

Fly on the wall

Fly clings to the idea that his is a game of skill, and not of chance. Jokes about the High Casinos of South Africa, while raising the odd necessary *caveat* about the degree of certainty inherent in the whole thing, deep down tend to offend, as do those lawyer jokes that deny the possibility of honour in it all. Hence the acute effect on Fly of The Gobsmack. The Gobsmack upsets his world and his feeling that he knows a bit about it. The Gobsmack makes him look right, left, right again, and then, just to be sure, left again, before crossing Pritchard Street to try manfully to shove something down the just-smacked gob. Had there been no such thing as ego, professional pride, other people's money at stake and trust in the good working of the justice system, The Gobsmack would have been what made the game tremendous fun. But alas, there are such things. So The Gobsmack causes anxiety. The Gobsmack is that moment when the rules of cause and effect don't work. These rules include some time-honoured candidates, such as 'talk rubbish, and expect to be shouted at', 'make sure the authorities properly fit the point and that you've excluded fallacies, and the conclusion ought to be accepted', 'one plus one makes two', and the like. When one is happily engaged in the joys of the Ciceronian art, feeling the warm glow when the facts, the law, one's own performance, the witnesses, and all vectors that have any effect, tend towards the goal striven for, and bam! The chasm between one's own assessment and the only assessment that matters appears, usually through the utterance of a few words – this, then, is The Gobsmack. The Gobsmack applies in both directions (you prevail where you ought to fail, or you fail where you ought to prevail), but, human nature being what it is. The Gobsmack tends to be recognised, felt and remembered only when the outcome is unpleasant, not when it is merely surprising.

After The Gobsmack, Fly tends to nod sagely when contemplating the vivid analogy sketched to him by a colleague, who, Fly hopes, will not mind his pearls of insight being offered up to the fraternity. An experiment was conducted

using rats. One rat was housed in a box where the red button yielded food and the blue button an electric shock. Another rat was housed in a box where the effect of each button was random – food or shock. Needless to say, the first rat quickly learned to avoid the blue button and to tend towards the red. He became quite a happy rat. The other rat became very anxious. He became so pusillanimous that he needed to be fed after a while. Buttons were not for him. 'Look at these older chaps around us', Fly's colleague would say, 'they've all been in the random box too long; hence the stress on their faces'. That immediately reminded Fly of his first experiences when handing his draft opinions to his silk. Often, they would pass muster, save for the insertion by the wise old hand of the odd 'probably', quite a few 'perhapses', and a liberal sprinkling of 'arguably's'. Never has the phrase 'no judge will' been left undeleted in such a draft. After a few Gobsmacks, the wiser head no doubt knew that quite a few could very well indeed, and probably will.

The Gobsmack, if considered in its proper perspective (and, if sufficiently

scarce to allow for any consideration at all), is actually not such a bad thing. For one, it does wonders for Advocate's Disease (arrogance). Also, it is sometimes capable of being stripped of its caprice to a degree that reveals insight that would have remained buried but for The Gobsmack. Indeed, Fly thinks that precipitate acceptance of the fate of the rat in the random buzzbox is an easy escape for the conscientious, when afflicted by The Gobsmack. It is precisely because it is not all a question of chance that it is vital to keep trying to be right more often than wrong. There is no inoculation against The Gobsmack. But The Gobsmack is also not an excuse for the complacency of deferring in all to Lady Luck. After a particularly ringing Gobsmack, Fly was consoled by the words of a senior colleague who remarked that he had never, after any given long struggle of litigation, heard his client turn to him to say, 'Hell, I wish I had your job'. That job would be infinitely easier if we really believed in the casino jokes or in the idea that one way of doing it is really no better than any other, for all the difference that it makes.

