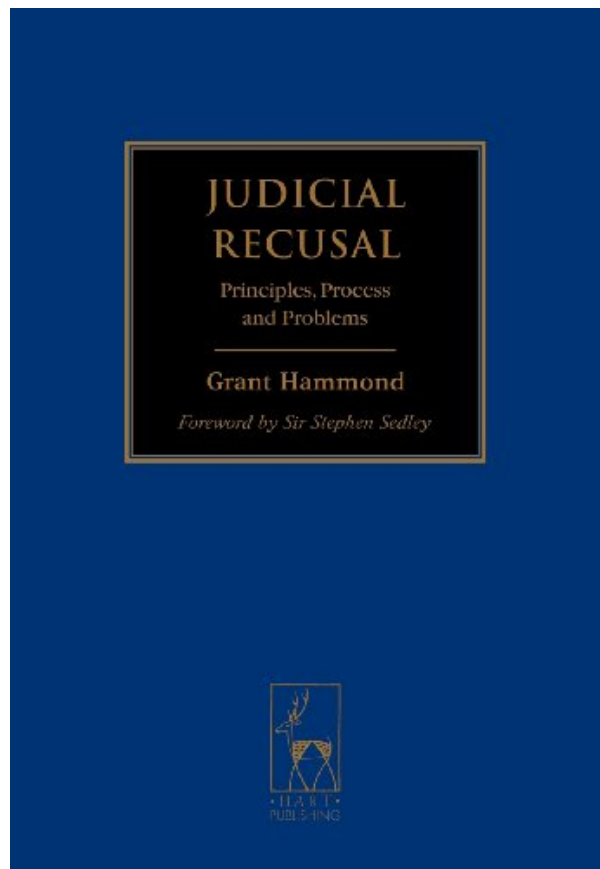
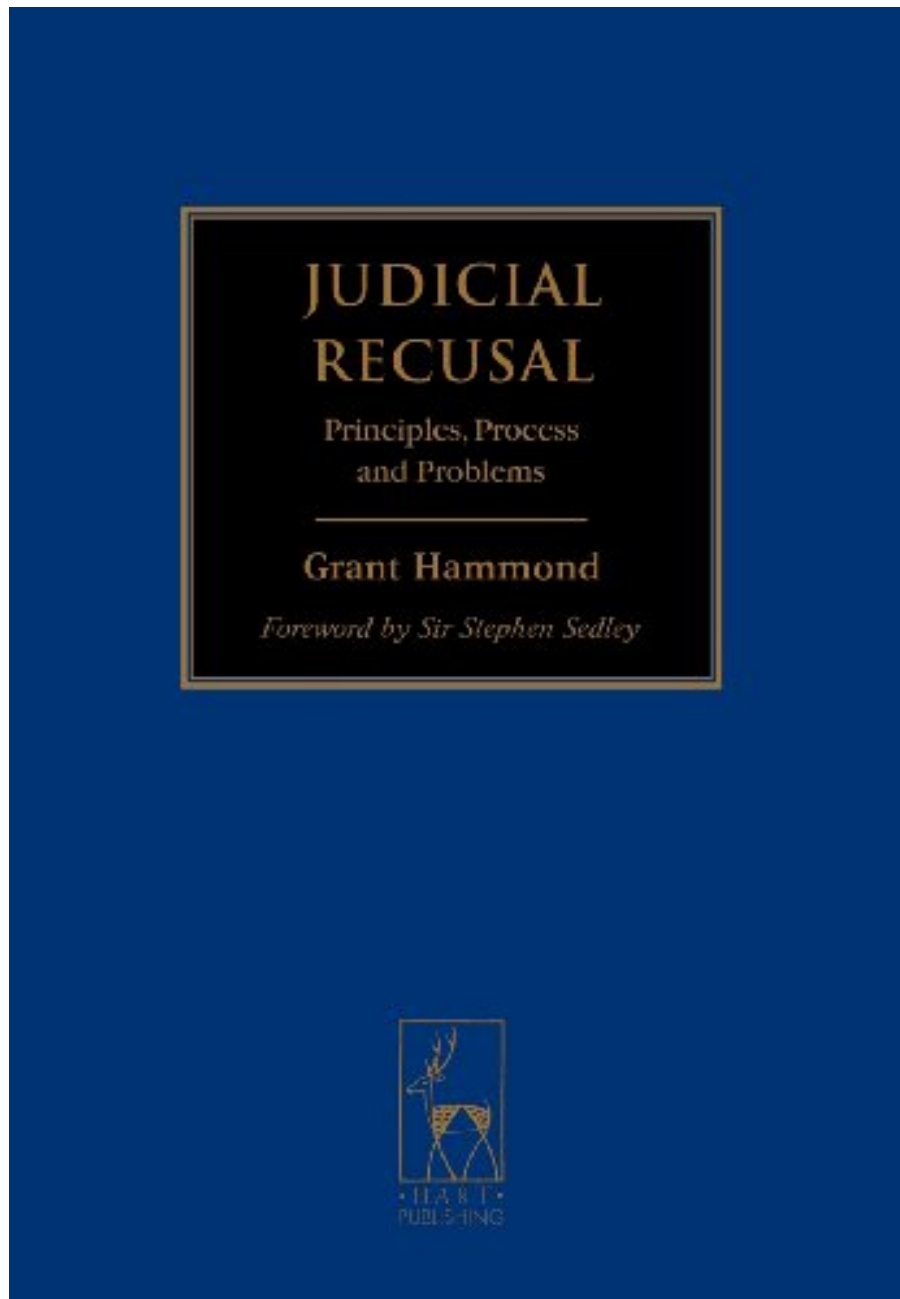


