parliament if they subsequently join the Freemasons.
- b) That a register of Freemasons in the Judiciary be made available on request to litigants in pursuit of their Human Rights

Signed:-

Date:-

21<sup>ST</sup> November. 2000.

**Thomas Minogue,**

**Tel. No. :** (01383) 512746

**Fax. No. :** (01383) 610689

**e-mail :** [minogue@kingdom-eng-fife.demon.co.uk](mailto:minogue@kingdom-eng-fife.demon.co.uk)

Encl. Pleading, Sheriff's Judgement, H.C.S.C. Report (Freemasonry in Public Life), Press extract (Courier and Advertiser), plus electronic copy of same