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## Review

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comprehensive, encompassing the substantive, theoretical and practical questions that one would expect to find in a learned treatise on the subject - and more. The book is a notable contribution to the literature on recusals, and should be of considerable interest to public lawyers and judiciary watchers. A brief review of this nature could not sufficiently comment on such excellent scholarship. Hammond has written an excellent book that should engage scholars, judges and policy-makers alike. Recusal law is much the richer for it. Abimbola Olowofoyeku *Cambridge Law Journal* 69, 1, March 2010 The book is a worthwhile purchase. It is very readable and generally concise. Robert Howard *Law and Politics Book Review* May 10, 2010 Useful, succinct and intelligent new monograph. The layout of the book is simple and sensible Michael Crowell *Public Law* October 2010 Hammond provides a well researched and readable examination of judicial recusal which easily fills what was a surprising gap in the extensive literature of public law in the common law world. The breadth of comparative material gathered by Hammond enables the book to provide a useful resource for judges and practitioners faced with the issue. Matthew Groves *Australian Journal of Administrative Law* Volume 18, 2011

#### About the Author

Grant Hammond is a Judge of the Court of Appeal of New Zealand. Before becoming a judge he was Dean of the University of Auckland Faculty of Law, has taught in Canada and the USA as a Professor of Law, and before that worked in private practice in New Zealand.

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The doctrine of judicial recusal enables - and may require - a judge who is lawfully appointed to hear and determine a case to stand down from that case, leaving its disposition to another colleague. The subject is one of considerable importance, not only to 'insiders' in the judiciary, but also to litigants and their lawyers. Understanding the principles which guide recusal is also to understand the fundamentals of judging in the common law tradition. The subject is therefore of considerable interest both at practical and theoretical levels, for it tells us most of what we need to know about what it means 'to be a judge' and what the discharge of that constitutional duty entails. Unsurprisingly therefore, the subject has attracted controversy. Judicial Recusal contains an analysis of the essential features of the law, the legal principles (common-law origins, current law in the US, the UK and the Commonwealth), and the difficulties which currently arise in the cases and by operation of statute. The book looks at process, including waiver, necessity, appellate review, and final appeals. Additionally, it addresses three problem areas and ends with the author's reflections on likely developments. It is a thorough study of judicial recusal examining the legal principles and the difficulties which arise. It will be of interest to all constitutional law practitioners and judges in the US, the UK, and the Commonwealth.

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When a judge is asked to stand down...

By Phillip Taylor MBE

WHEN A JUDGE IS ASKED TO STAND DOWN

An appreciation by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers

One of the principles of natural justice is that no one can be a judge in his or her own cause. When this principle or other similar principles are seen to have been eroded, or ignored in a court of law, then 'judicial recusal' may be the inevitable outcome -- which means the judge can be asked to withdraw, or stand down.

This thought provoking book outlines three specific problem areas which would occasion, or justify recusal: judicial misconduct in court... prior viewpoints...and unconscious bias. The law relating to recusal, in the author's words, 'rests on the fundamental proposition that a court should be fair and impartial....'

Recusal is 'an odd word, signifying withdrawal, originating in the religious concept of a recusant', remarks Sir Stephen Sedley in the foreword. It is 'an assurance of the impartiality of justice,' he adds, 'and a field of

opportunity for manipulation.’

Recusal may occur when aggrieved claimants feel that they have not received a proper hearing. As such claimants become more aware of their rights and consequently more litigious instances of recusal are becoming increasingly common. I’ve only been involved in one judicial recusal and, frankly, was wholly bemused by this procedural oddity, while at the same time recognizing that its aim and its effect is ideally to enforce the rules of natural justice.

Having been elected as the Robert S. Campbell Visiting Fellow in Law at Magdalen College, Oxford, the author, Grant Hammond has endeavoured to put together a monograph on this hitherto under-explored subject, citing ‘the lack of a textbook or monograph of an over-arching kind in this field.’

The book is not a text book as such, but rather an articulation of the author’s mission to explain ‘the central concepts that courts have seen fit to employ (on this subject) around the common law world and offer some commentary on them.’

Offering an analysis of the essential features of the law, the legal principles (prevailing in the UK, USA, and Commonwealth) and the consequent difficulties which often arise, the book also scrutinizes process, including waiver, necessity, appellate review and final appeals. Usefully, future developments and possible reforms of recusal law are also discussed.

Sedley points out that this book ‘for practically the first time in our legal literature, sets out to address: when should a judge withdraw, who decides and how do they decide?’ adding that there is no short answer.

This eminently readable book nonetheless sheds considerable light on what it means to be a judge and what the discharge of that constitutional duty entails.

Certainly, this book is to be welcomed for its much needed and highly lucid examination of a controversial and complex subject.

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